The Roles of NGOs in the Kimberley Process

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Abstract: The agenda setting activities of nongovernmental organizations (NGOs) have been studied frequently, but the roles they play in the formal, bureaucratic processes of decision-making and implementation of global agreements have remained understudied. This article shows that NGOs are involved in global politics as legitimizers, experts, and watchdogs. NGOs were extensively engaged in the creation and implementation of the Kimberley Process (KP), a global regulatory body, which was created to curb the trade in conflict diamonds. The article demonstrates how the moral deficit of the KP and the legitimacy of NGOs gave NGOs access to KP negotiations; how NGO expertise influenced the KP in its day-to-day operations; and how NGOs served a dual monitoring function from within the KP and as external watchdogs.

Keywords: conflict diamonds, expertise, implementation, Kimberley Process (KP), legitimacy, monitoring, nongovernmental organizations (NGOs)

1 A significant scholarly literature has developed investigating global social movements and the influential role of non-governmental organizations (NGOs) in global politics (e.g., Clark, Friedman, and Hochstetler 1998; della Porta and Tarrow 2005; Smith 1999; Willetts 1996). In particular, scholars have theorized the growth and nature of civil society in the context of recent cultural and economic globalization processes (Boli and Thomas 1999; Risse, Ropp, and Sikkink 1999; Meyer et al. 1997; Khagram, Riker, and Sikkink 2002). Empirical studies have presented evidence of the expansion of the international NGO sector (Boli and Thomas 1999), of the increasingly transnational character of NGO networks (Smith, Chatfield, and Pagnucco 1997; Clark, Friedman, and Hochstetler 1998; della Porta, Kriesi, and Rucht 1999), and of the effects of the global orientation of those networks on movement strategies and tactics (Della Porta and Tarrow 2000; Smith 1999; Keck and Sikkink 1998). That NGOs play key roles in setting the agenda of various global actors has been well documented by many studies (e.g., della Porta, Kriesi, and Rucht 1999; Johnson 2000; Keck and Sikkink 1998; Khagram, Riker, and Sikkink 2002; Price 1998; Risse, Ropp, and Sikkink 1999). What received much less attention, however, are the roles that NGOs play after an issue has been successfully put on the global agenda. Once issues have entered the realm of global awareness and related new norms become recognized, political negotiations and, possibly, the adoption and implementation of new agreements tend to follow. The roles that NGOs play in these more formal, bureaucratic processes remains understudied, especially when such decision-making unfolds outside UN auspices.

2 This article identifies the nature and mechanisms of NGOs influence in the creation, adoption, and implementation of global agreements. Specifically, it shows that NGOs involvement in global politics occurs via their roles as 1) legitimizers, 2) experts, and 3) watchdogs. The findings presented here are based on a case study analysis of the Kimberley Process (KP), a global forum involving states, NGOs and the diamond industry. KP negotiations started in 2000 as a response to NGO campaign efforts against conflict diamonds, which fueled brutal civil wars in Central and West Africa during the 1990s. KP discussions included states, NGOs, and the diamond industry and resulted in the adoption of the Kimberley Process Certification Scheme (KPCS) — a voluntary international agreement regulating the diamond trade, with 75 member states to date. Despite the emergence of the KPCS as an important global regulatory
This study contributes to our knowledge on the roles of NGOs in global decision-making and the implementation of global agreements. In particular, the role of NGOs as legitimizers remains understudied. The global social movement literature usually presumes NGOs as legitimate actors, yet how and why they extend their legitimacy to other actors or institutions is not investigated. Here I detail how the legitimation process unfolded and how it provided opportunities for NGO influence in global decision-making. I find that legitimacy was the key reason why states initially involved NGOs in the KP. The KP exhibited several important moral deficits that NGOs could mitigate with their established moral authority.

Furthermore, evidence of NGOs lending formal expertise at the global level is sparse. While it has treated the role of NGOs as experts (Clark et al. 1998; Price 1998; Smith, Chatfield, and Pagnucco 1997; Willetts 1996), this literature has studied these activities primarily in the UN system—in particular with respect to human rights and the environment—or regarding local NGOs lending expertise in domestic implementation processes, particularly in the areas of development and aid. I show how NGOs expertise was critical in the day-to-day participation of the KP. NGO contributions as experts on a variety of diamond trade matters were crucial to ensuring a permanent seat at the table of the KP.

Finally, while NGOs watchdog role receives much attention in the global social movements literature, empirical evidence has not engaged the increasingly institutionalized dimensions of these activities. Monitoring provisions are frequently built into new governance systems, such as various global fair trade programs (e.g., Linton, Liou, and Shaw 2004) or forest certification efforts (Bartley 2007). NGOs play important roles as monitors from within those bureaucratic structures. Still, most studies have investigated the important roles of NGOs as external, independent watchdogs, but the role of NGOs participating in formalized structures of monitoring receives much less attention. In this article, I explain how NGOs effectively served a dual watchdog function. They monitored the KP from within, relying on their acquired insider knowledge as official observers to the KP. At the same time, NGOs monitored the KP from the outside, as independent watchdogs. In this role, NGOs relied on their previous campaign experiences in awareness-raising and in conducting investigative research.

Before proceeding to discuss those findings in more detail, I present theoretical assessments of the roles of NGOs. This is followed by a brief account of my case study, including a discussion on methods and data sources. Then, I present the findings and conclude with final remarks.

**NGOs as Legitimizers**

NGOs have considerable moral authority, which derives from their claim to represent the public interest or the common good rather than private interests, as well as from their adhesion to legitimated global principles and values (Boli and Thomas 1999; Risse 2000). NGOs authority to play the role of moral guardians, keeping states and corporations honest, derives from those global scripts. For example, Clark (2001) attributes much of Amnesty International's ability to influence global human rights issues to its loyalty to moral principles of human rights, its status as a disinterested, autonomous third party that is politically impartial and self-sufficient. Broad membership bases as well as links and networks with other organizations (Smith et al. 1997) also enhance NGOs legitimacy.

NGOs moral authority can serve as a highly legitimating force for any process in which they are engaged in. Essentially, NGOs can extend their moral standing to others by approving their actions or closely associating with them (Boli 1999). NGOs can legitimize high achievers by lauding their performance on various responsibility issues. For instance, Transparency International's corruption indices exert such legitimation. At the same time, and more commonly, this governance report card de-legitimates and shames underachievers. The strongest legitimation NGOs can extend is by joining states or businesses in negotiations, initiatives, or agreements. Collaborations of NGOs and corporations have grown rapidly in recent years. The World Wildlife Fund, for instance, developed a water conservation initiative with Coca Cola and also leads the Global Forest & Trade Network, which includes Walmart and 300 other participants. The emergence of such transnational initiatives and collaborations are themselves manifestations of globality, a local condition that exhibits the impacts of globalization processes (Schäfer 2007; Robertson 2007). Social problems are increasingly defined in global terms, their solutions are addressed transnationally, and cultural and economic global forces have helped determine which are the actors responsible to take on those challenges: nation states, transnational corporations, and NGOs representing a diffuse global civil society (Boli and Thomas 1999; Meyer et al. 1997; Khagram et al. 2002; Risse et al. 1999; Keck and Sikkink 2001).
Such legitimation is particularly important for entities that have lost their moral standing (Mamic 2004; Price 1998; Seidman 2007; Sikkink 1986). There could be several reasons for such a loss of legitimacy. For example, the Exxon Valdez oil spill in 1989 created serious environmental image problems for Exxon and its fellow oil companies. The disaster critically informed the CERES principles, an environmental responsibility code developed and endorsed by industry and environmental groups (Wapner 1996). Damaging campaigns, in which NGOs shame states or businesses for their immoral behavior, are also a common source of illegitimacy. For instance, anti-apartheid movements around the world, increasingly ostracized South Africa’s apartheid government and eventually led to democratic elections in 1994 (Seidman 2007). In arguing that corporations or states are unresponsive to or in violation of public needs and demands, NGOs create a powerful framework for the necessity of civil society inclusion in decision-making.

Based on this previous treatment of NGOs as legitimizers, I propose: **NGOs moral authority is a key factor in their ability to gain access to decision-making bodies, especially to those that exhibit moral deficits.**

**NGOs as Experts**

Besides moral authority, NGOs also possess authoritative knowledge (Risse 2000). Their claims to knowledge gain authoritative status through their use of strict information gathering rules and careful documentation. Indeed, a number of scholars (e.g., Price 1998; Smith et al. 1997) has supported this role of NGOs as experts. Clark (2001) stresses Amnesty International’s expertise and information provision as key in its global authority on global human rights. The dense transnational networks in which NGOs exist also affect their expertise (Keck and Sikkink 1998). Global communication networks amongst NGOs increase their access to information, their capacity to process the data, and to disseminate the gathered facts effectively. However, much of the literature on NGOs as experts has focused on their involvement in negotiations under the UN auspices (Betsill and Corell 2008; Clark et al. 1998; Gordenker and Weiss 1996; Willetts 1996). Scholars have explored NGOs influence in various UN sponsored events, including UN world conferences (Clark et al. 1998; Van Rooy 1997; Willetts 1989); their observer or advisory role through the consultative status (Willetts 2000); or NGOs impact on particular issue areas – most notably human rights (Algers 2003) and the environment (Corell and Betsill 2001). In many of those studies, the expertise and knowledge by NGOs is identified as the key tool in gaining influence.

Another important body of work on NGOs as experts has focused on NGOs involvement in the implementation of laws or agreements, studying how domestic NGOs, knowledgeable on local issues, contribute in the implementation of international agreements at the local level (see Gaer 2003, on domestic implementations of human rights laws, or Victor et al. 1998, on the environment). However, little attention has been paid to how NGOs can fulfill similar functions when aiding implementation at the global level.

This leads me to the following proposition: **NGOs expertise is a key factor in their ability to influence decision-making and engage in the implementation of global agreements.**

**NGOs as Watchdogs**

Numerous scholars (Keck and Sikkink 1998; Price 1998; Raustiala 1997) have treated the role of NGOs as watchdogs. Much of the literature studies watchdogging as a tool for putting new norms onto the global agenda (Mamic 2004; Risse et al. 1997; Sikkink 1986). Identifying norm violators and shaming them is an important tool to spur the global community into action. Many studies have detailed how NGOs monitor the behavior of states and industry actors, and how they use the potentially harmful information they collect to affect their targets (see e.g., Sikkink 1986, on Nestlé). Knowledge and expertise are critical for NGOs to engage in watchdogging. Key tools in monitoring are NGOs independent fact-finding missions and the publication and the dissemination of the investigative reports via popular media outlets.

Less is known about the monitoring role of NGOs when they are part of formal agreements that charge NGOs with validating the proper implementation of newly established agreements or initiatives. As norms on transparency and civil society inclusion have expanded, NGOs are increasingly invited to monitor global agreements. NGOs monitoring of voluntary codes of conduct by various industries has received some scholarly attention (Linton et al. 2004; Mamic 2004; DeWinter 2001). However, whether NGOs continue to critically assess their targets and maintain their more independent watchdog role is an open question.
Still, whether NGOs engage in fact-finding missions uncovering norm violations during initial campaign stages or in the commissioned review of the implementation of a global agreement, what is required is specialized knowledge, which NGOs must possess in order to effectively carry out these functions. Thus, I propose that NGOs' expertise enhances their ability to engage in internal and external watchdogging.

In this article, I will engage those propositions and I will provide evidence on how NGOs fulfill their roles as legitimizers, experts, and watchdogs in their participation in a formal decision-making and implementation process at the global level: the KPCS.

Case Study Data

The evidence of this article is based on an in-depth qualitative study of the conflict diamonds campaign, which included interviews and content analysis of a wide range of documents. I conducted 24 in-depth semi-structured interviews, most of them in person, with important actors from all three sectors (state, industry, and NGOs) that were critically involved in the various stages of the KP. The interviews were conducted between May 2005, and July 2006, several during field research in Canada, the Netherlands, and Switzerland. The sample of interviewees included state officials, such as the former United States Special Negotiator on Conflict Diamonds, a former KP chairman, and several chairs of KP working groups; high ranking industry officials from De Beers, the Diamond High Council in Belgium, and the World Diamond Council (the industry organization created to address the growing concerns about conflict diamonds); and individuals from all of the major NGOs involved in the campaign, including Partnership Africa Canada (PAC), Global Witness, the Netherlands Institute for Southern Africa, and Medico. The interviews were digitally recorded, transcribed, and analyzed in a qualitative data analysis software, Atlas.ti.

In addition, documents covering events on conflict diamonds, the campaign, and the KP were compiled from a variety of sources and examined. NGOs, the industry, states, the KP, and the United Nations published the primary sources of documents. Analyzed materials from NGOs included websites, newsletters, press releases and different reports by PAC, Global Witness, Fatal Transactions, Amnesty International, and various other NGOs. All documents publicly available on the KP website from Spring 2005 to Summer 2007 were analyzed. The study also examined conflict diamond related publications and documents by the United Nations (including Security Council and General Assembly Resolutions), think tanks, and governments (e.g., transcripts of the United States Congressional Hearings on Conflict Diamonds). Documents from the diamond industry included the De Beers and World Diamond Council’s websites, press releases, and industry news articles published by Rapaport News and National Jeweler magazine. Finally, analyses were conducted on a broad sample of news articles obtained through the Lexis-Nexis database in addition to general online searches.

The KP makes a good case study for an analysis of the roles of NGOs for several reasons. First, this case allows for an analysis of the entire life span of a successful campaign, starting with the agenda setting efforts in the late 1990s, decision-making beginning in mid 2000, and the implementation of an agreement underway since 2003. The relative recent history and the rapid progression from one stage to the next also facilitated first hand and secondary data collection efforts. Second, the complexity in terms of extensive global reach and the diversity of actors involved in the KP also make an interesting case for observation. The KP’s membership – mirroring the diamond trade – spans the globe, bringing forth cultural, social, economic, and political challenges, evident in other global issue debates and solutions. In addition, a diverse set of actors claim stakes in the KP, including states, industry, and NGOs. Finally, neither the campaign against conflict diamonds nor the KP has received the attention of the global social movement literature.

As in other case study analyses, there are particularities of this case too. Most significantly, the conflict diamonds campaign and the KPCS are defined by the unique nature of the diamond industry, a sector dominated by one company – De Beers. These circumstances critically shaped how NGOs engaged with the industry, which was especially relevant for their agenda setting efforts. Essentially, NGOs were able to target one single actor in their awareness raising efforts, a tactic that is more likely to succeed compared to campaigns facing multiple targets. An additional particularity, and more relevant to the decision-making and implementation processes, is the tripartite structure of the KP, consisting of states, NGOs, and the industry. That NGOs and industry are formally partaking in this global agreement is rather unique. This collaboration greatly expanded non-state actors’ opportunities for input, which are more limited under other structural conditions. Still, important general conclusions can be drawn from this analysis on how NGOs influenced the KP. Observing how states, NGOs, and corporations engage in solution building is relevant to understanding the numerous other global initiatives, where states collaborate with civil society groups and private industry actors to address global social problems. The case study provides general insights into the motivations and interactions of these key global actors.
Evidence from the Kimberley Process

22 In the late 1990s, parallel efforts in the UN, particularly regarding Angola sanctions, and in two relatively unknown NGOs, Global Witness and PAC, created a critical mass of attention and put the issue of conflict diamonds on the radar screen of various states, the industry, and other NGOs. The symbol of love, purity, and eternity became increasingly linked to war, destruction, and gruesome images of children with chopped-off limbs. By mid-2000, conflict diamonds had been established on the global agenda as a social problem. Growing global concerns on the issue quickly led to the creation of the KP, negotiations involving states, NGOs, and industry, which resulted in the adoption of the KPCS in January 2003.

23 The KPCS seeks to ensure that no conflict diamonds are traded by certifying all legitimate rough diamonds traded among KPCS member countries. Since its inception, the KPCS has had a mixed success rate in curtailting the trade in illegal and illegitimate diamonds. While it can be credited with a nearly complete elimination of conflict diamond trades originating from Central and West Africa (with the notable exceptions of some regions in Côte d’Ivoire and the Democratic Republic of Congo) in its early years, more recently, serious doubts have been cast on the effectiveness of the process. Particularly, the KP has come under criticism from NGOs, state, and some industry officials—most of which are themselves actively engaged in the KP—for not addressing trade violations by several member states, essentially tolerating illegal diamond trading. Most notably, those concerns have centered on the KP’s unwillingness to suspend Venezuela and Zimbabwe. Despite Venezuela’s self-imposed export stop due to its inability to control and certify its diamond production, mining has continued and gems are smuggled to neighboring KP member states (see PAC 2006). More urgently, calls for Zimbabwe’s suspension from the KP began in December 2008, when reports surfaced that the military had murdered about 200 miners in the Marange mines two months earlier. The Mugabe regime enriches itself from diamond exports and funds police and military control in the mining areas, leading to massive violence and human rights abuses (PAC 2009).

24 While the KPCS was set up as a voluntary agreement, it in essence became compulsory for any state seeking to trade in diamonds because the countries in the KPCS agreed to trade only with other KPCS members. The agreement requires each state to implement national legislation regulating the trade of rough diamonds in accordance with the minimal standards set by the KPCS (e.g., chains of custody and rough diamond certificates). While only states implement the KPCS, the KP formally involves NGOs and industry as well. This means that states, NGOs, and industry representatives attend and speak at bi-annual plenary meetings, participate in specialized working groups, where much of the KP’s decision-making occurs, and that all these actors have equal access to KP internal data and communication.

25 The beginning of KP negotiations signified important shifts for the NGOs. Up to that point, they had been focused on convincing other actors to care about the issue of conflict diamonds. With the start of KP negotiations, the conversation shifted to much more applied debates on what solutions should be implemented. NGOs needed to adjust their strategies and involvement as conflict diamond negotiations quickly converged into this new forum of the KP. Initially, the key asset NGOs had to offer was legitimacy.

NGOs as Legitimizers

26 South Africa’s Minister for Mines and Energy Affairs, Phumzile Mlambo-Ngcuka, in collaboration with Namibia and Botswana, three of the largest diamond exporters called for what now has become the first KP meeting in May 2000. The organizers worried that conflict diamonds would taint the image of all diamonds, including their “clean” gems. Diamond exports made up significant percentages of these African economies and a drop in demand would have seriously hurt revenues and employment. Invited to discuss how to address the problem of conflict diamonds were NGOs, industry, and the three major trading countries, Britain, the United States, and Belgium.

27 One reason NGOs were asked to join the KP negotiations, was concern, on the part of states and industry, that a meeting, which did not include NGOs, would have appeared illegitimate. This concern over legitimacy was particularly pronounced given several important moral deficits. First, the industry and some states were subject to severe criticism for their inability, or, worse, unwillingness to deal with the problem of conflict diamonds. NGOs conflict diamonds campaign directly targeted the reputation of De Beers, diamond trading states, and diamonds themselves, which had become associated with blood and destruction as opposed to De Beers’ carefully constructed marketing frame of love and eternity. The industry and ‘clean’ diamond producers and trading states sought to distance themselves from such images and to restore their reputation.

28 Second, the nature of the diamond industry raised suspicions that private commercial
interests would need to be curtailed. The diamond industry is characterized by a mixture of state and private ownerships of diamond mines, which frequently blurs the lines between state and corporate interests. De Beers’ monopoly power in the business, although in decline, is key in terms of their leverage vis-à-vis certain states (e.g., Botswana, South Africa, and Britain) as well as in the industry, a relationship that has been characterized as one of love and hate. There were even speculations that South Africa called the first KP meeting at the bequest of De Beers, a South African company. The president of Botswana, Mr. Mogae, once described his government’s relationship with De Beers as follows: “The partnership between De Beers and Botswana has been likened to a marriage. I sometimes wonder whether a better analogy might not be that of Siamese twins” (Good 2003).

NGOs were charged to keep both states and industry in check. Ian Smillie, one of the leading NGO representatives at the KP, explains NGOs’ inclusion as follows:

I think they [states] knew they had to get us into the tent. Otherwise, if they tried to do it secretly by themselves they’d make a mess. And they couldn’t really do it properly without industry. I think the industry knew that if it was left to NGOs or governments or both alone they would make a mess of it. They would come up with something so horrendous that it would be very costly to the industry. So they really had to be part of this. They could keep it to a minimum, and of course you couldn’t have industry in it if you didn’t have the NGOs in it (Ian Smillie, interview, July 5, 2006).

The industry’s presence evoked or at least threatened to evoke charges of special interests and financial motivations, delegitimizing any political solutions coming out of such negotiations. NGOs, on the other hand, were credited — even by the industry — to do the opposite. Key government and industry officials saw this role as necessary quite early on. When asked how important the participation of NGOs in the KP was, Eli Izhakoff, a senior industry official, answered as follows:

Very, very, very. Indispensable. Because they keep us honest, they keep the government honest and they play a very vital role and sometimes if they do urge or write something negative in the newspaper although publicly sometimes I criticize them, I welcome it because my industry sometimes says, you are doing it just because you’re doing it, nobody cares so when the NGOs speak it is very helpful. Both for governments and for industry to keep everybody honest and because they know that NGOs speak for, they don’t have any ax to grind, and basically they’ve done magnificent things and I myself have in the past few years learned to appreciate them because they come from the right wave and they mean well and sometimes they go overboard in order to achieve a little bit under board sometimes you know so I don’t have any problems with them. On the contrary, I feel that they play a very useful role (Eli Izhakoff, phone interview, June 24, 2005).

Thus, NGOs got involved in the KP to lend legitimacy to an otherwise suspect state-industry spectacle of a tarnished commodity.

Yet legitimacy requires continuous reinforcement and NGOs participation continued to be essential in lending legitimacy to the negotiations that would unfold over the next two and a half years, culminating in the KPCS in January 2003. This continued need for legitimation was especially pronounced because the KP was not based on universal state representation and could have come to be seen as an exclusive club of self-interested actors. While initially, the KP was open to all states interested in participating, the process of joining became more difficult in mid-2003 and 2004 as countries had to show that they were fulfilling all the minimal standards.

Finally, NGO legitimation was important given that the KPCS as a voluntary agreement does not possess the legal standing of international law. This lack of legal authority magnifies the importance of receiving credibility as global agreement. Voluntary agreements, like the KP, especially those that involve industry, need to compensate for lower credibility as they are not formalized through other legitimate global structures (such as the UN or ILO). The inclusion of civil society in the implementation of the KPCS compensated for such lack of formal standing.

The “illegitimate” aspects of the early KP negotiations discussed above made it even more important that it received other forms of legitimacy. NGOs offered it. But what is the source of NGOs moral authority? NGOs’ legitimacy stems from the view that they are disinterested actors, pursuing goals – in the KP or elsewhere – not to enrich themselves but to benefit the public interest rather than private, special interests. Conflict diamonds NGOs represented the war victims, the refugees, and the societies that were harmed, impoverished, and exploited by the diamond trade. At the same time, NGOs’ legitimacy can be suspect. The greatest threats to NGOs reputation are
when organizational goals – financial or other – override the goals of servicing the public or their constituencies. Similarly, since NGOs moral authority is critically linked to their roles as experts and reliable information providers, the distribution of false, inaccurate, or exaggerated information poses a threat to NGOs legitimacy and their standing vis-à-vis states and international organizations. PAC, Global Witness and other conflict diamonds NGOs had established their moral commitment in their campaign efforts leading up to the KP and retained their reputation with solid fact finding and the dissemination of reliable information. The role of NGOs as legitimizers was broadly accepted across actors, including states and industry, as the quotes above illustrate well.

The role of NGOs as legitimizers is also exhibited in instances under which legitimacy is sought but not extended. A recent retreat of NGOs moral endorsement of the KP occurred with the resignation of the leading NGO representative at the KP, Ian Smillie from PAC in July 2009. A press release by PAC explains Smillie’s resignation and denounces recent KP developments:

In recent years, PAC and others in the Kimberley Process have been critical of the KP’s shortcomings and its failure to deal decisively with several important matters, such as Venezuela’s flagrant non-compliance with the KP’s regulations and the Zimbabwe authorities’ gross abuse of human rights in certain mining areas. PAC’s reports on both these questions have been met with denial by the respective governments, and by the complicity of a few governments within the KP. Ian finally grew weary of the KP’s indecision and inaction on these and other matters (PAC June 2009).

While PAC and Global Witness continued their representation at the KP, Smillie’s departure sent a strong signal to states and the industry that NGOs support of the KP is not indefinite or unconditional.

**NGOs as Experts**

NGOs’ presence did not go unchallenged as more states joined the KP. However, over time, governments came to accept and even appreciate having NGOs as equals at the negotiating table. The primary reason for this was that NGOs lent expertise and assisted in the day-to-day operations of the KP.

Global Witness and PAC had established their credibility as experts already during the earlier awareness raising campaign and their thorough investigative reporting. Most notably, the NGOs caught states and industry’s attention with their publications “A Rough Trade” (Global Witness December 1998) and “The Heart of the Matter” (PAC January 2000). Leading up to the adoption of the KPCS in January 2003, PAC had published seven in-depth reports on various problems relating to conflict diamonds. The rate of investigative reporting did not slow down during implementation. NGO reports by these two organizations added to their credibility as knowledgeable and thorough. For instance, in April 2003, Global Witness wrote “For A Few Dollars More: How Al Qaeda Moved Into the Diamond Trade”, a 100-page report with more than 200 footnotes, a sign of thoroughness that impressed many and that was widely quoted in the industry news.

Tim Martin, former KP chair and senior official in Canada’s Foreign Affairs department, had the following to say concerning the role of NGOs and industry in the KP:

Something else I would add and I don’t think is always recognized, but we see this in the operations of the Kimberley Process, is that Partnership Africa Canada and Global Witness have deep understanding, knowledge, and bring a lot of technical and analytical assets to the Kimberley Process. So it’s not a situation where it’s, we’re being impelled by civil society affecting public opinion, although, it does that and that’s healthy, but civil society participates in an integrated, informed, professional, technical way as well (Tim Martin, interview, May 6, 2005).

Tim Martin stresses the technical and analytical functions NGOs can contribute to decision-making, besides their more commonly recognized function of public awareness raising.

NGOs became critically involved in day-to-day decision-making of the KP through their participation in KP working groups. Absent a central secretariat, the KP relies on the working group system to get tasks done. Five permanent and several ad-hoc working groups (statistics, participation, rules and procedures, technical, and the monitoring working group) carry out many administrative functions. These working groups are made of about ten representatives, usually selected from geographically diverse countries and from NGOs and the industry. Working groups are set up and
function democratically, empowering NGOs in decision-making. Nongovernmental members have full input on all matters and are actually among the more active members on many working groups compared to their governmental counterparts. This allows for input on a variety of issues including what trade statistics to collect or how to review states’ compliance with KP rules.

Moreover, participating in those working groups has reinforced Global Witness’ and PAC’s reputation as knowledgeable and reasonable participants within the KP. In the process, they learned the ins and outs of technical details regarding the KPCS, trade, certification issues, etc. Moreover, NGOs, Global Witness and PAC, developed personal relationships with state and industry representatives. However, participation in working groups also required constant NGO engagement and required the commitment of full time NGO staff members to KP matters.

With the growing technical and bureaucratic requirements of the decision-making process, some NGOs that were highly active in awareness raising activities were less interested and also less capable of staying engaged in the KP. This was illustrated in an interview with two campaigners from the more awareness raising oriented “Fatal Transactions” NGO-coalition:

Sargentini: That’s why you see that some NGOs are not that present anymore…. Oxfam America, World Vision were always there at Kimberley meetings, or most of them. At a certain point they said okay, and now it’s enough. Because now it’s implementation. We try to critically follow implementation but we’re not implementing ourselves. Global Witness and Partnership Africa Canada decided to implement, which is fine. I think that’s good for them and they do a good job. It’s not our thing. We cannot, it doesn’t fit our work. We cannot get the people to do that, we leave that to that.

Hond: And as for the Kimberley Process we said as far as it goes with technical details we back off. It’s impossible to follow. And it’s not for campaigning, it’s not the most interesting.

Sargentini: Before you know it, you start discussing the way a Canadian diamond looks. Well, that’s far off from human rights in Angola…. ActionAid, London, they stopped as soon as it was signed. The same as we changed focus (Hond and Sargentini, interview, July 18, 2005).

While these differences caused some tensions amongst the NGOs, that Global Witness and PAC participated in the KP was generally appreciated by others in the NGO community.

In summary, the fact that NGOs offered their expertise and that they were willing to contribute and learn, was critical to their inclusion in the decision-making process. PAC and Global Witness had established a reputation as knowledgeable on diamond matters and proved these expectations right in their early KP participation. Their contributions muted countries opposition to non-state participation on important matters, especially in light of the severely limited capacity of the KP. Thus, NGOs did not merely rubber stamp and give their moral seal of approval. They were actually involved in day-to-day affairs of regulating the global diamond trade, which requires knowledge about technical details. As a result, NGOs expertise more and more relied on accumulated knowledge acquired in the participation of the KP. This insider knowledge served them in their roles as monitors as well.

**NGOs as Watchdogs**

The watchdog function appears more complex than commonly assumed. I find that NGOs served as watchdogs from within and from outside of the KP and both these functions were facilitated by NGOs knowledge base. As insider watchdogs, NGOs relied on their accumulated experience as KP observers and on insider knowledge as representatives to working groups. As watchdogs from the outside, the same NGOs relied on their expertise as independent fact finders, engaged in activities similar to those during earlier campaign stages, when the issue of conflict diamonds was made public.

Corinna Gilfillan, from Global Witness USA, describes how NGOs served as dual watchdogs:

So it’s really interesting because we’ve become part of the KP. You know we’re inside the KP but yet we also think play two roles because we take part in the KP and work to strengthen it from inside the process, but we also continue to watch-dog the process from the outside. We also watch-dog how the diamond industry is operating in key diamond trading and producing countries, so that we can raise concerns or problems that we find and push for them to be addressed. So some of
NGOs adopted the role of official watchdogs through their direct participation in the KP, particularly through the KP voluntary peer review mechanism, as well as unofficially, from outside the system, as vigilant watchdogs producing highly critical reports about the KP and particular member countries.

Global Witness and PAC engaged in official watchdogging functions most significantly via their involvement in KP review visits, a system that was adopted by the KP at the plenary meeting in Sun City, South Africa, in October 2003. Review teams consisting of five representatives conduct voluntary peer review visits: three from states, one from the industry, and one from the NGOs. Review teams assess if the country complies with KPCS minimal standards and write a report including recommendations for improvements.

NGOs capacity, commitment, consistent and meaningful contribution to a range of diamond trade issues in the KP, gave them greater opportunities to serve as inside watchdogs. As un-collaborative, un-collegial members, NGOs would likely not have been included in delicate review visits. However, the significant establishment of trust in the multiple years of close working relationships between state and non-state actors allowed for this.

While the review teams are chaired by a participant state, the NGOs and the industry have full input. In addition, NGOs can write a letter of dissent should they disagree with any aspects of the review report, as Dorothee Ngolo Gizenga from PAC describes:

If we are not we do reserve the right to write a minority report. I think nobody likes that but if push comes to shove and we did not agree with the position of government we’ll write our own separate minority report. And that is not something that is pleasant to governments to know that we will take that action but at the same time I think it keeps them on their toes knowing that this is not a tourist visit where we are just patting each other on the back. We are there to go and see that the system works and where it doesn’t work we want to point the possible loopholes, we want to point out the possible weaknesses of the system because that is what it’s all about to ensure that there is no conflict diamonds. And the governments that’s the main problem is that that’s why they really need the NGOs to be there. They tend to play diplomacy more than anything else. They want to be nice with each other. That’s not our concern. So we go beyond diplomacy. We leave the diplomacy to them and we keep squeezing where it needs to be squeezed. That is not always popular but that’s fine. Somebody’s got to do it (Dorothee Ngolo Gizenga, phone interview, May 5, 2005).

The power to write a minority report, though not exercised to this point, is substantial. This provision gives NGOs a potent tool to ensure that review visits are realistic and frank. The role given to NGOs here is quite a powerful one since review visits and its recommendations can decide whether a country could continue to trade in rough diamonds or face expulsion from the KP.

NGOs’ role as watchdogs was not limited to their official activities within the KP, as participants in review visits. Global Witness and PAC continued to produce independent reports as well, thereby pressuring the KP from outside. One key example of this activity was PACs investigations and publication of a report on Brazil ("The Failure of Good Intentions: Fraud, Theft, and Murder in the Brazilian Diamond Industry," May 2005). The report outlined a range of illegal activities linked to diamond extraction, implicating several Brazilian government officials and charging that KP mechanisms had failed to uncover or prevent these violations. Initially, the Brazilian KP delegation vehemently protested the report at the 2005 KP intersessional and plenary meetings in Moscow, offering presentations aimed at discrediting the PAC report. However, an investigation by the Brazilian federal prosecutor’s office resulted in “Operation Carbon” which led to 10 arrest warrants, including one against the official who previously was in charge of issuing KP certificates (PAC March 2006). In early 2006, PAC continued its investigations of Brazil and published a further report “Fugitives and Phantoms: The Diamond Exporters of Brazil” (March 2006). The report suggested that half of Brazil’s KP certificates were false and that names on certificates belonged to fictitious or deceased persons.

As a result of PACs investigations and “Operation Carbon”, Brazil temporarily suspended all shipments of rough diamonds in 2006. Moreover, these events also led to a KP review visit to Brazil in April 2006. The KP review visit’s report noted...
are not separate functions that NGOs can pick and choose from, but rather, that these functions are integrated and interdependent. NGOs’ roles as legitimizers, experts, and watchdogs contribute to the overall effectiveness of international agreements.

The findings suggest that NGOs play a crucial role in the implementation of the Kimberley Process (KPCS). NGOs monitor the KP's implementation rigorously and continuously, ensuring more comprehensive and extensive regulatory systems and maintaining international support. They serve as a dual watchdog function, both internally and externally, monitoring the KP’s progress and NGOs' own activities.

Both forms of monitoring are critical as they allow for different types of violations to be exposed. While voluntary reviews and KP’s internal mechanisms are important, NGOs also conduct independent investigations, which are often more effective in uncovering violations.

The role of NGOs is not limited to the KP's more bureaucratic stages. They are extensively involved in the more complex processes of global agreements, engaging in their roles as legitimizers, experts, and watchdogs. NGOs engage in successful campaigns and influence the KP's decision-making and implementation.

Conclusions

What involvement do NGOs have in the decision-making and implementation processes of global agreements? The case of the Kimberley Process illustrates that NGOs can be extensively involved in the more bureaucratic stages following successful campaigns. NGOs engage in their roles as legitimizers, experts, and watchdogs.

NGOs' moral legitimacy and the moral deficits of the KP were critical in giving NGOs initial access to negotiations on developing a solution regarding the trade of conflict diamonds. Global Witness and PAC had developed their moral reputation in their campaign activities, which preceded KP negotiations. Similarly, as a result of the campaign, the diamond industry – De Beers in particular – and diamond trading states had been delegitimized and were now required to restore their global image.

Furthermore, there were several structural conditions, which also encouraged continued legitimation, including the KP's non-legal standing, non-universal membership, and close state-industry ties. All of those characteristics made self-regulation without major NGO input and oversight suspect. Thus, the legitimacy of NGOs not only granted them initial access to the KP, but also continued to be an important asset as the process unfolded.

While moral authority facilitated early NGO engagements, their expertise was key in their ability to influence the KP in its operations, most notably through the KP's working group system. NGOs' reputation as experts during earlier campaign stages was important and solidified by their knowledgeable participation in the KP's working groups. Similar to the KP's moral deficit I discussed in this article, a knowledge and resource deficit created opportunities for NGOs to influence decision-making and implementation. Lacking a central secretariat and with most decision-making and implementation processes of global agreements? The case of the Kimberley Process illustrates that NGOs can be extensively involved in the more bureaucratic stages following successful campaigns. NGOs engage in their roles as legitimizers, experts, and watchdogs.

I also showed that acquired insider knowledge through day-to-day KP participation and NGOs' continued independent fact-finding missions allowed for a more effective monitoring of the KP. NGOs served a dual watchdog function. Internally, they monitored via their participation in the KP's voluntary review visit system. But the same NGOs also continued to monitor progress of the KP and particular members by publishing independent reports. NGOs did not grow uncritical of the KP or partial to states with whom they worked with in the KP.

Both forms of monitoring are critical as they allow for different types of violations to be uncovered. While it is beyond the scope of this paper to detail the substantive impact of NGOs' involvement on the KP's effectiveness, the formal inclusion of NGOs in the KP has critically impacted the initial creation of the KP, where NGOs ensured a more comprehensive and extensive regulatory system, and continues to ensure more rigor in the implementation of the KPCS.

These findings also suggest that NGOs' roles as legitimizers, experts, and watchdogs are not separate functions that NGOs can pick and choose from, but rather, that these functions are integrated and interdependent.
roles are closely intertwined. For instance, legitimacy is in important ways tied to the reputation of NGOs as experts. Lacking the legal authority of states or the financial power of corporations, NGOs moral authority is closely linked to their role as information providers, presenting accurate facts and providing expertise on particular matters. Similarly, their effectiveness as watchdogs depends on NGOs’ abilities as information gatherers and their comprehension of the issues. In turn, NGOs legitimacy is critically shaped by their effectiveness as watchdogs. If they do not properly watchdog the KP, Global Witness and PAC’s credibility would quickly vanish. While states and industry can gain legitimacy through their association with NGOs, for NGOs the converse applies: they can lose legitimacy by associating with states and companies. However, multi-actor collaborations are not without benefits to NGOs, who stand to gain significantly more influence over and access to negotiations on important global social problems than if they were to keep their distance from their targets. When targeted states and companies are successfully kept in check, NGOs can increase their legitimacy within the broader civil society sector, by reinforcing their reputation as experts and effective watchdogs. Still, NGOs must find a balance in terms of getting close enough to work effectively on implementing social changes but not getting so close as to threaten their impartiality. In addition, for NGOs, that are engaged in organizational structures like the KP, the demands on their expertise and capacities can grow exponentially. To accommodate these challenges NGOs may increasingly resemble think tanks, producing and disseminating data and reports, perhaps hiring independent consultants. In doing so, though, they must retain their character as disinterested, morally driven entities if they are to maintain their legitimacy as principal actors in global affairs.

References


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