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## High-value minerals and resource bargaining in a time of crisis: A case study on the diamond fields of Marange, Zimbabwe

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# UNRISD

United Nations Research Institute for Social Development

Working Paper 2018-1

## **High-Value Minerals and Resource Bargaining in a Time of Crisis**

*A Case Study on the Diamond Fields of Marange, Zimbabwe*

*Richard Saunders*

prepared for the UNRISD project on  
Politics of Domestic Resource Mobilization for Social Development

January 2018



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United Nations Research Institute for Social Development

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## Acronyms

ACR	African Consolidated Resources plc
DRM	Domestic Resource Mobilization
EITI	Extractive Industries Transparency Initiative
GNU	Government of National Unity
MDC	Movement for Demoratic Change
MMCZ	Minerals Marketing Corporation of Zimbabwe
JV	Joint venture
KPCS	Kimberley Process Certification Scheme
PAC	Partnership Africa Canada (since 2017, IMPACT)
PAYE	Pay-as-you-earn
VAT	Value added tax
ZAADS	Zimbabwe Accelerated Arrears Clearance Debt and Development Strategy
ZANU-PF	Zimbabwe African National Union (Patriotic Front)
ZCDC	Zimbabwe Consolidated Diamond Mining Company
ZELA	Zimbabwe Environmental Law Association
ZMDC	Zimbabwe Mining Development Corporation
ZIMRA	Zimbabwe Revenue Authority

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<sup>1</sup> Previously Partnership Africa Canada (PAC)



## **Summary**

In 2006, the discovery of world-class deposits of alluvial diamonds in Marange District in eastern Zimbabwe offered important opportunities for the mobilization of significant revenues in a period of severe and worsening economic and social crisis. The new resources quickly became the subject of intense contestation involving the state and a variety of actors including mining communities, civil society, the diamond industry and donors. The paper traces the evolution of these contestations over the course of three successive phases of alluvial exploitation. For each period, the study explores the key dynamics shaping the management of diamond production and trading, and assesses their impact on state-society relations and development outcomes. Particular focus falls on the implications of state capture for the state's institutional capacity and coherence, and the constraints on civil society's and donors' influence with state and business actors.

The paper's findings underscore the limits of civil society and donor influence with government in strengthening resource governance through contestation over the management of high-value minerals. In a period of heightened political conflict, economic crisis and elite predation, social claims on resource mobilization were confronted by elite resistance. This resulted in attempts by the state to undermine the achievement and implementation of a workable social consensus around the management of diamond wealth. At the same time, various international legal and regulatory mechanisms established to strengthen resource governance proved to be severely limited in their ability to elicit greater transparency and accountability by both government and diamond miners.

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## Introduction

In 2006, the discovery of world-class deposits of alluvial diamonds in Marange District in eastern Zimbabwe offered important opportunities for the mobilization of significant revenues in a period of severe and worsening economic and social crisis. The new resources quickly became the subject of intense contestation involving the state and a variety of actors including mining communities, civil society, the diamond industry and donors. These engagements were situated in the context of wider contestations and bargaining over domestic resource mobilization (DRM) in the minerals sector, which since independence in 1980 played an important role in shaping the social and development programmes of the state (Saunders 2017). The Marange diamond strike accentuated and deepened existing fault lines in state-society engagements around resources, and exposed the frailty of resource governance strategies in situations characterized by weak institutional capacity, powerful executive authority and polarized political environments.

For development approaches based on DRM strategies, Marange's diamonds posed a number of critical challenges which echoed broader dynamics in Zimbabwe's development politics. Contemporary DRM research identifies the importance of state-citizen relations in shaping resource mobilization strategies, resulting in strengthened domestic revenues flows, more equitable distribution of revenues, and transformed, ecologically sustainable production processes (UNRISD 2016). Improved state capacity, strong political leadership which enables transparent bargaining with key social stakeholders, and evidence-based inclusive policy-making processes are seen as critical political components of successful DRM strategies.<sup>2</sup> UNRISD's research project on the Politics of Domestic Resource Mobilization in Zimbabwe, to which this paper contributes, suggests that these factors pose severe challenges to the country's commitment to pursuing a DRM strategy for social development.<sup>3</sup> In the important diamond sector, state capacity, bureaucratic autonomy and elite rent-seeking were especially critical in destabilizing the foundations for a DRM approach.

At first glance, the Marange diamond strike seemed to present an ideal source of significant new revenues which could be used for development outcomes. The ore deposit's geology and value offered important advantages. The options for exploitation were unhindered by some of the key constraints often affecting the development of other mining projects: relatively low capital investments were required to access the surface deposits at the outset, and therefore excessive dependence on foreign investment for diamond extraction could be avoided. As the scale and value of the find became known, debate about the most effective means of managing revenue flows from the diamond fields emerged amidst intense competition among state institutions and interests over effective control of the new assets. In the midst of the diamond boom in 2011, Zimbabwe's Minister of Mines held that alluvial diamonds promised to generate as much as USD 2 billion annually. The following year, Zimbabwe was ranked as the world's fourth-largest diamond producer, and by 2013, some estimates suggested the country had achieved the lead position in world diamond supply (Global Witness 2017).

Against the background of Zimbabwe's turbulent political economy of the 2000s, in which economic decline, fiscal crisis, social conflict and elite state capture figured prominently, the politics of resource governance around Marange diamonds came to

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<sup>2</sup> Mkandawire 2017; Roberts 2015; Saunders and Caramento 2018.

<sup>3</sup> For other papers on Zimbabwe in UNRISD's PDRM series, see Saunders (2017) and UNRISD (2013).

reflect the myriad challenges faced by states in mobilizing natural resource rents. State institutional incapacity, bureaucratic autonomy and elite predation figured prominently in mutually reinforcing ways, and severely corroded the foundations of any potential DRM strategy. State capture in the early 2000s undermined the bureaucracy's administrative autonomy and injected partisanship into decision making. At the same time, the allure of enormous mineral wealth that was easily accessed and could be traded secretly, incentivized irregular and predatory behaviour by state elites in a period of severe economic crisis. This toxic mix of opportunity and adversity was further enabled by the international diamond trade, an industry notorious for the scale of unaccounted for revenues due to smuggling, corruption and undervaluation of stones—as much as USD 2 billion between 2008 and 2012 in Zimbabwe alone, according to conservative estimates (PAC 2012).

While the value of the diamonds extracted from Marange remained unknown, it was nonetheless clear that diamond resources contributed far less than anticipated to the national treasury via the state shareholding in mining companies, taxation and other fees, and that promises made around local development in diamond mining areas were largely unrealized. The main beneficiaries appeared to be a small group of political elites and their political and business allies. These sharp contrasts—of high expectations of development and disappointing outturns, and of vast potential for new public resources and their privatization through stealth—came to place Marange at the centre of growing contestation among a range of stakeholders. In this sense, Marange provided a lens into the broader weaknesses, constraints and shortcomings which undermined government's overall approach to resource mobilization and development in the extractives sector. It raised questions about state capacity, and the political elite's power to distort a national development strategy for extractive resources. It also highlighted the problems confronting donor, civil society and local community interests in their diverse engagements with the state and the political and economic elites which dominated it.

The paper charts Marange diamonds' evolution as a national resource through three phases of exploitation, marked by successive state management strategies, production schemes, regulatory mechanisms and development outcomes. Mining commenced in 2006 with a diamond rush dominated by artisanal, unregulated and mostly illegal exploitation, linked increasingly to criminalized international trading networks. In 2009, a second mining phase began with government's moves to initiate formal, larger-scale mechanized extraction through licensed companies. A third approach announced in 2015 saw the state forcing the merger of all mining companies in Marange under a single government-dominated entity in response to what government claimed was the disappointing, unaccountable, if not illegal, activities and outcomes of formal alluvial mining.

For each phase of mining, the paper identifies and traces the key dynamics shaping the management of diamond production and trading, and assesses their impact on development outcomes and the governance relations among leading stakeholders. Particular focus falls on the main factors affecting the mobilization and deployment of domestic resources from diamonds, namely: state capacity, coherence and bureaucratic autonomy in the context of state capture and elite interventions in the extractive sector; the power of leading mining industry actors to resist unwelcome regulatory measures by the state; donor influence on resource governance outcomes in a period of continuing economic crisis and state vulnerability to donor pressure; and civil society effectiveness in holding government and business to account through international organizations

overseeing the diamond trade, and local platforms for engagement involving legal and political structures.

The paper concludes by returning to the critical question of state capacity and autonomy, and considers the challenges that confront democratic claims on resource mobilization from the extractive sector in a period of elite predation. Recommendations for further research and policy reform are developed from these assessments.

## **Marange: Facets of Exploitation During the Free-for-All Phase, 2006-2009**

In late 2006, following revelations of an important diamond strike in Marange District by African Consolidated Resources plc (ACR), a British-registered mining company, Zimbabwe became the site of a world-class diamond rush involving local diggers, criminal gangs, state security agents and international traders.<sup>4</sup> By 2010, Marange's alluvial deposits were supplying perhaps 20 percent or more of the world trade in rough diamonds (Even-Zohar 2010), ranking Marange among Africa's most valuable diamond strikes in a century and one of the biggest sources of alluvial diamonds on the continent. An expert contracted by the Government of Zimbabwe predicted annual production of as much as 30-40 million carats, with projected annual sales of almost USD 2 billion based on per carat averages at the time (Mining Review 2010). Assessments by diamond sector experts foresaw a 20-year mining cycle on the basis of early exploration data, though these estimates later proved far too optimistic. A decade later, some sources, including President Robert Mugabe, suggested (albeit unconvincingly) that Marange had produced as much as USD 15 billion worth of diamonds. Yet only a small fraction of this amount was accounted for by either government or commercial miners, or officially recorded by the international diamond trade. The true value of the Marange strike would remain a mystery to all but those who benefited directly, secretly and often criminally, even as the resource remained a key point of focus for government, donors and development planning in the second decade of the 21<sup>st</sup> century.

The tragic paradox of Marange—the unanticipated emergence of a significant mineral resource at a time of dramatic economic instability and decline, and its failure to alleviate that worsening crisis—resulted from a perfect storm of contributing factors. These were related to the geological nature of the minerals deposit; the allure of rapid, covert accumulation for elites; and weaknesses which were deeply embedded in Zimbabwe's state institutions and political environment. Together these cast Marange into the centre of politically inflected, often violent struggles for accumulation and political domination. Such conflict had profound anti-development outcomes by lowering the levels of state accountability and transparency around minerals management, and sharply undercutting the amount of revenue gained from the new high-value resources in Marange.

Geology played a critical role, with the alluvial deposits in Marange producing a myriad of security and environmental challenges. Unlike kimberlitic diamond deposits which are easily secured, alluvial diamonds are spread over wide swaths of land. This makes their extraction difficult to supervise and control because they are relatively easily accessed and mined with equipment as rudimentary as picks and shovels. Moreover, predicting their geological footprint, volume and thus potential revenues (either taxes or economic

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<sup>4</sup> See Saunders and Nyamunda (2016) for a comprehensive account of Marange diamonds' political and social economy. This section of the paper relies importantly on that publication's findings. Other crucial sources charting the evolution of the Marange trade include CRD (2009); Global Witness (2010; 2012a; 2012b); Human Rights Watch (2009); and PAC (2010; 2012).

viability) can be problematic for both governments and companies. Unregulated informal mining and the leakage of stones into the parallel market trade pose serious challenges to regulating alluvial extraction, and violence is a common tool enabling access to local production. In an unambiguous reflection of the risks posed by alluvial diamonds, it has been noted all contemporary cases of conflict diamonds in Africa have featured alluvial deposits.<sup>5</sup>

In the case of Marange, government's irregular and rapid eviction of ACR from its mining claim by late 2006, and state officials' subsequent permission of informal artisanal mining, exacerbated the already fragile security of the diamond fields. These early actions opened a path to widespread informal mining, the loss of regulatory control and the beginnings of a shadowy diamond trade with links to criminal international networks (Saunders 2014). State mining institutions were ill-equipped to cope. The Zimbabwe Mining Development Corporation (ZMDC), the state's mining arm, was under-funded, had no diamond mining experience and its operations were fledgling. The state's designated buying and marketing agent, the Minerals Marketing Corporation of Zimbabwe (MMCZ), had insufficient hard cash and a weak presence on the ground; in contrast, international black market traders were awash in foreign currency, and highly accessible in roadside informal markets. Therefore, as tens of thousands of artisanal miners descended on the fields, incentivized by the possibility of instant fortunes or at least improved livelihoods in the midst of an economic crisis, the ZMDC, MMCZ and official trading channels were quickly marginalized to the edges of Marange's diamond economy.

Accounts from this period noted a booming trade resulting in local fortunes built via informal networks frequently linked in important ways with protection rackets involving state personnel and security agencies (Nyamunda 2016; Spiegel 2015). It became clear that government's attempts to contain and control informal production by the deployment of state security agencies had instead exacerbated the situation. Interests in the security apparatus and the ruling party ZANU-PF, became deeply intertwined with production of the black market stones which flooded from Marange (PAC 2010; Global Witness 2010). Having been dispatched to Marange to control and then eliminate the artisanal trade, state security personnel ended up supervising and incorporating it under the protection of state elites. In this free-for-all period of the diamond rush, the state's relationship with miners and diamond markets was deeply inscribed with violence, predation, looting and the state's own strategic, deliberate incapacitation.

The role of the party and security agencies in this emerging trade highlighted critical changes within the state and national politics in the preceding decade. These have been described as a process of state capture. During a period of severe economic crisis, political realignment and a growing electoral challenge to President Mugabe's ruling ZANU-PF in the late 1990s and early 2000s, heightened fiscal instability and growing partisan conflict contributed to the withering of the professional capacity of state institutions and the simultaneous partisan capturing and realignment of the bureaucracy (Saunders 2017).<sup>6</sup> A benchmark of this process in the early 2000s was the militarization of strategic state structures and decision-making procedures, a dynamic seen most clearly in the fast-track land reform programme launched in 2000 but reflected also in the management of other key productive and social sectors, including mining (Mandaza 2016).

<sup>5</sup> Smillie 2010; Lujala et al. 2005; Global Witness 1998.

<sup>6</sup> Issues involving state capture, its impact on mining policy and the outcomes for resource mobilization from extractive resources are explored more fully in Saunders (2017).

State capture helped the ruling party to both contain the rising challenge from the opposition and civil society through legal and extra-legal means, and to develop new avenues for elite accumulation and the funding of patronage and partisan mobilization. In this context, the deliberate deprofessionalization of the state bureaucracy and undermining of its autonomy and regulatory capacity—coupled with reduced levels of public sector transparency in the face of intense opposition, civil society and donor scrutiny—enabled the opening of direct channels of partisan control and rent-based accumulation in Marange. There was little transparent, systematic supervision through the state bureaucracy. Instead, this first phase of mining generated competition among different state institutions and their respective competing elites for control over the newfound wealth. State security agencies, put in charge of securing the diamond fields, came to feature centrally in government’s evolving *ad hoc* management of Marange.<sup>7</sup>

This uneven and unsystematic embedding of state institutions and elite interests in the burgeoning diamond trade resulted in chaotic and contradictory policy making and regulatory interventions. Senior government officials both argued that Marange’s resources should benefit the national patrimony, and episodically tolerated their extraction by informal miners whose main point of sale was the illegal international trade. If the first position justified occasional government crackdowns on illegal artisanal mining amid calls for its formalization under the state, the second saw elements of the state working with, coercing or otherwise coopting miners and traders via syndicates involving miners, security personnel and politicians (Nyamunda 2016; Towriss 2013). The intensifying and partisan nature of political actors’ involvement in Marange led to government’s restructuring of the informal trade in response to a severe political and economic crisis. In 2008, amid a strong electoral challenge to ZANU-PF by the opposition Movement for Democratic Change (MDC) and a spiralling economic crisis, the ZANU-PF government moved decisively to clamp down on artisanal miners with the aim of bringing production entirely under state control through the ZMDC and MMCZ. The objectives of elite accumulation, party patronage and the financing of off-budget partisan activities converged. The outcome was an unprecedented wave of violent intervention by the state, which would lead to the fundamental restructuring of production and elite predation in Marange in subsequent years. Police and army interventions against informal miners and traders in 2008 sealed off access to Marange and resulted in horrific human rights abuses. In a series of attacks late in that year, more than 200 miners and local residents were reportedly killed by security forces in clearing out operations (CRD 2009; Human Rights Watch 2009). The scale of the violence and emerging anecdotal evidence of the extent of unregulated mining activity attracted intensive scrutiny by local civil society groups and prominent international organizations working on extractives and human rights issues.

With revelations of the large-scale trade and criminality in Marange and the associated human rights abuses, international players became involved in Zimbabwe through the Kimberley Process Certification Scheme (KPCS), the international voluntary agreement established in 2003 to eliminate the trade in conflict diamonds,<sup>8</sup> of which Zimbabwe had been a founding member.<sup>9</sup> While participation in the organization was voluntary, the scheme had the effect of being mandatory for diamond exporting countries because KPCS

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<sup>7</sup> Saunders 2008; PAC 2010; Global Witness 2012b.

<sup>8</sup> The KPCS, a tripartite body founded by governments, the diamond industry and civil society, specifies minimum standards for the mining and trade of conflict-free diamonds, and oversees a system of compliance certificates and peer-review monitoring of member countries.

<sup>9</sup> Three state bodies oversaw Zimbabwe’s implementation of KPCS compliance. Overall authority rested with the Ministry of Mines and Mining Development, while the MMCZ was the exporting authority and issuer of KPCS certificates, and the Zimbabwe Revenue Authority (ZIMRA) was responsible for imports.

member states were barred from trading either with non-members, or those suspended from the KPCS due to non-compliance with its minimum requirements. Failure to comply opened the way to a country's suspension from the scheme until such time as minimum conditions were met (KPCS 2015).<sup>10</sup> Importantly, decisions around a country's minimum standards were made within the KPCS by consensus, not by majority vote. This provision afforded the KPCS' civil society and diamond industry members critical leverage in the organization's deliberations. The effectiveness of this 'veto' was brought to bear in the case of Zimbabwe.

In the wake of reports of the 2008 atrocities in Marange, pressure from civil society observers within the KPCS led to a peer monitoring visit to Zimbabwe in 2009. The KPCS mission found substantial problems in Zimbabwe's management of Marange's stones. In addition to acknowledging allegations of human rights abuses, the group's report decried poor security and diamond handling protocols, gaps in reporting and data provision, and other shortfalls measured by KPCS criteria. In the face of intensive lobbying by the Zimbabwe government, KPCS members imposed a ban on rough diamond exports and specified the minimum conditions which had to be met before the country's return to the international trade. The sanctions would remain in place until November 2011.

While welcomed by civil society and industry experts, the KPCS's intervention had been long overdue. By 2009, significant diamond wealth had already been lost. One expert estimated that more than 10 million carats worth more than USD 600 million had likely been extracted and illegally traded in the first three years of artisanal mining. Official government statistics for 2006-2009 accounted for only a fraction of these amounts. By 2010, the KPCS data indicated that the black market trade from Zimbabwe ranked the country between seventh and tenth in world diamond production (PAC 2012). Therefore, while artisanal miners, informal traders and local communities prospered, albeit unevenly and chaotically, in this free-for-all phase—and at great cost in terms of rights abuses and community disruption—the loss to the national treasury undoubtedly far exceeded and outlasted the gains from the diamond economy at the local level.

The KPCS' intense involvement in Marange from 2009 led to a critical restructuring of relations among leading stakeholders in the alluvial trade which would reverberate beyond the diamond sector. Civil society's successful lobbying within the KPCS marked the growing role and influence of local non-governmental organizations (NGOs) and mining communities in resource governance issues. Previously dependent upon and vulnerable to the state's policy agenda, civil society was able to leverage the KPCS' disciplinary power to win greater influence with government. Stronger support from donors, industry and allied local and international NGOs followed. As a result, civil society's technical and political capacity to engage with state and industry was significantly strengthened. After 2009, leading NGOs' heightened profile and growing competence helped them to extend the scope of their engagement with the state to include issues like the mining fiscal regime, government's transparency and accountability deficits, environmental governance in the natural resources sector, human rights violations and community development strategies. The consolidation of ties with leading international players in resource governance underscored the evolution of local civil

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<sup>10</sup> Minimum requirements include: the adoption of national legislation governing production and trade of stones; the establishment and enforcement of specified export, import and internal security controls designed to prevent leakages and smuggling; commitment to share accurate quarterly and annual statistical data with other KPCS members; commitment to trade only with members who have met KPCS minimum requirements; and assurance that all cross-border shipments of rough diamonds are accompanied by a KPCS certificate guaranteeing they are conflict-free and meet KPCS minimum requirements of inspection and handling

society's capacities and catalysed the emergence of its leading players as key stakeholders in Zimbabwe's resource mobilization politics.<sup>11</sup>

A second outcome of the KPCS intervention was the restructuring of diamond mining in Marange under the control of state institutions. The ensuing period of mining formalization presented new prospects for the greater mobilization of revenue from diamonds. But it also offered opportunities for more systematic and legal rent-seeking by state-based elites. The legacy of state capture would feature prominently in the dynamics of engagement among the state, the new mining players in Marange and civil society.

## **Normalization and Continuity: 2009-2013**

The KPCS ban on Zimbabwe's diamond exports, intended to encourage the normalization of extraction, strengthened security and greater transparency, instead led to a new round of restructuring which produced contradictory and mostly negative results. While the state moved to replace unregulated artisanal production with commercially contracted producers, its management of the restructuring process was highly irregular, and raised questions about its approach to diamond governance. At the same time, the context of sanctions paradoxically provided new space for interaction with the illegal trade. In addition to the KPCS ban, broader political sanctions on ZANU-PF and strategic state institutions enacted by most western governments in the early 2000s created opportunities for ZANU-PF to portray the diamond export ban as inspired by notions of 'regime change,' and to cloak its tacit approval of illicit trading in the language of 'resource nationalism' and the state's fiscal emergency.<sup>12</sup> By these means, state mining officials would skillfully refashion the KPCS ban as a matter of geopolitical conflict, sidestepping complaints over government's poor accountability and human rights record in Marange (Spiegel 2015).

Under these conditions, the pace of systematic looting and smuggling from Marange would escalate dramatically, disempowering stakeholders in civil society and providing a rent-seeking elite with added incentives to defend its secretive control over the alluvial sector. While stones were sold in more volatile parallel markets at a discount, the greater volume of production suggested substantial earnings for those linked to the illicit trade. The state's fiscal gains from diamonds, the livelihoods of affected local communities and the viability of the government itself were all placed in jeopardy. By the time the KPCS export ban was lifted in late 2011 as a result of government's intensive lobbying, enormous revenue losses had been incurred. The extent of the looting was such that it led to severe conflict within the KPCS itself over the organization's handling of the Zimbabwe case. Some founding members of the Scheme later resigned from the body as

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<sup>11</sup> Inside Zimbabwe, several civil society organizations emerged to play a leading role after the crisis of rights abuses in Marange in 2008. The Centre for Research and Development, a local organization based in the eastern city of Mutare near the diamond fields, was the first to bring the abuses to national attention. The Zimbabwe Environmental Law Association (ZELA) soon emerged as a prominent legal and research NGO working on Marange and minerals governance. The Counselling Services Unit undertook legal and medical assistance for victims of rights abuses, and Zimbabwe Lawyers for Human Rights provided legal support. Representatives from several of these bodies served on the Local Focal Point structure set up under the KPCS to monitor Zimbabwe's progress on the KPCS Joint Work Plan for Zimbabwe established at the time of the 2009 export ban. International NGOs which featured prominently in the wake of Marange included Global Witness, IMPACT, Human Rights Watch, Transparency International and Publish What You Pay.

<sup>12</sup> Sanctions imposed on the ZANU-PF political and military leadership after the flawed presidential elections of 2002 also applied to state institutions implicated in support for violent political activity; these included the ZMDC and MMCZ.



a result of its 2011 decision to approve the resumption of diamond exports from Marange despite the persistence and entrenchment of secretive and irregular production practices.<sup>13</sup>

The KPCS 2009 intervention accompanied other changes in Zimbabwe’s political landscape that initially appeared to increase pressures for greater accountability, transparency and coherence in government’s management of Marange. In 2008, following ZANU-PF’s poor electoral results and an internationally-mediated accord with opposition parties, the MDC joined ZANU-PF as a ‘partner’ in a Government of National Unity (GNU). Ministerial positions were divided among the partners, more critical voices entered government structures at various levels, and new opportunities opened for civil society and donors to engage with the state in policy reform and reconstruction initiatives. The promise of greater transparency in diamond management was soon dashed. ZANU-PF retained control of the mining ministry and the security agencies, the key players on the ground in Marange, and used this position to control the formalization process in 2009-2010. The new mining regime would be formulated almost exclusively by the same actors who had overseen the first chaotic phase of extraction.

Beginning in late 2009, a secretive process led by the mining ministry resulted in the licensing of the first commercial operators. By 2014 six companies were mining in Marange, with at least three other companies licensed by the ministry but non-operational. All but one of the new companies was a joint venture with foreign players in which government or state-sponsored indigenous interests held a stake of at least 50 percent (Global Witness 2017).<sup>14</sup> By these means, government officials argued, the mining ministry would be in a position to directly supervise production operations in Marange by its representation on management boards through its shareholding agencies like the ZMDC. Tax compliance and the delivery of potentially large profit-sharing payments would be monitored from within each mining company; and security of production and trading, indigenization of ownership, and the prevention of tax evasion would all be ensured through the state’s direct participation. In practice, the supervisory capacity of the state engineered through its majority stake in the new mining companies would serve as a key mechanism for theft of revenues and secrecy, rather than state fiscal capture and company accountability.

Contracting was personally overseen by senior ministry officials and was tainted by irregularities and partisanship. Mines Minister Obert Mpofu hand-picked government’s joint venture partners, sometimes against the advice of his own ZMDC officials, and while violating government’s own contracting and procurement rules (Parliament of Zimbabwe 2013). The participation of ZANU-PF’s GNU partners in the contracting process was rejected, and the terms of agreement with investors—and indeed the identity of some of the shareholders and shareholding structures—were not published. In several prominent cases, a political connection to ZANU-PF or its officials appeared to be the deciding criteria for a company obtaining a license. In several instances, operators with no previous known experience in diamond extraction succeeded in winning mining permits. Suspicions were raised over the form of the state’s participation as well. The state’s shareholding in the mining joint ventures was typically represented by individuals

<sup>13</sup> In response to the KPCS internal conflict over Zimbabwe, some founding individuals and organizations resigned from the organization, including Ian Smillie of founding member IMPACT, and Global Witness, another KPCS founding civil society member. By 2016 most leading civil society observers had suspended their participation in the KPCS annual meetings. See, Smillie (2010), Global Witness (2011) and Even-Zohar (2009).

<sup>14</sup> The new operators included Mbada (South Africa-Zimbabwe), Anjin (China), DMC (UAE), DTZ-OZGEO (Russia) and Gye Nyame (Ghana-Belgium). Marange Resources was the wholly owned company of the ZMDC. Licenses were also awarded to Kusena, controlled by the ZMDC, and two Chinese companies, Nan Jiang and Jinan. By 2015, when government announced it would forcibly consolidate all mining in Marange under the state controlled Zimbabwe Consolidated Diamond Company (ZCDC), there were six mine operators. In 2017 the status of the ZCDC remained in question due to court challenges from at least two of the affected mining companies (Global Witness 2017).

with relationships to the state security apparatus (notably the Zimbabwe Defence Forces, Zimbabwe Republic Police and Central Intelligence Organization) or by people with impeccable, and partisan, political pedigree—but evidently in most instances, no mining background (Global Witness 2017). The foreign partner in Anjin, a prominent Marange player, was a subsidiary of the global construction company Anhui Foreign Economic Construction Group, an entity with strong links to the Chinese military. Anjin’s Zimbabwean partner was Zimbabwe Defence Industries, a government procurement agency widely seen as under the control of the Zimbabwean military. Mbada, another leading company, was led by CEO Robert Mhlanga, President Mugabe’s former helicopter pilot, who had no previous known experience in diamond mining. Other links between ZANU-PF, the security forces and Marange mining would be revealed as light was gradually shed on shareholding arrangements of companies licensed (Global Witness 2017). These connections included irregular and unusual forms of contracting; for example, a USD 98 million loan secured through China’s Eximbank for the building of the National Defence College in Harare, which was included as part of the Anjin deal (PAC 2012).<sup>15</sup>

The shell-game structuring of mining companies helped to conceal vital information on corporate ownership, production and earnings. Murky multi-layered shareholding structures involving links to state security agencies and senior party and security officials were typical of Marange’s larger mining units (PAC 2010; Global Witness 2012b and 2017). Details of company ownership were often difficult to determine. The content of contractual agreements, including arrangements for profit sharing, management fees, taxation and other management issues were not in the public domain. The considerable challenge of estimating companies’ tax and profit sharing obligations was compounded by the volatility of market prices for diamonds, and the scarcity of information on the gem quality grades of Marange’s production. Taken together, the profound lack of accountability around production volumes, earnings, costs and company-specific tax arrangements made it impossible to independently and accurately track the revenue stream due to the state (Sibanda and Makore 2014).

Sharp partisan and institutional contestation within the GNU blunted initiatives which may have established stronger oversight and controls on mine licensing and regulation. Despite calls by civil society and donors for policy reforms leading to a clear strategy and management principles for diamonds, no coherent approach was put in place. Key mining ministry institutions, kept in ZANU-PF control during the GNU of 2009-2013, resisted demands for greater inclusion and participation. At times, licensing, rental and other fees were announced by one ministerial authority—seemingly without consultation or approval from colleagues in other ministries—provoking outcries from miners, donors and government officials (Reuters 2012). For example, when the MDC-controlled Ministry of Finance moved to strengthen its role in the collection of mineral taxes by developing a Diamond Revenue Bill in 2011, the ZANU-PF-controlled mining ministry instead insisted on amendments to the Precious Stones Trade Act, including provisions for oversight by the Minister of Mines. At the same time, the mining ministry sought to unilaterally develop the Zimbabwe Diamond Policy (Government of Zimbabwe 2012), in response to the KPCS’ minimum required conditions for the resumption of exports from Marange; however, once the KPCS export ban was lifted, further work on this initiative was dropped (Dhliwayo and Mtisi 2012).

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<sup>15</sup> Signed by the Minister of Finance in March 2011, the loan was to be repaid from government’s share of earnings in the Anjin venture. No proper account of the payment schedule, or the amount paid, was published (PAC 2012).

The structure and management of the diamond fiscal regime represented another key challenge to the mobilization of revenues from Marange. Diamond taxation's multiple components were administered by a number of state agencies in ways that made revenue tracking and fiscal compliance difficult and contributed to growing confusion (Table 1). While the tax regime's terms were clearly stated, the rates of taxes and fees were often volatile and difficult to apply. This was reflected, for example, in dramatic shifts in royalty rates in 2011-2012, when diamond royalties surged 50 percent to 15 percent of sales. A more systemic problem was posed by the complicated nature of tax collection, particularly in the context of poor information provided by companies on production and earnings, and the protection afforded by the threat of sanctions against diamond traders up until late 2011. Corporate Income Tax was especially vulnerable to manipulation, given uncertainties surrounding earnings and profits, operating expenses and debt, and agreements around management fees and profit-sharing. But even simpler taxes like royalties were difficult to calculate given the lack of comprehensive figures on diamond production, grades and final earnings through foreign sales.

**Table 1: Diamond mining taxes and fees (2013)**

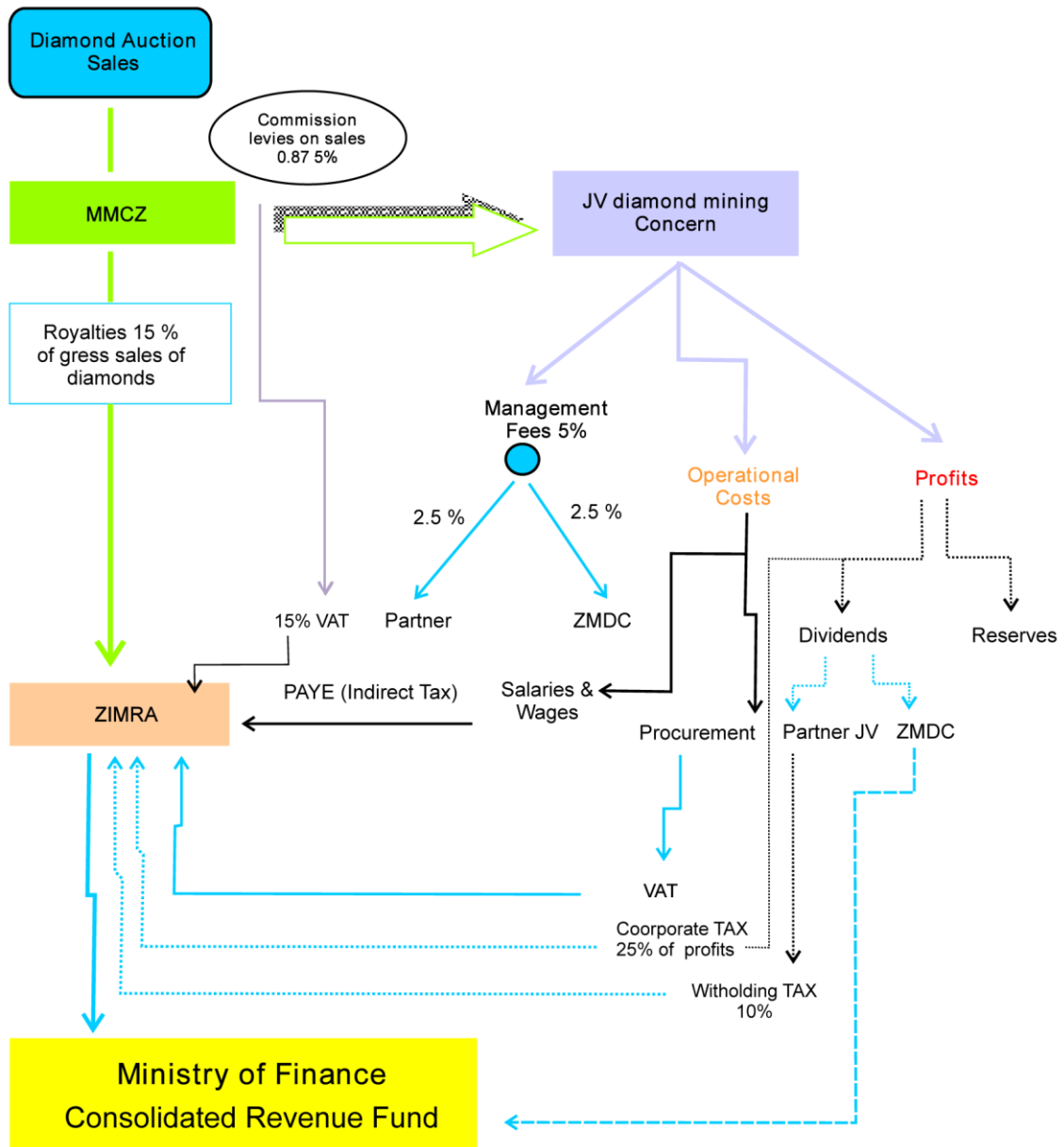
<b>Tax</b>	<b>Description</b>	<b>Rate</b>
Royalties	Calculated as a percentage of the gross market value of diamonds sold; paid regardless of profit/loss status of operations	15%
Resource Depletion Fee	Calculated as a percentage of gross sales of stones	2.5%
Company Income Tax & Corporate Tax	Levied on company income or profits as determined by Zimbabwe Income Tax Act; prone to tax evasion and avoidance	25%
Surface & Ground Rentals	Not deductible from income tax and imposed at varying rates during the prospecting, exploration and development stages of a mining project	
Withholding taxes	Levied on sundry income (consulting fees, commissions, royalties, rent, interest, dividends and payments to non-resident contractors); payable at point of earning to ZIMRA	10%
Pay-as-you-earn (PAYE)	Indirect tax withheld or deducted from employees' wages and paid directly to government by employers; various bands based on income	20%-45%
Import Value Added Tax	Calculated as a percentage of value of imported goods	15%
Marketing Commission	Paid to MMCZ, calculated on sale price	0.875%
Prospecting Application Fee	Paid to Ministry of Mines and Mining Development	USD 1 million
Claim Registration Fee	Paid to Ministry of Mines and Mining Development	USD 5 million
Ground Rental	Paid to Ministry of Mines and Mining Development	USD 3000/ha

Source: Sibanda and Makore (2013)

These challenges were amplified by a complex set of arrangements which evolved for collecting taxes (Figure 1). Independent researchers would later highlight the role of institutional bottlenecks, inter-departmental communication and administrative irregularities that emerged in the diamond sector after 2009 to explain chronically weak fiscal outcomes (Sibanda and Makore 2013; Sibanda 2014). Several state institutions with varying capacities and inclinations for inter-agency cooperation were at the heart of the problem. While the Zimbabwe Revenue Authority (ZIMRA) was the statutory body allotted primary responsibility for the state for collecting taxes, several other agencies also claimed rights to collect levies, fees and commissions in the diamond sector. State capture and the resulting entrenchment of competing elite factions in different state

institutions further exacerbated the challenge of coordinating and centralizing fiscal management under ZIMRA. The smooth flow of funds and coherent reporting of revenue flows were undermined as a result (Sibanda and Makore 2013). By extension, this situation generated new openings for corruption, tax evasion and the avoidance of other forms of fiscal and fiduciary obligations, such as dividend payments to company shareholders (of which government was the primary beneficiary). The disastrous fiscal outcomes were inexplicably discordant with high levels of production, and fuelled intensifying conflict within the GNU.

**Figure 1: Fiscal mechanisms and flows in diamond mining**



Source: Sibanda and Makore (2013)

In practice, tax evasion was structured in multiple ways with government's knowledge and tacit approval. Several of the leading producers, including Mbada and Anjin, were registered in offshore tax havens in Asia and the Indian Ocean, thereby shielding both the identities and profits of the main shareholders (Global Witness 2012a; 2012b). Mailey (2015) reported on the role of Hong Kong-registered Queensway Group in mining and marketing Marange stones, and in funnelling large sums of funding to state security

agencies, ZANU-PF officials and others connected to the ruling party.<sup>16</sup> Tax avoidance was sometimes openly acknowledged; for example, Anjin exported approximately USD 78 million worth of stones during November 2011-May 2012, but paid no taxes or royalties for this period. The company claimed it was under no obligation to pay taxes until it recovered its reported (and unverified) USD 400 million start-up capital costs (PAC 2012). In other instances, companies reportedly paid government extra and irregular ‘dividends’ not specified by law or contract, coerced into providing funds during episodic shortages of cash as part of a ‘gentleman’s agreement’. However, these funds were not recorded in budget accounts and were apparently deployed arbitrarily, including covering the costs of President Mugabe’s travel to Asia for medical needs (PAC 2012).

The unreliability of financial information on Marange was soon evident in the enormous disjunctures between KPCS data on exports and sales, and Zimbabwe government figures on earnings (Table 2). While KPCS reporting suggested an explosive surge in sales in 2012 (likely the result of officially embargoed stockpiles coming to market), followed by lower but substantial earnings in subsequent years, government records showed earnings inexplicably inconsistent with the KPCS data. Moreover, figures for projected and actual diamond revenues varied widely among state departments, underscoring the lack of institutional communication and cooperation during the period of the GNU. In 2017, Parliament’s Public Accounts Committee reported that it had received no audited accounts since 2013 on either the ZMDC or the MMCZ, the main state entities overseeing mining and sales of Marange diamonds, amid reports that the Office of the Auditor-General had been prevented from carrying out this work by ‘a powerful clique from the ruling elite’ (The Standard 2017).<sup>17</sup> The mining minister later indicated that government had appointed three firms to carry out a forensic audit, but that court cases launched by private mining companies challenging their merger into the ZCDC had brought the process to a halt. There was no explanation for why the state had waited so long to take this action, or why government had not insisted on regular company audited accounts (a requirement of company law in Zimbabwe) in the first place (The Herald 2017c).

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<sup>16</sup> The Queensway Group was a multi-billion dollar conglomerate with complex links to Chinese interests. Sam Pa, a controversial businessman linked to Queensway, was reportedly a prominent deal maker for the company in Zimbabwe.

<sup>17</sup> The report cited senior officials in the Auditor-General’s office and parliament in faulting senior branches of the executive as the source of the secretive management, noting that “the exclusion of the OAG from playing an oversight role was part of an apparently deliberate scheme by the executive arm of government to keep information on diamond mining under a tight lid” (The Standard 2017).

**Table 2: Diamond production and revenue data: Discordant accounts**

<b>Year</b>	Volume of Diamonds Exported (KPCS)* (carats millions)	Value of Diamonds Exported (KPCS)* (USD millions)	Diamond Revenue Projected by Treasury (Ministry of Finance)** (USD millions)	Actual (Non-tax) Diamond Revenues: Budget Statements (Ministry of Finance)** (USD millions)	Total Diamond Revenues Paid to Government (Ministry of Mines)*** (USD millions)
<b>2010</b>	8.424	320.2	<i>No projection</i>	174	125.3
<b>2011</b>	7.788	422.9	<i>No projection</i>	80	168.5
<b>2012</b>	14.958	740.9	600	45	142.5
<b>2013</b>	9.564	448.6	70	<i>No reporting</i> (IMF report: 18)	93.3
<b>2014</b>	6.367	480.2	96	<i>No reporting</i>	84.4
<b>2015</b>	3.899	168.6	<i>No projection</i>	<i>No reporting</i>	23.4

Sources: \* KPCS data; \*\*Global Witness (2017); \*\*\* Gudyanga (2016)

The volatility of diamond revenues destabilized state economic planning and pitted ministries against each other in partisan disputes. In 2011, for example, the MDC-controlled Ministry of Finance fought openly with ZANU-PF run Ministry of Mines over the value of diamond production and revenues delivered to the treasury.<sup>18</sup> Budget estimates around mineral receipts became unreliable. In one notable case, the finance ministry's projection of USD 600 million in diamond revenues in the 2012 Budget was followed months later by the announcement of a shortfall of USD 244 million (The Herald 2012).<sup>19</sup> On this and subsequent occasions, government failed to provide a coherent account of alluvials' unexpected fiscal underperformance. Heated disagreements within the GNU over the validity of basic production and income data became the norm, and coherent and comprehensive official figures on Marange were not produced. Large discrepancies emerged between what companies claimed to have remitted to Treasury, and what mandated government institutions reported to have received (Sibanda and Makore 2013). In the context of an administration deeply ridden by partisan conflict, there were few mechanisms available by which greater accountability could be leveraged from the state. Civil society groups lobbied the GNU to join the Extractive Industries Transparency Initiative (EITI) or adopt similar standards, but their entreaties were rejected by senior ZANU-PF figures, who dismissed the imposition of rules by 'hostile' foreign companies and governments. After the end of the GNU in 2013, systematic and comprehensive reporting by the state of non-tax earnings from Marange effectively ended.

<sup>18</sup> The mining ministry claimed US 174 million from diamond sales had been submitted to government in the form of joint venture earnings and tax receipts, but finance ministry officials claimed only USD 62 million had been delivered (Biti 2011; Timba 2011).

<sup>19</sup> During this period, official figures provided by the mining ministry's MMCZ claimed that Marange miners had sold almost four million carats valued at USD 233 million between February and April 2012 (Chikane and Van Bockstael 2012). If these figures were extrapolated for the year, the finance ministry's projections should easily have been met. No accounts of the shortfalls were provided by the mining companies or the MMCZ.

The full extent of the fiscal losses incurred during the KPCS ban on exports in 2009-2011 only became apparent after Zimbabwe's return to KPCS trading. Evidence of fraudulent contracting, incomplete accounting, improbable sales figures and unusually low or absent fiscal and dividend payments emerged as government's books were no longer protected from public scrutiny by the excuse of sanctions. In particular, revelations concerning the undervaluing of rough diamond exports and transfer pricing were illuminated by comparison of the state's published data with KPCS record keeping. KPCS statistics suggested that during 2008-2013 there were large and unexplained shortfalls in revenues at overseas points of sale compared to declared values at point of export. Even after the lifting of the KPCS ban, some estimated that at least 25 percent of the value of stones was being lost through undervaluation and transfer pricing.<sup>20</sup> It also seemed that most of the larger mining companies were culpable, including state-owned operators: in 2014, government ordered an audit of its wholly-owned Marange Resources diamond operation following public allegations of systematic fraud.

According to most independent experts, the beneficiaries of the untold millions of dollars in revenues lost were the political and security elite. As documented by international investigations, state agencies accused of rights abuses were very likely the regular recipients of off-budget funds channelled through a web of companies linked to Marange (Global Witness 2017; Sibanda and Makore 2013). The extent of mismanagement and diversion of revenue at Marange was confirmed by the path-breaking work of Parliament's Portfolio Committee on Mines and Energy, presented in an official report as the GNU was facing dissolution in advance of national elections (Parliament of Zimbabwe 2013). The Committee documented widespread irregularities in the contracting and supervision of diamond mining under the ZMDC and Ministry of Mines, and the emergence of inconsistencies, confusion and critical information gaps in the management of diamond revenues. Among its recommendation was the enactment of a comprehensive taxation law for the sector to clarify ministerial and supervisory discrepancies, and improve fiscal efficiency. However, with the national elections of July 2013 and ZANU-PF's return to power as the sole governing party, these recommendations failed to gain traction, and the Parliamentary Committee's far-reaching critique of Marange diamonds' mismanagement by state structures was effectively ignored. Civil society organizations would carry forward parliament's calls for the reform of the diamond fiscal regime and the strengthening of the state's institutional mechanisms overseeing diamond extraction. But the results would be mixed, particularly after the ending of the GNU reduced the opportunities for critics of government's role in Marange to leverage information and influence from the post-2013 ZANU-PF state.

## **New Configurations, Old Challenges: 2013 and After**

Despite stalled reforms and continuing opaqueness in the diamond sector, political changes nonetheless offered new opportunities for more coherent state diamond management in the context of reduced partisanship and tension within government, and new outreach efforts by government targeting civil society inclusion as government sought to consolidate its legitimacy. The enactment of a wholly new Constitution in 2013 and appointment of a new minister for mining untainted by earlier involvement with Marange mismanagement suggested fresh openings for engagement. Government moved to resuscitate stalled discussion of a draft mining policy; finalize amendments for the main enabling legislation, the Minerals and Mining Act; and address proposals to promote

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<sup>20</sup> The estimated value of USD 60-80 per carat at point of sale differed sharply from the median average for all exports of USD 46 between 2008 and 2013; Statistics and interviews with Kimberley Process Certification Scheme (KPCS) participants conducted by Alan Marin in Tel Aviv, 21 June, 2010.

greater manufacturing value-added in minerals through pursuit of strengthened local content and more extensive upstream/downstream industrial linkages. At the same time, civil society groups reported greater space was available for engaging with government, especially at the local level, around operationalizing new constitutional provisions for community participation in resource governance.

In practice, however, government initiatives raised new challenges without settling key aspects of the old. By 2014, senior finance ministry officials were again lamenting the lack of transparency around mining production and proceeds from Marange against the backdrop of an accelerating downturn in production and earnings. According to both finance ministry officials and civil society analysts, earnings records and tax receipts provided by Marange operators and the state's ZMDC were incomplete and contradictory.<sup>21</sup> While precise production figures were elusive, some experts, drawing on KPCS data, estimated that the value of Marange production had plummeted nearly 79 percent between 2012 and 2014, to USD 318.1 million earned from 6.362 million carats (2012: 1,500.7 million from 28.834 million carats) (Martin 2015). By government's account, remittances from the diamond sector fell from USD 142.5 million in 2012 to just USD 23.1 million in 2015 (Secretary of Mines 2016). The exhaustion of more easily accessible diamond ore deposits was an important factor in this decline. But the wider issue of weak and falling state revenues from diamonds was not explained by lower production alone, and the performance of companies and government supervisory institutions increasingly became the focus of growing criticism as diamond revenues dried up. Company accounts were fragmentary, and poor management at the ZMDC and MMCZ was reflected in delayed and problematic accounts; for example, the ZMDC's audited figures for 2012 were nearly one year late, incomplete, contained accounting inconsistencies, and revealed that the state mining wing had failed to undertake necessary valuations of Marange's reserves, without which appropriate regulation and supervision would be extremely difficult (Sibanda 2014).

Government's solution to the deteriorating situation, announced in 2015, both confirmed the glaring weaknesses of its diamond strategy after 2009 and reproduced and exacerbated them in new ways. The latest approach involved the forced merger of the main operating concerns into a single mining entity under state control, the Zimbabwe Consolidated Diamond Mining Company (ZCDC). State officials argued the move was necessary because companies had not been forthcoming about their earnings, were failing to invest in operations to keep diamond revenues buoyant, were cost inefficient and were failing to plan for the sustainable management of the resource (Gudyanga 2016).<sup>22</sup> By late 2015, uncertainty prompted key miners to scale back operations, cease production or plan their exit (Financial Gazette 2015); some had reportedly rushed to sell off their inventory at soft prices before government acted on its merger threats (Zimbabwe Independent 2015). In the face of company resistance, President Mugabe appeared to seal their fate by announcing with apparent outrage that the miners had acted like robbers by "swindling" and "smuggling", remitting less than USD 2 billion of perhaps more than USD 15 billion earned since 2012.<sup>23</sup> The President's figures were a revelation and likely inflated;<sup>24</sup> so was his claim that government had had no notion of the subterfuge, despite having

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<sup>21</sup> Madziva 2014; Sibanda 2014; Sibanda and Makore 2013.

<sup>22</sup> The mining ministry cited a long list of factors which led government to bring all Marange mining under the ZCDC, including the strengthening of transparency and accountability, the enhancement of profitability through optimal production practices, improvement of "investor attractiveness", etc. (Gudyanga 2016). However, it was not clear how the new corporate structure would address these, particularly given existing shortcomings in state management of the sector, the relatively weak performance of state mining operations in Marange, poor levels of available finance, and the dampening effect of the controversial state-imposed merger on the sector's investment profile.

<sup>23</sup> Interview with President Robert Mugabe (Zimbabwe Broadcasting Corporation 2016)

<sup>24</sup> Veteran Marange researchers put the amount looted at likely closer to USD 2 billion (PAC 2012).



oversight positions and 50 percent (or more) of the shares in each mining entity in Marange. By mid 2016 the main private mining operators were closed, their assets placed under the control of ZCDC.

From the outset, government’s ZCDC ‘solution’ to the Marange problem was tainted by the state’s past mismanagement and continuing elite faction fights. There had been early qualified support from leading civil society critics for a more transparent, professional and unified state diamond mining entity as a means of fixing mismanagement (Mtisi 2015). But a lack of public consultation surrounding the establishment of the ZCDC, and speculation that the move was catalysed by intensifying ZANU-PF factional competition over access to Marange’s dwindling resources, fed doubts about whether the new company represented a real break with the past. A damning 2017 parliamentary review of the ZCDC and the consolidation exercise suggested it did not (Parliament of Zimbabwe 2017). The report detailed serious irregularities in the establishment of the ZCDC and its management structures; in the management of the MMCZ and its diamond operations; and in government’s inconsistent and failed approach to maximizing the revenue stream from alluvial stones. It catalogued executive interference and multiple lapses in management systems, and observed how these had created an enabling environment for elite predation and irregular trading that had prejudiced state diamond revenues significantly. The return to diamond sector viability and mineral-fuelled growth, the committee report argued, depended on a more open, consultative, transparent approach to resources management by the state, and its closer adherence to professional bureaucratic administrative regulations. The report recommended that the chief bureaucrat in the mining ministry—the architect of the ZCDC and a longstanding powerful presence in the MMCZ and ZMDC—be dismissed for, *inter alia*, his role in aiding “illicit financial outflows” and enabling “poor corporate governance” (Parliament of Zimbabwe 2017); weeks later, the official was transferred out of the ministry (The Herald 2017a).

Unaccountable executive management, elite predation and irregular administration, and the marginalization of social partners in overseeing diamond development underpinned the ZCDC, the same factors which stood behind the state’s failed strategy after 2009. Indeed, in the less favourable production environment of 2016 the results were even worse. Resource depletion, legal challenges to tenure rights by companies licensed after 2009, low capitalization, and disagreements among officials and elite factions competing for control of the resource dramatically slowed or shut operations.<sup>25</sup> Diamond production crashed to new lows, with some reports suggesting that only 900,000 carats were extracted in 2016, down from 12 million four years earlier (Nehanda Radio 2017).

Coming full circle, the diamond fields witnessed a simultaneous resurgence of the illegal trade: seizing on the sudden breakdown of mine security under the ZCDC’s weak management and protected by some state officials, artisanal miners returned to Marange in numbers to work ore left behind, and loot unprotected mining assets and infrastructure (Nehanda Radio 2016). Meanwhile, there was little progress in bringing forward policy and legislative initiatives to strategically formalize regulation of the sector and recover fiscal losses incurred since 2009. Veteran observers suggested continuing faction fights within the ruling ZANU-PF, inflamed by a growing intra-elite struggle to succeed the ageing President Mugabe, had scuttled the chances of significant reforms for the time

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<sup>25</sup> In advance of their takeover by the state, diamond mining companies in Marange depleted their cash reserves. As a result, the ZCDC was forced to seek USD 300 million to recapitalize and expand its shuttered operations. But the chances of fundraising success seemed slim in the short term: the Minister of Finance simultaneously called for the return of the evicted companies, citing the ZCDC’s manifest failure to deliver (Daily News 2017).

being. The uncertain future of the ZCDC reflected a broader incoherence in government diamonds management borne of accumulating internal contestation.

## **High Stakes Bargaining: Opportunities and Challenges for Donors and Civil Society**

For civil society, donors and other non-state stakeholders in extractives, each successive phase of diamond mining presented new opportunities and obstacles for resource bargaining with the state. As extraction moved from the free-for-all period dominated by artisans and unregulated mining, to commercial mechanization and finally, attempts at consolidation under government direction, the dynamics and focus of state engagement by stakeholders shifted uneasily and inconsistently. However, during a decade of repeated changes in government strategy there was a troubling continuity: namely, the power of elite interests to resist demands for greater transparency, and destabilize the fiscal regularization of diamond mining operations. The intertwining and collusion of government structures, political elites and Marange's mining companies skewed the state's engagement with other stakeholders. As a result, civil society, mining communities and donors were largely prevented by the state from participating in the shaping of its diamond development policies. In contrast, government ceded considerable power and administrative authority to private mining companies in the rolling out of local infrastructure and community development plans until they too were marginalized with the introduction of the ZCDC in 2016.

In the free-for-all period of 2006-2009, the dominant role of informal mining and loose regulatory control meant that there were limited opportunities for structured engagement with the state. Little was known of activities in Marange until 2009; the area's designation as a security-protected zone formalized the sealing-off of access by state security agencies, and there were tight restrictions on the flow of information. When this changed with the publication in 2009 of reports on diamond-related human rights abuses committed the previous year, engagement with the state by stakeholders focused mostly on the poor regulation of diamond mining and the violence surrounding it. Civil society organizations mobilized through the KPCS to shed light on the abuses committed, and called for regularization of the alluvial sector, and the holding to account of the perpetrators of human rights abuses. Donors demands sought regularization of production aimed at ending the burgeoning illegal trade, eliminating the involvement of non-mandated state agencies in mining, and bringing Marange under the fiscal purview of the treasury. Little materialized from government in response to either set of demands before the KPCS export ban of 2009 prompted a shift in government's strategy and the start of large-scale mechanized mining.

Commercial operations and the pursuit of compliance with KPCS minimum standards, and the establishment of the GNU in early 2009, created new opportunities for stakeholders to bargain with government, particularly as the latter reached out to donors and business for support in planning for economic recovery, and the ascension of the MDC into power improved civil society's access to state structures. Marange diamonds and the need for reform featured prominently in discussions with the GNU: for donors with whom government was engaging around debt management and development priorities; for international and domestic players in the diamond sector with interests in ensuring conflict-free and development-oriented mining; and for communities affected by mining, where displacement, environmental damage, human rights abuses and other disruptions catalyzed confrontation with government and mining companies.

However, the leverage they respectively exercised was compromised by the distortion of state management and decision-making which had evolved since the early 2000s, which placed disproportionate power in the hands of the executive and enabled management by executive fiat. On the one hand, the effective unilateral power this afforded the ruling party in the ZANU-PF-controlled mining ministry helped insulate Marange from broader discussions over the mobilization of domestic resources in service of Zimbabwe's economic recovery and development. On the other hand, secretive state relations with commercial miners after 2009 allowed government to download certain responsibilities—including community relocation, compensation, benefits sharing and housing provision—to local industry and public authorities. This made the pursuit by civil society and donors of claims, grievances and demands for local redistribution of diamond wealth increasingly difficult.

There was little progress in shifting government behaviour regarding diamonds after the resumption of donor engagement. ZAADS,<sup>26</sup> a framework launched by government in March 2012 for engaging donors on debt management, closely reflected donors' insistence on leveraging natural resources for raising new lines of credit and retiring government's ballooning external debt and envisioned longer term extractive-funded development investments (Kanyenze 2013). This position was reiterated in later donor cooperation agreements<sup>27</sup> and in ZIM ASSET,<sup>28</sup> government's broad development strategy after 2013, which saw extractive resource mobilization as key in debt retirement and expansion of social and infrastructural spending. While such policy commitments brought renewed attention to Marange's fiscal contributions, the expectations of resource-fuelled investment were not met. In 2013, government projected that diamonds would cover USD 195 million in recurrent expenditure and USD 205 million in capital spending (Government of Zimbabwe 2013), yet the total value of local production (including non-Marange sources) was only slightly over USD 300 million, with government's revenue take far less. Actual direct funding of social development by diamond revenues was difficult to trace, and with the rapid contraction of production, softening of prices and later closure of operations in 2013-2015, likely negligible. Despite these shortfalls, and the insistence of donors that fiscal holes be plugged and proper accounting of revenues given, government was disinclined to redress the issue. No meaningful measures to improve fiscal accountability in Marange were put in place. It was later reported that government had allowed some large mines to operate without providing annual audited accounts (New Zimbabwe 2016), and its handling of dividends and other earnings from the mining companies had been haphazard. Donors, whose focus of engagement with the GNU was the Ministry of Finance, appeared (like the ministry) to be powerless in obtaining adequate and verifiable information about the Marange trade and its associated revenue streams.

Civil society also discovered that efforts to leverage reform in Marange faced stiff resistance from the coordinated efforts of government and mining companies. A key opportunity came from civil society's membership in the KPCS, where its lobbying had resulted in the KPCS exports ban. Its new leverage placed civil society at the centre of emerging debates over natural resource management, and helped expand the scope of discussion beyond issues of transparency to include questions of poor development outcomes in local mining communities, the lack of community consultation and

<sup>26</sup> The Zimbabwe Accelerated Arrears Clearance Debt and Development Strategy was to be implemented through the Zimbabwe Accelerated Re-Engagement Economic Programme, which detailed policy measures agreed with multilateral donors.

<sup>27</sup> For example, the Letter of Intent towards an IMF Staff Monitored Programme, signed in June 2013, which presaged a deal for new credit with the Paris Club (New Zimbabwe 2013).

<sup>28</sup> Zimbabwe Agenda for Sustainable Socio-Economic Transformation

participation, and the rising threats posed by environmental, human and social rights abuses. If civil society activists pointed to inexplicably low royalties paid by Marange's mining companies and poor rates of dividend declaration and remissions to government by the ZMDC and MMCZ, they also identified the lost opportunities these shortfalls represented for community development and national benefit from diamonds and called for a more transparent, formalized and developmental approach to diamond management (ZELA 2010). Some civil society groups directly challenged the donor-endorsed logic of ZAADS, arguing that development investments rather than debt servicing were the most effective means to leverage positive impacts from extractive resources and escape deepening cycles of debt repayment, "locking Zimbabwe into a resource-cursed future" of resource dependence and debt prioritization (Jubilee Debt Campaign et al. 2011:44). With support from international actors including the World Bank, leading civil society actors also lobbied government to join the EITI, the voluntary global scheme to promote transparency and accountability in the governance of oil, gas and mineral resources.<sup>29</sup> However, in the fractious context of the GNU, the proposal drew the support of the MDC-led Prime Minister's office and Ministry of Finance, but was resisted by the ZANU-PF-controlled mining ministry, which cast EITI as an incursion on Zimbabwe's sovereignty (ZELA 2014).

More enduring civil society interventions involved issues of communities' direct local benefits and participation in resource governance. Here, organizations aimed to invoke legal innovations and political initiatives, including statutes regulating mining companies' environmental responsibilities (ZELA 2012); the formation of Community Share Ownership Trusts (CSOTs) announced in 2011 (Matyszak 2013); and, after the enactment of a new Constitution in 2013, new provisions for local participation in and sharing of benefits from resource management (ZELA 2013). These various legal frameworks established strong foundations for civil society's critique of government's handling of Marange. An important argument was that poor state oversight had enabled a succession of abuses by miners. These extended beyond weak financial reporting and poor fiscal outturns to include pervasive environmental degradation, calamitous forced relocations of rural folk living on diamondiferous lands, and failed commitments around local employment creation, training and community development (Mtisi 2012).<sup>30</sup> The absence of effective state oversight had lent a free hand to companies of dubious experience and political origin, with sharply negative consequences. To correct these problems, civil society organizations proposed the strengthening of state oversight coupled with a greater role for local community actors in holding industry and government structures to account. An example of a suite of pro-poor reforms was the call to reduce the cost, procedural and oversight barriers to community participation in the management of EIAs with the aim of strengthening protection of environmental, social and economic rights of affected communities (Mtisi 2012).<sup>31</sup> Similar calls were made for more effective and mandatory implementation of CSOTs as a means for community sharing in resource benefits, and for more effective state oversight of mining companies to ensure greater returns and compliance with environmental codes.

With the end of the GNU in 2013 and the new Constitution's provisions for local participation in resource governance, new paths appeared to emerge for expanded civil

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<sup>29</sup> See The Extractive Industries Transparency Initiative, <https://eiti.org/>.

<sup>30</sup> The multiple challenges faced by relocated Marange villagers were documented by several community-based organizations working in the area; see, CCDT (2013a; 2013b), CNRG (2013), Chimonyo et. al (2013), CRD (2009), Madebwe et al. (2011).

<sup>31</sup> Without this change, the cost of undertaking or reviewing companies' EIAs were beyond the reach and capacity of communities, providing distinct advantages to larger mining companies whose obligations to meaningfully consult local communities remained negligible.

society engagement with government. There were indications of this taking shape in important ways. Some leading civil society organizations entered into technical advisory roles with different levels of government, contributing research, training and policy inputs.<sup>32</sup> Another focal point of civil society intervention—one which attracted significant donor support—was the establishment of stakeholder discussion and training forums; for example, the convening by civil society of annual Alternative Mining Indabas as a platform for communities, small-scale and artisanal miners, and civil society organizations to engage around issues of resource governance.<sup>33</sup> These Indabas pointed to the emergence of an alternative framework for resource management that was both supportive of government’s populist approach and insistent on the need for it to more effectively target poverty, rural marginalization, environmental degradation and the exclusion of communities from governance (ZAMI 2014; 2015). Recognizing communities’ sense of vulnerability in places like Marange, organizations also invested in research, training and public information with the aim of building a stronger basis for community consultation and dialogue with government (Muyambwa, Makore, and Nyamukunda 2014).<sup>34</sup>

Yet the impact of these expanded civil society interventions in the 2010s proved ambiguous and uneven. While dialogue with government (and to a lesser extent the mining industry) was strengthened and communities attained greater awareness of their resource governance rights, the more systematic and expansive enacting of governance reforms was elusive, especially in the diamond sector. Low transparency and accountability continued to shield diamond mining operations in Marange up until their forced merger under the ZCDC, a restructuring exercise which itself excluded meaningful inputs from or oversight by civil society. Both before and after government’s awkward takeover of mining in Marange, diamond revenues remained mostly unaccounted for, and the effective fiscal regime unclear. Five years after the first wave of forced removals of households from Marange to new locations, outstanding issues of compensation, housing and livelihood provision by mining companies were left unresolved (Saunders and Chiponda 2016). Similarly, promises of financial benefits delivered through CSOTs proved illusory if not fraudulent (Parliament of Zimbabwe 2015), and levels of public investment in local social and economic infrastructure in the diamond bearing areas remained negligible (The Herald 2017b). The high-value diamond sector—the focal point of elite predation, secretive state management and commercial mining collusion for more than a decade—reflected the enduring effects of state capture, and notably the capacity of elites to deflect the resource governance claims of a range of stakeholders, including components of the state itself. For seasoned mining researchers, the Marange case was unique in important ways: unlike the lucrative platinum and gold sectors, where companies’ production, earnings and tax figures transparently matched those of government, the alluvial sector was characterized by shambolic and irregular accounting by companies and government alike (Sibanda and Makore 2013: 27). The clear conclusion, therefore, was that the chaos in Marange was deliberate, not structural and unavoidable, and that the fiscal losses incurred by the state were orchestrated, not

<sup>32</sup> This included the signing of a Memorandum of Understanding with government for the provision of technical support by a leading NGO working on the extractives sector, and other forms of collaboration with state structures including provision of research, training and coordination inputs. See Spiegel (2015); private communication with the author by a leading Harare-based NGO working in mining.

<sup>33</sup> “Indaba” is a term commonly used throughout southern Africa to refer to meeting or discussion, usually involving representative leaders, stakeholders or experts.

<sup>34</sup> As applicants for an inaugural civil society-hosted “summer school” on natural resource governance were advised, “The participation of parliament, civil society organisations and the academia in decision making is a fundamental prerequisite for good governance in the natural resources sector. In democratic states where civil society organisations and parliamentarians are allowed to influence decisions, they often lack the capacity to meaningfully engage... The limited extractive industry knowledge of various African actors compromises efforts towards effectively harnessing the natural resource wealth of Africa for positive development outcomes” (AFRODAD and ZELA 2015:1).

accidental.

## **Conclusions: The Challenges of Resource Bargaining in the Context of State Capture**

The DRM approach which informed this study understands state-citizen contestation around resources as having multiple potential benefits, including more equitable and stable economic growth; greater inclusion, social cohesion and relationships of trust between the state and social actors; and transformation of productive and social structures (UNRISD 2016). This study explored evolving forms of contestation between the state and a variety of actors around resource mobilization in Zimbabwe's alluvial diamond sector, with a view to assessing the impact on state-citizen relations and social development. The research situated contestations over diamond revenues in the context of wider struggles by elites to consolidate economic and political power through state capture, the containment or sidelining of critical voices, and the pursuit of rent via unique forms of state-mediated access to resources. The findings suggest a number of conclusions concerning the challenges faced by countries with high-value mineral resources.

The exploitation of Marange's alluvial diamonds catalyzed wide-ranging contestation over resource governance issues among key state, industry, civil society and donor actors. In the context of severe economic crisis and intense political competition, Marange helped to open new spaces in which social stakeholders engaged around questions of resource mobilization, social participation, state and business accountability, and national development. But the Marange experience also underscored the fragility and contingency of state commitments to stakeholder engagement in the face of opportunities for elite rent-seeking and the consolidation of political power. In practice, state-society conflicts over diamond governance highlighted the elite's capacity to resist demands that the state be more transparent, inclusive and development-oriented. The elite's exercise of power revealed and exacerbated the weaknesses of state bureaucratic structures and in particular, the bureaucracy's low level of political autonomy. The assertiveness with which the political and security elite repeatedly blocked inquiry, debate and reform around diamond governance mirrored its strategic use of state capture to control alluvial mining in pursuit of rent. Deeply compromised institutional processes and elite predation resulted in the severe destabilization of state budgets and development outcomes.

In this context, the state's engagement with stakeholders around the development of Marange's resources were tightly constrained from the earliest phases of alluvial mining. The gradual recognition of this reality was reflected in the growing frustration of key social actors as they interacted with the state. Prominent civil society organizations concluded that government's intransigence in the face of calls for greater transparency was rooted in the fact that Marange's wealth represented a lifeline for an emerging new militarized political order (Global Witness 2012b; PAC 2010). Donors and industry actors, whose interactions with the state were focused on the economic potential of Marange and the need to boost transparency, accountability and tax compliance, saw the state's repeated resistance to reform as a function of bureaucratic paralysis resulting from elite capture and orchestrated rent-seeking. Diamond mining communities—which bore the brunt of state sanctioned violence in the free-for-all period—and autocratic, disruptive and unaccountable management by mining companies after 2009, recognized their brutalization and subsequent marginalization by state structures as strategic moves to preempt social participation in local diamond governance (Chimonyo et al. 2013). A common feature of these assessments by diverse actors concerning the *status quo* at

Marange was their recognition and rejection of the profoundly secretive, partisan and predatory way in which alluvial mining was organized by the state—and the urgent need for resource governance reforms. But if the state’s management of Marange was a ‘litmus test’ of reform, it produced disappointing results: rather than strengthening opportunities for development with the mobilization of significant new revenues, the formalization of diamond mining in 2009 fuelled secretive and *ad hoc* resource management, marginalized social stakeholders from policy processes and contributed to rising tension and incoherence within the GNU itself (Tsvangirai 2013; Saunders 2014).

Elite influence over the management of Marange’s alluvial diamonds underscored the fragility and contingency of the state’s commitment to engage with industry, donors, civil society and industry. In Zimbabwe, opposition political parties, civil society, communities, international industry regulatory agencies and donors were relatively ineffective in forcing improved resource governance around diamonds in the face of state capture, elite predation and opportunistic business collusion. The outcome was a comprehensive economic, social, environmental and political disaster: massive fiscal losses to the treasury; the wholesale disruption and distress of local communities and artisanal miner livelihoods; environmental destruction on a large scale; and the reinforcement of a militarized, partisan and largely unaccountable political dispensation. The development consequences and lost opportunities were unavoidable. By 2016, Minister of Finance Patrick Chinamasa acknowledged the failure of government’s management of Marange, observing that, “there was greater economic impact from diamonds during times of uncontrolled alluvial panning than what is being realized following introduction of formal diamond mining arrangements” (Chinamasa 2016).

After a decade of evolving and problematic forms of extraction—and reportedly, the near-exhaustion of alluvial ores—the Marange experience raised important questions about the viability and limits of stakeholder bargaining under conditions of state capture, unaccountable leadership and business collusion. The compromise of bureaucratic autonomy and capacity produced incoherent institutional policy and regulatory processes, enabled repeated intervention of executive authority at critical junctures, and empowered elite resistance to stakeholders’ demands for greater inclusion and state accountability. The downloading of management authority to local authorities and mining companies also failed to deliver greater transparency or local participation, and typically resulted in the escalation of conflict between local social actors, mine operators and lower levels of government. In each of these instances, the centrality of state coherence, capacity and autonomy for the openness of government to social and business stakeholders was unavoidable.

The Marange case also pointed to the risk of pathological patterns of state-society relations, born of intense short-term struggles over resources, becoming institutionalized. Marange suggested that such conflicts could threaten to disrupt longer-term state-society relations around DRM issues, through the normalization of civil society, business and donors’ exclusion from policy reform processes. Furthermore, the impact of compromised interactions on social actors’ perceptions of the state, its capacity and policy goals could also be corrosive to resource bargaining. In Zimbabwe, there was decreasing confidence among non-state actors in the state’s enduring commitment to transparent engagement around strengthening and deepening mineral governance, and to recognizing and accepting the role of civil society, mining community and donor interests. Under these conditions, state-society relations around DRM grew fractious, and progress towards a shared understanding of resource governance was slow. It was instructive that nearly four decades after independence, state interactions with mining, civil society and

donor interests had failed to produce a set of agreed mining development policy principles. A diamond policy approved by Cabinet in 2012 was left languishing, unenforced by an enabling statute. Against this backdrop, social actors' confidence in wider engagements around DRM issues was eroded. This suggested that when it came to key focal points of resource bargaining, the processes and outcomes of state-society engagements could have influence on the overall environment of DRM bargaining far beyond the sector of immediate concern. In Zimbabwe, contestation and state obfuscation around diamond revenue mobilization served as a high profile litmus test for the broader terms of engagements between the state and civil society, business and donors.

Finally, the Marange case underscored the importance of the nature of the resource at the centre of state-society bargaining. The relative ease with which access to high-value and easily traded diamonds could be monopolized, securitized and controlled by state elites through their domination of relevant institutions, profoundly altered the dynamics of state engagement with civil society, business and donor players. This was not as clearly the case in other prominent mining sub-sectors like platinum and gold, where the state was dependent on large-scale foreign capital for production, and the opportunities for irregular, pervasive elite predation were few. In those sectors, audited company records for production earnings and taxation closely matched the state treasury data, and contestation and bargaining over the mining fiscal regime, community participation and minerals' potential development roles were possible (Saunders 2017). In contrast, secrecy around production, exports, earnings and taxation figures in Marange on the part of both mining companies and government suggested underlying dynamics of official collusion in the shrouding of basic production and financial data. Under these conditions—which remained unresolved after the lifting of KPCS export sanctions, and continued after the merger of mining companies into the ZCDC beginning in 2015—the state's engagement around DRM with social, business and donor actors was inevitably compromised. High-value resources played a catalytic role in fomenting destabilization and distortion of state structures by rent-seeking elites, rather than institutional strengthening through DRM engagements with social stakeholders, squandering opportunities for substantial development gains in a country sorely in need of them.



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