Do we need a Kimberley Process for the Illicit Antiquities Trade?
Some lessons to learn from a comparative review of transnational criminal markets and their regulation

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Markets in illicit drugs, diamonds and wildlife have established and well-researched international systems of control. International systems of control are thought to be required where national regulation is insufficient. In relation to transnational criminal markets, this is a function of the international nature of supply-demand forces (Efrat 2009). This means that some level of jurisdictional coordination is needed to exert coherent control upon the trading system without either letting unrestrained demand continue to drive a market in which supply has been legally restricted (the classic alcohol 'Prohibition era' problem), or alternatively trying to manage consumer demand for illicit products which are relatively freely available due to a failure to adequately control their supply (which is one of the issues faced in international drug market control, as well as international trades in counterfeit and pirated goods).

On the national level, both of these problems of supply-only or demand-only controls can be aggravated by law enforcement resource constraints, political economy in the form of the general global movement in the direction of trade liberalization and the more specific differentiation in costs and benefits of illicit trade across producer, transit and consumer countries. In short, regulating transnational criminal markets solely on a national basis is very unlikely to be significantly effective. This explains the proliferation of international regulatory regimes which all, to a greater or lesser extent, attempt to bind countries together to fight these various forms of crime together. Some of these international regulatory regimes link import and export certification and require the licensing of dealers, for example the system of categorization for protected animal and plant species in the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the 2003 Kimberley Process Certification Scheme (KPCS) for diamonds. Some have tried innovative extra-judicial diversionary schemes, like income replacement initiatives for source producers of illicit commodities. Some exert what amounts to blanket prohibition of transactions involving the commodity.

In the following sections, we will engage in a necessarily restricted overview of some of the headline features of a number of transnational criminal markets in the context of both principle and practice, or to put it another way the 'why' and the 'how' of the variety of international regulatory regimes to be addressed.

Diamonds

Recently, academic writers have begun to call for closer comparison of the illicit trade in antiquities and diamonds. Sometimes this call has been implicit, such as in the use of the term 'blood antiquities' in academic op-ed pieces in the popular press (Vlasic and Davis 2012), drawing from the discourse of 'blood diamonds' or as they are also known, 'conflict diamonds'. Conflict, or blood, diamonds are 'rough diamonds used by rebel movements or their allies to finance armed conflicts aimed at undermining legitimate governments' (Murphy 2012).

In a few cases, the call for comparison between illicit diamonds and antiquities has

been explicit, for example where it has been said that we should explore the possibility of a Kimberley Process for antiquities (Hardy and Aghlani 2015), although none of the authors who make this call have yet engaged in 'a full exploration of the Kimberly Process' but have so far sought 'merely to raise awareness of the security concerns surrounding the illicit antiquities trade and to suggest a parallel to blood diamonds' (Vlasic and DeSousa 2012). Vlasic and DeSousa express a hope that future studies might 'explore the similarities and differences between antiquities and blood diamonds to determine whether a regulatory framework similar to the Kimberley Process could be effectively applied as regulation of the illicit antiquities trade' (Vlasic and DeSousa 2012: 179). Requiring proof of legitimacy before a particular object or batch of commodities is allowed to enter the legal trading channel would indeed be a sea change for the antiquities trade, which currently functions in the opposite way as it generally requires 'proof of guilt' to act upon illicit antiquities rather than 'proof of innocence' as an entry requirement to trade.

The Kimberley Process is an import-export chain-of-custody certification scheme which requires participating governments to certify the origin of rough diamonds with the aim of preventing conflict diamonds entering the global market. The certification process requires that rough diamonds must move through the international market with standardized certificates. These include information such as the identities of the exporter and importer, and the value of the shipment. Member States are required to ensure that no shipment of rough diamonds is imported from or exported to a non-Kimberley country. This means that once a critical mass of signatory countries is reached then if you want to trade diamonds around the world, you will have few potential trading partners unless your country subscribes to the scheme. Exporting countries must ensure that a valid certificate accompanies every exported shipment, and importing countries must require shipments to have a certificate, and confirm receipt by sending a confirmation to the relevant exporting authority. Where the participating State is a transit State for any shipment, the shipment must remain unopened and not tampered with (Murphy 2012).

The scheme covers more than 90% of the world's legal trade in rough diamonds. Its status is interesting: it was negotiated by government, industry and NGO representatives, and it is not a treaty or other legislative instrument. It is merely an agreed set of principles: its provisions are 'recommendations' (Wexler 2010). So technically, it has no force of law in itself, but the principles have been implemented into regional and domestic legislation by many States, including the US via the Clean Diamond Trade Act, 19 USC 3901 (2003), and the EU in the form of directive. Thus, in the tripartite set-up that has been arranged around the KP, governments implement provisions in their domestic legislation and industry and 'civil society' (i.e. NGOs) participate by way of official observer status. The KP had, as of November 2013, 54 participants representing 80 countries, with the EU as a single participant.

Several deficiencies have been noted in the Kimberley Process (Gooch 2008; Feldman 2003). The NGOs observing the negotiations were highly critical of a process which failed to include monitoring, reporting of statistical data, and a secretariat independent of control by member nations (Feldman 2003). Without an independent arbiter, the voting system used to decide action against defaulting countries is not designed to promote enforcement. Small minorities of States can easily prevent action against a state party with which they have some sympathy, or strategic interest. This is because 'participants are to reach decisions by consensus' and 'when consensus proves impossible, the Chair is to conduct consultations' (Murphy 2012). The KP has come in for

quite widespread criticism for relying 'too heavily on Participants policing themselves' (Malamut 2005: 47) – a criticism which will be equally familiar to critics of a trade self-regulation approach to illicit antiquities (Gerstenblith 2007).

The strength of the KP lies in the honesty or incorruptibility of traders in the chain: so the system cannot

> promise, with complete confidence, that no government inspector at the mining site was bribed to deny that guerilla forces controlled the mines, that no customs official was bribed to issue a certificate that the package of stones was conflict-free, and that no diamond merchant on 47th St. in Manhattan slipped a gem into the package bought cheap from someone who had smuggled it in under his tongue (Feldman 2003).

In many source countries, unlicensed 'artisanal' miners operate alongside licensed miners and dealers, and are allowed to do so by local government inspectors who may impose their own conditions on turning a blind eye. Licensed miners can purchase diamonds from unlicensed miners, so laundering them into the system at source (Malamut 2005; Kaplan 2003).

The flaws in the system are perceived to be so severe that Global Witness, the NGO that spearheaded the campaigning that led to the establishment of the KP in 2003, 'left' the KP in December 2011. It resigned its position at the helm of the Kimberley Process Civil Society Coalition, disappointed at the lack of enforcement action by governments and the absence of independent verification of the industry's self-regulation approach to the provision of supply chain warranties. Charmain Gooch, co-founder of Global Witness and the leader of its KP related campaigning, has said the lack of serious control exercised by participants in the KP 'has turned an international conflict prevention mechanism into a cynical corporate accreditation scheme' (Gooch 2011). It 'has done much that is useful but ultimately has failed to deliver[...]; it has proved beyond doubt that voluntary schemes are not going to cut it[…]' (Gooch 2011); 'it has become an accomplice to diamond laundering – whereby dirty diamonds are mixed in with clean gems' (Global Witness 2011). The NGO has, along with others, expressed dismay at the KP's failure adequately to sanction Zimbabwe in respect of widespread human rights abuses at mines in the Marange region (Human Rights Watch 2009). Being a case of violence, corruption and abuse by the police and the military of the Mugabe regime, the problem the KP has with state abuses was highlighted: these are not 'conflict diamonds' fuelling a rebel war, although they may be brought within the definition due to the obvious problems with supply chain integrity. Generally, however, human rights abuses at the hands of government forces are not relevant concerns for the KP with its emphasis on conflict diamonds.

Similar to the antiquities trade, diamond dealers have never been especially eager to reveal the source of their stock' since 'the traditions of the industry include secrecy and mystery' (Feldman 2003). Diamond dealers use bourses in major diamond trading cities as venues in which to perform their middleman role in the industry, and those bourses are capable of expelling dealers who are considered untrustworthy, effectively barring them from further participation in the world trade. Antiquities dealers have associations too, but these do not exercise the same level of control over trading possibilities: many dealers are not association members, and expulsion from an association does not carry the same 'excommunication' meaning as where 'it ends one's ability to operate as a significant player in the diamond industry' (Feldman 2003). The penalties of the industry self-regulatory approach in the KP do not therefore look like they would transfer across

to the antiquities market with nearly the same level of potential force; and as we see below there are reasons to suspect that even in the diamond trade this type of self-regulation penalty is not an effective control in practice.

We can scrutinize a little more closely the precise commitments made in the self-regulation aspect of the chain of supply regulated by the KP. Industry organizations, as part of the KP, commit to enforcing a code of conduct that includes:

- affirming on all invoices that the diamonds sold comply with the KP,
- not buying from firms without invoices,
- not buying from suspect or unknown sources of supply and/or that originate diamonds in countries that have not implemented the KP,
- not buying from any sources that have been adjudicated to violate government restrictions on conflict diamonds,
- not buying from regions subject to a government advisory unless they are in compliance with the KP requirements,
- not knowingly buying or selling or assisting others to buy or sell conflict diamonds,
- assuring that all company employees that buy or sell diamonds within the diamond trade are well-informed regarding trade resolutions and government regulations restricting the trade in conflict diamonds (Wexler 2010).

In the diamond trade, just as industry interests were able to exert a shaping influence on other aspects of the formulation of regulation in the supply chain, so they were able to influence the system of source-end control in the KP. There is therefore an Annex VI to the KP which binds industry (not governments, which is the orientation of the rest of the KP) to operate a system of intra-national warranties that do not set out to verify the provenance of each diamond but rather warrant that all diamonds originate from a clean source and have been traded consistent with the principles of the KP.

Unfortunately, 'industry implementation of this aspect of the institution has been uneven… [and] compliance with the warranty system leaves much room for improvement. While the industry committed to keeping records of KP invoices, no standards detail how the records should be kept and other elements that should be examined. So even if governments wanted to audit those records, it is not clear what they would review' (Wexler 2010). Penalties such as expulsion (with publicity) are meant to be developed, but 'no diamond trade bodies have provided any information to the public or to civil society about any members who have been expelled; nor have they shown what measures are being taken to ensure that self-regulation is being adhered to' (Global Witness 2004).

Unlike in the antiquities trade, source countries for diamonds want to be able to export diamonds. They are not 'diamond retentionist' in the same way authors like Merryman have criticized the antiquities source countries for wanting to keep all their cultural heritage within their borders (Merryman 1988). Diamond producing countries want to maintain a productive level of export trade, and therefore have an interest in agreeing to processes like Kimberley which allow for less strict export restrictions than the prospect of an outright ban on trade which might be the extreme end point of an educated public and an unregulated conflict-infused trade. In that respect, the CITES convention on wildlife trade may be a better fit with the problem of antiquities, since like the illicit antiquities problem, CITES is designed to keep the most endangered animals and plants in their source countries. Given that there is no legitimate supply of antiquities out of the ground, and that the rationale for the KP is as a process designed

to deal with certifying as secure an international chain of supply all the way from origin, any hypothetical 'antiquities Kimberley Process' would need to be certifying a history other than 'original production'. The first phase of the KP is secure container export where source is warranted on a certificate. After that, in the market, mixing takes place through the transit to the polishing stage (involving considerations like quality) so after the first phase all that can be warranted is that all the diamonds come from secure sources, but not the actual source of each diamond. High end cultural objects are not really subject to this 'batch mixing' approach, so in theory it should be easier to retain the emphasis on true origin throughout, but on the level of principle we can see that calls for a 'Kimberley Process for the antiquities trade' imply support for the creation of a legal channel of original supply of fresh cultural objects, presumably sanctioned by source countries which oversee and authorize their discovery, excavation, and export. There is no evidence that source countries are keen to create that kind of authorized source of supply.

The KP has a peer-review mechanism, where member States can send delegations to inspect the procedures in other countries. There has been some controversy over the effectiveness of this mechanism, however, since Venezuela refused to allow such a review visit, subsequently withdrawing from the KP for two years during 2008-2009. Again, aside from the weakness of these kinds of informal control, the main difference between the diamond case and the antiquities case is in the KP's interest in securing a legitimate flow of diamonds. In that global market context, review visits to source countries at the start of the supply chain make sense; but for the antiquities market where there is no significant legal supply from source countries, it is not clear what there would be to inspect, and what the incentive would be for source countries to participate. The diamonds case effectively amounts to a procedure that encapsulates the message: 'if you the source country (and the industry operating within the source country) want to sell your diamonds onto the international market, you must evidence compliance with these protocols'. In the antiquities case, the current source country reply would most likely be 'but we don't want to sell our cultural heritage onto the international market'.

One lesson that does seem valuable to learn from a review of the KP in the diamond trade is the power of public (and consumer) opinion. There was a real pressure on the diamond industry to agree to some new certification system, given the increasing risk of serious public backlash against conflict diamonds. Indeed the pressure was so great that the context of discussion about the prospect of what was to become the KP has been described as 'comply or die' for the industry. The involvement of influential NGOs like Global Witness seems to have been important not only in raising that level of public awareness, but also in galvanizing through political networks the social and political capital necessary to turn campaigning into a large scale agreement.

Again, however, we must be attentive to the structural differences between the diamond trade and the antiquities trade. The consumers of diamonds and antiquities are somewhat different demographics. Diamond consumption is rather more democratized: 'ordinary people buy them' (Hardy and Aghlani 2015). Antiquities markets are more rarefied, specialist, and professionalized or institutionalized (for example where museums are among the major end purchasers), so one might expect less capacity for consumer power to be exercised in the antiquities trade based on public awareness campaigns akin to those used to spur popular consumer resistance to conflict diamonds.

Wildlife

CITES has 173 Parties and protects more than 30,000 species of plants and animals. As with many other international treaties, the operative effect comes through countries passing national legislation to implement the Convention's recommendations. The incentive for countries to comply with CITES comes in the ability of other member countries to impose sanctions on the legal/regulated wildlife trade coming out of the defaulting country. Therefore, if you as a CITES member country want to remain an active exporter of protected wildlife, respecting the provisions and restrictions of the Convention is a sensible precaution to avoid a widespread ban on trade.

We shall focus here on two types of wildlife trade within CITES from which particularly topical or relevant lessons might be drawn. The first is the trade in ivory, which has been the subject of a quite well known general trade ban, and might help us to think about the likely consequences of a prohibition approach to the trade in antiquities, as well as permit systems among other issues. The second type of trade to mention is in illegal timber, where we can find an interesting approach to the concept and practice of due diligence; also clearly a matter of key contemporary relevance to the debate about regulating illicit trade in cultural objects.

Ivory: bans, technological innovations, and education campaigns

A worldwide ban on ivory sales was initiated in 1989, when the African elephant was moved from Appendix II to Appendix I of CITES. Discussions over one-off ivory stockpile sales started in 1996. Japan, China and some African countries have since re-opened 'limited' ivory trade. After the ban was fully implemented in 1990, poaching of elephants dropped and ivory prices dropped substantially, but the poaching figures are now increasing again. The International Fund for Animal Welfare (IFAW) attributes this growth to the legal market which 'provides poachers with a convenient smokescreen to sell their illegal stocks'. IFAW continues therefore to call for a total permanent worldwide ban on all ivory sales.

We can identify two completely opposing views on the etiology of transnational illicit commodity transactions. One view is that regulation, especially in the form of an outright ban, creates black markets: by restricting legitimate routes of supply, the market is 'forced underground'. The opposite view is seen in the ivory example above: that the absence of an outright ban allows the black market to exist, since laundering through a legitimate trade makes it difficult to tell for sure whether any given item is illicit. For regulatory thinkers, who would aspire to create a workable and effective system of control over the international trade in illicit commodities, this dialectic of opposing views on the mechanism of 'the ban' creates a 'damned if you do, damned if you don't' conundrum.

A significant problem that has been identified with the CITES ban on ivory sales is the issue of unregulated national markets. CITES is only designed to control movement across borders, so national markets in poached and undocumented animals remain. Combine this with weak border controls, e.g. between neighbouring countries in Africa, and there can be some pooling of poached animals occurring in these unregulated national trading zones. A recent study has shown that the worldwide ban on ivory trade has benefitted most countries' elephant stocks; but not all (Lemieux and Clarke 2009). Between 1989 and 2007, i.e. after the ban, 18 African countries showed increasing elephant populations, while decreases were observed in 17. In some of those 17 countries the ban was still achieving a positive effect in slowing the rate at which they were losing elephants,

and five countries in Central Africa accounted for the majority of the losses. These losses have been attributed to the continuation of unregulated ivory markets within and near those five countries. Significant correlates of elephant losses post-ban were found to be:

- presence of an unregulated domestic market,
- bordering three or more unregulated markets,
- civil war involvement,
- significant corruption.

It is not very clear why the international CITES ban would not dampen demand in unregulated domestic African markets, given the implications of a worldwide trade ban on ivory for the export potential from those markets.

Permit systems seem to be widely abused in the wildlife trade. Many countries issue permits or licences to hunt or trap animals, usually restricting both the number of permit holders in-country and the number of animals that may be taken per permit. There are many ways to use the permits to launder or legitimize the hunting of more animals than the permit would allow, depending on the enthusiasm and regularity with which government inspectors check up on what the hunters are actually doing (South and Wyatt 2011). This type of permit-related laundering in the illicit wildlife market is similar to that observed by Kersel in the illicit antiquities market in her case study of dealers in Israel (Kersel 2006).

More so than many other international illicit markets, and certainly much more so than in the case of illicit cultural property, new technologies are playing a role at the forefront of the fight against wildlife traffic, especially at the poaching stages. A recent IFAW report describes some of the technological and infrastructural tools which are being trialled (IFAW 2013). The Kenya Wildlife Service is installing an alarm system connected to fences around wildlife reserves that sends rangers a text message when poachers are detected. One conservation range in Kenya is protected using a 'military approach that includes an electric fence surrounding the 62,000 acres of savannah and a US$ 1million-a-year security outfit of armed rangers, night trackers, dog handlers and a helicopter' (IFAW 2013: 24). A US firm has launched a drone fitted with surveillance cameras to monitor unwanted movement on the Ol Pejeta Conservancy in Kenya where the last northern white rhinos live, and Tanzania also uses anti-poaching drones. Most of this equipment is supplied by developed countries, sometimes via NGOs, and ongoing technical and financial support is required by the source countries in order to develop long term solutions. It is an interesting exercise, although one for another longer piece of work, to consider whether and to what extent these kinds of technological innovations, and inward investment mechanisms to inject crime prevention resources into developing countries, might be replicated and repurposed towards cultural heritage protection.

Like policy in the international diamond trade, consumer and public awareness raising has been a significant part of anti-wildlife trafficking policy. Some of this is quite sophisticated in design and evaluation. IFAW designs and conducts what it refers to as 'behaviour change communication campaigns in key consumer countries'. These are conducted through media partners and promise significant effects in raising consumer awareness; and notably they are sometimes evaluated to measure whether the desired 'behaviour change' has been achieved in the population exposed to the campaign.

Incorporated within a 'messaging' or 'communicative' approach to the somewhat diffuse prospect of molding public sensibilities which are the object of much wildlife

protection campaigning in this field, in the ivory trade we can see a more specific general deterrence approach in acts like the symbolic destruction of confiscated stockpiles of ivory. Clearly such symbolic destruction would be unthinkable for confiscated antiquities, but it might not be too much of a stretch to see the highly public ceremonies organized around repatriation of significant cultural objects as incorporating some of the same communicative elements. There is, after all, surely some level of general deterrent intent, if not yet measured effect, in the publicized return of expensive cultural objects to their source countries, especially if the buyer has lost money, or face, in the process.

Timber: risk assessment in due diligence

Regulation (EU) no. 995/2010 entered into force on 3 March 2013 and places obligations on timber traders operating in the EU. EU traders who place timber products on the EU market must exercise 'due diligence'. Interestingly, due diligence as it applies to the timber trade has come to be defined in a subtly different way to its use in the antiquities trade. For the purposes of the EU regulation, due diligence is explicitly a 'risk management exercise, so as to minimize the risk of placing illegally harvested timber […] on the EU market' (European Commission 2015). The 'three key elements of the due diligence system' are:

- *Information*. The operator must have access to information describing the timber and timber products, country of harvest, species, quantity, details of the supplier and information on compliance with national legislation.
- *Risk assessment*. The operator should assess the risk of illegal timber in his supply chain, based on the information identified above and taking into account criteria set out in the regulation.
- *Risk mitigation*. When the assessment shows that there is a risk of illegal timber in the supply chain that risk can be mitigated by requiring additional information and verification from the supplier (European Commission 2015).

The emphasis here on risk assessment, and then if a risk is assessed to be present the requirement on traders to take further measures to mitigate the risk, is rather different from the approach to due diligence in the antiquities trade, which has too often taken the form of an 'innocent until proven guilty' approach to object provenance. The precautionary principle at work in the timber regulation's approach to due diligence has not been developed as an explicit part of the antiquities approach. The result is that in effect the operational due diligence question for antiquities dealers remains 'is there proof this has been looted' rather than 'is there a risk this has been looted'.

In order to maintain the integrity of the EU 'due diligence plus provenance system' in the timber trade, there are two layers of organizational auditors: 'competent authorities' and 'monitoring organizations'. Competent authorities are the relevant government agencies in the EU countries. Monitoring organizations are the trade bodies in source, transit and market countries who certify the timber as not from illegal logging. Competent authorities are instructed regularly to check the legitimacy and reliability of the certifications by the monitoring authorities, by way of spot checks and field audits, examination of documents of both the monitoring agency and the operators they are monitoring, and interviews with management and staff (Commission Implementing Regulation (EU) no. 607/2012).

Conclusion

Do we need a Kimberley Process for the antiquities market? Such are the attractions of multi-stakeholder collaborative initiatives, including self-regulatory elements, that in light of recent events in Syria and Iraq the call for such a parallel process has been framed even more precisely:

> Those involved in the antiquities trade itself are likely the best placed to ensure that blood antiquities never enter the marketplace in the first place. A global stakeholder engagement group should be formed, perhaps in Davos, Switzerland, to ensure that all responsible parties in the antiquities market 'value chain' – governments, auction houses, museums, dealers, insurers, freeports and collectors – agree to a common sourcing and sales standard, to guarantee that any antiquities from active and recent conflict zones have been properly sourced before they can be sold, transferred, insured, stored or displayed.
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> To carry this out, the world can learn from past examples of combating illicit markets, including the successful Kimberley Process, which was established to clamp down on blood diamonds. Working together, we can once again save lives while helping to preserve our common heritage (Vlasic 2014).

A review of the critical evidence base on the KP casts something of a shadow alongside general claims to its effectiveness, however. Even if it were wholly effective, one would have to confront and overcome difficult questions of policy transfer to make the case for its applicability to the antiquities trade. And if it has not even been without problems as a mechanism for controlling the problem of the sale of conflict diamonds then it might be better to look for alternative solutions. Much of the apparent undoing of the KP in regulating the diamond trade has been for reasons which bear parallels to the situation pertaining in the antiquities trade, so we should expect similar problems in adopting or adapting the process. The KP suffers from a problematically low level of governmental interest and commitment to the issue, vested industry interests, a history of secrecy and lack of public scrutiny or accountability pervading the culture of the trade, and at source, corruption, poorly functioning bureaucracy (including law enforcement), and various degrees of social disorganization, sometimes related to conflict. All these issues will sound very familiar to observers of the international antiquities trade. Just as self-regulation has proven to be 'an accomplice to laundering' in the international diamond trade, it is hard to see any reason to doubt that the situation would be similar in the international antiquities trade. Therefore, a Davos-based global stakeholder group looks uncomfortably like asking the cat to guard the cream.

A more productive way forward might be to continue to build on current conversations about galvanizing consumer and public awareness, and in doing so to draw on our comparative method to learn from the governance of other transnational criminal markets. Some strategies effectively amount to making the prospective consumer feel bad about where the commodity has come from. This has been quite widely used in markets for illicit wildlife, counterfeit and pirated consumer goods, and even for drugs. Although it is regularly mooted as an intervention strategy in the antiquities trade, it has never really been tried, at least to the extent it has been used in some of these other markets. There are more, and more active, NGOs in the anti-wildlife-trafficking field than there are in the anti-antiquities-trafficking field, and these have managed to secure the involvement of high profile celebrities such as Harrison Ford in their advertising

campaigns.

In respect of counterfeit and pirated consumer goods, the recent trend has involved raising awareness of organized crime in the production and transit phases, and suggesting to consumers they are funding these if they buy. For drugs, one innovative policy has been to advertise the local community level harms in producer countries which are caused by, for example, the cocaine trade, and in this way to try to leverage a sense of guilt in educated consumers in market countries not about their breaking possession or consumption laws, but about their purchases being unethical in terms of global justice.

As well as raising consumer awareness, where that is relevant to the functioning of a given market, civil society organizations have also been notably effective in galvanizing public support for regulatory efforts in relation to some trades. Efrat points out that the International Campaign to Ban Landmines (ICBL) was initiated by a group of six NGOs but had grown by 2009 into a network of more than 1400 groups in over ninety countries; and the International Action Network on Small Arms (IANSA) consisted of 800 civil society organizations in over 100 countries (Efrat 2009: 1498). These very large networks and the impact on public sentiment they represent make the network of NGO actors lobbying for regulation of illicit antiquities look like a very small group indeed.

In the development of regulation of conflict diamonds, NGOs have been noted as playing a significant part, campaigning to develop public pressure on governments and industry to develop and raise international standards, and promoting the idea of the social acceptability and indeed duty of consumers in asking sellers about the sources and origins of the diamonds they were being offered for sale (Grant and Taylor 2004). We have seen little such public pressure developing in the antiquities trade to push governments and traders into raising standards, and despite sustained calls from observers and experts to encourage buyers to ask for clear details of provenance, that process of information transfer still suffers gravely at the hands of the historical preference of the antiquities trade for privacy and confidentiality.

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References

Efrat, A. 2009. 'A Theory of Internationally Regulated Goods'. In *Fordham International Law Journal* 32, pp. 1467.

European Commission. 2015. 'What is Due Diligence?'. In *European Commission on Environment*. [Online]. URL: < http://ec.europa.eu/environment/forests/timber_regulation.htm > [accessed 9 April 2015].

Feldman, D.L. 2003. 'Conflict Diamonds, International Trade Regulation, and the Nature of Law'. In *University of Pennsylvania Journal of International Economic Law* 24, pp. 835-74.

Gerstenblith, P. 2007. 'Controlling the International Market in Antiquities: Reducing the Harm, Preserving the Past'. In *Chicago Journal of International Law,* 8(1), pp. 167-95.

Global Witness. 2004. 'Broken Vows: Exposing the 'Loupe' Holes in the Diamond Industry's Efforts to Prevent the Trade in Conflict Diamonds, Global Witness'.

[Online]. URL: < https://www.globalwitness.org/sites/default/files/library/broken%20vows.PDF > [accessed 8 April 2015].

Global Witness. 2011. 'Global Witness Leaves Kimberley Process, Calls for Diamond Trade to be Held Accountable'. In *Global Witness* [Online]. URL: < https://www.globalwitness.org/library/global-witness-leaves-kimberley-process-calls-diamond-trade-be-held-accountable > [accessed 7 April 2015].

Gooch, C. 2011. ' Why We Are Leaving the Kimberley Process'. In *Global Witness* [Online]. URL: < https://www.globalwitness.org/library/why-we-are-leaving-kimberley-process-message-global-witness-founding-director-charmian-gooch > [accessed 7 April 2015].

Gooch, T.M. 2008. 'Conflict Diamonds or Illicit Diamonds: Should the Difference Matter to the Kimberley Process Certification Scheme". In *Natural Resources Journal* 48, pp. 189-214.

Grant, J.A. and Taylor, I. 2004. 'Global Governance and Conflict Diamonds: The Kimberley Process and the Quest for Clean Gems'. In *The Round Table: The Commonwealth Journal of International Affairs* 93, pp. 385-401.

Hardy, S. and Aghlani, S. 2015. 'Tomb Raiders and the Profits of Doom'. In *The World Today*, February and March, pp. 28-30.

Human Rights Watch. 2009. 'Diamonds in the Rough: Human Rights Abuses in the Marange Diamond Fields of Zimbabwe'. [Online]. URL: < http://www.hrw.org/sites/default/files/reports/zimbabwe0609web.pdf > [accessed 8 April 2015].

IFAW. 2013. 'Criminal Nature: The Global Security Implications of the Illegal Trade in Wildlife' (Brussels: International Fund for Animal Welfare).

Kaplan, M. 2003. 'Carats and Sticks: Pursuing War and Peace through the Diamond Trade'. In *New York University Journal of International Law and Politics* 35, pp. 559-617.

Kersel, M.M. 2006. 'From the Ground to the Buyer: a Market Analysis of the Trade in Illegal Antiquities'. In *Archeology, Cultural Heritage and the Antiquities Trade*, edited by N. Brodie, M.M Kersel, C. Luke and K. Walker Tub (Gainesville, FL: University Press of Florida), pp. 188-205.

Lemieux, A.M. and Clarke, R.V. 2009. 'The International Ban on Ivory Sales and its Effects on Elephant Poaching in Africa'. In *British Journal of Criminology* 49, pp. 451-71.

Malamut, S.A. 2005. 'A Band-Aid on a Machete Wound: The Failures of the Kimberley Process and Diamond-Caused Bloodshed in the Democratic Republic of the Congo'. In *Davis Suffolk Transnational Law Review,* 29(1), pp. 25-52.

Merryman, J.H. 1988. 'The Retention of Cultural Property'. In *University of California Davis Law Review*, 21 (477).

Murphy, S.K. 2012. 'Clouded Diamonds: Without Binding Arbitration and More Sophisticated Dispute Resolution Mechanisms, the Kimberley Process Will Ultimately Fail in Ending Conflicts Fueled by Blood Diamonds'. In *Pepperdine Dispute Resolution Law Journal,* 11(2), pp. 207-28.

South, N. and Wyatt, T. 2011. 'Comparing Illicit Trades in Wildlife and Drugs: an Exploratory Study'. In *Deviant Behavior,* 32(6), pp. 538-61.

Vlasic, M.V. 2014. 'Islamic State Sells Blood Antiqtuities from Iraq and Syria to Raise Money'. In *The Washington Post,* 14 September 2014.

Vlasic, M.V. and Davis, T. 2012. 'Should Cambodian "Blood Antiquities" Be Returned?'. In *CNN* [Online]. URL: < http://www.cnn.com/2012/06/07/opinion/vlasic-davis-cambodia-art/ > [accessed 2 April 2015].

Vlasic, M.V. and DeSousa, J.P. 2012. 'Stolen Assets and Stolen Culture: The Illicit

Antiquities Trade, the Perpetuation of Violence, and Lessons from the Global Regulation of Blood Diamonds'. In *Durham Law Review* 2, pp. 159-80.
Wexler, L. 2010. 'Regulating Resource Curses: Institutional Design and Evolution of the Blood Diamond Regime'. In *Cardozo Law Review,* 31(5), pp. 1717-80.