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The control of mining has been a core issue of contention between the modern state and traditional authorities in Ghana since the colonial period. Even though there are regulations governing legitimate mining in Ghana, illegal small-scale mining, with strong traditional practices, has surged. This article uses interview data from Asutifi North District of Ghana to explain that traditional institutions, though aware of the illegality of these small-scale mines, performed rites enabling them. The state should cede some decision making over mineralized lands to traditional authorities so that they become part of the responsibility for mining in their area.

Keywords: *Mining, Ghana, traditional authority, illegality*

The attempt by the British colonial state to wrest the control over land, and by extension, over economic activities has been the bane of peace and development in most former British colonies, including Ghana (Larbi, Antwi & Olomolaiye, 2004). The colonial administration's major motivation for the compulsory land acquisition was "to make smooth the path for British commerce, British enterprise, the application of British capital…." (Imam, 2015, p. 132) in the colonies. However, this attempt had not been without resistance from various segments of the indigenous population.

In the former Gold Coast (now Ghana), the Aborigines Rights Protection Society (ARPS) was formed by John Mensah Sarbah, in collaboration with the African intelligentsia of the Gold Coast and some chiefs, in 1897 in Cape Coast to specifically resist the land takings by the British administration. The acquisitions were influenced by the concept of "vacant lands without owner" ("terres vacantes et sans maître"). By defining most of the lands in the Gold Coast as waste lands, colonial officialdom attempted to bring them under colonial rule under the Crown Lands Ordinance of 1894 (Ofosu-Mensah, 2011; Ubink & Amanor 2009). But the ARPS argued that there were no waste lands in the Gold Coast. Rather, all lands were owned mainly by traditional leaders on behalf of both their people and the ancestors. All activities that were undertaken with land as the main resource therefore had to be done with the approval of these traditional institutions. While the Crown Lands Ordinance was subsequently withdrawn in 1897, the Land Bill of 1897 was passed by the Legislative Council of the Gold Coast with the same intent as the Crown Lands Ordinance of 1894 (Nti, 2012). This attempt was resisted by the ARPS claiming the Gold Coast was colonized not through conquest but by a treaty, therefore the action was unconstitutional. The ARPS sent a delegation to England in 1898 to petition its passage after the Governor of the colony had refused to suspend the Bill.

The delegation succeeded in getting the Lands Bill vetoed (Ofosu-Appiah 1977). Another ordinance, the Concessions Ordinance, was then passed in 1900 to solve some of the perceived problems envisaged by both the Crown Lands Ordinance and the Lands Bill. The Concessions Ordinance of 1900 only required that all concessions of land granted by traditional rulers such as chiefs be validated by the Supreme Court of the Gold Coast (Bourret 1960). Botchway (1998) notes that the Ordinance, then recognized the ownership of the land in the colony as that of the indigenous people and regulated by traditional institutions.

During the pre-colonial era, traditional institutions were the authorities that regulated societies exclusively. These included instruments of political organization and socialization such as chieftaincy, judicial systems, norms, beliefs, taboos and value systems inherent in the society. Land, and all other resources attached to it, was one major resource regulated by these institutions. Gold and other minerals were resources attached to land. Prior to colonial rule, gold resources were mined with traditional technology and on a small-scale level by local miners (Tsuma, 2010) within the traditional belief system where the Earth was believed to be a "living being." Therefore, before mining was done, rituals were performed, and norms observed to ensure fruitful and hazard-free mining. Mining was solely done by indigenous people under traditional authorities until the first mining concession given to a foreigner was granted by chiefs of Tarkwa to Pierre Bonnat in 1876 (Allen, 1958).

The attempt by the colonial government to monopolize gold mining in the Gold Coast led to the criminalization of small-scale mining in 1932 by the Mercury Ordinance, which banned the use of mercury for gold mining in the Gold Coast. Mercury was adopted by the traditional miners to extract the free gold particles from the concentrated ore as opposed to the method of panning and washing (Arhin, 1978). However, it is not clear when and why mercury was adopted into the traditional extraction method, but Esdaile and Chalker (2018) state that the utility of mercury captured very fine grains of gold as compared to the mercury free washing methods used in the original traditional mining methods. The ban persisted until the Gold Coast achieved independence in 1957. The newly independent state, Ghana, then nationalized mining but did not promote the participation of traditional authority in mining governance, neither did it formulate policies to legalize small-scale gold mining.

The political administration of the newly independent Ghana did not trust those associated with the institution of chieftaincy (ECA, 2007). Chieftaincy was therefore not promoted in national governance, which included mining governance. According to the institutional theory, the state building process requires the state institutions to work together with traditional institutions as it affords the building process more efficiency in the application of scarce resources (Ray, 2007). This harmonization is essential for success in state-building and socio-economic development. Chieftaincy was rather actually undermined by the newly independent state institution.

The compulsory land acquisition power exercised by the colonial government was also used extensively in Ghana by the state to acquire land for the public good, correcting economic and social inefficiencies in private market operations, and providing equity and social justice in the distribution of land (Larbi et al., 2004), through the Administration of Lands Act, Act 123 of 1962, and State Lands Act, Act 125 of 1962. The President was authorized to declare any land as state lands to be used in the public interest. These lands could originally be owned by stools, families or individuals (Botchway, 1998). The previous owners then lost all their rights to the land except that which was given by the state; the only guaranteed right was to be paid

compensation for losing their right to the land. Traditional authorities could not resist the acquisition.

The poor performance of the mining subsector as part of the general deterioration of the Ghanaian economy prompted the Economic Reform Programme (ERP) in 1983 (Ayee, Søreide, Shukla, & Minh Le, 2011), sponsored by the World Bank and the International Monetary Fund. The Mining Sub-Sector Improvement Project was implemented to revamp the sub sector. The role of the state was diminished from that of a key participant to a facilitator and regulator to attract private investments to improve productivity. The reforms resulted in majority shares in all large-scale mines in Ghana being owned by multinational companies. Consequently, the role of traditional authorities in managing the mining sub-sector was neglected. However small-scale mining which was technically banned in 1932 still thrived, albeit illegally, in the country with gold sold in neighboring countries. In 1989, the government of Ghana having realized the loss of revenue to neighboring countries from the illegal mining, repealed the Mercury Ordinance of 1932 with the Small-Scale Mining Law in 1989 for licensing, regulating and supporting small scale mining (Hilson & Banchirigah, 2009).

However, even with government legalization of small-scale mining after licensing, illegal mining continues. Indeed, some researchers have observed a surge in illegal mining in Ghana (Ghana Chamber of Mines, 2011; Yelpaala & Ali, 2005). Given the beliefs Ghanaians have about the spiritual aspects of mining precious minerals, it is unlikely that traditional authorities in whose areas these activities prevail are unaware of the activities. Small scale mining, whether legal or illegal, can only go on with the performance of rites. This analysis considers questions that arise from this situation in the Ahafo South Concession of Newmont Gold Ghana Limited, in the Asutifi North District of the Ahafo Region. First, I consider why these traditional authorities would sanction these illegal activities by performing rites at various stages of the activity. Second, if chiefs have not permitted illegal gold mining, why have they continued performing these rites? Third, is the sanctioning of these activities beyond the capacity of traditional authorities or are the traditional systems allowing this illegal activity as a protest against the authority of the modern state?

Literature Review

This study is informed by the institutional theory. North (1990) defines institutions as rules of the game. Institutions create structures that either constrain or enhance human behavior with a system of incentives and disincentives that reduces uncertainty and transaction costs (Friel, 2017). In so doing, institutions create lasting order in society. Institutions have been classified differently for different purposes and by different writers (North, 1990; Meyer, 2017). North (1990) for example categorizes institutions into formal and informal. Formal institutions are rules or organizations that have been devised to regulate human behavior with elaborate structures, example the state and its agencies. Informal institutions include norms, processes, routines and organizations that evolve mostly from general practices and are recognized as possessing legitimacy to act in specific ways, for example traditional institutions.

Another classification, which is relevant to this article, is that of modern and traditional institutions. Traditional institutions are institutions embedded in the culture and history of people and in countries that were colonized before, predates the colonial and post-colonial state (Meyer, 2017; Gyekye, 1997). The traditional institutions usually take the form of a body of informal norms that are disseminated by word of mouth, enforced by gossip or religious stricture, and passed from one generation to another. Modern institutions on the other hand, are those

institutions devised by the colonial or post-colonial state, usually constituted of a body of formally written laws that are enforced by organizations set up by and including the state (Gyekye, 1997). Meyer (2017) notes that in the modern state, the human person is the main actor discovered and unleashed by the market, democracy, property rights, and religious freedom.

According to North (1990), institutions are consciously designed to achieve specific purposes, but Powell and DiMaggio (1991) see the origins of institutions as evolving out of specific contexts' history and culture. The institutions being discussed by North (1990) are generally formal institutions and mostly modern while that being discussed by Powell and DiMaggio (1991) are generally informal institutions and mostly traditional. In situations where there are different institutions, Young and others (1999) argue that the effectiveness of any one of these institutions significantly depends on its interactions with the other institutions. It is therefore imperative for the modern institution to interact effectively with traditional institutions; but with the motive of traditional institutions being embedded in culture and history, and therefore a property of the superstitious past which the modern institutions had overcome (Meyer, 2017), there has been tumultuous relationships between these two institutions.

Englebert (2000) argues that the states in Africa have historically been competing with traditional institutions for popular legitimacy and that the fundamental problem of these states has been their inability to establish their own bases of legitimacy. All these attempts by the state to undermine traditional institutions were to destroy competing centers of institutional allegiance. However, due to the resilience of traditional authority these attempts by the modern state failed (Logan, 2009). Small scale mining institutional structure and participation of traditional institutions in Ghana Mining, including Small-scale mining, in Ghana is regulated mainly by the Minerals and Mining Law of 2006 (Act 703) and its subsidiary regulations, Environmental Protection Act of 1994 (Act 490) and its subsidiary regulations, Minerals Commission Act of 1993 (Act 450) and its subsidiary regulations, Forestry Commission Act of 1999 (Act 571) and its subsidiary regulations and the Office of the Administrator of Stool Lands Act of 1994 (Act 481) and its subsidiary regulations. For the main purpose of this analysis, the participation of traditional institutions in the governance framework and issues pertaining to royalties to chiefs would be discussed.

The Minerals and Mining Law of 2006 in section one, vests every mineral in its natural state in all lands and waters within the jurisdiction of Ghana in the President of Ghana in trust for the people. Further, section two authorizes the President to authorize the occupation and use of any land by any enactment in force for mineral resource development. The lands that can be occupied include all lands in Ghana, unless it is already a subject of an earlier mineral license or has been reserved by an earlier law from becoming subject to a mineral license. Owing to the principle of subsidiarity, the practice of the authority to negotiate and manage the mineral resources in Ghana has been delegated by the Minerals and Mining Law of 2006, section 5(1) to the Minister responsible for mining. The law further requires the minister to be advised by the Minerals Commission on all technical issues. The Minerals Commission was set up by the Minerals Commission Act of 1993 (Act 450) to be responsible for the regulation and management of mineral resources utilization in Ghana and the co-ordination of policies related to mining regulation and management. This therefore makes the Minerals Commission the central organization for management of mining in Ghana.

Several institutions play roles in the management of mineral resources in Ghana, as prescribed by the Minerals and Mining Law of 2006. However, traditional institutions who hold allodial rights over more than 90% of lands in Ghana (Kasanga, 2008) are only mentioned in two

places over all the 112 sections of the Act. In Section 13 (2) of the Act, the Minister upon receiving a recommendation from the Minerals Commission for a grant of a mineral license over a specified land to an applicant, is required to give a notice in writing to the chief or allodial owner of the land within 60 days of receipt of the recommendation. The second reference to a traditional authority in the Act occurs in section 92 (2c) where one person is to be nominated by a traditional authority to be a member of a six-member small scale mining committee to be established in any area where there are small scale mines and chaired by the District Chief Executive or its representative.

The committee is to assist the District Office of the Minerals Commission to effectively monitor, promote and develop mining operations in the district. According to GHEITI (2018), the practice has been that once an applicant identifies a mineralized land for mining, he or she conducts a search at the Mineral Commission to find out whether the area is free. If so, the applicant applies at the District Assembly for the District Chief Executive to endorse. The document is then submitted to the district office of the Minerals Commission responsible for that district. The District Chief Executive publishes notice of the application at the offices of the District Assembly, the Local Information Centre, Post Office, Magistrate Court and other places as may be deemed necessary for a period of 21 days to allow chiefs, land owners and the public in the area to examine the application and respond, if they have issues.

In addition to the physical participation of traditional authorities in the mining governance framework, royalty payments are established in section 25 of Act 703 to be paid by mining companies and distributed to several institutions, including traditional authorities. The rate of royalty was between three (3) and six (6) per cent of the revenue from the mining; but as amended by the Minerals and Mining Act (Act 900 of 2015), the rate is to be prescribed. These rates have been negotiated individually with mining companies. GHEITI (2018) notes, for example the mining agreement between Ghana and Goldfields Ghana Limited changing the royalty payment from a fixed rate of five (5) per cent to a sliding scale based on gold prices. The data showed that the rate ranged from three (3) to five (5) per cent. The disbursement of the royalty is carried out across a chain of institutions. The Ghana Revenue Authority (GRA) after collecting all the royalties from mining companies, pays 80 per cent to the consolidated fund and the remaining 20 per cent to the Minerals Development Fund (Minerals Development Fund Act, 2016 [Act 912] Section 3 [a]). Section 21 (3a) of Act 912 directs the Fund is to transfer 50 per cent of the royalties received to the Office of the Administrator of Stool Lands for onward disbursement. The Office of the Administrator of Stool Lands Act (Act 481) of 1994 enjoins the Office to retain 10 per cent of the royalties it has received to cover administrative costs and disburse the rest as: i) twenty-five per cent to the stool (chief) through the traditional authority for the maintenance of the stool in keeping with its status; ii) twenty per cent to the traditional authority; and iii) fifty-five per cent to the District Assembly within the area of authority in which the stool lands are situated.

The preceding discussions show that the chiefs, on whose lands minerals are mined, finally receive only 2.25 percent of the royalty rate paid to the state (whichever the rate is determined). That is, between 0.07 percent and 0.01 percent of the revenue from mining when the royalty rates are three (3) percent and five (5) percent respectively.

Research Setting and Methodology

This case study focuses on the Asutifi District of the Ahafo Region, where the Newmont Gold Ghana Limited's (NGGL) Ahafo South concession is situated. This area was selected because large- scale mining began there in 2007, which also brought in its wake, illegal small-scale mining activities in the district. In Kenyasi Number One and Ntotroso towns, where most of the illegal small-scale mining activities are undertaken, all the lands (including the towns) are in the concession lawfully acquired by Newmont Gold (a US-based corporation) from the Government of Ghana.

Field work was carried out in February and August 2013 and a subsequent brief visit in 2018. One divisional chief, three sub-chiefs of a paramount chief, one village chief and five illegal miners were purposively selected and interviewed. One focus group discussion (FGD) constituted of 10 illegal small scale mine workers was also conducted. Primary data were obtained from interviews and FGDs and secondary data were collected from published literature, reports from state institutions and the mining company. Newmont Ghana Gold Limited did not provide any feedback on its invitation to respond to the study from the researcher, after several visits to the head office in Accra.

Organization of Chieftaincy in the District

The Asutifi North District is within the Ahafo area of the Ashanti Kingdom. In precolonial times, it was rich in wild life. The area was settled by the Ashantis following its conquest and annexation from Aowin between 1720 and 1722 (Kwarteng, 2000 as cited in Kwarteng, 2012). After the Ashanti king had conquered the area, he sent his representatives there to signify his presence and to hunt for wild game and supply to the royal court. The term "Ahafo" translates as the hunters. Other accounts note that the name Ahafo originated from the general fertility of the land, and the abundance of the common necessities of life which impressed visitors and who referred to the place as 'eha ye fo', meaning 'life here is cheap' (Arhin, not dated). This was later corrupted to Ahafo. The Asantehene, the head of the Asante people whose palace is in Kumasi, is the head of the chieftaincy structure in the district. The Ahafo areas had been historically administered from the Asanteman Council in Kumasi through wing chiefs, who directly supervised the chiefs of Ahafo (Kwarteng 2012). The interference of both colonial and post-independence states has resulted in the elevation of some prominent chiefs to 'Omanhene'—paramount or divisional chief statuses—to administer demarcated areas of the district on behalf of the Asanteman Council. Politically, the Ahafo paramountcy is in the Ahafo Region and the chiefs are part of the Ahafo Regional House of Chiefs. Traditionally, however, the Ahafo paramount chiefs are members of the Asanteman Council and owe allegiance to the Asantehene. The current physical structure of chieftaincy in the district consists of paramount or divisional chiefs at paramount or divisional levels, then chiefs at the town and village levels. The district is traditionally covered by four paramount chiefs and six divisional chiefs. The paramount chiefs are in Acherensua, Hwidiem, Kenyasi No.1 and Kenyasi No. 2. The six divisional chiefs are at Ntotroso, Gyedu, Wamahinso, Nkaseim, Mehame and Dadiesoaba (Ghana Districts, 2011).

Background Characteristics of Respondents

Two prominent illegal small-scale mining sites in the district were studied: Kenyasi Number 1 and Ntotroso. Three illegal small-scale mining operators were interviewed at the Kenyasi site while two were interviewed at the Ntotroso site. The Kenyasi illegal small-scale mining operators included one who was both an owner of a deep shaft (referred to as a ghetto) and the

crew that worked on it, usually about 100 people. He was also the chairman of the illegal small-scale mining site management committee and a grandson of the traditional owner of the land on which the small-scale mining was undertaken. The second ghetto owner had an MBA in marketing. He was not a native of the area but migrated there in search of a job at Newmont. He was managing the ghetto with a colleague who had a first degree and did his national service with Newmont but was not employed afterwards. The third owner at the Kenyasi site migrated from Kumasi in search of opportunities in small-scale gold mining. He was engaged in extracting alluvial gold from the sands on the site.

The whole small-scale mining area was managed by the site management committee, even though they did not have a legal concession. The area had been demarcated into seven divisions with each division having representatives on the site management committee. Each division was made up of owners of shafts (ghettoes) who were the leaders of the shaft group. Within the ghetto group, there were several gangs of workers who had leaders. These gangs were made up of different specializations—ghetto diggers, chiselers, pump operators, and carriers who had leaders representing them at division meetings. At the Ntotroso site, the first operator migrated from Obuasi in search of illegal small-scale mining prospects here while the second operator was from the Ntotroso town. At this site, it was only alluvial gold that was mined.

Accessing Gold-Rich Land and its Management

In general, there were two main ways through which the small-scale mining operators determined that a particular area could be rich in gold. The first route was where history showed that an area used to be mined by people, such as the Kenyasi number one case. The area used to be called 'sika amena so', literarily translated as gold shaft area. Historically, the local people used to mine gold by digging relatively shallow shafts either to get to the ore or as part of mining the ore. They could not dig deeper shafts because of the rudimentary nature of technology available then. When the ore bodies were too deep for them to mine, they were abandoned. In the extraction of the free gold from the ore, the absence of a mechanized process for breaking the rocks into sand meant that the manual processes used for this purpose could not create finer aggregate sand. Some of the gold was therefore trapped in the waste sand. These two sources of gold were left unattended until the current times when the second means of determining whether an area of land was rich in gold occurred and these sources were rediscovered.

When people, experienced in mining from other areas of Ghana, migrated into the Asutifi North District in search of greener pastures, they learned of the history of mining in these areas. They then performed simple techniques to ascertain the presence of and likely concentration of gold. In other areas of the district which did not have a history of mining, experienced miners used geographic features they knew were often associated with the presence of gold to guide them as to where to conduct exploration for gold. In both situations, the establishment of gold concentration in the soil and its economic viability was critical. The indigenous technology could only identify and extract the free gold, not the other forms where the gold is in compound form. The indigenous method for determining the presence of gold depended on the use of a tire inner tube cut and shaped into a black pan. A sample of the sand was picked, and water added to it in the pan. The mixture was swirled and the mixture of sand and water at the edges of the pan continually poured off. This was done continuously until the collection of gold could be seen at the base of the pan when most of the dirt had been removed. The appearance of the characteristic yellow particles at the bottom of the black pan confirmed the presence of gold and the amount realized out of the total amount of a sample indicated its economic viability.

In the Kenyasi and Ntotroso areas, once the concentration of gold in the land was established, there were two ways to secure access to the land. If the interested person was a member of the land-owning family and the land was not being used for farming by another family member, they claimed the right to mine by their relation and approached the family head to negotiate the conditions for the release of the land for mining. Other people who wanted to have access to the land for mining either approached the landowner for negotiations before beginning the venture or in certain cases, they started working the land without the land owner's permission. The land owner, upon hearing of the activities on the land would then approach the miner and then negotiations were carried out. At the two sites visited, this situation did not pose any problems because landowners hoped that gold would be found in their land. If it was mined, some benefits would accrue to them.

Traditional Institution Managing Small-Scale Mining

One important finding from this study was that the illegal small-scale mining operators were unanimous in saying that they did not directly deal with any traditional authority or their representatives. They mostly dealt with the land owners in the management of their activities and the benefits associated with it. Land ownership was based on the inheritance of land. However, in Kenyasi No 1, the operators said the site management committee exacted an amount of tax, in the form of mined ore, to be processed and the proceeds sent to the chiefs and elders. Further interactions with the respondents showed that the proceeds were not directly handed over to any traditional authority, but it was rather contributed to public projects in the towns as the contribution of the small-scale miners.

However, because a few of the miners were from the area and knew local customs, they ensured that their actions were traditionally acceptable. When they realized that their activities must have offended a god, they then went to the chief's linguist to perform customary pacifications for them. In earlier situations when they failed to perform these pacifications, sanctions were imposed on them by the chieftaincy institution. It was not as if the chief and his elders were not aware of their presence, but they did not directly deal with the miners. The divisional chief, for example, said this of the involvement of the traditional authority with illegal small-scale mining activities: Otumfuor (Asantehene) has warned us not to participate in these activities. They are both illegal and destructive to the environment. Any chief found to be engaging in it would have to answer to Otumfuor.

An illegal small-scale mining operator also noted of the participation of chiefs in these activities: Government should ensure that if mining goes to an area, all the people who are going to be affected are adequately catered for to avoid people going into vices. Had it not been for these illegal small-scale mining activities, people were stealing and going on demonstrations against the mining company. Therefore, even though the chiefs do not agree with the activity, they still allow us to do it as it provides an occupation and gives people income.

It may be surmised from the second statement that people engaged in illegal mining because they were not adequately compensated when their farmlands were given out to mining companies. This illegal mining was done with the knowledge of the traditional authorities, albeit without their explicit approval.

Traditional rites constituted the major activity undertaken at the mining sites; without it, mining could not go on. These rites were either performed by the individual miner or the land owner or at the site management committee level. Where the mining was done either close to a river or within the bed of a dry river, rites were performed necessarily to appease the god of the

river. This was usually done by the linguist (Okyeame) or a traditional priest on behalf of the land owner or the site management committee. Libations were poured, and animal sacrifices made. These rites include slaughtering sheep, goats, cats, fowls, dogs; giving the parts the god wanted to it; and consuming the rest at the site without sending a piece home. When the rites were performed for the area, individuals were then given the permission to mine their pieces of land. Some individuals then either performed their private rites or prayed, depending on their beliefs, for fruitful and hazard-free mining.

Rationale for Engaging in Illegal Small-scale Mining

When asked why illegal small-scale miners engaged in illegal mining when they were aware it was illegal, two responses emerged from interactions with the illegal mine operators and workers. The first response was that illegal small-scale mining created employment for people who were interested. The respondents felt that these mines provided employment for the youth, more than formal institutions could. In addition, there was no requirement for educational certificates to be employed there. Therefore, it was an ideal place for people who had no formal education to work.

The second reason why people still engaged in illegal mining was that for some of the workers, it was a survival option. People who could not secure jobs in formal employment argued that since they had to take care of their families and had to provide other needs, they had no choice. For them, it was not a matter of legality but of survival. Thus, for the small-scale miners, any Ghanaian who had the strength, resources, and the will to mine had a right to join the enterprise. This is because they believed God put the gold in the land not for one group of people but for everybody and therefore, there was no discrimination as to who had a right to mine. However, respondents of the paramount traditional council explained that they had not permitted the illegal small-scale mining activities in their areas. Rather they expected the state to be responsible for overseeing illegal mining. There were two main reasons they ascribed to this position. The first is that the lands in the district were vested in the state and therefore their authority over the land was only in as far as it related to traditional matters such as customs, subsistence and small-scale farming, allocation of building plots, and receipt of royalties for mining and timber extraction. In 1958, the Government of Ghana passed the Ashanti Stool Lands Act (No.28 of 58) which transferred the trusteeship and management of all lands vested in the Golden Stool and its occupant, the Asantehene, to the Governor–General (Kwarteng, 2012). The Ahafo area, which is part of the Asante Kingdom, was affected by this Act. Regarding granting of concessions for either large- or small-scale mines, the main function of chiefs was to ensure that their people, who deserved, were adequately compensated.

The two core institutions that regulate the mining and manage the environmental conditions surrounding mining in Ghana, the MINCOM and EPA did not have offices in the district to monitor activities of illegal miners. The district office of MINCOM responsible for the Asutifi North District was located in Bibiani, 81.6 km South of the District and in the Western North Region, and the regional office of the EPA was in Sunyani, 53.6 km North of the District, in the Bono Region. These, therefore, meant that the presence of these critical state mining regulatory institutions in the district was almost absent.

However, one village chief interviewed admitted that he was responsible for giving out lands in his village for illegal mining. His justification was that it provided a source of employment to the youth in the area. Also, the lower level chiefs did not receive any mineral royalties from the legal mining though they also had responsibilities, both to their people and

their paramount chief and all these required that they generated income somehow. Yet traditional chiefs were often not part of decisions on state licensing of lands for mining. People or businesses who applied for a mining license from the state only informed traditional authorities after they had usually been given a prospecting license from the state to prospect for minerals in their traditional area. As to the negotiations and decisions, these were taken by state officials without the participation of the traditional authorities. Traditional authorities were not privy to the agreements usually signed between mining companies and businesses and the Minerals Commission. However, their traditional roles required that the land was not disturbed on taboo days. Therefore, they still reserved the right to stop any activities, including the illegal small-scale mining activities, on taboo days. In situations where a calamity befell on the illegal miners, they were duty bound to perform pacification rites and it was when they established that customs were not followed that resulted in that calamity, they sanctioned the miners.

The second reason why the traditional authority did not meddle in the affairs of the illegal miners was that the state had the mandate and resources to ensure enforcement of statutory law in Ghana. One of the chiefs who had paid an informal visit to the illegal small scale mine site in Kenyasi No. 1 said this of the resolve of the illegal miners, "My conversation with some of the illegal miners showed that they were ready to fight to the death to protect their vocation." In addition to unregistered miners' resolve to protect their vocation, the high mobility with which the illegal mining activities were associated with made it very difficult to permanently regulate them. Another traditional leader described the situation thus: We have not been able to stop them because they keep moving from place to place, even when you seize their wares, they move to another place. In the night when you are sleeping, they go to the bush and engage in their activities.

These situations required that considerable resources and time had to be devoted to addressing the illegal mining issue. The traditional authority argued that it was the responsibility of the state to attend to these situations. There were state institutions mandated to be responsible for specific aspects of human endeavor and it was for them to enforce their mandates. An example was given that it was the responsibility of the Ministry of Health to safeguard the health status of Ghanaians, therefore if illegal small-scale mining activities led to health risks, it was the responsibility of the Ministry of Health to liaise with the security agencies to put a stop to activities leading to such risks.

Sharing of Benefits

One major factor explaining why people either engage in or support a specific activity is the benefit they get in whatever form from that activity. The benefits that went to the traditional authorities from the illegal small-scale mining were unclear. None of the miners had evidence of the traditional authorities receiving anything from the mining activities. Most of them said the site management committee decided on how much to give to the traditional authorities. In addition, the landowners were said to give the traditional authorities something from the mining proceeds. In all these situations, the miners were not aware of how much or in what forms these benefits might have been. The difficulty encountered to ascertain the beneficial relationship between the illegal miners and the traditional authority is akin to the situation noted by Berry (2013). The committee chairman who was interviewed declined to give information in this regard. Some respondents said the contribution did not go directly to the traditional authorities but rather into community projects like schools, clinics and markets.

The miners' justification for the traditional authorities receiving benefits from the mining was that they were the custodians or in some cases, the ultimate owners of the land and therefore they had to benefit from the bounty of the land. Regarding the ownership of the gold in the land, respondents took two dominant positions. The first position was that it belonged to the land owners by they owned the land in which the gold existed. Land owners said that they owned the gold because they inherited the custodial ownership from their forebears. Even though this ownership is respected by the state, its legitimacy is derived from tradition, therefore ownership was traditional. The second position was that it belonged to the Government of Ghana. The reason for the government owning the gold was derived from the law mandating the state to hold it in trust for the whole country. These provisions are captured in the Constitution of Ghana and the Minerals and Mining Law of 2006. The minority position on ownership of the gold was that it belonged to the chiefs because the land and everything in it belonged to them.

The ownership of the gold was therefore ascribed to either one of a traditional or modern institution, highlighting the plurality in institutions with authority in Ghana. However, the traditional institutions were more often perceived as the basis of ownership of gold resources. Thus, for effective management of gold resources, miners and land-owners alike believed that the input of traditional authority should be given priority as their legitimacy was most strongly accepted by the people.

Interaction Between Traditional and State Institutions Regarding Gold Governance

All the respondents agreed that there was an interaction between traditional and state institutions regarding gold governance in the district. The consent of the traditional authorities needed to be secured before a corporate mining company was given the final permit to mine. This was a form of interaction between these two institutions. The divisional chief observed that there has always been interaction among us because several laws give various rights over land to government to supervise, but they also accept that we are the custodians of the land. We therefore interact to bring development and peace to our people. Traditional institutions, in other instances, also mediated the interaction between the state and the local communities, sometimes showing the locals the way to approach the state for resources and support. Even when state institutions went to the communities to enforce the law, they had to inform the traditional authorities before proceeding. All these actions portray the traditional authorities playing the role of mediators.

The state and traditional institutions on other occasions partnered with each other to deal with situations that were not conducive for development of the areas, especially situations that had the tendency to threaten peace and security in communities. According to a miner, some time ago, there was confusion among the various categories of illegal small scale mine workers and how much they were to be paid for their work; the traditional authorities met us in the presence of Minerals Commission and discussed the issues. The Minerals Commission provided technical assistance until peace was restored. The interaction between the two institutions was generally seen as collaborative. This was so because most of the respondents felt that the two institutions exhibited the same interest: to bring peace, prosperity and development to the people.

However, there was a dissenting view held by one of the miners regarding the interaction among these institutions. This respondent felt that the interaction was collusive because when Newmont came, it was initially thought that it would employ us and allow us to work on the land still. However, the company said it was given the concession by both government and chiefs and so the management excluded everybody. The chiefs will tell you the same thing and they now deal with the company and neglect their people. Why was the whole Ahafo given to only one

company? If they were to be given to more than one company, competition would have ensured that more people would be employed.

This respondent expected the government to recognize that lands belonged to groups of people who live on it. Traditional authorities also had to realize that people farmed on the lands; their livelihoods depended on it. These rights to the lands for livelihood were bequeathed to the people by their ancestors before the people in positions (traditional and state). Therefore, in exercising any authority over the land, the decision-makers were admonished to take this into consideration. The respondent further submitted that when the land was to be given out for mining, policies should be put in place to ensure that the people who lost access to their lands were catered for adequately. These policies would ensure that these people were put on a long-term stipend even after the one-time compensation package paid.

Conclusion

The proliferation of illegal small-scale mines in the Asutifi District was generally motivated by economic and survival factors of the people engaged in it. Traditional authorities overtly ignored these activities but covertly performed rites that enabled these illegal small-scale mining activities because mining in Ghana cannot be done without the performance of these rights. The major excuse of the traditional authorities was that the legislative framework governing mining in Ghana did not confer on them, any authority over management of mines. The scale of the illegal mining activities, the resolve of the miners, and the sheer fluidity with which their activities could be moved from place to place made it impossible for the traditional authorities to regulate, much less to stop them. However, in places where there were highly organized illegal mining activities on an area of land with a land owner known within the town, that traditional authorities could not deal with them was because they did not have the resources to do that.

With regards to the issue of whether the thriving of illegal small-scale mining activities is a contestation of those supporting traditional rules of land ownership against the modern state, I argue that this indeed is the case. While it is true that most of the people who engaged in this illegal activity were motivated by economic incentives and survival motivations, the complicity of traditional authorities is in performing rites that enabled the illegal mining. Their deferral of the responsibility to stop the illegal mining to the state because it is the only entity with the mandate and resources to stop illegal mining is as an excuse for inaction. The study suggests that the state should make traditional authorities' part of the decision to license mining at the district level to free the state of the accusations of it being dictatorial in its decisions on mineral rich lands and mining management in Ghana. Also, traditional authorities should be made more responsible for the situation of illegal mining within their jurisdiction. For without the appropriate rituals performed by traditional institutions, the activities of illegal gold miners cannot continue.

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