

## 5 Access Relationships

Le commissaire invite ses hôtes à s'asseoir.

- De quoi s'agit-il au juste?

Vincent explique ce qui s'est passé la veille au soir à l'aéroport.

- Qu'y avait-il dans le tube?
- Des images satellites et plusieurs cartes de géophysique aéroportée.
- Des images satellites de quoi?
- De la région de Ouahigouya. Nous avons obtenu l'autorisation de votre gouvernement pour y explorer le potentiel aurifère. Vous savez, votre pays vient tout juste de s'ouvrir aux capitaux et à la technologie des compagnies minières étrangères.<sup>1</sup>

Since my first visits to Roxgold's national headquarters or the mining site in Bagassi, mining professionals emphasized that the exceptionality of company-community relations is particularly shaped by the texture of the ore body, the techniques it requires to extract minerals from the ground and resulting mining infrastructures. As the gold ore body is highly concentrated in a relatively tiny area of the underground, extraction is shaped less by human interaction. Thus, according to their accounts, the post-closure phase will entail few if any land packages that will definitely be lost for agricultural activities and human settlement. This has been one of the main reasons why the company understood its concessionary practices as a form of "leasing" and not of "acquiring" the subsoil. While the central state only occupied a minor role in enacted frameworks of corporate citizenship in Burkina Faso, the present chapter will discuss in more detail its role in concession-making processes. It discusses how beyond the corporate world, different actors are responsible for different property regimes and of granting access to land and resources, (re)affirming the authority of the Burkinabè central government in mining governance.

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<sup>1</sup> "The Commissioner invites his guests to sit down.

- What exactly is the issue?

Vincent explains what happened the night before at the airport.

- What was in the tube?
- Satellite images and several airborne geophysical maps.
- Satellite images of what?
- Of the Ouahigouya region. We have obtained the authorization from your government to explore the gold potential there. You know, your country has just recently opened up to capital and technology from foreign mining companies." (Own translation. Delisle, Alidou, l'orpailleur, pp. 13–14).

Beyond the physical location of mining deposits, industrial mining is fundamentally shaped by the ownership of subsoil, land and other resources in areas where extraction takes place or is supposed to take place. It is – by the very nature of its extraction process – place-specific and, as a rule, closely linked to national state control and power. While states play a major role in all sectors of a globalized economy, “nowhere is the degree of state involvement as deep or as pervasive as in the extractive industries”.<sup>2</sup> Since the national mining legislations of most countries of the Global South prescribe the state as the only legitimate owner of subsoil resources, this applies notably to its fundamental role as a regulator of access relationships.<sup>3</sup> In the same vein, Burkina Faso’s mining legislation stipulates in Article 6 that the state has the *à priori* ownership on all subsoil resources.<sup>4</sup> In its role as a “custodian” of the country’s natural resources, it grants and attributes specific rights and obligations to transnational, national and local corporate agents over a given territory, and defines the latter as a “concession”. With the legal authorization by the state at hand, as the Canadian exploration worker Vincent asserts in *Alidou, l’orpailleur*, a private entity can now dispose to a certain degree of this “enclosed space” and is legally entitled to undertake exploration works in the concession. This specific property relation materializes in airborne geophysics and is reproduced through satellite images or maps.

However, as will be discussed throughout the chapter, property relations constitute only one mode of mechanisms through which people gain control and maintain resource access.<sup>5</sup> Property generally implies some kind of “claims and rights” that are “socially acknowledged and supported” by law, custom, or convention. “Access”, on the other hand, is procedural in nature and refers rather to the “ability” to benefit from an abundance of resources. In specific contexts and circumstances, multinational corporations may hence have the right to extract mineral resources without having access, which means having the “ability”

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2 Dicken, *Global Shift*, p. 408.

3 See Dietz, *Politics of Scale and Struggles over Mining in Colombia*, p. 129; T. V. Warikandwa and N. V. Asheela, “Towards a Pan-Africanist Mining Regulatory Framework for Africa: Drawing Lessons from the Pre-Colonial Customary Law Based Mining Practices”, in: A. Nhemachena and T. V. Warikandwa (eds.), *Mining Africa: Law, Environment, Society and Politics in Historical and Multidisciplinary Perspectives*, Bamenda: Langaa RPCIG, 2017, pp. 237–282.

4 “Les gîtes naturels de substances minérales contenus dans le sol et le sous-sol du Burkina Faso sont, de plein droit, propriété de l’Etat” (The deposits of natural mineral substances contained in the soil and subsoil of Burkina Faso are, by law, the property of the State; own translation). Government of Burkina Faso, *Loi N° 036–2015/CNT*, p. 7.

5 J. C. Ribot and N. Lee Peluso, “A Theory of Access”, *Rural Sociology* 68 (2003) 2, pp. 153–181, at 154.

to benefit from those same resources. The same could be true for government authorities. Applying the “theory of access” of Ribot and Lee Peluso to the Burkinabè mining sector allows us, on the other hand, to critically engage with an analysis of the existing power relations between and among actors underlying the mechanisms of access.<sup>6</sup> Although the central state claims in its 1991 constitution that the natural wealth and resources “appartiennent au peuple” (belong to the people [of Burkina Faso]),<sup>7</sup> the property of land where subsoil resources are located is usually only negotiated and transferred between the central state and mining corporations, according to the national mining code.

This chapter focuses on laws and policies affecting access to the gold mining reserves of the country on various scales. It notably discusses the role of “the state” in defining and attributing mining rights and reactions to it by a range of actors and groups of actors such as civil society members, corporate agents, and local populations. In doing so, it looks at the various dynamics of “co-producing stateness”<sup>8</sup> through the empirical lens of negotiations around the attribution of mining rights and impacts of industrial mining on local livelihoods. While applying “stateness as a process, rather than statehood as an ideal-type status/endpoint”,<sup>9</sup> I seek to avoid state-centred accounts of African resource extraction which tend to attribute sovereignty over natural resources to the territorial nation-state alone.<sup>10</sup> The economic power of corporations, on the other hand, cannot be framed as simply undermining state sovereignty, as mirrored in multiple discussions on the globalization of corporate capitalism and neoliberalism.<sup>11</sup> As it has been shown in the previous chapters, the history of the globalized mining sector and of Burkina Faso’s recent mining history in particular is one of “continuously shifting power struggles”, i.e., between firms and states.<sup>12</sup> The implementation of national modes of governance and regulatory frameworks are fundamentally shaping corporate behaviour, responsibility, and sovereignty – and vice-versa. Looking at contemporary forms of spatial ordering

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6 Ibid., pp. 156–161.

7 Government of Burkina Faso, *La constitution du Burkina Faso*, p. 3.

8 Schubert, Engel, and Macamo, *Introduction: Boom and Bust*, p. 13.

9 Ibid., p. 7.

10 See, for example, debates on the role of “neo-patrimonialism” in Africa in perpetuating the “resource curse” (P. Chabal and J.-P. Daloz, *Africa Works: Disorder as Political Instrument*, Bloomington: Indiana University Press, 1999; P. Collier, *The Bottom Billion: Why the Poorest Countries Are Failing and What Can Be Done About It*, Oxford: Oxford University Press, 2008).

11 Cf. Barkan, *Corporate Sovereignty*, p. 4.

12 Dicken, *Global Shift*, p. 408.

in the context of large-scale extraction through a procedural lens (i.e., resource decentralization, citizenship-making, and stateness) reveals that “states still matter”.<sup>13</sup> Yet analysing access relations in the Burkinabè mining sector cannot be limited to the aforementioned “macro-politics” of concession-making between global mining companies and Burkinabè government officials. The “everyday politics of ‘making concessions’” not only entails legal attributions but also intense politics around the localized mining concessions.<sup>14</sup> As will be discussed throughout the chapter, in negotiations around access to mineral resources various stakeholders do strategically engage with and responsabilize either “the state”, “the company”, or both to different degrees. It investigates, therefore, processes of both connection and boundary-making: how does the state’s formal monopoly on attributing mining rights (and thus, access to mining rents) becomes both (re)affirmed and contested on national scales and in the concessions?

The present section specifically addresses the spatial manifestations of these complex and entangled politics of concession-making. It does so through investigating the roots of popular perceptions about informal, non-transparent, and “unjust” ways of granting concessions. In the past, mining titles were for instance granted by the government and ministry representatives to multinational corporations without informing local populations, landowners, or local policy stakeholders.<sup>15</sup> It further provides an overview of how today, through different (trans) national initiatives working under the header of “transparency” and “accountability”, different actors seek to “visualize” the dominant role of the state in attributing and managing concessionary rights. Yet this custodianship role of the state also becomes contested nationally and locally. In the context of industrial mining in Houndé and Bagassi, my two case studies in western Burkina Faso, conflicts mainly arose around the lack of adequate compensation for the loss of land, relocation, and insufficient training and employment facilities for the local youth, as restricted access to gold for artisanal miners. In the negotiation processes of “gaining, controlling, and maintaining access”, I identify access to labour (see Chapter 6) and to land, to housing and natural resources as key “objects of inquiry”.<sup>16</sup> The chapter provides insights into how concession-making partly takes place in absence of regulatory frameworks. That is particularly the case for mining-induced displacement and resettlement (MIDR) which

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<sup>13</sup> See Mansfield, *Beyond Rescaling*.

<sup>14</sup> See Côte and Korf, *Making Concessions*, p. 468.

<sup>15</sup> Werthmann, *The Drawbacks of Privatization*, p. 425.

<sup>16</sup> Ribot and Lee Peluso, *A Theory of Access*, p. 161.

in Burkina Faso is not subject to any concrete guidelines or legal documents specifying compensation.<sup>17</sup> Consequently, multinational corporations are able to argue that their responsibilities for loss of land and other local impacts are limited. However, it will also be discussed that the presence of multinational corporations locally not only engenders socio-economic and environmental threats but also enables windows of opportunity. In doing so, mining-impacted populations are making claims to both local and national governments, as well as to the mining companies, while partially reasserting the authority of the state in the mining sector.

## Improving Transparency in Concession-Making

Within the last ten years, the Burkinabè government has been accused of having awarded and managed hundreds of mining titles in a mostly non-transparent manner. Civil society activists recently denounced the “mafia-like” structures of the concessionary regime.<sup>18</sup> To create transparency and attract new investors, the Burkinabè government suspended, annulled, and declared invalid over 300 exploration titles in March 2016.<sup>19</sup> A parliamentary enquiry revealed some months later that between 2005 and 2015 alone, 729 mining titles for exploration were awarded by the Ministry of Mines and Quarries (MMQ) to private owners and entities. Only 314 of these titles were still valid in 2016, corresponding to a considerable 57 per cent of invalid and withdrawn concessions or licences under maintenance.<sup>20</sup> From December 2017, the government additionally suspended the

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17 See Drechsel, Engels, and Schäfer, ‘*The Mines Make Us Poor*’, p. 5; Engels, *Not Normal, Not Just*, pp. 7–8.

18 Drechsel and Groneweg, ‘*Die Minen machen uns arm*’, p. 2; F. Drechsel and M. Groneweg, “Les mines nous appauvrissent: Impact de l’extraction aurifère industrielle au Burkina Faso et réponses de la société civile” [Mining impoverishes us: Impact of industrial gold mining in Burkina Faso and civil society responses], *RESSOURCES NATURELLES* 3 (2018), p. 3.

19 See C. Bourgeois, “Burkina Faso: risque de suspension dans l’attribution des titres miniers en 2017 ?” [Burkina Faso: Risk of suspension in the granting of mining titles in 2017?], *Agence Ecofin*, 11 November 2016; Jeune Afrique, “Burkina Faso: Le gouvernement annule 316 Permis Miniers” [Burkina Faso: Government cancels 316 mining permits], *Jeune Afrique*, 31 March 2016; NetAfrique, “Burkina Faso: Le gouvernement annule 356 permis de recherche miniers” [Burkina Faso: Government cancels 356 mining exploration permits], *NetAfrique*, 20 March 2016.

20 Assemblée Nationale, *Rapport de synthèse*, p. 4.

awarding of exploration licences for two years due to the reformation of the mining cadastre (*Direction Générale du Cadastre Minier*, DGCM).<sup>21</sup>

Yet, since all important mineral-abundant areas of Burkina Faso had been leased to concessionary owners since the early 2000s, the impact of these actions in terms of settling down tensions and conflicts on local scales remains questionable at least. Some “lines” of the cadastral regime were eventually already drawn and the policy efforts did not challenge the more fundamental access relationships inscribed in the Burkinabè mining law, such as questions of land property and dispossession.<sup>22</sup> The thirteen producing industrial mining projects in late 2018 (twelve gold mines and one zinc mine) were located all across the country and according to estimates, concessions for mineral exploration and extraction in 2018 covered almost half of the national territory (see Chapter 2 and Figure 2.2).<sup>23</sup> In late 2016, one of the main national NGO leaders advocating for more transparency and accountability in the national mining sector called the mining boom “a bombshell” that came over the country. Just ten years ago, nobody could imagine the extent and scale that mining endeavours now take. Today the whole country is literally perceived as “a mining camp”. industrial concessions generally cover territories where artisanal and small-scale mining (ASM) has been practiced in the past or where ASM still represents an important livelihood strategy for an estimated 1.2 million people.<sup>24</sup> According to the first national survey on ASM conducted in 2016, the national territory of Burkina Faso is host to 500 to 700 sites of artisanal mining.<sup>25</sup> Other sources point to at least 1,000 existing ASM sites in the country.<sup>26</sup>

With the proliferation of industrial mining concessions in the country, new conflicts on land allocation and use suddenly came to the forefront. The already existing legal pluralism in allocation and management of land rights in Burkina Faso was further reinforced through the “regulatory pluralism” around mining concessions. So not only have new regimes of authority emerged out of the custodianship role of the state as an arbitrator of mining rights at the national

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21 E. Kaboré, “Transparence dans le secteur minier: Le Burkina modernise son cadastre minier” [Transparency in the mining sector: Burkina Faso modernises its mining cadastre], *L'Economiste du Faso*, 2 January 2018; Bourgeois, *Burkina Faso*; Werthmann, *The Drawbacks of Privatization*.

22 Banks, *Activities of TNCs in Extractive Industries in Asia and the Pacific*, p. 47.

23 Semaine des Activités Minières d'Afrique de l'Ouest, “Official Catalogue: West African Mining Activities Week” (2018), p. 17.

24 Assemblée Nationale, *Rapport Général*, p. 54; Werthmann, *The Drawbacks of Privatization*, p. 418.

25 Institut National de la Statistique et de la Démographie, “Enquête nationale sur le secteur de l'orpaillage (ENSO)” [National survey on the gold panning sector (ENSO)] (2017).

26 Assemblée Nationale, *Rapport Général*; Engels, *Not Normal, Not Just*, p. 7.

level, but resulted in complex and “socially thick” regimes of regulation in the mining concessions. They can be seen as a response to an (at least imagined) institutional vacuum that created a frontier situation in which different mining entrepreneurs were competing with each other in order to gain access to resources. The cadastral practice of “drawing” lines and “enclosing” space by corporate agents has thus been preceded by “political concessions” the central state agreed on.<sup>27</sup> In doing so, the Burkinabè government has, since the 1990s, conceded a range of regulatory powers to non-state actors and mainly multinational corporations, as discussed in Chapter 2. However, the central state retained its monopoly position in granting and managing mining concessions, and did so in a largely non-transparent and informal manner. Interview material from two mine sites in Burkina Faso shows that in the past, neither local politicians nor the population directly affected by large-scale mining were informed about the presence of mining concessions in their municipality, their immediate neighbourhood or even near their fields and houses that could potentially be affected by large-scale mining.<sup>28</sup> The transparency of concessions and their owners is therefore today not only a means of making resources investable and property relations visible to a wider public. It is also one of the foundations for the negotiation of access to mineral resources and their benefits between governmental and corporate representatives, as of populations living in the vicinity of large-scale mining projects.

### Mineral Property as One Set of Access Relationships

The monopoly position of the state in granting mining concessions asserts the state’s legal access to profits based on mineral resources. This rights-based access via the transfer of titles, permits, and licenses does not, however, automatically imply the ability to extract benefits out of resource abundance of the national subsoil.<sup>29</sup> The capital-intensive and technologically complex nature of large-scale mining endeavours usually requires the involvement of “external” corporate actors and institutions who dispose of specific modes of extraction or the required knowledge that shapes or influences access.<sup>30</sup> These “structural and relational mechanisms of access” can affect rights-based mechanisms of

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<sup>27</sup> Côte and Korf, *Making Concessions*.

<sup>28</sup> See Werthmann, *The Drawbacks of Privatization*, p. 425.

<sup>29</sup> Ribot and Lee Peluso, *A Theory of Access*, p. 162.

<sup>30</sup> See Schubert, Engel, and Macamo, *Introduction: Boom and Bust*, p. 3; Ey and Sherval, *Exploring the Minescape*.

access and are themselves inscribed into the Burkinabè mining law.<sup>31</sup> According to Article 45 of the mining code, any holder of a mining title is granted exclusive rights on the area of its license for the relevant mineral subject to its mining title and is entitled to dispose of the minerals that have been extracted.<sup>32</sup>

Property of the subsoil by the state as one set of access relationships corresponds to a “new world order agenda” in a period of decolonization.<sup>33</sup> After gaining independence, most African states opted for a mineral-law regime that introduced a system of “state custodianship of minerals”.<sup>34</sup> Warikandwa and Asheela argue that this can be seen as a political reaction to the monopolistic concessionary regimes during the colonial era, where colonial powers or associated foreign companies exercised hegemony over African territories, including the extraction of their mineral wealth.<sup>35</sup> After independence, the general linkage between property ownership and mineral rights came to an end. In doing so states – and not individual landlords – became the legal property owners of mineral reserves.<sup>36</sup> Obtaining concessions from the state, hence, remained the only way of acquiring rights to mineral exploration and extraction. This legal norm fits into the developmental agenda of the decolonization era when the mineral abundance of the African continent was seen as a potential main driver for economic and social “development” of the newly independent nations. “Stateness” has become and remains a fundamental principle of property in the mining sector. This has endured through different eras of reform, with different ideas about how (much) the state should be involved. According to the dominant mining policies in the 1960s and 1970s, economic development could only be achieved if the state had significant or full ownership of mineral resources and mining enterprises. Correspondingly, state ownership of mineral resources became also a fundamental element of multi-level governance schemes, such as the United Nations (UN) General Assembly Resolution 1803 (XVII) on the Permanent

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31 Ribot and Lee Peluso, *A Theory of Access*, p. 164.

32 “Le permis d’exploitation industrielle de grande ou de petite mine confère à son titulaire, dans les limites de son périmètre, en surface et en profondeur, le droit exclusif de recherche et d’exploitation des gisements objet du permis dans les conditions prévues par le présent code.” (Government of Burkina Faso, *Loi N° 036–2015/CNT*, p. 15; Dorin, *Burkina Faso*, p. 28, own translation).

33 Warikandwa and Asheela, *Towards a Pan-Africanist Mining Regulatory Framework for Africa*, p. 238.

34 Ibid., p. 256; Dietz, *Politics of Scale and Struggles over Mining in Colombia*.

35 Warikandwa and Asheela, *Towards a Pan-Africanist Mining Regulatory Framework for Africa*, pp. 256–258.

36 Ibid., p. 274.



Sovereignty over Natural Resources adopted on 14 December 1962, or the UN Charter of Economic Rights and Duties of States adopted on 12 December 1974.<sup>37</sup> The Resolution 1803 (XVII) and the UN charter asserted the sovereignty of people and nations over their natural wealth and resources. In the late 1980s, however, the state's monopoly in mineral extraction was increasingly questioned due to the poor performance of nationalized mines on the African continent.<sup>38</sup> But even with the political trend of privatization and economic liberalization from the late 1980s onwards, the role of the state as the sole owner of subsoil resources was hardly questioned.

In Burkina Faso, the property question first came to prominence under the revolutionary regime of Thomas Sankara (1983–1987). In order to generate national revenues for Burkina Faso, Sankara restructured the mining sector “by positioning the state as sole owner of the land and its resources”.<sup>39</sup> However, he had difficulties in implementing the legal prescriptions of his agrarian and real estate reorganization programme at a local level, where “traditional” authorities such as earth priests and chiefs have been deeply involved in land tenure systems for decades, even centuries. Despite all this, the “national estate” principle somehow survived the political climate of economic liberalization and structural adjustment of the 1990s, at least in the domain of mining.<sup>40</sup> It thus figured as a main principle of the first, relatively investor-friendly mining legislation of Burkina Faso, adopted in 1993, and revised in 1997 and 2003. Besides Burkina Faso's government, it was also international organizations that prioritised stateness in mining policy, at least in terms of resource ownership. At a continental level, the African Union (AU) asserts that there has been a “flurry of initiatives to improve mining development outcomes” since the beginning of the twenty-first century.<sup>41</sup> This resulted in the adoption of the Africa Mining Vision 2020 by all member states at the AU summit in February 2009. Without making explicit references to the monopolistic position of the state in resource governance, the Africa Mining Vision 2020 reintroduces and fosters this paradigm and legal norm while giving some recommendations in terms of interregional

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<sup>37</sup> United Nations, “General Assembly Resolution 1803 (XVII) Of 14 December 1962, ‘Permanent Sovereignty over Natural Resources’” (1962); United Nations, “United Nations (UN) General Assembly Resolution 3281 (XXIX) On the ‘Charter of Economic Rights and Duties of States’” (1974).

<sup>38</sup> African Union, *Africa Mining Vision*, pp. 10–11.

<sup>39</sup> Luning, *Liberalisation of the Gold Mining Sector in Burkina Faso*, p. 390.

<sup>40</sup> C. Lentz, *Land, Mobility, and Belonging in West Africa*, Bloomington, IN: Indiana University Press, 2013, p. 106.

<sup>41</sup> African Union, *Africa Mining Vision*, p. 39.

and continental cooperation in mining governance. Yet the question of “who owns the natural resources of a given national territory” is simply not raised. In contrast, however, the question of mineral ownership is explicitly mentioned in the Common Mining Code (*Code Minière Communautaire*) of the West African Economic and Monetary Union (UEMOA) adopted in 2003<sup>42</sup> and the ECOWAS Directive on the Harmonization of Guiding Principles and Policies in the Mining Sector adopted in 2009.<sup>43</sup> All these guidelines prescribe that the status of minerals as state resources only becomes transferable to corporate entities when a concessionary unit or mining title is acquired by the latter from the state.<sup>44</sup>

As a founding member of UEMOA and ECOWAS, Burkina Faso adapts to these policies. The country’s national mining code provides the attribution of mining titles for exploration (*titres d’exploration*) and industrial and semi-mechanized extraction (*titres d’exploitation*). Exploration titles are granted on a “first comes, first served basis”. The mining code further provides licenses dedicated to semi-mechanized and artisanal mining (Authorizations for Artisanal Mining – AAM).<sup>45</sup> The national mining law, however, does not attribute the same weight to different sorts of licenses. Muriel Côte and Benedikt Korf describe how the concessionary regime in Burkina Faso features

different abilities of frontier entrepreneurs to acquire concessionary permits. Typically, large-scale mining entrepreneurs are granted priority over artisanal ones in the allocation of concessions because taxation and other rents from large-scale projects are higher, and therefore more profitable for central government than small-scale mining.<sup>46</sup>

That *orpillage* often (potentially) takes place on industrial (exploration) mining concessions does not prevent the cadastral office of the MMQ from granting mining titles to industrial units on these same territories. In practice, many industrial concession owners tolerate ASM on their acquired exploration concession, as the

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<sup>42</sup> Union Économique et Monétaire Ouest-Africaine, *Code minier communautaire de l’UEMOA*.

<sup>43</sup> Article 3 of the ECOWAS directive stipulates that “Every mineral in its natural state in, under or upon land of a Member State, rivers, streams, water courses throughout the sub-region, exclusive economic zones and an area covered by the territorial seas or continental shelves is the property of the respective Member State”. When this book was written, the ECOWAS directive and the UEMOA mining code were under revision. An available draft of the revised UEMOA code confirms the state’s custodianship in mineral extraction. (Economic Community of West African States, *ECOWAS Directive on the Harmonization of Guiding Principles and Policies in the Mining Sector*; Union Économique et Monétaire Ouest-Africaine, “Avant projet de Code Minier Communautaire” [Draft community mining code], [2016]).

<sup>44</sup> See Banque Centrale des États de l’Afrique de l’Ouest, *Étude monographique*.

<sup>45</sup> Government of Burkina Faso, *Loi N° 036–2015/CNT*; See Dorin, *Burkina Faso*, pp. 28–29.

<sup>46</sup> Côte and Korf, *Making Concessions*, p. 470.

previous chapter has and the next sections will highlight. Yet after a period of two years, the renewal of such an AAM in an industrial concession depends on the industrial concession owner's goodwill.<sup>47</sup> In late 2018, government officials thus described the AAM title as "[. . .] slightly precarious. It does not have the same weight as an exploration permit [for industrial mining]. [. . .] The superposition of these two concessions is legitimate". Article 73 of the national mining code confirms this precedence of industrial mining over artisanal mining, even though the AAM holder is entitled to compensation if its mining license is not renewed due to industrial activities.<sup>48</sup>

Along with the national concessionary regime and the state's monopoly in granting mining titles, comes a perception of "non-transparency" and limited agency over the distribution of concessions on national and especially, local levels. There is neither a legal requirement in place for informing local stakeholders residing on the claimed concession over its leasing, nor is there a need to dispose of their prior consent before an exploration title is granted to a private or national investor. The Burkinabè Mining Cadastre (*Cadastre Minier*) disposes of the database of all mining titles in the country and is "the gateway for any investor in the extractive industries sector", and as MMQ officials stated the "unique entrance door of demands".<sup>49</sup> As a cadastre's official confirmed in November 2018: "If a mining company wants to settle [and to do business in Burkina Faso], the state has the right to dispossess [local people]". According to him, the state's monopoly in granting mining rights cannot be challenged and negotiated because its custodianship role is inscribed in law. As a consequence, the direct consultation of potentially affected populations and local decision-makers only becomes obligatory and is set in place when the company decides to extract minerals in a given territory and decides to apply for an exploitation license (*titre d'exploitation*). While the exploration works of (junior) companies may not automatically lead to the decision of applying for an exploitation license, adjacent communities to large-scale mining endeavours have *de facto* no choice but to accept "the lease" of their lands and livelihoods for the sake of mining against the backdrop of a more or less "just" compensation. Article 123 of the mining code stipulates the requirement to pay a "just indemnity" to affected landowners and farmers: "The occupation of land entitles the owner of the

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<sup>47</sup> See *ibid.*, p. 470; Werthmann, *The Drawbacks of Privatization*, p. 424.

<sup>48</sup> Government of Burkina Faso, *Loi N° 036-2015/CNT*, p. 21.

<sup>49</sup> Semaine des Activités Minières d'Afrique de l'Ouest, *Official Catalogue*, p. 16.

land or the occupant in any capacity whatsoever to fair and prior compensation, the terms and conditions of which are determined by regulation.”<sup>50</sup>

The “rights-based” access to resources, as promoted by the national concessionary regime, ignores numerous other actors whose understanding of responsibility and accountability is engaged in the making of concessions.<sup>51</sup> Besides the national policy level, negotiations of access mainly take place on two other scales: firstly, the non-consultation of adjacent communities in the granting of exploration permits contradicts some policy frameworks on a regional level. In Article 16, the ECOWAS mining directive indicates that “companies shall obtain free, prior, and informed consent of local communities before exploration begins and prior to each subsequent phase of mining and post-mining operations”.<sup>52</sup> Other political guidelines in the making, such as the draft of a Pan-African Investment Code of the African Union Commission in Article 23 states that “investors shall respect rights of local populations” on the continent with regards to the use of natural resources “and avoid land grabbing practices vis-à-vis local communities”.<sup>53</sup> Secondly, the “rights-based” access approach does not consider several informal institutions that are key to making concessions locally legitimate. As in most African societies, Burkina Faso’s land tenure system is characterized by “normative and institutional pluralism”.<sup>54</sup> Besides market acquisition or government allocation, people refer to ancestral and cultural entitlement or actual use when competing and struggling over access to land. The government is often not seen as a legitimate authority to define and settle land issues; especially not in areas of the country where the presence of the central state is perceived as weak. “Traditional authorities” such as the *naaba* in Mossi culture, earth priest (*chefs de terre*), or other influential personalities are often able and appointed to settle land rights and conflicts in areas

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50 “L’occupation des terrains ouvre droit, au profit du propriétaire du sol ou de l’occupant à quelque titre que ce soit, à une indemnisation juste et préalable dont les conditions et modalités sont déterminées par voie réglementaire.” (Government of Burkina Faso, *Loi N° 036-2015/CNT*, pp. 31–32 [own translation]); Drechsel, Engels, and Schäfer, *The Mines Make Us Poor*, p. 5; Engels, *Not Normal, Not Just*, pp. 7–8).

51 See Ribot and Lee Peluso, *A Theory of Access*.

52 Economic Community of West African States, *ECOWAS Directive on the Harmonization of Guiding Principles and Policies in the Mining Sector*, p. 25.

53 African Union Commission, “Draft Pan-African Investment Code” (December 2016), p. 17.

54 C. Lund and C. Boone, “Introduction: Land Politics in Africa – Constituting Authority over Territory, Property and Persons”, *Africa* 83 (2013) 1, pp. 1–13, at 2; Lentz, *Land, Mobility, and Belonging in West Africa*.

where few people dispose of formal land titles.<sup>55</sup> A strict legalistic or “rights-based approach” to concession-making tends to ignore the various frictions involved in these processes.<sup>56</sup> Nevertheless, the central state’s role as an arbitrator of concession-making in Burkina Faso is striking. Despite a shift in the broader political economy of resource extraction where resource management has been increasingly transferred from the national to the local level, the state is still playing a key role in granting these legal mining rights. This confirms the argument of Ribot and Lee Peluso: even within formal and informal systems of legal pluralism, the state usually remains the ultimate mediator or power holder.<sup>57</sup>

Making concessions in Burkina Faso thus goes along with different processes and degrees of re-inscribing and de-inscribing stateness. The custodianship position of governmental bodies and actors implies they should assert authority and responsibility for some domains, while abstaining from others. During the 1990s and early 2000s, the Burkinabè government mostly made political concessions to private actors and entities in the governance of mining.<sup>58</sup> The reformed mining legislation of 2015 can be seen as an attempt by the government to make multinational corporations more accountable to the Burkinabè state and its people. In doing so, the government introduced a range of new formal requirements for industrial license and AAM holders. However, the state’s attempt to regain authority in the mining sector had ambivalent consequences. According to the Ministry of Mines and Quarries (MMQ), these requirements, for instance, further discouraged artisanal and small-scale miners from applying for official mining titles or from renewing their concessions. In late 2018, only 50 AAM (out of an estimated 500 and more artisanal mine sites) across the country had been registered at the mining cadastre. This means that in practice, the Burkinabè government legally controlled less than one-tenth of all ASM sites in the country and was thus not able to generate significant revenues and taxes out of small-scale gold production. A mismatch that the Burkinabè government aimed to counter with policy and mapping efforts for artisanal and industrial mining, in order to make extractive spaces visible, “investible”, and “governable”.<sup>59</sup>

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<sup>55</sup> Werthmann, *Bitteres Gold*, p. 54; K. Werthmann, “Gold Diggers, Earth Priests, and District Heads: Land Rights and Gold Mining in Soutwestern Burkina Faso”, in: R. Kuba and C. Lentz (ed.), *Land and the politics of belonging in West Africa*, Leiden: Brill, 2006, pp. 119–136.

<sup>56</sup> Côte and Korf, *Making Concessions*, p. 468.

<sup>57</sup> Ribot and Lee Peluso, *A Theory of Access*, p. 163.

<sup>58</sup> See Côte and Korf, *Making Concessions*.

<sup>59</sup> Ibid., p. 467.

## National Efforts in Mapping Extractive Spaces

In an attempt to render industrial mining activities, the involved property regimes and (potential) benefits from mining more visible on national and local scales, the government of Burkina Faso has addressed a number of (trans)national mining policy frameworks in recent years and implemented a number of reforms. Besides policy reforms that attempt to transfer some powers of mining right allocation from the central state to decentralized units (see Chapter 3), this applies notably to initiatives of the Burkinabè government and the Ministry of Mines and Quarries (MMQ) to (re)inscribe the state's role as an arbitrator in transparent mining governance. This can be seen as a response to critics raised on local, national, and even international levels. Locally, the communities living in (the vicinity of) mining concessions and local authorities are usually not informed about the existence, the extent, and the granting process of these concessions until the respective owner of the license decides to engage in intensified prospecting activities or applies for an extraction license (*titre d'exploitation*). During a first visit in Bouéré in November 2016, a village located about 18 kilometres west of Houndé, several informants reported a lack of transparency regarding the status of the Bouéré-Dohoun concession. Few if any local authorities such as municipal councillors, CVD village council leaders, or landowners were informed about the extent of the concession and the actual start of extraction activities. They reported about first negotiations on compensation agreements for land, housing and trees between representatives of the mining company and the concerned landowners, or those cultivating and working on the land such as farmers and artisanal miners. The awarding of the mining title ("Bouéré-Dohoun") for extraction by the national Council of Ministers (*Conseil des Ministres*) took place one month later in December 2016.<sup>60</sup> Yet, up until mid-2017, the exploration and development teams of Endeavour Mining were only sporadically present for mining works such as prospecting and survey activities.

In contrast to artisanal mining concessions (AAMs) that have to be validated by the municipal council(s) responsible for the administration of the respective concessionary area, local authorities such as mayors or regional directors are not directly involved in the decision-making process of granting industrial mining titles (for exploration). Both types of concessions differ significantly in size, scope, and degree of involvement of local authorities: while an AAM can only cover a

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<sup>60</sup> T. C. Sawadogo, "Conseil des ministres du 22 Décembre 2016: Trois permis d'exploitation à trois sociétés minières" [Council of Ministers of 22 December 2016: Three exploitation permits to three mining companies], *leFaso.net*, 22 December 2016.

maximum surface of 100 km<sup>2</sup> and is attributed for a period of two years (Article 75 and 78), an industrial exploration license implies the exclusive right to prospect during three years for minerals in an area of up to 250km<sup>2</sup> (Article 34 and 35 of the mining code).<sup>61</sup> According to officials of the national cadastral office (*Direction Générale du Cadastre Minier*, DGCM), for the latter, the local and regional authorities are only informed through the receipt of copies of the respective mining title order (*arrêté*) after its validation by the MMQ.<sup>62</sup> However, the mayor of Houndé reported in October 2018 that in the past he was not fully informed about the existence of exploration concessions or when an exploration license changed hands to another license holder. According to the report of the parliamentary commission CEP, representatives of the local administration are often faced to *faits accomplis* concerning the granting of mining titles in the localities they are supposed to govern. This also applies to artisanal miners who are usually not informed that their sites are located on industrial licenses. Yet, as the authors of the report state, the local administration has the task to assure the rights of the industrial license holder, and eventually to negotiate as an intermediary between the former and artisanal miners.<sup>63</sup> One of the reasons for this mismatch may be that many concessions were already awarded in the 1990s or early 2000s, or at least long before the first nation-wide municipal elections took place in 2006. Furthermore, up until 2015, junior companies and exploration teams were not legally required to report on their work and the extent of their concessionary properties to local stakeholders. This can be seen as another factor contributing to a perceived lack of concessionary transparency at a local level. The new mining legislation of 2015 eventually introduced in its Article 31 a requirement for exploration license holders to inform “les autorités locales” (local authorities) about the nature of their work, as the arrival and departure of their staff.<sup>64</sup>

At a national level, the exclusive competence of the MMQ for granting mining authorizations and concessions has been criticized as “not take[ing] into account the existence of the populations and their concerns, the realities on the ground as well as the priorities of other actors”. In its report, the parliamentary commission stated “an absence of the [national] administrative authority in charge of managing the mining sector on the ground”.<sup>65</sup> Until today, the state

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<sup>61</sup> Government of Burkina Faso, *Loi N° 036–2015/CNT*, pp. 21 and 13.

<sup>62</sup> See *ibid.*, p. 12.

<sup>63</sup> Assemblée Nationale, *Rapport Général*, pp. 40–41.

<sup>64</sup> Government of Burkina Faso, *Loi N° 036–2015/CNT*, p. 12.

<sup>65</sup> “A l’analyse du nombre élevé des textes régissant le secteur minier il ressort quelques insuffisances qui tiennent à: la compétence exclusive accordée au ministère en charge des mines pour la gestion et la délivrance des autorisations et des titres miniers qui ne tiennent pas

delegates the task of informing local stakeholders about exploration concessions and changing property regimes to local authorities and private actors. The DGCM, as a government official stated in November 2018, has neither the mandate, the capacity, nor the willingness to inform local populations, affected landowners and cultivators about the granting of exploration concessions. An assumption that a DGCM director explained with the following words:

The cadastre as a technical service, it would be very difficult to be deployed on the ground [. . .] every month. [. . .] If you take only one permit, for instance, that extends up to 250 km<sup>2</sup> and you have [more than] 20 villages in it. [. . .] it takes you how much time to go out and inform all these people? [. . .] it's practically impossible. [. . .]. It's through the local authorities that we send a certified copy [*ampliation*] of these [mining] titles. Now it's their task to approach their local populations, because it's them who govern them. It's through them that their population gets informed that, 'look, in your area, this and that locality is subject to an exploration permit'. That is why this activity [of informing local populations] is delegated.

As already mentioned, and unlike other ministries, the MMQ has no branches and units for large-scale mining governance on a regional level. Therefore, the granting process of exploration concessions rather becomes a technical endeavour implemented by services such as the DGCM with offices in Burkina Faso's capital Ouagadougou. The public consultation procedure necessary to apply for an extraction license in a specific mining locality is later delegated to the National Office for Environmental Evaluations (*Bureau National des Évaluations Environnementales*, BUNEE). The latter is an agency of the Ministry of Environment with a crucial role in mining governance, as the next section will describe in more detail.

National civil society actors also highlighted the problem of a perceived lack of transparency in the granting process of mining titles. This is mainly due to former dominant modes of governance in Burkina Faso's mining sector that were introducing and perpetuating informality and non-transparency. Up until 2014, the granting and managing of mining concessions and of the resulting mining wealth in form of royalties, taxes, and benefits was said to be concentrated in the hands of a small political and economic elite close to the presidential family. Influential personalities of the public and the private sector and “a caste of ex-ministers of mines” had been able to retrieve the benefits out of these informal and paternalistic modes of distributing and governing mining

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compte de l'existence des populations et de leurs préoccupations, des réalités du terrain ainsi que les priorités des autres acteurs; [. . .] Il demeure en outre que la réalité sur le terrain révèle: une absence de l'autorité administrative en charge de la gestion du secteur minier sur le terrain [. . .].” (Assemblée Nationale, *Rapport Général*, pp. 26–28 [own translation]).



concessions (see Chapter 2).<sup>66</sup> Besides the DGCM (which is supposed to function as the “unique” register office of mining titles), the parliamentary enquiry of 2016 and interviewees reported that the management of concessions took place largely under adverse conditions and sometimes through a variety of individuals and institutions, such as the Directorate General of Mines and Geology (*Direction Générale des Mines et de la Géologie*).<sup>67</sup> The latter is another technical service of the MMQ and “responsible for monitoring all activities carried out by mining companies”.<sup>68</sup> The parliamentary commission CEP attributed potential and actual manipulations in the concession granting process notably to the “manual” character of the cadastral database that is in place since 2001. This had, in multiple cases, led to a discharge from the general principle of “first comes, first serves” and thus the “non-superposition” of different industrial mining titles. Parliamentary and EITI reports further stated a “massive granting” of exploration permits in the early 2000s and a significant “speeding up” in granting and selling mining titles in 2011 without solid economic foundations. The resulting speculation on mining titles mainly took place because “the administration did not play its role” in accompanying and leading the management of mining concessions, as government official stated in March 2017. The cadastral service was unable to treat the large numbers of requests and to review existing concessions due to limited human resources and technical capacities.<sup>69</sup>

Yet introducing and reinforcing principles of “transparency” did not only meet the demands of civil society groups and social movements. The Burkinabè government engaged in this reforming process for a number of interrelated reasons: to comply with new international norms and standards of the global mining industry that feature “transparency” and “good governance” as valid buzzwords and norms of industry reform,<sup>70</sup> to attract (responsible) foreign investors, to increase state revue, and ultimately to fulfil its role as a conscientious owner of natural resource deposits in the country. Through a reorganization of the database of mining titles and authorizations, and thus a mapping of extractive activities, the government of Burkina Faso primarily aimed at making the country’s mining

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<sup>66</sup> See Africa Intelligence, *BURKINA FASO: L’eldorado des anciens ministres*.

<sup>67</sup> See Bourgeois, *Burkina Faso*; Kaboré, *Transparence dans le secteur minier*.

<sup>68</sup> Semaine des Activités Minières d’Afrique de l’Ouest, *Official Catalogue*, p. 17.

<sup>69</sup> Assemblée Nationale, *Rapport Général*, p. 37; Extractive Industries Transparency Initiative, “Validation of Burkina Faso: Report on Initial Data Collection and Stakeholder Consultation” (November 2017), pp. 35–36.

<sup>70</sup> See Dolan and Rajak, *Introduction*; Schubert, Engel and Macamo, *Introduction: Boom and Bust*, p. 4.

sector more competitive internationally.<sup>71</sup> Looking at global surveys about the perceptions of mining company executives about various (sub)optimal public policies that might affect the hospitality of a jurisdiction to mining investment, “transparency”, and “viability” seem indeed to be important requirements for concession-making. “Uncertainty Concerning Disputed Land Claims” and the existence or quality of a “geological database” figure today as two main criteria in rating reports of the global mining industry, such as the Fraser Institute’s annual mining survey.<sup>72</sup> The modernization of Burkina Faso’s mining database is also in full compliance with Standard 2 “Legal and institutional framework, including allocation of contracts and licenses” of the EITI Initiative, to which Burkina Faso has formally acceded in 2009.<sup>73</sup> Under the aegis of and with the financial support of the World Bank and the programme PADSM, the installation of a new computerized system (Electronic Mining Cadastre, EMC) was set in place in the mid-2000s. The reformation process later slowed down due to the political regime change in 2014/2015, and the cadastral service temporarily closed in 2016 for modernization and online implementation. It finally reopened in June 2018, thereby creating a transparent register of licenses, including information on the license location and its owner, which is accessible to the public.<sup>74</sup>

This effort to optimize the leasing and licensing of its natural resources must also be seen as a way for the state to gain more control over royalties and taxes derived from the country’s mining sector. Côte and Korf stated that “a variety of government offices, central and local administrations, cadastral services, licensing departments and other bodies have material and political interests in making natural resources at once investible and taxable”.<sup>75</sup> According to the parliamentary enquiry report published in October 2016, the Burkinabè state has experienced a

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71 Semaine des Activités Minières d’Afrique de l’Ouest, *Official Catalogue*, p. 16.

72 See A. Stedman and K. P. Green, “Fraser Institute Annual Survey of Mining Companies 2017” (2018).

73 Extractive Industries Transparency Initiative, “The EITI Standard 2016” (February 2016), pp. 17–21.

74 However, due to technical constraints the online platform [www.cadastreminier.gov.bf](http://www.cadastreminier.gov.bf) is still not (fully) working and was non-accessible in July 2019. During an interview in November 2018, a director of the DGCM admitted that the reopening of the cadastral service took place prematurely to meet the donor expectations of the World Bank. Yet many titles and licenses still need to be examined and validated. According to an OECD report, out of 701 exploration permits for the extraction of gold, only 99 were legally validated on the 1<sup>st</sup> of March 2018. (Organisation for Economic Co-operation and Development and Liptako–Gourma Authority, “Gold at the Crossroads: Assessment of the Supply Chains of Gold Produced in Burkina Faso, Mali and Niger” [2018], p. 14; Kaboré, *Transparence dans le secteur minier*).

75 Côte and Korf, *Making Concessions*, p. 467.

profit loss of at least one billion USD in revenue due to corruption and mismanagement in the mining sector and speculation with mining titles.<sup>76</sup> The commission described a vivid trade of mining concessions whose owners often existed on paper only. Regulatory requirements, for instance, did not provide for a review of the applicant's capacity to explore or to produce.<sup>77</sup> That is why civil society organizations in Burkina Faso, such as ORCADE, Oxfam Burkina Faso, or the *Action des journalistes sur les mines au Burkina Faso* (AJM-BF) have started to advocate the disclosure of ownership structures of multinational corporations extracting minerals in the country. When the research for this book was conducted, Burkina Faso was among 43 countries that intended to publish roadmaps to disclose the real owners of companies in oil, gas, and mining by January 2020.<sup>78</sup> At the 2018 edition of Burkina Faso's mining fair SAMAO in Ouagadougou, this disclosure of ownership structures through publicly accessible registers was presented by an EITI official as a significant political instrument against bribery and corruption:

If we get to know the real ownership structures [of multinational corporations], that allows us to prevent, as a consequence, the conflicts of interest we all know. [. . .] Because we estimate that there is corruption and tax avoidance [prevalent in] mining environments. That's why if the real owners are known, the politically exposed persons are known, we think that's a step forward [towards more transparency and profitability]. [. . .] If there is a politically exposed person, like a former minister, or an executing minister who owns a 25 per cent share of a company, do you see? Moreover, if that would be the Minister of Mines, how would it be possible to have negotiations [between the state and the company]?

Since Burkina Faso's business law provides legal ownership of companies, the beneficial owners of multinational corporations are usually not known to local populations, authorities, or even national politicians. This implies, in practice, that a company such as Endeavour Mining can own a bunch of properties and licenses through its legally registered Burkinabè subsidiaries. Its "Houndé property" acquired in 2012, for instance, covers a total area of more than 1,000 km<sup>2</sup> with several mining titles of Endeavour Mining's different exploration and exploitation companies.<sup>79</sup> Disclosing ownership information, the limitation of the

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<sup>76</sup> Assemblée Nationale, *Rapport de synthèse*, p. 26.

<sup>77</sup> Ibid., pp. 8–10; Extractive Industries Transparency Initiative, *Validation of Burkina Faso*, p. 36.

<sup>78</sup> Initiative pour la Transparence des Industries Extractives du Burkina Faso, "Propriété Réelle: Feuille de Route" [Real property: A roadmap] (2016).

<sup>79</sup> See Zammit, Warren, Cheyne, Morgan and O'Bryan, *Feasibility Study NI 43–101 Technical Report*, p. 6.2.

number of mining concessions per legal person, along with a mapping of property relationships, could eventually lead to more transparency in the processes of the granting, transferring and suspending of mining titles, as EITI implementers emphasized.<sup>80</sup>

Increased investment in national resource mapping (geo-survey) and geo-data acquisition has not been limited to the industrial sector in recent years. Since the early 2000s, the government of Burkina Faso has also increasingly attempted to (re)formalize its artisanal mining sector. This has resulted in the establishment of an agency for artisanal and small-scale mining (*Agence Nationale d'Encadrement des Exploitations Minières Artisanales et Semi-mécanisées*, ANEEMAS). The official launch of ANEEMAS in 2015 coincided with the publication of a report by the Swiss NGO Berne Declaration which revealed that an estimated seven tons per year of artisan mined gold had left Burkina Faso unrecorded, undeclared, and untaxed.<sup>81</sup> One year later, the CEP report estimated a national profit loss of over a 100 million USD due to fraud in the ASM sector.<sup>82</sup> The contribution of ASM to the state budget has actually continued to decrease since the liberalization of the sector in the 1990s. Then, in the twenty-first century, government officials had an interest in making the sector's structures and outputs (an approximate annual production of ten tons), more transparent, governable, and beneficial for the national treasury. Consequently, one of the first actions of ANEEMAS was the introduction of a fixed royalty rate at 200 XOF (~USD 0.3) per mined gram.<sup>83</sup>

"Because the resources belong to the state", as an ANEEMAS official pointed in October 2018, the government also aims to reinforce its own regulatory role in an important sector of its economy that was largely left to itself since the period of economic liberalization in the 1990s.

This has resulted in the liquidation of the parastatal CBMP, and thus, the monopoly of the state in selling and exporting artisan mined gold:

Besides fraud, you have also all that disastrous effects that go along with artisanal mining. Do not forget that in the past we had the Burkinabè Precious Metals Counter, the CBMP, which effectively had the monopoly on exportation [and], which [also] effectively

**80** Extractive Industries Transparency Initiative, *Validation of Burkina Faso*, pp. 40–41.

**81** Berne Declaration, *A Golden Racket*; Government of Burkina Faso, "Décret N° 20151420/PRESTRANS/PMMEF/MME du 30 novembre 2015 portant création de l'Agence Nationale d'Encadrement des Exploitations Minières Artisanales et Semi-mécanisées en abrégé «ANEEMAS»" [Decree N° 20151420/PRESTRANS/PMMEF/MME of 30 November 2015 creating the National Agency for the Supervision of Artisanal and Semi-mechanised Mining Operations, abbreviated as 'ANEEMAS'] (2015).

**82** See Assemblée Nationale, *Rapport de synthèse*, p. 10.

**83** Semaine des Activités Minières d'Afrique de l'Ouest, *Official Catalogue*, p. 19.

supervised the sites of artisanal mining. And when the CBMP became liquidated in 2004 there were no interventions anymore on the ground by state structures. So, you understand why certain attitudes and practices developed for artisanal extraction, and which [. . .] are the source of all environmental problems that we know today, [of] all social problems [on the artisanal sites].

When this research was conducted, an estimated one to two million people made their living directly or indirectly out of ASM in and around 500 officially surveyed, and many more unrecorded artisanal gold mining sites.<sup>84</sup> In 2018, however, only about ten per cent of all existing mine sites were legally registered as Authorizations for Artisanal and small-scale Mining (AAM) at the DGCM. To address this issue, Article 26 of a law on the commercialization of gold and other precious metals introduced in 2017 stipulates that all artisanal mining sites that are not covered by an AAM are automatically under the control of ANEEMAS.<sup>85</sup> The Ministry of Mines and Quarries efforts in pushing for more control and a (re) formalization of the “sites sauvages” (savage sites) of the artisanal sector eventually led to the introduction of a second way of legally exerting ASM in the country. Besides the bureaucratically heavy process of applying for an AAM, small-scale miners can also engage with the state through a legal convention with ANEEMAS under the new mining legislation.

Since most of ANEEMAS policies and tasks existed on paper only in late 2018, it will be noteworthy to observe the implementation of these policies in the future. However, two tendencies could already be identified. First, these formalization policies for the artisanal sector potentially further complicate the processes of granting and managing mining titles, as ANEEMAS (besides the DGCM) adds another layer to the already complex institutional framework for ASM authorizations and licenses. Second, formalization attempts tend to (re)inscribe hierarchies between different forms of extraction. This becomes obvious when looking at the central state’s practices of intervention and governance regarding small-scale and large-scale extraction. For the industrial concessions, the state tends to grant just concessions and then delegates responsibilities for the management of extractive spaces largely to private or deconcentrated policy units. While artisanal mining – whether legally registered as an AAM or not – usually takes place on industrial concessions and vice-versa, an industrial company is free

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**84** Institut National de la Statistique et de la Démographie, *Enquête nationale sur le secteur de l’orpaillage*.

**85** Government of Burkina Faso, “Loi N°028-2017/AN du 18 mai 2017 portant commercialisation de l’or et des autres substances précieuses au Burkina Faso” [Law N°028-2017/AN of 18 May 2017 on the marketing of gold and other precious substances in Burkina Faso] (2017); Semaine des Activités Minières d’Afrique de l’Ouest, *Official Catalogue*, p. 19.

to choose whether it tolerates artisanal mining on its concession. “If artisanal mining is taking place on your permit, you are responsible for [the artisanal miners]”, as a government representative stated. With the launch of ANEEMAS, however, the central state decided to (re)engage directly in concession-making and negotiations between artisanal and industrial mining interests in situations when ASM sites are not legally registered as AAM concessions. In 2018, government officials consequently described the role of ANEEMAS as a potential actual and future intermediary between the central government, artisanal miners, and multinational corporations in the process of concession-making. In doing so, and with the legal framework of (industrial) permits and (artisanal) authorizations in place, it gives priority to industrial over artisanal mining.<sup>86</sup> A government representative justified this as follows:

But if the guys [artisanal miners] say for instance that they are here for 20 years, you know, [the surface of] Burkina [Faso] alone makes 274,000 km<sup>2</sup>. That’s why we do not have to know everywhere [. . .] expect, if ANEEMAS is now established and we are conducting a geographical mapping of the artisanal mine sites, we cannot know who is where! The only thing that allows the state to know who somewhere is, is the (mining) title. [. . .] and if a company makes a request for an exploration concession, that state is not in charge of knowing that there is already someone. No. We grant them [the company] the exploration permit.

In an attempt to increase the existent central state’s knowledge about extractive activities in the country that are not (yet) formally registered, one of the first political actions of ANEEMAS was a national mapping campaign through Effigis Geo-Solutions, a Canadian-based “leader in geospatial information”.<sup>87</sup> A second political action was to negotiate departure agreements for artisanal miners working on exploration concessions of industrials (see the case of the Houndé concession as described in the next section). It is thus not surprising that the recent engagements of the state in mapping existing artisanal mine sites via satellite view technology, national surveys and negotiation agreements were all met with suspicion locally. While many artisanal miners interviewed in western Burkina Faso in October and November 2018 did not oppose the Burkinabè central government’s formalization efforts per se, they feared that national mapping and surveys would eventually lead to their suppression in favour of industrial mining.

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<sup>86</sup> Côte and Korf, *Making Concessions*; Drechsel, Engels, and Schäfer, ‘*The Mines Make Us Poor*’; Werthmann, *The Drawbacks of Privatization*.

<sup>87</sup> Effigis, “Leader in Geosolutions and Geospatial Technology”, <https://www.effigis.com/en/about/> (accessed 4 September 2019).

## Mining-Induced Displacement and Resettlement

In June 2019, “the most read mining news and opinion site in the world,” *mining.com*, reported on a landslide that had killed 43 people extracting and working “illegally” on Glencore’s concession in the Democratic Republic of the Congo.<sup>88</sup> Besides similar reports on environmental harm and disasters, the global mining industry has been heavily criticized in relation to “forced eviction” of people living and working on their concessions. Especially since the 1990s, a global media world has increasingly reported on these various scandals that implied large-scale mining endeavours in the Global South. What seems appropriate in legal terms (“we have the right to be here, because the government gave us the license”) does not necessarily correspond to the image of a global mining industry that is today more than ever committed to ethical standards. Corporate citizens and neighbours, as discussed in previous chapters, are required to coexist with or even to integrate host communities into their concessionary regimes of mineral extraction. The right to benefit from an abundance of mineral resources and a concessionary regime that favours large-scale capital-intensive investments does not automatically imply “access” in the sense of the ability to derive benefits out of this pretext.<sup>89</sup> Understandably, expropriation often engenders resistance to mining projects. It may lead to social unrest and uprisings against companies and their representatives and may trigger the loss of “the social license to operate”.

Forced displacement has been described by scholars “to be one of the most disruptive and perplexing of development dilemmas”.<sup>90</sup> Ethnographic case studies have shown that, since the 1950s, massive infrastructure projects and especially intensive areal projects, such as mines, are usually displacement intensive. They often involve the (forced) relocation of entire communities and potentially create new poverty for displaced inhabitants, farmers, or workers.

The perhaps well-intended projects often turn out to have negative effects on community assets, social services, social status, or social networks.<sup>91</sup> Some major displacement disasters of International Finance Corporation (IFC)-financed large-scale development projects in the 1980s and 1990s led to the development of a range of policy frameworks for what became known as Mining-

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<sup>88</sup> F. Mahamba, A. Ross and J. Bavier, “Illegal Miners Defy Eviction from Glencore’s Congo Project”, *Mining.com*, 2 July 2019.

<sup>89</sup> See Ribot and Lee Peluso, *A Theory of Access*.

<sup>90</sup> Owen and Kemp, *Mining-Induced Displacement and Resettlement*, p. 479.

<sup>91</sup> S. Price, “Prologue: Victims or Partners? The Social Perspective in Development-Induced Displacement and Resettlement”, *The Asia Pacific Journal of Anthropology* 10 (2009) 4, pp. 266–282, at 267–268.

Induced Displacement and Resettlement (MIDR) in the early 2000s. Guidelines such as the World Bank Group's social safeguards for involuntary resettlement eventually referred to both physical and economic displacement, which can be permanent or temporary in nature. They also introduced principles of participation, grievance mechanisms, and livelihood restoration instead of simple financial compensation.<sup>92</sup>

Displacements in the global mining industry are specific insofar as they potentially occur at any stage of the project cycle (from exploration to production and (post)closure).<sup>93</sup> Particularly in the context of large-scale natural resource extraction, researchers have further identified a lack of choice by residents and workers to remain *in situ*. In the context of Burkina Faso, as in many other African, European, or American countries, the state has specific access rights concerning the mineral reserves of its subsoil. MIDR therefore often takes place for the national socio-economic benefit but with few if any alternatives for affected people, as Price and others has emphasized:<sup>94</sup>

Displacement forced by development projects is deliberate, intending beneficial outcomes yet, while the nation gains, the displaced losers must bear the pain. These displacements in the 'public interest' may allow the people affected some scope for selection among a limited range of relocation options, but they have no choice about the fundamental reality of their displacement – they have no choice to remain.<sup>95</sup>

In Burkina Faso, many people who faced eviction due to large-scale mining expressed the feeling that they have or had no other choice than to accept their relocation. The Burkinabè mining code provides the central state with a legal instrument that enables concessionary owners to acquire land for "the public purpose". Compensation for that land has to be provided to landowners and workers in form of a "just indemnity".<sup>96</sup> However, in the first two decades of the twenty-first century, legal documents and law did not (yet) sanction or specify the modalities, periods, and amount of compensation.<sup>97</sup> While land and different assets such as trees and crops were usually compensated to a certain degree by the respective companies, community representatives reported on limited

<sup>92</sup> Ibid. For an overview, see Owen and Kemp, *Mining-Induced Displacement and Resettlement*.

<sup>93</sup> Ibid., p. 479.

<sup>94</sup> See P. Vandergeest, P. Bose and P. Idahosa (eds.), *Development's Displacements: Ecologies, Economies, and Cultures at Risk*, Vancouver: UBC Press, 2007.

<sup>95</sup> Price, *Prologue: Victims or Partners*, p. 269.

<sup>96</sup> Government of Burkina Faso, *Loi N° 036-2015/CNT*, pp. 31–32; Government of Burkina Faso, *Décret N°2017-0035/PRES/PM/MEMC/MINEFID /MCLIA/MATDSI/MJFIP/MFPTPS/MEEVCC*.

<sup>97</sup> See Drechsel, Engels, and Schäfer, 'The Mines Make Us Poor'; Engels, *Not Normal, Not Just*.



agency during negotiations because “the land belongs to the state”. In October 2018, young people from Bagassi whose families were affected by MIDR explained their dilemma as follows:

We have negotiated [the compensation of land per hectare], but at some point, they told us that if we refuse, they [the company employees] will call the government and it will take the land. It is as if they have forced us [to accept the amount of compensation] because they said, if we refuse to take the offered money, our land will be exploited anyway, and we will have nothing. At one point, you have to accept because you do not know how to defend yourself.

This section focuses on the strategies of multinational corporations in taking up their responsibilities for the potential loss of land, housing, and resources due to large-scale mining projects, in absence of national laws concerning MIDR. It also discusses actors besides the state and companies, namely local populations and artisanal miners are involved in the “politics of responsibility” for drawing, reinforcing, and dismantling cadastral lines. While many mining frontier entrepreneurs continue to imagine extractive spaces as “empty but full”,<sup>98</sup> they are usually also aware that the (potential) presence of human settlements and livelihoods demands displacements, resettlement, and livelihood restoration. Claims to concessionary ownership, in practice, thus only become enforceable through specific negotiations with actors that also claim access and entitlements to those same concessions. Beyond the cadastral regime and lines on maps, there are few if any signs of “private mining property” in the concession before it is transformed into a proper title for extraction. For MIDR, companies mostly rely on some international standards and guidelines for the global mining industry and individual negotiations with local stakeholders on an ad hoc and case by case basis.<sup>99</sup>

This suggests that the “ethical turn” in mining also has an impact on these local processes and the role of “the national”. Today, negotiations around mining-induced displacement, resettlement, and compensation have to take place before an exploitation title is awarded to a concessionary owner. In the context of MIDR, most planned resettlements and compensation payments include prior studies, surveys, and stakeholder engagements that are usually carried out by (international) consultancy firms.<sup>100</sup> While Burkina Faso’s jurisdiction resembles many others around the globe in that it delegates responsibility to mining companies for MIDR,<sup>101</sup> the Burkinabè government in recent years became increasingly

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<sup>98</sup> Bridge, *Resource Triumphalism*, p. 2154.

<sup>99</sup> Owen and Kemp, *Mining-Induced Displacement and Resettlement*, p. 480.

<sup>100</sup> Dougherty, *Boom Times for Technocrats*.

<sup>101</sup> Owen and Kemp, *Mining-Induced Displacement and Resettlement*, pp. 484–485.

involved in the organizing and monitoring of stakeholder meetings at the (future) mine sites. A mining company that makes a positive decision on the feasibility of a mining project must submit a number of documents to the MMQ. The application for an exploitation title requires most significantly an Environmental and Social Impact Assessment study (ESIA), and occasionally a Resettlement Action Plan (RAP). The elaboration of these documents requires a significant degree of public participation in the granting process of mining rights and involves the BUNEE, attached to the Ministry of Environment, as a main agency.

However, from 2018 onwards, there were some more exceptions of central state interference in the concessionary regime during a mining project's exploration phase. The new agency, ANEEMAS, has been mandated to intervene when the deposit of a concessionary owner is "threatened" by artisanal or semi-industrial miners "illegally" working on his territory. In doing so, the central state (re)claimed authority in the concessionary regime in favour of large-scale mining firms. Recent national efforts in mapping and managing ownership relationships in and of extractive spaces, in turn, folded back on corporate behaviour. Ultimately, this served company managers to justify expropriations legally and morally.

### **The Role of ANEEMAS in Clearing the Way for Large-Scale Investors**

After a temporary shutdown of exploration works in the "Houndé property" in 2016, Endeavour Mining resumed with intensified prospecting activities in 2017. In the same year, one of its Burkinabè-registered exploration companies, Avion Gold Sarl, hence discovered the "Kari anomaly" in its concession "Kari Nord". Located only seven kilometres away from the Houndé processing plant, the Kari area has since been declared as a "top priority" and the "most significant exploration discovery" for the Endeavour Mining group's exploration activities.<sup>102</sup> In 2018 alone, the company spent circa USD 9 million on an exploration programme totalling over 141,000 meters of drilling to follow-up on the Kari Pump discovery. Drilling successfully extended the Kari Pump deposit and further revealed two additional mineral discoveries, "Kari West" and "Kari Centre", in May 2018. The mineralized Kari zone now covered a very large area, extending over more than four kilometres in length and three kilometres in width. The company announced that more drilling is still required to determine a possible geological link between the three

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**102** Proactive Investors, "Endeavour Mining's Head of Exploration and Growth Details His 2019 Ambitions", *YouTube*, 24 May 2019.

discoveries: Kari Pump, Kari West, and Kari Centre.<sup>103</sup> In November 2018, the company published the Kari Pump's maiden resource estimate which is said to increase the Houndé properties measured and indicated resources by 40 per cent and hence significantly extends the Houndé project's "mine life".<sup>104</sup> During investor conference calls between November 2017 and May 2019, company executives emphasized the significance of the "Kari anomaly" for the company's deposit portfolio, since it contains much higher grades than the Vindalao deposit, the initial main deposit of the Houndé mine. To add further value to the deposit, during the first quarter of 2019 corporate drilling activities mainly focused on the Kari West and Kari Centre area.

On site in Houndé, company executives were aware of the significance of the Kari area in terms of mineral reserves. Yet they also recognized that the Kari area became a "hotspot" of artisanal mining since the late 1990s. A CSR manager in Houndé who used himself to work in the ASM sector in the late 1990s and early 2000s, testified in October 2018 that at times there were over 3,000 artisanal miners active in Kari. Its mineral abundance therefore constitutes an important source of revenue and local livelihoods. However, company executives continuously also claimed to represent "first comers" in terms of mining activities in Kari. These claims were contested by various stakeholders, notably small- and medium-scale mining entrepreneurs, and the elected municipal authorities. The mayor of Houndé, for instance, emphasized the significance of *or-paillage* practices in and around Kari for the development of the municipality of Houndé. Notably between 1997 and 2012, the town grew significantly, and new local economies and livelihoods emerged out of ASM practices in the municipality. According to him, the ASM activities that employed "thousands of people" in the municipality disappeared to a large extent with the arrival of industrial mining activities.

Since 1998, various ASM sites have existed in the Kari area. In 2011, Moussa Ouédraogo (called *Wogbo*, "the elephant"), a well-known mining entrepreneur, installed another mine site in Kari under the name *Wendpanga Or* (Gold of God's Power).<sup>105</sup> Over the years, the *Wendpanga Or* site gradually increased in size and importance but faced multiple (re)installations and dismantlement. The site was equipped with a minimum number of permanent installations using artisanal and

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**103** Endeavour Mining Corporation, "Endeavour Makes Significant High Grade Discoveries at Houndé", *Endeavour Mining Corporation*, 24 May 2018.

**104** Endeavour Mining Corporation, "Endeavour Announces 1Moz High-Grade Indicated Resource on Kari Pump at Houndé", *Endeavour Mining Corporation*, 15 November 2018.

**105** See A. Dera, "L'univers des orpailleurs" [The world of gold diggers], Houndé (2014).

mechanized methods to extract and process minerals. With the presence of Wendpanga Or, Kari became the first “significant” *orpaillage* mine site in Houndé with holes up to 80 meters deep in the ground, employing more than 1,000 workers on site.<sup>106</sup> Before its forced shutdown in October 2018, the site’s compound was protected through fences, security guards, a police station, and surveillance cameras. Furthermore, Wogbo, who figured among an elite of mining big men that gained prominence and wealth under the Compaoré regime, had the reputation of being a generous investor among local authorities in Houndé. Over the years, he sponsored several municipal events such as the annual soccer games or the official festivities on the international women’s day (8 Mars). The most visible “CSR” contribution of Wendpanga Or was certainly a XOF 10 million (~ USD 17,000) worth ambulance which Wendpanga Or donated to Houndé’s local hospital.<sup>107</sup>

From 2017, however, Endeavour Mining started to claim its “assets” in Kari not only during investor call conferences, but also on the ground in Houndé. In August 2017, first rumours circulated that Souleymane, a corporate CSR executive, announced (future) access restrictions for artisanal and semi-mechanized miners to the area. The first known intervention by the CSR officer corresponded to the announcement of the discovery of the Kari anomaly and the start of intensified exploration and prospecting works the company then engaged in. Consequently, Endeavour Mining gradually stopped its practice of tolerating artisanal and small-scale miners on its exploration concession in Kari Nord. According to responsible persons of Wendpanga Or, Avion Gold announced several times that they would sooner or later have to leave the concession. Their drilling works often impeded *orpaillage* work and vandalized their infrastructures. On 8 May 2018, Avion Gold sent a letter to the director of Wendpanga Or. In it, the company announced that 14-days deadline for the clearing of the Kari Nord concession by Wendpanga Or. The demand to leave the concession was repeated in the following months and ANEEMAS was informed as the competent authority.<sup>108</sup> The fact that the concession was ultimately emptied by Wendpanga Or was not decided in Houndé, but in Ouagadougou due to central state intervention via the agency ANEEMAS.

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**106** See *ibid.*, p. 6.

**107** *Ibid.*, p. 13.

**108** Government of Burkina Faso, “Protocole d’accord entre les sociétés Wendpanga Or et Avion Gold (Burkina Faso) Sarl pour l’arrêt de l’exploitation artisanale et le démantèlement des installations sur le permis Kari Nord, Département de Houndé, Province du Tuy” [Memorandum of understanding between Wendpanga Or and Avion Gold (Burkina Faso) Sarl for the suspension of artisanal mining and the dismantling of installations on the Kari Nord permit, Houndé Department, Tuy Province] (2018), p. 2.

The establishment of ANEEMAS and its aim of reinforcing central state authority in the ASM sector must be seen as an integral part of the 2015 mining code reformation process. However, from 2015 to 2017, the new regulatory agency of the MMQ was perceived as “inactive” and “ineffective” by many actors of the mining sector due to a lack of financing, infrastructure, and staff. Soon after ANEEMAS was mandated with a new national director and equipped with office premises in the city centre of Ouagadougou in early 2018, though, it started to launch activities and campaigns in the country’s mining regions. Besides the already mentioned establishment of a cartography of ASM sites and a vast identification campaign for artisanal miners (*campagne d’identification des artisans miniers*), ANEEMAS mainly took a new intermediary and mediator role between industrial and artisanal miners. While this mandate did not necessarily correspond to ANEEMAS’s main mission – “the supervision and monitoring of artisanal and semi-mechanized mining activities”<sup>109</sup> – the government’s “progress in tackling this [ASM] issue” was welcomed by Endeavour Mining.<sup>110</sup> Establishing a “balance” between artisanal and industrial miners, in practice, meant for many ANEEMAS officers, to reassure the superior status of industrial concession owners according to the mining law. ANEEMAS main tasks would therefore consist in the regulation of not-yet registered ASM sites (e.g., concerning the prohibition of child labour and the use of chemical products), where artisanal miners are tolerated by concessionary owners. If concessionary owners decide otherwise, or proceed with further steps to extractive activities, however, ANEEMAS agents perceived their task as “clearing the way” for the work of industrial units. Therefore, in 2018, ANEEMAS intervened in at least two situations of conflict of interests between ASM and LSM miners in the province of Yatenga and the province of Tuy respectively, as a interviewed government official confirmed in October 2018.

In order to find a solution for the Kari case (province of Tuy), ANEEMAS invited executives of Endeavour Mining and Wendpanga Or to its premises in Ouagadougou on 24 July 2018. The resulting Memorandum of Understanding stipulated that Endeavour Mining assessed ASM activities as “incompatible au déroulement normal des activités de recherche” (incompatible with the normal conduct of exploration activities). Corporate and governmental representatives further considered Wendpanga Or’s extractive activities as “semi-mécanisée” (semi-mechanized) due to the machinery in use.<sup>111</sup> Consequently, they asked for the clearing of the area within two weeks’ time. According to the Memorandum,

<sup>109</sup> Government of Burkina Faso, *Décret N° 20151420/PRESTRANS/PMMEF/MME*.

<sup>110</sup> Endeavour Mining Corporation, *2018 Sustainability Report*, p. 20.

<sup>111</sup> Government of Burkina Faso, *Protocole d’accord entre les sociétés Wendpanga Or et Avion Gold*, p. 2.

Wendpanga Or's director Moussa Ouédraogo (*Wobgo*) then recognized the “illegality” of his activities on the industrial concession. Yet he asked for a new delay of 6 to 18 months in order to cease extraction works and to be able to dismantle the present infrastructures. As a compromise, the Memorandum of Understanding ultimately mandated an immediate stop of extraction works and a final clearing of the Kari Nord concession by Wendpanga Or by 31 October 2018.<sup>112</sup>

The three-month deadline was met by harsh criticism from many workers, residents, and municipal actors in Houndé. The mayor of Houndé, who complained that he was even not consulted during this whole process, pointed to the ambivalent role ANEEMAS played in these departure negotiations:

The case of Kari is paradoxical. Actually, the role of ANEEMAS is rather to monitor ASM activities than to tear an artisanal miner apart. Kari is established through an exploration permit that we've never seen and we even don't know whether this permit is valid.

He and other inhabitants of Houndé pointed in late October 2018 to the various social harms of such a departure and the lay-off of thousands of workers that it would instigate. While bypassing local livelihood considerations, the state would reinforce unequal power relations between the artisanal and the industrial mining sector.

Artisanal and semi-skilled mining entrepreneurs identified ANEEMAS policies as emblematic of the central state's preference for industrial concession owners. Even though they usually perceived of themselves as being the first comers and discoverers of the mineral deposit, they knew that industrial units have a preferential access to these same resources. Although not all staff members were informed about the exact process of the negotiations in Ouagadougou, they “responsibilized” the central state for forced displacement of their workers and materials: “The states decide with them [Avion Gold]”, as some remaining workers stated in Kari end of October 2018. In a similar vein, a semi-industrial mining entrepreneur in Bagassi who already knew that he and his staff will have to leave the site due to Roxgold's concession extension expressed his views in March 2018: “It's the government that gave the site [to the industrial owner]. So what should we do?” Half a year later, I met him again outside Roxgold's now fenced concession. He was then working on some remaining rock samples of his former extraction works but he said he would have to leave the area in a few weeks.

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<sup>112</sup> Ibid., pp. 3–4.

### Temporal and Moral Dimensions of (Sub)Soil Expropriation

The involvement of ANEEMAS as a new important stakeholder into concession-making practices in Burkina Faso certainly led to a “thickening” of social relations and politics in and around mining concessions.<sup>113</sup> It also provided the central state with new resources to regain authority in mining deals and therefore to reinforce the principles of stateness in the mining sector. At the same time, it enabled large-scale companies to abdicate responsibility for the – in their words – zones of “informal, unregulated, and illicit activities, potentially linked to financing terrorism”, which usually represent an integral part of their concessions.<sup>114</sup> If the relocation of artisanal miners is exercised by the central state, and previously to all obligatory consultation processes, there are two fundamental consequences for negotiations around the companies’ assets. First, they impede semi-mechanized mining entrepreneurs to touch upon the same deposits that are usually inaccessible for mostly manually working artisanal miners. Second, the companies are hence, according to governmental requirements, not obliged to engage in any negotiations around compensation and resettlement of these semi-mechanized workers and infrastructures. According to company agents, negotiations with artisanal and semi-industrial miners usually take place before the publication of a feasibility study, and thus before the official announcement that the company has discovered rich deposits that justify huge international investments. Yet the successful enforcement of company claims is particularly challenging at this stage because artisanal miners are reported to return to their former sites if the future site of large-scale extraction is not yet spatially demarcated and fenced off.

This was partly the case in Bouéré, Dohoun, and Bagassi in 2017 and 2018, where, in contrast to the case in Kari, the negotiations around the departure of ASM there resulted in compensation payments provided by the two companies to artisanal miners and their families. As ASM miners were perceived as occupying the territories “illegally”, however, this practice depended on the goodwill of the company and its compliance with international standards of the global mining industry for forced displacement and resettlement. According to the IFC performance standard 5 on land acquisition and involuntary resettlement, for instance, “economically displaced persons who are without legally recognizable claims to land [. . .] will be compensated for lost assets other than land [. . .] at full replacement cost”.<sup>115</sup> Accordingly – and due to their “mobileness” and

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<sup>113</sup> See Côte and Korf, *Making Concessions*.

<sup>114</sup> Endeavour Mining Corporation, *2018 Sustainability Report*, p. 21; Luning, *The Future of Artisanal Miners from a Large-Scale Perspective*.

<sup>115</sup> International Finance Corporation, “Performance Standard 5”, p. 7.

“illegality” – ASM miners in western Burkina Faso only received compensation for their lost infrastructures (such as houses, or storage and treatment facilities) but not for their holes. The 2,000 impacted people in the ASM village of Bagassi South, for instance, further received each a lump sum of XOF 24,000 (~ USD 40) as “help for departure” provided by Roxgold. During multiple rounds of negotiations, they finally decided to pursue ASM activities in other parts of the country instead of getting involved with livelihood restoration programmes through Roxgold’s CSR programmes. These “offerings” for *orpailleurs* were considered as “pure CSR” by company agents, since no legal obligation would stipulate compensation for “illegal” land users.<sup>116</sup> In principle, both companies differentiated between “real” landowners and users (or permanent residents) and those only using the subsoil temporarily for their ASM activities (or mobile workers), as a Roxgold CSR executive emphasized in October 2018:

There is no compensation. The compensation is for land! The artisanal miners are on the land of people. They come for artisanal mining and they do not ask. That’s why we discuss with the landowners and the users for the zone we want. Yet since we’ve always had a good *cohabitation*, and they [the ASM miners] were in the committee, they addressed a letter of demand to the authorities asking for compensation or help for their departure.

In the twenty-first century mining economy of Burkina Faso, the temporal dimensions of industrial mining endeavours must be seen as key to an understanding of negotiations around property and expropriation. For an industrial mining sector, which is perceived by corporations as more regulated and ordered than “‘Wild West’ [ . . . ] ASM sites”,<sup>117</sup> questions of usage and ownership and of future occupation of land are still largely open to debate. Except for the case of the Poura mine, there is to date no significant post-closure experience of industrial mine sites in

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**116** Many artisanal miners reported that they do indeed have informal compensation or leasing agreements with the landowners of the fields and territories on which they are carrying out their activities: these range from lump sum payments for the number of holes, a profit-sharing of the mined gold, or other forms of direct financial compensation. Artisanal mining is often carried out as a seasonal activity or as long as ASM miners decide that deposits are still worth exploiting. Authors have reported on the relatively sudden appearance and disappearance of artisanal mine sites in Burkina Faso and the “intertwining of the spatial and temporal dimensions in artisanal mining” that results in specific post-closure landscapes. See C. Lanzano, “Gold Digging and the Politics of Time: Changing Timescapes of Artisanal Mining in West Africa”, *The Extractive Industries and Society* 5 (2018) 2, pp. 253–259, at 253–254; Werthmann, *Bitteres Gold*; K. Werthmann, “‘Following the Hills’: Gold Mining Camps as Heterotopias”, in: A. von Oppen and U. Freitag (eds.), *Translocality: The Study of Globalising Processes from a Southern Perspective*, Leiden: Brill, 2010, pp. 111–132.

**117** Endeavour Mining Corporation, *2018 Sustainability Report*, p. 21.



the country. A decade after the start of the “mining boom”, the many individual interpretations of who is entitled to different forms of compensation and resettlement and for which period, stay for a relative vagueness concerning notions of (sub)soil ownership. Due to the lack of regulative authority provided by the Burkinabè government, negotiations around displacement and resettlement predominantly take place between affected landowners or users and the respective mining company. Established standards of the global mining industry for MIDR, however, tend to attribute a central role in land acquisition and resettlement processes to national governments, “including the determination of compensation”.<sup>118</sup> Formally, and in contrast to Authorizations for Artisanal Mining (AAM), industrial exploitation permits are sanctioned by law as “immovable real property rights” according to Article 47 of the mining code, and are treated as land titles by company and government representatives.<sup>119</sup> Looking at the conditions under which land for extraction is acquired, however, reveals accusations of forced sales and evictions. This unfolds furthermore a certain obscurity as to whether the expropriation takes place temporally or definitively, or whether the respective company leases or acquires land for extraction and from whom (the landowners, users, or the central state).<sup>120</sup>

The spatial and temporal dimensions of MIDR, as well as its potential to (re)produce (in)equality, can best be analyzed when empirically looking at specific cases in western Burkina Faso. Apart from the interventions of ANEEMAS or occasionally the National Mining Sites’ Security Agency (*Office Nationale de Sécurisation des Sites Miniers*, ONASSIM), there is a second recurrent moment in the permitting process of industrial concessions where the central state typically becomes involved. The successful granting of a mining title for industrial exploitation by the Council of Ministers legally requires the involvement of public participation and stakeholder consultation processes (see Figure 5.1).<sup>121</sup> The National Mines Commission is in principle responsible for examining applications and giving technical advice. It receives a range of required documents from the mining companies which notably include

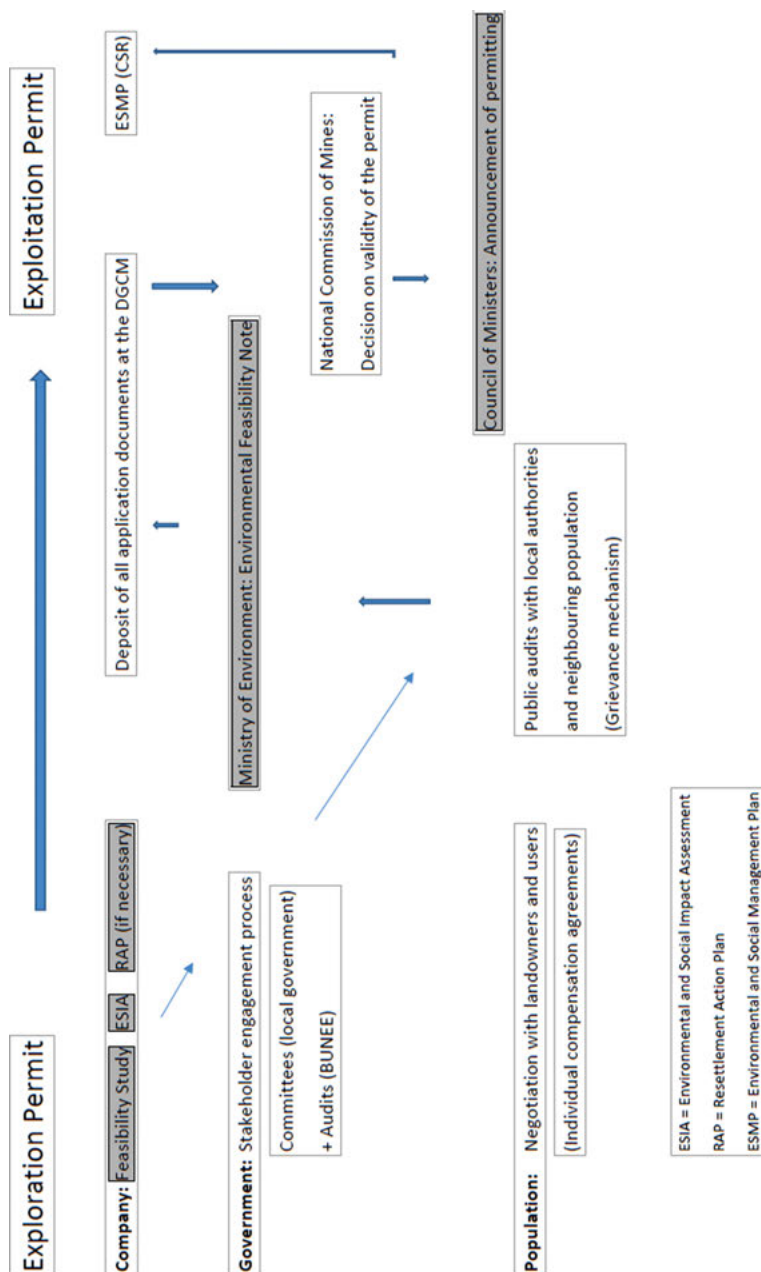
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**118** International Finance Corporation, *Performance Standard 5*, p. 1.

**119** Dorin, *Burkina Faso*, p. 30; Government of Burkina Faso, *Loi N° 036–2015/CNT*, p. 16; Lun-  
ing, *The Future of Artisanal Miners from a Large-Scale Perspective*, p. 69.

**120** According to the national mining code (Article 48), industrial companies acquire land for a period of 20 years (if not otherwise mentioned in the feasibility study). Yet the concession’s validity can be prolonged by consecutive periods of 5 years until the mineral deposit is “exhausted”. (Government of Burkina Faso, *Loi N° 036–2015/CNT*, p. 16).

**121** Own compilation based on interviews with and presentations of government officials.



**Figure 5.1:** Permitting process and public consultation.

- a feasibility study (*étude de faisabilité*) established by a(n) (inter)national recognized firm;
- an environmental feasibility note (a favorable advice from the Minister of Environment, *avis de faisabilité environnemental*) based on an Environmental and Social Impact Assessment (ESIA) (if necessary);
- a Resettlement Action Plan (RAP);
- an Environmental and Social Management Plan (ESMP), and
- a Rehabilitation and Mine Closure Plan.<sup>122</sup>

Both types of documents are crucial to the permitting process which involves a whole range of contractors and consultancies proving a mining project's commercial and ethical feasibility (and which leads to “boom times for technocrats”, as stated by Dougherty).<sup>123</sup> They correspond to recurrent standards of the global mining industry (i.e., those of the IFC and the WBG on involuntary resettlement),<sup>124</sup> but have different aims and potentially different target audiences. The feasibility study, on the one hand, constitutes a financial and technical project analysis illustrating that the proven reserves justify the required financial investments. It is mainly dedicated to an international investment audience but also indicates the technical and financial dimension of the mining project to the Burkinabè government. It has to prove that a mining project is “feasible” even if its location is in Africa.<sup>125</sup> The English version of the document is available online, while a French version submitted to the national mine's commission for license application is usually not published.<sup>126</sup> Privately commissioned and held reports such as ESIA's and RAPs, on the other hand, represent the largest body of MIDR literature. A worldwide interest for legally sanctioned impact assessments has developed since the 1970s. Today, jurisdictions around the world require an ESIA (and, if necessary, a RAP) to be undertaken before an authorization for certain types of projects is granted. Albeit there is no commonly agreed definition, ESIA's in the mining industry usually take the form of a written report on the assessment of (potential) environmental and social effects and impacts on local livelihoods and the environment by a large-scale mining

<sup>122</sup> Ibid., p. 14; Dorin, *Burkina Faso*, p. 29.

<sup>123</sup> Dougherty, *Boom Times for Technocrats*.

<sup>124</sup> International Finance Corporation, *Performance Standard 5*; World Bank, “Operational Manual: OP 4.12 Annex a – Involuntary Resettlement Instructions”.

<sup>125</sup> Luning, *The Future of Artisanal Miners from a Large-Scale Perspective*, p. 71.

<sup>126</sup> Extractive Industries Transparency Initiative, *Validation of Burkina Faso*, p. 35.

project.<sup>127</sup> Endeavour Mining and Roxgold are committed to complying with both Burkina Faso and international standards for the social and environmental activities and reporting associated with their mining projects.<sup>128</sup> Since Roxgold has received direct investments from the IFC, it is even required as an IFC client to apply the Performance Standards.<sup>129</sup> The IFC Performance Standard 5, for instance, stipulates the establishment of a Resettlement Action Plan (for physical displacement) and/or a Livelihood Restoration Plan (for economic displacement).

As a general rule, international policy standards of involuntary displacement “have served to supplement national laws for those projects using international financing”.<sup>130</sup> The submission of integrated ESIA, for instance, is obligatory to any mining permitting process in Burkina Faso. In order to gain an extraction license, the Burkinabè environmental law further requires a government-sanctioned auditing of the ESIA carried out by the mining companies in the respective mining areas.<sup>131</sup> The conclusions of these are used in the decision-making by the relevant public authorities and are presented to affected populations. They can, in theory, lead to the rejection of mining titles for exploitation. In practice, however, the national environmental authority BUNEE, which monitors the auditing and stakeholder engagement process in the mining regions, and the Burkinabè Minister of Environment and Sustainable Development has never rejected any exploitation permit from an industrial applicant, as a government official stated in October 2018. These reports are not available for the wider public and typically are not even shared on an internal company level, as Owen and Kemp have criticized.<sup>132</sup> In Burkina Faso, reports on environmental impact studies have to be made available to the public for consultation only during a limited period of time, i.e., in the negotiation processes of companies and the BUNEE with local populations. The public auditing conducted by BUNEE met further criticism by local populations and authorities.

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**127** Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development, “Background Document: Legal Framework of Environmental and Social Impact Assessment in the Mining Sector” (2019), p. 5; C. J. Barrow, *Environmental and Social Impact Assessment: An Introduction*, London: Arnold, 1997, pp. 1–11.

**128** See Zammit, Warren, Cheyne, Morgan, and O’Byrne, *Feasibility Study NI 43–101 Technical Report*, p. 20.1.

**129** Roxgold Inc., “Roxgold Announces Closing of IFC Investment for C\$18.4 Million”, *Roxgold Inc.*, 9 September 2015.

**130** Price, *Prologue: Victims or Partners*, p. 276.

**131** See Government of Burkina Faso, “Loi N°006-2013/AN portant code de l’environnement au Burkina Faso” [Law N°006-2013/AN on the Environment Code in Burkina Faso] (2013), pp. 9–11; Government of Burkina Faso, *Loi N° 036–2015/CNT*, p. 14.

**132** Owen and Kemp, *Mining-Induced Displacement and Resettlement*, pp. 480–481.

The mayor of Houndé, for instance, claimed in September 2018 that the different ESIA studies are “copy paste” documents. Since large parts of the local population are not able to read reports of several hundred pages in French or even English, real stakeholder involvement and participation has not yet been possible.

In Burkina Faso as in many other countries in the world, international guidelines for ESIA and RAPs do not necessarily counter legal vacuums concerning MIDR. Susanna Price has described in more detail how they tend to conceptualize displaced people as “temporally [not permanently] victimized by development”.<sup>133</sup> This temporal dimension is also crucial to the modes, amounts, and periods of compensation in Burkina Faso and notably for the people who had lost their fields and other assets due to an industrial mining project. In Burkina Faso, lost land is reported to be virtually always compensated by compensation payments instead of substitute cultivation areas.<sup>134</sup> While international standards stipulate that displaced people should be offered land-based compensation where their livelihoods are land-based, mining executives admitted in 2016 that “today in Africa you can’t always have land for land”.<sup>135</sup> Out of the prevailing scarcity of fertile lands, livelihood restoration programmes usually accompanied the relocation and resettlement programmes. Furthermore, the inhabitants of the relocation site in Houndé received formal fully accredited and licensed land titles for their new parcels. Yet the main critique MIDR-affected people addressed during negotiations and interviews was notably the compensation period for their lost fertile fields. While large-scale mining projects usually exceed a life span of ten or fifteen years, companies usually only provided compensation payments for a five-year period, and an amount of XOF 300,000 to 400,000 per hectare per year (depending on the area’s status of cultivation). The first-year sum was provided for the landowner whereby land users usually got monetary compensation for the second to the fifth year. Due to a then lacking national standard for compensation (payments), compensation rates were mostly entirely negotiated between company representatives (and their engaged consultancy firms) and the affected landowners. This practice was not only criticized by affected populations but even by company representatives who reproached the state for practices of legal fuzziness, as a CSR executive did in 2018:

You see, the state tells you that if you’re applying for an exploitation permit, if you want to get the soil, what is the state telling you? “You guys get along with the landowners!” Before the deposit of your documents [Feasibility Study; ESIA; RAP], you need the

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<sup>133</sup> Price, *Prologue: Victims or Partners*, p. 275.

<sup>134</sup> See Drechsel, Engels, and Schäfer, ‘*The Mines Make Us Poor*’, p. 5.

<sup>135</sup> International Finance Corporation, *Performance Standard 5*, p. 3.

agreements with the landowners. [. . .] the state does not defend you; the state tells you “get along”! That is the [fundamental] problem.

The negotiation process that is required to develop all necessary documents for the deposit of the ESIA, and the RAP in order to acquire the environmental feasibility note goes along with the supervision by local committees for compensation and resettlement comprising affected people by the mining projects, local authorities, and company representatives. Yet, in order to comply with international MIDR standards and to “prevent problems for the other[s]”, as the CSR executive emphasized, mining companies in Burkina Faso apply quite similar compensation rates. According to CSR agents in Houndé and Bagassi, these apply for a five-year period (without renewal), based on an average productive value of land per hectare per year.<sup>136</sup> Asked about the sense of this time limitation, they admitted that this compensation is not calculated on the life span of an industrial mine, but is “temporal” in nature. In the meantime, it is considered as a financial compensation that allows landowners and users to acquire new assets and to generate alternative incomes. Yet this practice does not take into account the limited availability of fertile territories that is further reinforced through industrial mining practices. It is further based on different understandings among company executives whether land (and the subsoil) is acquired or temporally leased by the mining company. A Roxgold CSR manager in 2018, for instance, was convinced that the granting of mining concessions implies forms of lending, not buying: “We will not stay here forever! [. . .] We say, we leased your field. When we will leave, we will render you your field.” This would be the fundamental reason for the provision of a leasing, not a purchasing price for land to MIDR-affected people. By contrast, in Houndé, CSR executives stressed that the land does not go back to the former landowner, but to the state during the post-closure era. A juridical interpretation that was also confirmed by other corporate agents and government representatives. Therefore, they perceived the leasing of land not as an affair between local populations and mining companies but between the central state and mining companies, which in turn entitled them to legally expropriate local landowners and users. While thus reaffirming principles of stateness in the mining sector, they also expressed concerns about a degree of legal uncertainty for post-closure situations in Burkina Faso due to a lack of large-scale mining experience in the country. In late 2018, a government representative made the same comment:

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<sup>136</sup> See Engels, *Not Normal, Not Just*, p. 10.

Normally, [. . .] if you are a landowner, and you have a formal land title, and the state expropriates you. That means that it acquired the possession. But this case of post-closure, these are things that we have not yet experienced in Burkina Faso. That's why it is still rather [a] theoretical [consideration].

The legal provision of land for extractive purposes by the state has been widely criticized as “dehumanizing” governmental responsibility for sociocultural, temporal and structural dimensions of loss and disruption caused by MIDR.<sup>137</sup> Bettina Engels has applied E. P. Thompson’s concept of “moral economies” to the context of negotiations over large-scale mining in Burkina Faso. Access to land, food, and making a dignified living (as opposed to profit-making), can actually be seen as essential goods in the local market that raise concerns about whether there can ever be a “fair price” or compensation for their loss in the context of MIDR.<sup>138</sup> In Houndé and Bagassi, moral assumptions and norms became mainly expressed through debates around future land ownership and use. While monetary compensation and relocation usually represented a temporal relief and improvement of living standards, giving up lands, assets and houses was generally perceived as a future risk by MIDR-affected people in western Burkina Faso. Many interviewees expressed their fear of selling off the land of their children and grandchildren for personal short time benefits. At the same time, they recognized their limited agency during negotiations and made the state responsible for the potential long-term risks they face due to their expropriation. One of the former main landowner families in the Houndé concession lost a total terrain of 250 hectares (ha) due to the large-scale mining project that required a total of 2,096 ha of land.<sup>139</sup> Among inhabitants of Houndé and representatives of the mining company the head of the landowner family had the reputation of being “the toughest to deal with”. After several rounds of negotiations on his lands and assets in Houndé between 2013 and 2016, the landowner family received a remarkable overall sum of more than one million US dollars for their fertile and non-fertile fields and assets.<sup>140</sup> However, the landowner claimed that the amount

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**137** R. Jayewardene, “Can Displacement Be Turned into Development by Compensation Alone?”, in: M. M. Cernea (ed.), *Can Compensation Prevent Impoverishment?: Reforming Resettlement Through Investments and Benefit-Sharing*, Delhi: Oxford University Press, 2008, pp. 233–259, at 242–243; Price, *Prologue: Victims or Partners*, p. 273.

**138** Engels, *Not Normal, Not Just*; E. P. Thompson, *The Making of the English Working Class*, London: Penguin Books, 1991 [1963].

**139** Zammit, Warren, Cheyne, Morgan, and O'Bryan, *Feasibility Study NI 43–101 Technical Report*, p. 20.4.

**140** Government of Burkina Faso, “Rapport des activités menées par le comité restreint dans le cadre de la négociation entre Houndé Gold Operation et la famille Hakekou sur les terres affectées par les activités minières de la famille” [Report on the activities carried out by the

of compensation his family had received was “ridiculous”. The lump sum of XOF 25,000 (~ USD 43) he got for each of his mango trees, for instance, would only correspond to the financial and productive outcomes of one single annual harvest. Considering the long-term consequences of expropriation of fertile grounds and assets, he thus concluded in March 2018, “It is the state looting its children”.

MIDR-affected people in Houndé raised a number of different critics concerning their potential loss of land and livelihoods due to forced relocation.<sup>141</sup> In July 2017, the relocation site in Houndé, named Bièkuy, was inaugurated by several Burkinabè ministers and the mining company. Located only a few kilometres away from the site of mineral extraction, it covers an area of 25 ha with 254 houses and other infrastructures for a total of 1,662 inhabitants.<sup>142</sup> Before their relocation, many of the former residents of the mining concession lived in geographically dispersed areas that often comprised at least half a hectare of land per household. Due to the standardized character of houses and compounds, civil society activists called the living units of the relocation site in Houndé ironically, “hen coops”, not at all suitable to the lifestyles and livelihoods of extended families in western Burkina Faso. Back in 2017, some inhabitants of the relocation site expressed their satisfaction with their new homes and compounds and what they perceived as an improvement in their living standards. Yet they also articulated concerns about how the future coexistence of different people on relatively small ground would work out. Even without experiences of actual losses during post-closure, the future and potential risks associated with expropriation due to large-scale mining activities have been prominent issues of contestation among local populations. MIDR has not only spatial but also fundamental temporal dimensions, as debates around the five-year compensation period demonstrate. In Bagassi, for instance, rumours circulated since the beginning of compensation negotiations that the five-year period of compensation would be succeeded by another round of (five years) compensation payments. This “unmet promise” later in 2018 figured as one central claim by civil society activists in protests against the mine.

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steering committee in the context of the negotiations between Houndé Gold Operation and the Hakekou family on land affected by mining activities] (2016), p. 14.

**141** See Groupement des Déguerpis Koho-Yaribo par HGO, “Désaccord totale sur l’exécution des travaux de la cité des déguerpis” [Total disagreement on the execution of works in the eviction zone] (2017).

**142** G. Guiro, “Houndé Gold Operation S.A: les clés de la cité ‘Bièkuy’ officiellement remises pour les bénéficiaires” [Houndé Gold Operation S.A.: the keys of the residence ‘Bièkuy’ officially handed over to the beneficiaries], *Burkina Demain*, 31 July 2017.



## Cultures of Negotiation and Resistance to Large-Scale Mining

To gain control and maintain access to resources, companies, populations, and the state engage in multi-scalar practices of negotiation. Property regimes and law figure as one form of access, notably for mining corporations and the state. Even in the absence of national laws, guidelines and standards, however, mining companies cannot enforce their claims and assets without considering the “ethical turn” in the global mining industry. Many multinational mining companies have thus adopted mechanisms to increase community participation and ownership, often in compliance with national requirements for stakeholder engagement. Through the citizenship campaigns and the “social licence”, as I have discussed in previous chapters, mining corporations are able to gain structural and relational access to the “community” as a means of making mining practices feasible. Yet extractive practices continue to encounter different forms and meanings of contestation by different actors and groups of actors at various levels. Looking at different types of mining conflicts around the world, Bettina Engels states, that “the current territorial expansion of industrial mining [. . .] has resulted in a shift and an expansion of actor constellations in conflicts over mining and has widened the range of the topics of conflict”.<sup>143</sup> Indeed, and as I have demonstrated throughout the chapter, there are multiple sources of conflict in Burkina Faso’s gold mining areas. These are often based on specific topics and are directly linked to the establishment of an industrial mine site in a given location: from mining-induced displacement and resettlement, to water scarcity as a result of large-scale extraction, to the typical rise of living costs in gold mining areas. In most cases, these conflicts involve struggles over access. Access, here, must be seen as twofold since it implies at once access to “public goods” (such as land, housing, and water), and access to benefits out of industrial mining. While the latter raises questions about the “just” distribution of mining benefits, the former mainly articulates more fundamental questions of access to land, resources, and associated legal claims. These struggles involve different actors and actor constellations.

In this last section of Chapter 5, I will focus my analysis on the dynamics between topics of contention and actor constellations, while referring to different forms of organized and non-organized forms of youth protest in Houndé and Bagassi. Focusing on these dynamics allows us to discern whether it is rather “the state” or “the company” that are held responsible for (insufficient) access to resources by protestors. In doing so, different actors do respectively

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<sup>143</sup> Engels, *Mining Conflicts in Sub-Saharan Africa*, p. 1.

reinforce or abdicate stateness in the mining sector. While the degree of statelessness involved is usually an object of negotiation and contestation, empirical observations about protestors reveal that “the national” continues to feature as an important “relational dimension of multiscaled practices” in conflicts over mining.<sup>144</sup> This section does not so much focus on the various forms and formats of negotiations that are accepted within the given frameworks, such as community consultation during the awarding process of mining titles, CSR forums, or other arenas of company-state-community interaction. I rather draw on those cultures of negotiation that are more fundamental in their claims and means of contention. As stated by Jana Hönke, CSR programmes and projects rarely take into account more fundamental claims, such as about the redistribution of mineral wealth and access to resources. The latter are more easily dismissed by corporate agents as “illegitimate” and are often met with repression.<sup>145</sup> The different forms of youth protest in Houndé and Bagassi between November 2016 and October 2018 serve as an example of, on the one hand, the heterogeneity of topics and actors involved in forms of contestation.<sup>146</sup> Conversely, they illustrate how different forms of contention employ different notions of “who is responsible for what”, and who is thus the rightful object to be addressed for “contentious politics”.<sup>147</sup>

The increase of social mobilization against large-scale mining on the African continent continues to gain scholarly attention.<sup>148</sup> More generally, a body of literature on social mobilization refers to the particular role young people on the African continent have within gerontocratic societies.<sup>149</sup> As in other parts of the world, there is certainly no homogenous “African youth” that could be easily mobilized and is always capable of destabilizing social and political orders. However, emancipation from older generations through means of protest and

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**144** Mansfield, *Beyond Rescaling*, p. 461.

**145** Hönke, *Transnational Clientelism, Global (Resource) Governance, and the Disciplining of Dissent*, pp. 116–117.

**146** See, for example, Chouli, *Le boom minier au Burkina Faso*; Chouli, *Social Movements and the Quest for Alternatives in Burkina Faso*; Engels, *Wann werden Konflikte manifest*.

**147** See C. Tilly and S. G. Tarrow, *Contentious Politics*, 2nd edn, Oxford: Oxford University Press, 2015 [2006].

**148** See, for example, D. Christensen, “Concession Stands: How Mining Investments Incite Protest in Africa”, *International Organization* 73 (2019) 1, pp. 65–101; J. Steinberg, “Protecting the Capital? On African Geographies of Protest Escalation and Repression”, *Political Geography* 62 (2018), pp. 12–22.

**149** See, for example, M. W. Ndlovu, *#FeesMustFall and Youth Mobilisation in South Africa: Reform or Revolution?*, London: Routledge, 2017; E. K. Tall, M.-E. Pommerolle, and M. Cahen (eds.), *Collective Mobilisations in Africa: Enough Is Enough! Mobilisations Collectives En Afrique; Ça Suffit!*, Leiden: Brill, 2015.

resistance are a recurrent phenomenon of youth movements around the globe. Al-cinda Honwana has explained mobilization capacities of young people in West Africa by the concept of “waithood”. Especially during periods of job shortage, young men in particular do not have the financial assets to establish a family or attain the social status of adulthood. They are therefore “available” for a range of activities including particular repertoires of contention. “Age” as a social category can thus provide the conditions or the possibility for political mobilization.<sup>150</sup>

The youth, or *la jeunesse*, has been described as a main actor of popular mobilizations in Burkina Faso since the 1990s. Social mobilization of young people via social unrest, major labour conflicts, and social revolts have come to the forefront since the political crisis of 2011 and culminated in the popular uprising of 2014 when youth protesters took the streets of Ouagadougou.<sup>151</sup> The notion of youth in Burkina Faso, thus, does not so much refer to a strict limitation of age, but refers to the ideas, actions, and politics of an emblematic “new political class” overthrowing the old regime.<sup>152</sup> During the popular uprising of 2014, which led to the overthrow of the Compaoré regime, the youth movement *Balai Citoyen* gained particular prominence and has been described as “one of the main civil associations at the head of the insurrectionary movement”.<sup>153</sup> Yet when this book was written, they have only played a minor role in mining governance. It is rather the Marxist-oriented and countrywide organized *Organisation Démocratique de la Jeunesse* (ODJ) together with some spontaneously evolved youth movements in the mine sites that continuously took a leadership role in conflicts over mining.

In conflicts over the distribution of profits from industrial mining in Burkina Faso, gerontocratic hierarchies and resulting different means of contention play a key role. The previous sections of this chapter have shown that individual negotiation processes around MIDR primarily take place between affected landowners (and specific land users such as farmers) and the mining companies. As the cases of Houndé and Bagassi exemplify further, young people are usually only treated as secondary beneficiaries in and for negotiation and

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**150** A. Honwana, “‘Enough Is Enough!’; Youth Protests and Political Change in Africa”, in: Tall, Pommerolle and Cahen (eds.), *Collective Mobilisations in Africa*, pp. 45–66.

**151** See, for example, Chouli, *Social Movements and the Quest for Alternatives in Burkina Faso*; S. Hagberg et al. (eds.), *Transformations sociopolitiques burkinabè de 2014 à 2016: Perspectives anthropologiques des pratiques politiques et de la culture démocratique dans ‘un Burkina Faso nouveau’* [Socio-political transformations in Burkina Faso from 2014 to 2016: Anthropological perspectives on political practices and democratic culture in ‘a new Burkina Faso’], Uppsala, 2017.

**152** *Ibid.*, p. 41.

**153** Harsch, *Burkina Faso*, p. 8.

compensation. They usually have no other choice than to accept the conditions of compensation and resettlement negotiated by their family heads. A young protester and artisanal miner in Bagassi used the following words in 2018: “they [the mine executives] discussed with our old parents, our voices had not been heard [. . .] they are only working with the landowners”. However, young people are specifically affected by job shortages and are usually the one’s engaged in artisanal mining, in contrast to their elders. While in the late 1990s, ASM in southern and western Burkina Faso has mainly been a domain of (Mossi) migrants, interviewees reported how, since the early 2000s more and more “autochthon” young villagers became increasingly involved in small-scale mining activities.<sup>154</sup>

However, claims to leadership are contested and result in different alliances among multiple actors. The question of “who” is entitled to speak on behalf of “the community” is thus not only present during classical rounds of negotiation and compensation among company, state, and community actors, it also features prominently during strikes and protests. External socio-political factors and relations of power, as internal movement processes, constitute different categories of social actors and result in different repertoires of contention – even among the same age group.<sup>155</sup> While boundaries between institutionalized and non-institutionalized contentious politics are hard to draw with precision, I am referring to two main types of contention in Houndé and Bagassi. First, to “contained contention” as more organized and sustained cases, with established actors of claim-making that are mainly targeting “the state” as the national owner of subsoil resources. Second, I will discuss forms of “transgressive contention” that employ “innovative collective action”, such as spontaneous uprisings, roadblocks and riots.<sup>156</sup> In contrast to relatively established oppositional organizations, the latter mainly target the companies as the distributors of benefits from mining, and as the “actual” concessionary owners. While both forms of protest can be understood as “interlinked forms of contentious political action” against large-scale mining practices, this distinction is analytically and empirically fruitful.<sup>157</sup> It enables us to understand how opposing groups

<sup>154</sup> See, for example, Werthmann, *The Drawbacks of Privatization*.

<sup>155</sup> See V. Taylor and N. van Dyke, “‘Get Up, Stand up’: Tactical Repertoires of Social Movements”, in: D. A. Snow, S. A. Soule, H. Kriesi (eds.), *The Blackwell Companion to Social Movements*, Malden, MA: Blackwell, 2004, pp. 262–293; C. Tilly, *Regimes and Repertoires*, Chicago: University of Chicago Press, 2006.

<sup>156</sup> D. McAdam, S. G. Tarrow, and C. Tilly, *Dynamics of Contention*, Cambridge: Cambridge University Press, 2008 [2001], p. 7; Engels, *Different Means of Protest, Same Causes*.

<sup>157</sup> See *ibid.*, p. 92.

can have similar aims (e.g., access to the mining rent for “locals”), but still frame their analysis of the underlying problem in different scalar terms.<sup>158</sup> This results in different practices and ways of gaining access to benefits out of mining, through both government and company channels.

### Mobilization against “The State” in Houndé

Soon after Houndé Gold Operation (HGO), the local branch of Endeavour Mining, started constructing its industrial mine site in Houndé in April 2016, several civil society bodies and professional associations gathered together and aimed to establish an institutional structure that could best deal with the demands of the multinational company. In contrast to the majority of industrial mining projects that are located in rural areas, the “Houndé permit” is adjacent to the medium-sized town of Houndé with a population of around 150,000 in 2017.<sup>159</sup> Purchasing of consumption products and manufacturing goods by the mine, as the engagement of professional staff for the mine’s construction, should eventually lead to increasing employment possibilities in Houndé, as human resources and materials are available locally. That was at least the intention when the Coordination of the socio-professional bodies and youth associations of Tuy (*Coordination des Corps socioprofessionnels et des associations de la Jeunesse du Tuy*, CCJ) was founded in May 2016. The CCJ is a broad alliance regrouping 37 socio-professional organizations and civil society structures for networking reasons and in order to express unified demands to HGO.<sup>160</sup> To raise its claims, CCJ organizes meetings with its members and member organizations (manufacturers, service providers, artisanal miners, etc.), calls press conferences and meets with corporate and government representatives at a local and national level. It mainly uses petitions, memorandums, and protest marches as repertoires of contention against the mining company HGO.<sup>161</sup> Since the foundation of CCJ, there have been strong professional ties and personal overlaps with already existing civil society bodies of Houndé, such as the local branches of MBDHP and ODJ.

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<sup>158</sup> Mansfield, *Beyond Rescaling*, p. 470; Engels, *All Good Things Come from Below*.

<sup>159</sup> Commune urbaine de Houndé, *Plan Communal de Développement (PCD) 2017–2021 de Houndé*, p. 19.

<sup>160</sup> See Coordination des Corps socioprofessionnels et des associations de la Jeunesse du Tuy, “Liste des structures membres de la Coordination des Associations socioprofessionnels et de la Jeunesse du Tuy” [List of structures that are members of the Coordination of Socio-professional and Youth Associations of Tuy] (2017).

<sup>161</sup> See Engels, *Not Normal, Not Just*, p. 11.

Mainly unsatisfied with the employment situation at the mine, the CCJ published a list of 20 demands on 16 September 2016. In addition to higher employment rates for “local people” and a wage increase for all employees at the mine site, they made claims for the provision of professional training facilities in mining for “the local youth”. In case of non-respect of their demands, they would organize a protest march on the national highway (*route nationale n°1*), ending at the concession of HGO.<sup>162</sup> After an intervention of the mayor of Houndé and an agreement on the establishment of a local recruitment committee in October 2016, CCJ leaders were not yet satisfied.<sup>163</sup> At the end of November 2016, the coordination expressed its continued dissatisfaction with the still non-existent training facility for the “local youth”. According to CCJ representatives, the establishment of such a facility was promised by HGO to take place by the end of October 2016. Furthermore, CCJ claimed that more drivers and mechanics of HGO have to be recruited locally, as the respective professional requirements and competencies do evidently exist in Houndé. In December 2016 and January 2017, several meetings with representatives of HGO and civil society organizations were held. According to representatives of CCJ, demands were not taken seriously during these negotiations. Consequently, a “sit-in” at the mine site was announced for 26 January 2017.<sup>164</sup> What was perceived as a security threat by some HGO executives, ended up in accelerating the negotiation process around the professional training facility for 123 “young people” of Houndé.

However, this time, it was not the mayor of Houndé alone who intervened in calming down the tense situation. Instead, incidences were over-turning and the conflict became a national affair. One day after a visit from the Australian manager of Endeavour Mining’s Houndé project to the Ministry of Mines and Quarries (MMQ) on 23 January 2017, the minister cited the CCJ for a visit to his office in Ouagadougou. During the discussion with four CCJ representatives, the minister expressed understanding and support for the concerns of the “local youth” but asked his counterparts to resort to other means of contestation and to continue dialogue. He furthermore announced a visit to Houndé in order to reinforce the ministry’s collaboration efforts with the local youth. That same day, HGO officially

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**162** See G. Guiro, “Houndé gold opération: les jeunes se mobilisent pour la transparence” [Houndé gold operation: young people mobilise for transparency], *Burkina Demain*, 6 October 2016.

**163** See Houndé Gold Operation S.A., *Protocole d'accord*.

**164** Coordination des Corps socioprofessionnels et des associations de la Jeunesse du Tuy, “Sit-in sur HGO: lettre adressée au DG de HGO” [Sit-in at HGO: letter addressed to the CEO of HGO], Houndé (2017).

presented the signed contract between a training facility provider of Ouagadougou, the company, and the municipality of Houndé.<sup>165</sup>

While the board of CCJ consequently agreed on a rejection of the planned sit-in, other members of CCJ were more suspicious about the interventions of the different authorities. Their suspicion was later confirmed as CCJ did not figure on the invitation list for the ministerial visit to Houndé being announced for 11 February 2017.<sup>166</sup> The visit was appointed by the MMQ, organized by the High Commissioner of Tuy, and financed mainly by HGO. As CCJ was not officially announced, the only invited municipal youth organization (*Coordination des Associations et Mouvements de Jeunesse*, CAMJ) decided to boycott the meeting. Instead, it joined CCJ in organizing a protest march planned for 24 February 2017. At this point, it is worth noting that the institution against which the protest was now primarily directed was no longer the multinational company, but the provincial authority, personified by *Madame le Haut Commissaire*. As the planned meeting between the CCJ and the minister did not take place, the activists presented their already prepared memorandum to the district authority. It contained claims to both HGO and the political authorities with regard to the provision of direct and indirect jobs in mining.<sup>167</sup> On the morning of the planned protest march, a letter of the high commissioner appeared, banning the march and any public assembly by law. The explanatory statement of the letter referred to the alleged “illegality” of CCJ that, as an organization, was not recognized as an official counterpart by the provincial authority.<sup>168</sup>

Yet the non-recognition of their association by the central state was not the only reason for CCJ’s mobilization strategies mainly addressing governmental representatives and national politicians, and not the multinational company. During several interviews with activists, they insisted on the responsibility of the government for expropriation and dispossession of local populations because of the governmental awarding of mining titles to multinationals. Instead

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**165** Government of Burkina Faso, “Convention de Partenariat: Entre Houndé Gold Operation S.A., la Mairie de Houndé et Universal Institutes 2M” [Partnership agreement: Between Houndé Gold Operation S.A., Houndé Municipality and Universal Institutes 2M] (2017).

**166** See Government of Burkina Faso, “Invitation a une rencontre d’échanges” [Invitation to an exchange meeting], Houndé (2017).

**167** Coordination des Corps socioprofessionnels et des associations de la Jeunesse du Tuy, “Mémoire des Corps socioprofessionnel et de la Jeunesse du Tuy, Houndé le 11 février 2017”, Houndé (2017).

**168** Government of Burkina Faso, “Interdiction de tenue d’assemblée générale et de réunion publique” [Ban on holding general meetings and public meetings] (2017); E. Kaboré, “Houndé Gold: Difficile collaboration avec la jeunesse” [Houndé Gold: Difficult collaboration with youth], *L’Economiste du Faso*, 13 March 2017.

of begging corporations for more CSR programmes and projects, they claimed that the central state was responsible for reinvesting the national receipts it gets out of industrial mining in form of taxes and royalties. One of the leading activists of ODJ and MBDHP in Houndé claimed in November 2016 that the people of Burkina Faso have understood the fundamental problem: “there is no battle between Black and white, or between religious groups and different ethnicities, [. . .] there is a class struggle [in place]”. He referred to a class of (inter) national politicians and businesspersons, as opposed to local farmers and artisanal miners in conflicts over mining. Therefore, the central state only could fully assume its responsibilities through a nationalization of industrial mines.

Although non-recognized by the provincial authorities, the CCJ represented an established oppositional organization in the municipality of Houndé. Through its collaboration partners, it reached a public audience interested in social movements on local, national, and even global scales. The repertoires of contention of its members consisted primarily in writing petitions and letters with specific demands to politicians and company executives, and they used threats to strike and protest marches to accelerate the realization of political demands. In doing so, the CCJ actors strategically referred to different scales (“the global”, “the national”, and “the local”), and engaged in strategic alliances which were themselves scalar in nature.<sup>169</sup> Firstly, they regrouped important local civil society stakeholders (NGOs, unions, commercial federations, artisanal miners). They also engaged in and with strategic coalitions at a national scale, such as the *Réseau National de Lutte Anti-corruption* (REN-LAC) or the *Coalition Nationale de lutte Contre la Vie chère la Corruption, la Fraude et pour les libertés* (CCVC).<sup>170</sup> Thirdly, they aimed to inform a global public about their concerns through social media channels and strategic alliances with other Marxist-oriented movements around the world. In October 2017, an ODJ activist reported on human rights abuses and environmental threats in the context of large-scale mining at the Rosa-Luxemburg foundation in Berlin. In his talk, he interestingly referred much more to a conflict between multinational corporations and the Burkinabè nation rather than accusing the national government of “looting the country”. The discursive referencing to “neocolonialism” instead of a corrupt and paternalistic political elite apparently addressed a specific audience interested in the global and not so much in more national dimensions of mining capitalism.

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<sup>169</sup> Engels, *Not Normal, Not Just*, p. 11; Engels, *All Good Things Come from Below*.

<sup>170</sup> See Organisation Démocratique de la Jeunesse Burkina Faso, “Présentation”, <https://www.odj-burkina.org/index.php/fr/qui-sommes-nous/presentation> (accessed 30 August 2019).



As the case of CCJ illustrates, civil society activists recognized that “the national” as a scalar dimension continues to play an important role in the regulation of access to mining assets.<sup>171</sup> While constantly referring to different regulatory bodies, namely “the company” and “the state”, they were reshaping authorities and their responsibilities in resource extraction locally, nationally, and even globally. Besides the “just” distribution of mining benefits, their mobilization strategies fundamentally draw upon legal and moral questions about claims to subsoil and land ownership. In their view, the subsoil belongs to the people (for instance according to the constitution of Burkina Faso), and the Burkinabè central state has not yet assumed responsibility for the good of local people in access relationships. In the concessions themselves, CCJ activists therefore tended to (re)assert and (re)claim stateness in the mining sector.

### **Mobilization against “The Company” in Houndé and Bagassi**

Social relations in concessions not only “thicken” through claims that target representatives of the national government, but also those directly targeting corporate agents.<sup>172</sup> In doing so, individuals and groups of people may employ other, more confrontational means of contention due to situational factors, or to their more socio-economic marginalized position within society at large.<sup>173</sup> While Bettina Engels has stated a “shift” of repertoires of contention towards more institutionalized forms of protest, empirical evidence from the two studied mine sites in Burkina Faso illustrates that spontaneous gatherings, non-hierarchically organized road blocks and riots continue to occur alongside more organized forms of protest and contention.<sup>174</sup> The controversial process around the creation and implementation of training opportunities for “123 young people of the locality” shows a diversity of actors and groups of actors involved in these issues. Apart from established non-governmental organizations (NGOs) or unions, these are namely youth movements resorting to non-conventional means of protest.

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<sup>171</sup> See Mansfield, *Beyond Rescaling*, p. 470.

<sup>172</sup> See Côte and Korf, *Making Concessions*.

<sup>173</sup> See Engels, *Different Means of Protest, Same Causes*; A. Nassauer, “Situational Dynamics and the Emergence of Violence in Protests”, *Psychology of Violence* 8 (2018) 3, pp. 293–304; F. F. Piven and R. A. Cloward, *Poor People’s Movements. Why They Succeed, How They Fail*, New York: Vintage Books, 1979.

<sup>174</sup> See Engels, *Wann werden Konflikte manifest*, p. 311.

That the rather spontaneous uprisings tended to hold the respective company (instead of the state) responsible for (limited) benefits accruing out of mining, became particularly obvious during and after the selection process for the professional training facility in Houndé. Since the beginning of February 2017, the professional training facility has been conjointly set up by HGO, the municipality of Houndé, and the training provider *Cabinet Universal Institute 2M*, based in the capital Ouagadougou.<sup>175</sup> The 123 persons selected received several months of training in mining relevant activities, such as construction engineering, diamond drilling, or mining administration. After an initial theoretical training in Ouagadougou, the trainees engaged in remunerated internships at the mine site in Houndé. During several meetings, the company continuously insisted that a successful graduation of the training would not automatically lead to recruitment at the mine site. HGO rather intended to continue its recruitment on an “as needed” basis, while CSR managers put an emphasis on keeping employees from the construction phase and providing them job opportunities during the exploitation phase of the mine. In terms of total numbers of local employees needed for operations starting in October 2017, Houndé Gold announced a reduction by one third compared to the construction phase.<sup>176</sup> However, this uncertainty about future recruitment did not hamper a huge amount of young people to deposit their application. Within the first ten days of February, 1,407 persons applied for the 123 positions available.

One year later, in February 2018, most of the recruited trainees had completed their internship without the prospect of seeking employment at the mine site. Unsurprisingly, but disappointing for the affected trainees, HGO had only granted or promised jobs to a couple of former and current trainees, releasing many young people to the national labour market. In the early morning of 22 February, a significant number of the “123” and hundreds of local allies erected a roadblock on the national highway. During the almost 24 hours strike, young demonstrators hindered the passage of all vehicles seeking to reach the mine site.<sup>177</sup> With banners and chanting at their disposal, they claimed the resignation of the mine’s community affairs manager and “a solution” to the employment situation for the “123”, and young people of Houndé in general (see Figure 5.2). During the day, a pamphlet appeared indicating their various demands, mainly

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175 See Government of Burkina Faso, *Convention de Partenariat*.

176 Endeavour Mining Corporation, “Endeavour Declares Commercial Production at Hounde After Quick Ramp-up to Nameplate Capacity”, *GlobalNewswire*, 31 October 2017.

177 B-Demain, “Chaude journée de jeudi à Houndé !” [Hot thursday in Houndé!], *Burkina Demain*, 22 February 2018; Engels, *Not Normal, Not Just*, p. 11.



**Figure 5.2:** Protests in Houndé in February 2018.

addressing the company. A second protest march of the youth alliance took place on 17 April 2018 and was met with repression by security forces. Five protestors were arrested for “disturbing of law and order” and released some weeks later.

A similar protest took place in Bagassi in October 2018, only two days after the company Roxgold had received the “2018 Best Corporate Responsibility Award” at the West Africa’s Mining Activities Week (SAMAOW) in Ouagadougou on 28 September 2018. Young protestors, who were unsatisfied with the company’s concession extension (*Bagassi Sud*) since April 2018, erected a roadblock in front of the mine’s entrance in Bagassi. As the company’s directors had not met these demands, another roadblock was set in place for the early morning of 9 October. The company responded to the disturbance by sending the national police forces (*Compagnies Républicaines de Sécurité*, CRS) in to dissolve the gathering. This they did using teargas and physical violence. The young demonstrators then resorted to more radical means of protest: they destroyed the houses and facilities of members of

the local authorities involved in the recruitment of “local staff” for the mine, accusing them of corruption and mismanagement.<sup>178</sup>

However, the main target of contestation was the company and its more senior staff. The young protesters requested the resignation of the mine site’s community relations officer and demanded more employment facilities for local youth. They further claimed better working conditions for day labourers and other local staff. One main topic of contention was the central place artisanal gold mining still had for their livelihood strategies. Since the only remaining artisanal mining site was dissolved due to the Bagassi South development, they demanded the approval of an alternative site on the 230 km<sup>2</sup> exploration concession of Roxgold, where they could continue with artisanal gold mining activities.<sup>179</sup> Instead of addressing the state for having leased the land to a multinational company, the young protesters largely attributed the responsibilities for restricted access to land and evictions to the mining company.

Protest that uses blockades or violent means can easily be branded as illegitimate and criminal and is thus often met with repression by state authorities.<sup>180</sup> Both youth movements in Bagassi and Houndé were spontaneous in nature, comprising relatively weak and non-hierarchical organizing structures. The spontaneous revolts extended largely beyond actors and groups that were traditionally engaged in contentious mining politics, such as ODJ or MBDHP. As a result, the forms of protest were not only dismissed by company executives, but also by other segments of the “mining community” and organized militants. A leading member of MBDHP in Houndé, for instance, one month later completely dismissed the youth protest of February 2018, accusing participants of “pursuing personal interests”. Other militants in Houndé and Bagassi were less critical about the initiative of the local youth, but demanded a closer collaboration with existing civil society bodies and the recourse to already established negotiation frameworks. However, they also perceived the character of the youth protest as “transgressive” and thus (re)inscribed the assertion that only particular repertoires of contention are legitimate while others are not.

While these claims may reinforce ODJ’s, MBDHP’s, and CCJ’s position as a legitimate negotiation partner for corporate and governmental actors, spontaneous

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**178** See N. Ouédraogo, “Manifestation à la mine d’or de Bagassi” [Demonstration at the Bagassi gold mine], *aOuaga.com*, 12 October 2018.

**179** See Residents of Bagassi, “Plateforme revendicative des populations riveraines de la société Roxgold SANU SA de Yaramoko” [A platform of demands from the people living near Roxgold SANU SA in Yaramoko] (2018).

**180** Hönke, *Transnational Clientelism, Global (Resource) Governance, and the Disciplining of Dissent*, p. 116.

riots and roadblocks and more established forms of protest can be seen as related to each other. As Bettina Engels has shown for different forms of protest against the rising costs of living in 2007 and 2008 in Ouagadougou, different forms of contention do strategically refer to each other to reinforce their own position but also to prove that their claims are those of “the popular classes”.<sup>181</sup> Civil society groups and activists all question the modes of distributing benefits out of large-scale mining and employ moral assumptions and norms about access to land and resources. Yet the content and extent to which expropriation and compensation are perceived as “just” and “unjust” and the degree to which company or government representatives are held responsible for restricted access differs significantly among actors and groups of actors. While in the case of ODJ, MDBHP, and CCJ, *Madame le Haut Commissaire* served as an emblematic symbol of governmental mismanagement in the mining sector, the youth movements of Houndé and Bagassi mainly addressed the respective community relations officer of the company. The underlying problem (the non-equal distribution of access to mining benefits) is thus framed in different scalar terms. “Gaining access to a globally coveted mining resource” can thus be achieved through various channels, including forms of contention that are directly addressing government authorities, and therefore reaffirming stateness in the mining sector.<sup>182</sup> The demands of claimants are also temporal in nature and range from the immediate provision of jobs and compensation to the future stoppage of awarding mining concessions, to a nationalization of large-scale mining projects.<sup>183</sup> While the spontaneous youth movements seem to take the proxy role of mining executives in regulating the sector for granted, the more traditional civil society stakeholders mainly refer to the central state’s authority in their claims. Yet both of them “reshape political authority” in the mining sector.<sup>184</sup>

## Conclusion

Concessions are not simply discrete territories exemplified by lines on the ground and lines on maps.<sup>185</sup> They must thus be seen as a result of socio-spatial ordering and multi-scalar practices through which the responsibilities of companies, states, and communities continuously become negotiated and

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**181** See Engels, *Different Means of Protest, Same Causes*.

**182** See Q. Mégret, “Gaining Access to a Globally Coveted Mining Resource: A Case Study in Burkina Faso”, *International Social Science Journal* 61 (2010) 202, pp. 389–398.

**183** Engels, *Not Normal, Not Just*, p. 13.

**184** Schubert, Engel and Macamo, *Introduction: Boom and Bust*, p. 14.

**185** Banks, *Activities of TNCs in Extractive Industries in Asia and the Pacific*, p. 47.

restructured. Therefore, concession-making is far from being a simple technical endeavour through which property claims change hands from one unit of governance (“the state”) to another (“the company”). The deep entanglement of “global capital” with these practices does not in any case lead to a simple retreat of “the national” from mining governance. Quite the contrary, principles of stateness and the “resource-state-nexus” continue to be powerful in organizing resource extraction.<sup>186</sup> We therefore should not simply assume a rescaling of governance from “the national” to “the local” and “the global”, but analyse “the national” as a dimension of political, economic, and social practice, and vested with other scales.<sup>187</sup> The different access relationships in Burkina Faso’s mining sector eventually involve a multiplicity of planners and claimants attempting to (re)organize the global economy of mining. Making the mining sector more transparent serves simultaneously national government bureaucrats, local civil society actors, and a global regimes of “good” mining governance. National policies of mapping extractive spaces and their ownership structures in the post-Compaoré era must therefore be seen as deeply entangled with and shaped by global principles and standards such as EITI. Contrary to assumptions about predatory states in which a small political-economic elite profits from non-transparency and rent-seeking in mining governance, different Burkinabè government bodies engage in and profit from increased transparency. However, recent national efforts in (re)ordering access and ownership relationships in and of extractive spaces also gave rise to emerging debates about these fundamental principles. *Access Relationships* has highlighted how the process of granting and acquiring mining titles in Burkina Faso does not simply take place on virgin land. Making concessions at a local level often challenges and surpasses cadastral lines, involves people in and beyond the concessions, and potentially leads to a thickening of social relations.<sup>188</sup> Yet the agency of those directly affected by MIDR is limited in these negotiation processes due to the moral and legal authority governments and corporations claim in concession-making.

BUNEE representatives stated in 2018 that the government is currently developing a compensation scheme that features amounts, periods, and modalities of compensation, and which aims at establishing a national standard for MIDR. The absence of clear national guidelines and laws on MIDR, in the past, set the ground for individual negotiations between company and community actors that potentially contradict principles of transparency in large-scale mining deals.

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**186** Luning, *The Future of Artisanal Miners from a Large-Scale Perspective*, p. 68; Bridge, *Resource Geographies II*.

**187** Mansfield, *Beyond Rescaling*, p. 471.

**188** See Côte and Korf, *Making Concessions*.

The chapter has further revealed how individual compensation agreements, Feasibility Studies, and Environmental and Social Impact Assessments (ESIAs) are not necessarily accessible to all involved parties. Yet they represent the recurrent technical tools and standards of the global mining industry to justify the potential social and environmental harms of a mining project. The latter should be monitored to eventually not outnumber the potential benefits and gains for local, national and global economies. In their design, however, these “global” guidelines and standards tend to overlook structural inequalities between buyers and sellers, lenders and leasers. More importantly, they imply high levels of uncertainty around land acquisitions and leasing.<sup>189</sup> In Burkina Faso this uncertainty is reinforced through the prevailing lack of experience with post-closure situations in the country.

The Burkinabè government attempts to counter these uncertainties and legal gaps and thus has been engaged in a profound institutional reforming process since 2015. This process led to the creation of new policy-makers and implementation agencies in the mining sector. As the ambivalent role of ANEEMAS in clearing the way for large-scale investors illustrates, these new attempts of reasserting stateness promoted by the Burkinabè government do not always play out to the benefit of local populations and artisanal miners. The reformed national mining code continues to give priority to industrial mining. The structural and legal dimensions of this concessionary regime (and the principles of state ownership of mineral resources) have also come to the forefront during strikes and protests against large-scale mining practices in Houndé and Bagassi. Civil society activists and even young people of the same age group speak by no means with one voice when articulating their concerns or addressing claims for access and a more just repartition of benefits. They use different “repertoires of contention” and strategically address company and state representatives, therefore reproducing specific responsibilities the state and the corporate world are supposed to meet.<sup>190</sup> That various actors of the Burkinabè mining sector point to the custodianship role of the central state in concession-making, has various consequences for the access regimes in place. As long as mining executives, according to the Canadian geologist Vincent in *Alidou l'orpailleur*, are legally entitled by the central government (“we have the authorization of your government”) to govern extractive spaces for a specific period of time, they can hardly be held responsible and accountable for the long-term impacts of their concession-making practices.<sup>191</sup>

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**189** See Owen and Kemp, *Mining-Induced Displacement and Resettlement*, p. 482.

**190** See Tilly and Tarrow, *Contentious Politics*.

**191** See Delisle, *Alidou, l'orpailleur*, p. 14.