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NORTHERN BENIN AS  
SEMI-AUTONOMOUS  
SOCIAL FIELDS**

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# Gold Mining Communities in Northern Benin as Semi-autonomous Social Fields

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## **Abstract**

The paper<sup>2</sup> addresses the plural social and juridical context of non-industrial gold mining in regions of immigration in West Africa today. A case study from Benin has been chosen as empirical background. The text deals with the development of specific norms in that field, “rules of the game” as regards access to gold deposits, the larger social setting of the mining communities and institutions of conflict settlement. Finally, the shifting relationship of gold miners to the central state and its contradictory politics will be explored.

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## Introduction

This paper discusses the social and political context of small-scale gold mining in northern Benin. In a micro study I will analyse the establishment of social relations between the economic actors as regards the extraction of gold. Furthermore, I will also attempt to shed light on the relationships between new immigrants and the local population in the local communities.

I will start from the assumption that components of a plural legal constellation prevail in this field of study. Small-scale gold mining in northern Benin represents a social field that is for the most part out of the control of the central state.<sup>3</sup> Officially, all economic activities of gold extraction and gold trade are considered to be illegal, although the Benin mining agency has recently shifted its policy towards partial toleration.

The whole complex of relationships between the major actors, the rules of access to resources as well as norms of conflict settlement could be considered a semi-autonomous social field, a term introduced by Sally Falk Moore (1978).<sup>4</sup> Such a social configuration is never entirely autonomous; it is part of the wider society.<sup>5</sup> The state and state laws in particular may set the most important limits to its existence, while on the other hand the prevalence of such a field hinders the state in its autonomy and monopoly to determine norms in the larger society.

After a brief ethnographic description of gold mining in northern Benin, the first part of the paper explores the particular labour relations in the mining fields. The second part analyses the various ways in which conflicts are being treated. The precarious relations between the governmental authorities and the gold miners will be analysed in the third part of the paper. Finally I

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<sup>3</sup> Such economic fields are often considered as being part of the informal sector.

<sup>4</sup> Semi-autonomous social fields are generally characterised by the existence of norms und sanctions which are valid within a limited social frame and which are accepted by the interdependent actors the field is composed of. The term is a “tool for the description and analysis of the social organisation of this concrete social situation“ (Griffith 1995: 212). The rules prevailing in those semi-autonomous social fields superimpose those of the official state law, although they may be of very different origins. On the one hand, new laws are created, on the other hand, the actors may in part adjust to norms introduced from other fields, including that of the state. A particular set of legal mechanisms typical for a field is set up (Moore 1978:728). The degree of institutionalisation of norms and sanctions may be different from one semi-autonomous social field to another. The concept of semi-autonomous social field seems to me appropriate to describe the situation of small-scale gold mining in northern Benin because it operates with categories such as general rules and roles, practices and institutions but at the same time allows an integration of a certain heterogeneity as regards normative references which prevail in all those fields.

<sup>5</sup> „A semi-autonomous social field is only partially autonomous, it can regulate its internal affairs to a certain extent - maintain its own norms and resist the penetration of competing external norms - but at the same time its members are also members of many other social fields and, as such, exposed to many other sources of regulation“ (Griffith 1995:211). The influence of other fields (especially with those of the state jurisdiction) comes in on crossing points, “points of articulation” as Moore puts it (ibid.), which are important for processes of change, as Moore demonstrates in the case of land rights in Tanzania.

will discuss theoretical points in relation to similar settings. I argue in favour of the notion of an elaborated legal field, thereby challenging the conventional views in the sociology of law.

### **Economic and Power Relations in Gold Mining Communities in Northern Benin**

We are dealing with a phenomenon that, in the last decade, has become very widespread in West Africa: The growth of small-scale (artisan) gold mining, related to massive labour migration into rural areas (above all in Mali, Burkina Faso and Guinea).<sup>6</sup> The exploitation of new mining sites leads in most cases to the rapid establishment of new immigrant communities with new markets and the spontaneous development of infrastructures and services. Very often, conflicts emerge between gold miners and state authorities, between the locals and immigrants as well as between local interest groups themselves concerning the rights of exploitation and settlement.<sup>7</sup>

In Northern Benin, the gold boom started in 1993. Foreign gold miners from Ghana and Togo first migrated to the region south of Natitingou seeking gold. After their initial success, they set off a gold boom and further massive immigration of labour migrants from all over the region and abroad. Although the mine close to the village of Kwatena was known to the locals because of its partial exploitation in colonial times, there was no local tradition of gold mining to that date, mainly because of rigid state control of those zones considered to be a sole property of the state up to the end of the 1980s.

Thus miners profited from a period of political transition and appropriated the deposits with simple techniques. In the following years the governmental authorities tried several times to expel the miners by force and confiscated equipments, money and gold. But in the long run, they had little success. At first a cohort of the *gendarmerie* deployed at the site were corrupted, allowing further mining against bribes. Once the forces were withdrawn, many miners just returned to the gold fields.

Governmental policy shifted towards a partial legalisation in 1999. Since then a series of negotiations have been started, aimed at organising gold miners into cooperatives that would sell their gold to the state. This process is far from being concluded. (I will come back to this issue again later). At the end of 2001, new expulsions took place, mainly to drive foreigners out of the mining region.

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<sup>6</sup> See also Werthmann (2000) for a recent case study in Burkina Faso.

<sup>7</sup> Issues related to the everyday organisation of labour in the gold fields, the distribution of the profits, the circulation of goods, the arrangement of conflicts and interethnic relations are major issues of my research project. Comparative fieldwork will be carried out in Burkina Faso, Ghana and Mali.

### *Brief Ethnographic Description*

The mining region is situated in the north-western part of Benin, in the Atakora Mountains.

Map: gold fields (mountain veins and alluvial deposits) in northern Atakora, Republic of Benin (source: Section géographique du M.R.E., Cotonou 1995).



The gold miners work along the rivers and mountain slopes, exploiting alluvial and elluvial deposits as well as engaging in small-scale mountain mining. They use simple equipment such as pans, sluices, chisels and sledgehammers. The miners developed an intricate system of labour organisation including hierarchies, working shifts and modes of sharing the yield. In this paper I cannot develop a more detailed ethnographic account of the various ways of small-scale gold exploitation.<sup>8</sup> I will rather focus on the main actors operating in that field.

The main actors in the mining area are:

- Patrons or *chefs d'équipe*
- *assistants or secrétaires*
- Workers
- Assistants
- Guards
- Women and children pounding and milling
- Gold traders

These categories could of course be refined according to social and ethnic origin, age, gender etc.

<sup>8</sup> I do not employ the term “gold rush” because it infers too much irrational social action and chaos. I would like to focus on the many more regulated social relations in that field that are of more interest to the ethnological discussion. This does not suggest that I deny the dramatic dimensions caused by the rapid changing of consumer practices, alcohol abuse, the monetisation of everyday life, the production of winners and losers and the use of violence in many gold mining areas.

Gold is sold as soon as possible in small amounts to petty traders. Local scales as well as simple gold weights such as 1 F CFA coins and matchsticks are used.<sup>9</sup> Most of the local petty traders are trading agents for master traders;<sup>10</sup> part of informal and international trading networks leading up to international gold traders (Grätz 2000). Most gold traders act as moneylenders, thus obliging the miners to sell their gold to them.

As I have stressed above, gold mining in northern Benin is linked to economic activities largely outside the control of the state and ignores official national laws. This generally includes the miners disregard for any official demands for formal licences to explore and to exploit deposits, the disrespect of any commercial registrations, tax evasion, work in forbidden zones, the refusal to pay compensation to peasants as well as the smuggling of gold.

Furthermore, the mining communities developed their own ways of conflict settlement without appealing to official institutions (a fairly surprising fact considering the official “illegality” of most of their activities). The arrangements between the various, in most cases mixed ethnic working teams as well as those between immigrant gold miners and local inhabitants are negotiated and established on an “informal” basis.

We are dealing here with the emergence of a distinct economic and social sphere, shaped by the specific method of gold extraction and labour organisation, but also by the distribution of incomes, linked to spheres of circulation and consumption, including the emergence of markets, services and methods of accumulation. My research thus addresses the divergence between the official state law – as is developed, for example, in the Benin *Code Minier* - and local rules, e.g. the difference between official laws and legal practice. This discrepancy is especially significant as regards the access to resources, labour organisation and the legitimacy of mediators.

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<sup>9</sup> For a hard day’s work, miners may earn between 1000 and 30 000 F CFA.

<sup>10</sup> The way in which gold trading networks are organised is similar to trading systems in rural markets, where trading agents act as intermediary buyers on behalf of master traders, e.g. as described by Mahir Saul for Burkina Faso 1997 and Adanguidi (2001) for Benin. The main difference here is, however, not its (official) illegality, but its heterogeneity in terms of the ethnic and social background of traders on different levels of the system. Gold trade does not fit into the “ethnic argument”: it is neither embedded in kinship relations nor does it constitute a distinct corporate group with an exclusive group identity, at least not yet.

## **General Modes of Conflict Settlement Related to Artisan Gold Mining in the Atakora Region**

In the following chapter I will focus on general rules, typical conflicts and patterns of settlement. For methodological reasons, I would like initially to distinguish two aspects:<sup>11</sup>

1. Norms, rights and repertoires of sanctions relating to the core economic system of gold extraction with its economic activities and economic circuits, and
2. Norms which are linked to the context of the wider social field of new settler communities in the vicinity of the gold mines.<sup>12</sup>

### *The Exploitation of Gold Deposits and Basic Use Rights*

In this semi-autonomous social field we have to deal with spheres where normative rules are relatively stable, and other domains that nonetheless tend to undergo – at least according to my observations in the period of fieldwork - processes of more intense negotiation.<sup>13</sup>

The first sphere embraces rules of sharing and distribution of the yields and certain modes of payment for the work of assistants, for leasing equipment and houses that only change slowly.

The second sphere includes the areas of conflict settlement, especially as regards use rights to gold deposits. It is this field where – although settled in most cases on a basis of working agreements - most disputes between individuals or interest groups occur.

Generally, rights of exploitation of shafts and pits are attributed to the person who discovered them first and started exploitation first, assuming he or she has access to all necessary technical and financial means to do so. In case this person does not possess these means (or does so partially) he/she may conclude some sort of contract with a small-scale entrepreneur or patron who engages in exploitation against shares in the yield or the payment of one-off or recurring compensation.

The shaft owner operates as an investor, but should at the same time act (with all rights and duties) as team leader (*chef d'équipe*). In case the owner is not able (or not willing) to participate personally in running the extraction works on site, he/she may hire a miner as a trusted organiser

<sup>11</sup> I make this distinction primarily to ease the presentation of the empirical data. Both levels are of course very much intertwined.

<sup>12</sup> Different to many other gold mining areas, the immigrants do not settle apart from the locals but rather among them, in most cases renting rooms or houses.

<sup>13</sup> Moore states that the partial indeterminacy of complex normative systems is rather normal: “One must postulate a complex of rules for any situation and also assume that there is in many legal relations a measure of indefiniteness and uncertainty, and that these qualities are essential to the operation of legal systems” (Moore 1969:377).

(*secrétaire*). Thus the actual participation of a chief in the exploration and extraction work may be very different: from active permanent engagement of his own labour force to the hiring of agents and specialists for each task. The patron usually acquires working equipment, rents motor pumps, feeds the workers and pays medical costs when needed (which he may deduct later when it comes to sharing the profits).

Disputes between shaft owners and workers are settled in most cases by the help of prestigious, experienced shaft owners or in meetings of all major shaft owners working at a particular site.<sup>14</sup> These persons also intervene when it comes to quarrels between gold miners of a certain team, that may not be solved by the nominal shaft owner or that occur in his absence (although he will be informed).

The shaft owner (*patron, chef de parcelle, chef de trou*) acquires the use rights for the period of effective exploitation of the shaft or plot. He/she may lose these rights if he/she abandons the shaft for a longer period of time, or lets it to others (with or without compensation, rent, shares etc.) for a longer period of time. This also applies when the shaft is abandoned, even if later, it proves to be very prosperous when being exploited by successors. This is a widespread cause of dispute, which is generally settled in favour of the most recent user, who nevertheless may be asked to pay off a certain amount of compensation to the first “explorer”.

Taking the actual exploitation into account, we cannot relate to property (in the classical, narrower sense)<sup>15</sup> but rather to temporal use rights because these entitlements have to be renewed by permanent actual engagement on the mining site. On the other hand, there may be cases of “selling the claim” when an owner no longer has the means to exploit it, wants to leave permanently the mining area or “rents out a shaft” for a limited absence. The terms of contract may either include finite payments or shares in raw products (gold containing ore).<sup>16</sup>

A second pattern of use rights refers to those shafts, which are relatively large, prosperous and difficult to exploit by only one team or which were discovered by several teams together. In this case, the teams work in turn. One or more teams may often work a week or up to ten days before others may enter the shaft. The previous team will engage in processing work and subsequently resting, waiting for their new period of exploitation. This means to keep the teams small, which makes it easier to manage them by the individual team leader.

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<sup>14</sup> In some cases there were also disputes about the sharing of the yields within a team when „locals” demanded a higher share than “strangers”. These cases are, however, rather exceptional.

<sup>15</sup> Hann, however, employs a much broader definition of property (Hann 2000:1). See also von Benda-Beckmann, Franz and Keebet (1999).

<sup>16</sup> In arrangements similar to tenancy, there are rarely fixed sums but irregularly paid shares (in most cases in raw products), the amount of which is very much determined by the actual success of the team.



All territorial rights of exploitation (in terms of limits between shafts or zones of exploitation)<sup>17</sup> are debated and divided among the shaft owners. This process could hardly be regarded as assigning permanent personal property because it is, as mentioned above, closely linked to actual usage of the shafts. As a consequence, delimitation disputes are also attempted to be settled within the group of shaft owners (see Table 1). These quarrels between single shaft owners occur more often whereas conflicts between groups of shaft owners of different villages are more rare. This may occur when it comes to the discovery of larger, prosperous shafts. In these instances, and when the shaft allows a division into sectors, it was decided to exploit the gold veins by several teams in turns.

As a rule, gold miners try to avoid appealing to any courts outside their group. Only in very few cases were problems presented to the local village head and even more rarely to governmental authorities (see below).

*Table 1: Major forums of dispute settlement in (mountain) gold mining*

<b>Case</b>	<b>Actors / Mediators</b>
Verbal disputes between individual gold miners, arguments, quarrels, slanders	Individual shaft owners (team leaders) Older (experienced) gold miners as mediators <sup>18</sup>
Disputes about stolen stones, sand	Shaft owners Experienced gold miners Gathering of team leaders / shaft owners
Disputes about working times, coming late etc.	Sanctions applied by shaft owners
Disputes about inequality in sharing the yields, cheating	Gathering of team leaders
Conflicts about the disregarding of marked zones of exploitation	Gathering of team leaders Village authorities
Theft of private property	Village head Representatives of immigrant communities;
no reimbursement of debts a) to a chef d'équipe, or a gold trader b) to local inhabitants, landlords	Village head /village council Representatives of immigrant communities

<sup>17</sup> The delimitation of zones and claims are marked out (by the help of charcoal, wooden barriers etc.) in the presence of witnesses.

<sup>18</sup> Most actions of dispute arrangement follow a wide range of procedures from mediation, arbitration to principles of adjudication. According to Gluckman, adjudication "[...] is the process by which, in African tribes without courts, judges take and assess the evidence, examine what they regard as the facts, and come to a decision in favour of one party rather than another" (Gluckman 1965:183).

*Basic Rules and their Negotiation in the Wider Social Field of Village Communities*

This concerns above all “hard rules”, i.e. those negotiated in public (in this case: the rural community of Kwatena and Tchantangou) and the disrespect thereof may lead directly to conflicts or debates and their sanctioning. More often we have to deal with many not very elaborate but nevertheless pertinent “soft” rules, i.e. those that are not publicly addressed and the disregard of which may not lead to immediate sanctions but only to disapproval.

*“Hard rules” of regulations concern:*

- General rights of housing and settlement
- Reaction to thefts, betrayal, adultery etc.
- Retorting to public offence
- Use of public services and infrastructure
- Marriage norms, general relations between the sexes (concubinage, inheritance, rights of the husband / wife over children and vice versa)

*“Soft rules” primarily concern:*

- Symbolic exchange and rules of conduct including politeness, greetings, signs of respect
- Use of Dendi as lingua franca, specific termini tecnici in gold mining
- Public clothing and food habits (alcohol), places, participants and conduct of festivities, rituals
- The appropriation of religious spaces

The following table shows some of those spheres, above all rights of settlement.

*Table 2: Normative rules in the wider local community as regard rights of settlement*

<b>Rules</b>	<b>Sanctions</b>	<b>Room for manoeuvre</b>
Payment of rent	Notice to quit, reduction of aid, shame	Compensation by help Assistance in agricultural work etc.
Guest- host System ( <i>tutoriat</i> )		
Expectation to build a house when dwelling for a longer period		
Participation in money collections for communal projects, rituals, festivities	Shame, payment of compensation, refusal of settlement rights	Generosity for partial exemption
No dwelling without consensus and assignment of territories		Shift to remote camps

The term patronal guest-host system embraces all arrangements between landlords and tenants – in most cases immigrants – in the gold mining communities. Most immigrant gold miners as well as those offering services (traders, barkeepers, mechanics etc.) do not live – different to other areas – outside the local villages. Each immigrant is obliged to look for a landlord. In most cases this is a local inhabitant (*Waaba* or *Betammaribe*). The landlord will let either a room or a small house (typical are round huts), either inside his/her own compound or in the vicinity. Nominally, he/she may expect the payment of the rent on a monthly basis.<sup>19</sup> Sometimes he/she may include some help in domestic works in the (unwritten) contract. Beyond that agreement, the host is in many respects “responsible” for his/her tenant: In case there is a dispute between the guest and some other villager, the landlord is expected to accompany “his/her stranger” to the village head to mediate.

Other local inhabitants expect the landlord to keep an eye on the general conduct of his/her guest in the village and ensure that they adapt to basic local habits and practices. When it comes to fund raising campaigns, it is the landlord who should convince the immigrant to participate.

In case the immigrant wishes to build his own house, or plant a garden, it is in the first place his/her landlord who may – in agreement with the village head – find a place to build a house, or to let him fields, in most cases on his own (lineage based) land. A landlord may also be someone who himself was an immigrant but who has been dwelling in the village for a longer period and disposes of his own compound.

Basically, this system is “borrowed”, transferred from the general relationships between hosts and rural labour migrants in the region, and is also to be found in Burkina Faso and elsewhere. It is, nevertheless, adapted and transformed according to the specific situation in the gold mining region. The locals built many houses just to rent them to immigrants. Thus, they profited from the presence of strangers and therefore do not want to limit immigration. Accordingly, they do not agree with the general governmental position of keeping foreign immigrants out of the gold mining region. The local population aims, rather, to control the immigrants, to make them contribute to the development of the village and to establish a power balance between mostly immigrant shaft-owners in the small-scale gold mining sector and the village authorities.

The majority of strangers, however, principally accept these demands of the local inhabitants, including the mentioned fund-raisers (*cotisations*, see below) and assume that generally, their

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<sup>19</sup> For a room in a cement house the rent is up to 5000 FCFA a month, a small round hut with a straw roof costs between 1000-1500 FCFA a month. The prices were much higher at the beginning of the gold boom when the demand was much higher.

access to the gold deposits and the particular rules in that field are not questioned. In this respect, we may assume a sort of “unwritten contract” on many levels between these interest groups in general.

### **The Relationship between Local Inhabitants and Immigrants**

Processes of conflict, but also differentiated integration, thus mark the relationship between the local residents and immigrant miners, traders and craftsmen. As opposed to other rural settings in West Africa today, there are only few disputes, which could be regarded as classical land disputes, for which there are several reasons. The first owes to the fact that most of the gold fields are part of a “forbidden zone”, which is officially claimed by governmental authorities as sole state property. Secondly, most of the gold mining sites are not situated on arable land and so there are – with one exception<sup>20</sup>- no classical land disputes between local settlers and immigrant gold miners.

Nevertheless, the self-declared “autochthonous” people demand direct and indirect “contributions” from time to time: cash for (actual or fictional) communal projects, for religious ceremonies to be performed in order to get good luck (for example a yearly ceremony to sacrifice a bull in Tchantangou by the earth priest), “gifts” and invitations to big men, etc.

The amount of all these “taxes” may change and depends on the general power balance in the gold mining communities, above all that between immigrants and locals, but also between shaft owners, the official representatives of the miners and village authorities.

#### *Local Power Relations, Discursive Strategies and Social Practices*

There are diverse dimensions that the local discourse takes: often local settler groups point to a certain privileged use right of the “first settlers”.<sup>21</sup> This is partially linked to religious references,

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<sup>20</sup> At the end of 2000 a peasant claimed the payment of compensation for lost arable land along the river close to Kusigu. Some miners worked there primarily at the end of the dry season. The peasant went to the *gendarmerie*, but the *gendarmes* rejected his complaint (apparently he did not bribe them enough, people said) and pointed out the fact that – although he in fact “informally” cultivated land in that area - the territory had since the seventies been demarcated as property of the state. Finally, after mediation from the village head, some the major shaft owners operating in the zone agreed to a payment of a modest sum of compensation for each prospering pit. The shaft owners actually pay only when the peasant shows up personally on the site. The amount is constantly debated between both sides.

<sup>21</sup> It should be noted that the neighbouring villages of Kwatena and Tchantangou were quite small before the gold boom and profited from the immigration of ethnic *Waaba* and *Betammaribe* from neighbouring areas. The village of Kwatena was, incidentally, already enlarged in 1960 by forced resettlements of Waaba from hamlets in the region (*regroupements*).

i.e. the authority given by ancestral forces that are constantly renewed by ceremonies at shrines and holy grounds. Many people also claim a sort of moral right of the descendents of those people of the region who were compelled to work in the colonial mining scheme (the period between 1939 and 1945).

On the other hand, many immigrants point to the use right of the one who discovered the vein, or simply the right of the shaft owner investing money, labour and time. As a general counter argument, strangers often point to the general illegality of all mining activities. This may weaken arguments of local villagers to claim larger territories to be managed exclusively by them. In this discourse, all are said to work more or less illegally, locals as well as strangers, foreigners as well as Benin citizens. Thus local inhabitants should simply accept – and they do in fact – the activities of immigrants because initially it was these pioneering strangers, especially from Togo and Burkina Faso, who introduced the major exploitation techniques to the Atakora region, who started the new gold boom and taught the locals how to do things right.

Arguments referring to the rights of discovery and the effective use are set against locality (in the sense of proximity to the shafts), autochthony in the religious sense and territorial hegemony.

We have to distinguish between these discourses and the actual everyday relations. The fact that immigrants are, however, inclined to pay “taxes” to the villagers is generally due to a certain verbal pressure some local power holders exercise. This may only be avoided by moving to another camp.

As the different arguments may clash when a case is submitted to the village head or village council, gold miners – especially immigrants - try to formulate adjudication processes among themselves. In cases where no concrete solution has been made, some compensation may be demanded.

The mentioned set of rules regarding conflict settlement underlies in part processes of negotiation or a greater conditionality.<sup>22</sup> But they are not arbitrary and somehow stable, at least they refer to institutions outside the state or refer only marginally to them. In this respect, normative complexity (von Benda-Beckmann, F. 1992:6)<sup>23</sup> is very much reduced.

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<sup>22</sup> “Rules are multiple and highly conditional in operation” (Moore 1969:400).

<sup>23</sup> “Normative complexity opens up choices between legal forms ordering social and economic relations differently and between procedures controlled by different decision makers. People can ‘shop’ for the most promising normative idiom [...] or forum of decision making [...], however constraint these choices may be” (Benda-Beckmann, F. von1992: 10).

## **State Authority and the Reality of the Local Legal System: points of articulation**

In the following section I wish to explore the interrelation of the social field established by gold mining communities with the political sphere framed by state law and its actual legal practices.

Since the beginning of the gold boom, state policy towards the miners has changed frequently. One of the major shifts in the relation between gold miners and state officials today is the partial acceptance of their presence by governmental authorities. Furthermore, representatives of the miners were invited to a series of meetings to discuss commonalities. This process had an impact on both sides. The actors of the Atakora gold mining communities reacted partially to official and unofficial political practices of governmental authorities. The power of gold miners, their internal cohesion beyond many disputes and the reality on the ground were forcing the state to adopt a policy of partial legalisation. On the other hand, the state authorities tried to impose their own agenda on how to implement the legalisation.

Their strategy, developed at the end of 1999 with much hope for further governmental and donors support, is based on the establishment of co-operatives, the distribution of official licences and the selling of gold to state officials. The local situation, however, shows little effectiveness in the implementation of these legal measures.<sup>24</sup> For the time being, the co-operatives exist mainly on paper. The major reason for this failure is not only due to the lack of respect many miners have towards these proposals, but also in its different interpretation by many team leaders on the ground.

It is noteworthy that, when being asked, the representatives of the state said that they are only trying to implement a selected number of the official basic laws and regulations. They know quite well that their regulatory power is always limited and stress that they do not intend to intervene in the internal organisation of the gold mining groups at all and do not want to meddle in village politics. On the other hand, their strategy seems to split the miners; to play those willing to collaborate with the state against others, to reward the first to force others out of the business. Only when miners are divided – which is rarely the case – governmental authorities may achieve an easier entry into that field.

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<sup>24</sup> “Implementation, the process through which the legally structured forms of behaviour are to be translated into social practices, is also rarely able to reach the objectives expressed in the legal policies. General regulations, administrative decisions and court judgements, once they leave the institutional ‘legal’ context in which they are made, become immersed in many ‘semi-autonomous fields’ in which their ‘legal currency’ [...] may lose much or all of its value [...]. Usually, what has been decided at planning and legislative levels becomes transformed, by the addressees of the regulations and decisions, but also by officials who re-interpret and possibly distort the meaning so that what members of the target groups are actually brought into contact with is quite different from the original model and intention” (Benda-Beckmann, F. v.1992: 14).

Generally, the representatives of the Ministry of Mines follow a threefold (and rather contradictory) policy. On the one hand they engage in continued negotiations with the miners. They aim to attach the legalisation of their activities to the condition of an acceptance of steady co-operatives and above all to some commercial control (to sell gold to governmental agents).

Acknowledging the reality of migration, an influx of people that is hardly to control, they do not try to implement general prohibitions and no longer insist on fixed territories of exploitation. On the other hand, they try – with little success to date - at least to keep foreigners (from Togo, Burkina, Niger) out of the gold mining region.

Parallel to that process, the director of the mining department attempted to convince development agencies to intervene or at least to allocate resources which would allow the state to organise the mining scheme and appropriate at least the marketing of the gold.

A third agenda is the permanent hope for further foreign private investment; to get more medium size enterprises to intervene. The Anglo-American enterprise ORACLE, working there since January 2001, has – much to the distress of the mining board – proved to be a very small enterprise, creating only a few jobs and not interested in exploiting the whole area. In case they are willing to invest, they may however, enjoy absolute priority to the detriment of small-scale miners. The process of implementation of – often changing - governmental interpretations of official law is far from being advanced. In any case, the miners rarely appeal to state mediation. Some of the reasons for this fact are analysed in the following section.

#### *The Limited Set of Forums of Mediation and the Relation to Local Governmental Authorities*

Coming back to the issue of dispute settling in the context of gold mining, there are diverse, although on the whole limited patterns of action.

Following to my observation, the “forum shopping” described in other studies (von Benda-Beckmann, Keebet 1983), e.g. the subsequent appeal to diverse other instances after a verdict of one agency or arbiter, is rather limited. Gold miners, especially immigrants, usually try to avoid large negotiations with village authorities. In any case, they hardly appeal representatives of the state above the level of communal representatives (such as the village head or the mayor).<sup>25</sup>

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<sup>25</sup> There were only few such instances. In one case when a peasant went to the *gendarmerie* but did not want to offer money they simply rejected to intervene (see note 20). In another case it was an immigrant *chef d'équipe*, of Waaba origin, who complained to a *gendarme* about local miners because of he felt discriminated against and did not want to present the case to the village head of Tchantangou. But the *gendarme* was a close relative, a fact that made him trustworthy to the claimant, but not at all to the other miners. The verdict went to the advantage of the petitioner but this action only isolated him from other miners. Later in mid 2001, he was not considered when a new shaft area was divided among some *chef d'équipes*.

This is partly due to the high kickbacks that are asked by *gendarmes* for their services in general, but especially when they are expected to judge in favour of the claimant (thereby discrediting their decisions even more). Another problem may be the sums to free those who are often arbitrarily arrested.

In the past, *gendarmes* showed up from time to time on the mining sites to blackmail miners to pay some bribes, pointing to their (officially) “illegal” situation. The later policy of the mining authorities to engage in negotiations had the effect to empower miners, however, to reject all those attempts more and more vigorously.

The ministry and the *gendarmerie* are in conflict with each other. Very different interests drive them. The *gendarmes* often carry out razzias without previously advising the mining authorities. The regional mining board as well as the *préfet* (regional commissioner) in Natitingou are interested in promoting a long term solution<sup>26</sup> but the *gendarmes* and policemen follow short term strategies, especially to earn some extra money while – they are transferred very often – serving in that region. The gold miners became aware of these differences and strive on their part to make use of these differences to their own advantage.

Conversely, agents of the mining board also try to use different interest groups - especially semi-professional and small mining entrepreneurs against short-term migrants – to their advantage. Only in one case was it the *préfet* who intervened, in 1998 in a longer quarrel between the teams of two villages. He successfully set up a reconciliation mission, disregarding any formal laws. Just two years after the last wave of expulsions, he had to acknowledge the state of affairs and the power of the miners. The *préfet* is however not ready to act this way again in similar cases, calling in the mining directors and the representatives of miners (*fédération des orpailleurs*).

In November 2001, new interventions by the regional authorities were especially directed towards the expulsion of foreigners. Some shafts were closed and the miners were forbidden to work on plots newly assigned to ORACLE, the mentioned small Anglo-American enterprise. The measurements were justified by the lack of collaboration of the miners to sell their gold (for a lower price than offered by petty gold traders) to a middlemen designated by the state. Relations, especially between an American private entrepreneur, helped by the *gendarmerie*, and migrant gold miners worsened again.

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<sup>26</sup> Different to the *gendarmes*, some of the agents of the mining authority meanwhile enjoy much respect and trust among the miners. They are generally not interested in intervening as mediators except if they may play one interest group against the other and make miners accept some compromises at the same time.



*Small-scale Gold Mining: a local legal system or unlegislated domain?*

Violence may be part of some practices in the gold mining area but we should not speak of fields dominated by Hobbes' "war of all against all", the right of the more powerful or general insecurity of daily life. Instead of (metaphorically or factually) pointing to the notion of a "wild west", I would designate this particular field as dominated by patron-client relations of production and distribution.

In contrast to mainstream concepts prominent in sociology, I would agree that we have to deal with a particular legal field with its own laws, following the definition of legal pluralism commonly accepted in legal anthropology.<sup>27</sup> It is law in a wide sense when general categories such as explicit norms and sanctions could be defined, and putting somebody to shame may be a part of it.<sup>28</sup> Many sociological definitions of law in the Weberian tradition, assume a more or less evolutionary perspective, start from the position of a necessary process discriminating particular institutions of law in a given society and point to the necessity of independent autonomous institutions to enforce norms and sanctions. The sociologist Trutz von Trotha for example identifies a legal system – in contrast to "pure self- help systems" only when a third, non-biased party existed, external mediators or arbiters, without any self-interest who enjoy a monopoly of jurisdiction. A legal system, following this position, is shaped by a certain degree of institutionalisation (von Trotha 2000:328).

In this case, there are in fact no real autonomous mediating agencies. The majority of all mediators could be regarded as biased (and also not autonomous in the double sense of functional autonomy). Thus the institutional grounding of the mentioned rules of conflict management is rather weak. Forums of mediation like the assembly of shaft owners, the village head / village council, but also the role of charismatic patrons or the "*responsables*", first settlers of immigrant communities, are not special but polyvalent. If we would accept such a model, we would have to speak of a "para-juridical rule" in a state of transition to a "communitarian juridical rule" (ibid. 351).

On the other hand, as we have seen, there are elaborate procedures, norms and sanctions in the mining community. The acceptance and binding force of decisions once being established on a

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<sup>27</sup> Law is a generalized form of problem solving, following continually repeated institutionalised procedures. But in a wider sense, "*law [...] not only consists of rules, principles and procedures, that pertain to, and are external to social practices and institutions; law is also embodied within institutionalized social practices and resources*" (Benda-Beckmann, Franz von 1992:2).

<sup>28</sup> A wider definition of law is also applied by Roberts (1981).

certain level of settlement is, according to my experiences, considerably high. Only rarely do people appeal to other instances, and this mostly within the field itself.

One reason which contributes to that lack of longer attempts of complainants to pursue their cases is the existence of some other options: a party being overruled in certain decisions (for example a group of people claiming rights to a pit they abandoned for a long time and which is now being exploited again by others and proves to be prosperous) may accept some shares they are offered and simply engage in exploiting a new shaft. Workers being excluded or mobbed out of a certain team may simply join another team or make up their own working unit – thus choosing “exit options” (Hirshman 1970). Despite the integrating logics of gold mining, there are, for example, a few groups of foreign immigrants who themselves try to find separate ways of exploitation and labour organisation. This is due to two factors. First of all, the general flexibility and dynamics of work in that gold mining area, largely influenced by the permanent threat of governmental authorities to expel the miners, makes immigrant miners especially want to avoid longer processes of negotiation of a particular case and to accept a verdict in favour of maintaining the general and continued access to resources. Secondly, short-term migrants, in particular, are interested in continuing the work in their rather limited period of presence.

## **Discussion**

I presented the economic and social relations related to small-scale gold mining in northern Benin as a semi-autonomous social field. This field is shaped by the existence of specific generalised modes of conflict regulation that distinguish this field considerably from other social fields.

Particular elements from other fields have been integrated and adapted, e.g. the right of new immigrants and settlers in the gold mining communities in relation to their landlords that shared much with other host-guest relations in rural areas of that region. On the other hand, some patterns of patron-client-based modes of labour organisation in the gold fields may be similar to that of other gold mining areas in West Africa.

In this particular case the degree of autonomy of the semi-autonomous social field as regards the establishment of norms and rules is comparatively high in relation to those of the official state law. This is less the case in relation to other social fields, such as the rural communities of the region, which impose their ways of integration of strangers to the immigrant miners.

Very much specific to this case is also the local arrangement of norms and rules, which are influenced by the local power relations between the relevant actors. Generally, the territorial rights

are discussed and contracted among the shaft owners. We may speak of “working agreements”, unwritten contracts as regards both the general acceptance of particular rules and some room for manoeuvre to their negotiation. This pattern may change over time. Thus we have to consider the alteration of the social field in relation to its relation to state interventions. Changes in this setting of an internal normative system may occur when power balances between conflicting interest groups- for example those of different neighbouring villages over their access to the mountain veins – shift, particular mediums of dispute settlement become ineffective or when generally, the relation to the central state and its institutions change dramatically.

Elements hinting to the persistence of normative arrangements or on continuity were addressed without excluding the levels of flexibility these arrangements may exhibit. It was stressed that multiple dimensions of interest figuration mark the social field. There are, above all, and despite changing character of these relations, still many dissonances as regards the relation between the state authorities and the mining communities, but in part also as regards inconsistent modes of access to resources in the field itself. On the other hand, the modes of dispute management are somewhat predictable and thus we can hardly speak of “institutional insecurity” (Le Meur 1999). This term, introduced by Le Meur referring to land rights and agrarian marketing in southern Benin does not seem to be appropriate to my case at all. Insecurity exists insofar as it is created by the state and its contradictory policies (and its permanent threat to bring all mining activities to an end), but in a much lesser degree for (flexible but comprehensible) arrangements and rules of dispute settlement that the gold miners developed.

Points of comparison should be further promoted between perspectives of legal anthropology, political anthropology and economic anthropology of gold mining in West Africa today.

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