THE STATE OF THE UNDERGROUND ECONOMY
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Regulatory Complexities, Accumulation and Informal Labour in Compostela Valley’s Artisanal and Small-scale Mining (ASM) Sector

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In retrospect, my PhD-proposal paid only cursory attention to artisanal and small-scale mining (ASM), and focused more broadly on the nexus between (large-scale) mining, development, and armed conflict in Mindanao. This more general research focus was inspired in large part by the near-complete lack of prior (academic) research on mining in Mindanao. When starting my explorative research in early 2012, I was surprised to discover that in large parts of the island, the presence of large-scale mining was very limited. Instead, it was ASM-operators that dominated the scene, and had done so for several decades. Nowhere was this observation more apparent than in Compostela Valley province, the epicenter of ASM in the Philippines. It was here that in the early 1980s, the most (in)famous gold rush in Philippine history unfolded. At one time, the Diwalwal area (which is depicted on the front cover) in the uplands of Monkayo municipality was allegedly home to over 100,000 miners from all walks of life. It was here that ‘artisanal and small-scale’ mining evolved into something qualitatively different, described by many respondents as ‘medium-scale mining’. It was also here that some of today’s mining bigwigs were made and unmade, with self-made millionaire and one-time barangay captain Babylona allegedly throwing money out of a helicopter as a campaign stunt. The Diwalwal situation was further complicated by the presence of a range of armed actors that had emerged in the vacuum left behind by the decaying regime of Ferdinand Marcos, the long-time dictator of the country. As different mining groups and their armed goons started clashing over Diwalwal’s rich underground ore bodies, Diwalwal soon earned itself a reputation as the “wild, wild west of the Philippines”. It is this Diwalwal gold rush, the romanticized stories of paupers-turned-millionaires and of anarchy and violence, that still dominates the popular imagery about small-scale gold mining in Mindanao.

Partly in an effort to qualify these simplistic and romanticized images of ASM, I ventured where no academic had gone before –in many cases literally. While this frontier character of my research confronted me with a range of practical and methodological challenges, it was also a blessing in disguise. For example, in none of the areas included in my research did I encounter the kind of “research fatigue” one may encounter in ASM-areas in, say, Tanzania. Instead people were extremely curious to find out what I was doing, although this did not always translate into a willingness to actually take part in my research. The fact that I was (by my knowledge) the only academic doing sustained research on ASM in Mindanao also made it slightly easier to attract my peers’ attention. Finally, I soon realized that the ASM-phenomenon was indicative of wider processes of socio-economic- and political transformation. The contrast between the laid-back and quiet countryside life in Compostela Valley and its bustling and noisy gold rush areas could not be bigger.
This PhD-thesis is based on a series of peer-reviewed articles, four of which have been published (chapters 3, 5, 6 and 8), one that has been accepted for publication (chapter 4), and one that is currently undergoing review (chapter 7). Clearly, at least in Belgium, publishing in international, peer-reviewed and preferably Web of Science ranked journals is of paramount importance if one has any post-doctoral academic ambitions. However, my choice for an article-based PhD was also informed by several other considerations. For one, in addition to academic conferences, journal publications are one of the most effective ways to leave an imprint on academic debates. I am also strongly convinced that a publication-based PhD need not be detrimental for its internal consistency. On the contrary, it compelled me to situate my empirical findings in different academic debates, which in turn enabled a more holistic understanding of the ASM-phenomenon. In addition, as will hopefully become clear throughout, I made considerable efforts to ensure the narrative flow of my dissertation, and the mutual interconnectedness of my different arguments.

Finally, I would like to express my deep and sincere gratitude to all the people that have made this research project possible. First and foremost, Totong, for being my host, interpreter, ‘fixer’, guide, and friend. His mother and the rest of his family, for giving me a taste of Philippine hospitality, and for the beer and darts nights, which were essential for boosting my morale during the long months away from family and friends. Malou, for being my personal mentor in understanding the ins and outs of Philippine politics, both its bright and dark sides, and for being an inspiration to what must now be tens of thousands of people. Amiat and Gin, for accompanying me on my numerous side-trips, and for helping me unwind. Bon, for helping me to reach out to the rest of the Philippine ASM-community, assisting me with my field trips, and for being an indispensable source of expertise. I truly hope we can continue our collaboration in the future, undermining many of the myths that exist about the ASM-sector.

Closer to home, I owe my gratitude to Koen, my supervisor, for putting his trust in me, and for providing me with the space necessary to independently develop my academic skills. To my colleagues at Conflict Research Group, for being a source of inspiration and academic expertise. Jeroen in particular, thanks for accompanying me to more and less inspiring places in the Philippines and beyond, and for listening to my frustrations as an early-career researcher. Finally, a word of thanks goes out to my friends and family. The magnificent seven, for being an inexhaustible source of non-conformist laughter, and for helping me to get away from it all. And last but not least I owe my gratitude to Katleen, for being an antidote to my cynicism, for putting up with my mood swings, and for giving me the most wonderful gift of all.

Antwerp, March 9, 2015.
Deze doctoraatsscriptie tracht tot een beter begrip te komen van het fenomeen van de artisanale en kleinschalige goudmijnbouw in de provincie Compostela Valley, op het zuid-Filipijnse eiland Mindanao. Doorheen de voorgaande decennia heeft de sector een spectaculaire groei doorgemaakt, en vandaag wordt hij gekenmerkt door het bestaan van talrijke mijnbouwoperaties welke reeds lang het niveau van de kleinschalige mijnbouw hebben overstegen, met een graad van mechanisatie en een productiecapaciteit die artisanale en kleinschalige mijnbouwoperaties in andere landen (en andere regio's binnen de Filipijnen) in het niets doen vervagen. Ondanks dit alles opereert het overgrote merendeel van deze operaties op informele wijze, zonder de noodzakelijke vergunningen van de nationale overheid.

Mijn onderzoek werd opgehangen rond drie meer algemene onderzoeksvragen. Ten eerste: wat verklaart de immense groei van de kleinschalige goudmijnbouw in Compostela Valley, en het toegenomen belang van meer geavanceerde mijnbouwoperaties? Ten tweede: wat verklaart het voortbestaan van informaliteit, impliceert dit een totaalgebrek aan bestuurlijke orde en zo nee, wat is de bestuurlijke realiteit in de sector? Ten derde: wie wint en wie verliest bij de huidige (bestuurlijke) realiteiten in de kleinschalige mijnbouw?

Door een quasi totaalgebrek aan bestaand onderzoek was ik in eerste instantie aangewezen op het vergaren van primaire veldwerkdata. Gegeven het bestaan van een reeks methodologische uitdagingen, waaronder een hoge graad van informaliteit en de aanwezigheid van gewapende actoren, heb ik bewust geopteerd voor een combinatie van meer flexibele kwalitatieve onderzoeksmethoden, waaronder semi-gestructureerde interviews en zogenaamde oral histories, welke trachten om (bepaalde aspecten van) individuele levensverhalen te relateren aan bredere processen van politiek-economische transformatie –in dit geval de expansie van de kleinschalige mijnbouw.

Hoofdstuk 1 en 2 dienen gelezen te worden als inleidende hoofdstukken. In hoofdstuk 1 presenteer ik een inleiding tot het de kleinschalige mijnbouw in de Filippijnen en in Compostela Valley, en introduceer ik mijn onderzoeksvragen en methodologische keuzes. In hoofdstuk 2 situeer ik mijn doctoraatsscriptie binnen bredere academische debatten, waaronder deze omtrent de kleinschalige mijnbouw, maar ook omtrent de informele sector en de zogenaamde ‘antropologie van de staat’.

De resterende hoofdstukken zijn herwerkte versies van artikels welke eerder gepubliceerd werden (hoofdstuk 3, 5, 6 en 8), aanvaard zijn voor publicatie (hoofdstuk 4) of zich op dit moment in het reviewproces bevinden (hoofdstuk 7). In hoofdstuk 3 en 4 presenteer ik een
kritische analyse van de diverse factoren welke de immense groei van de kleinschalige goudmijnbouw in Compostela Valley als een grotendeels informele activiteit, mogelijk hebben gemaakt. Hoofdstuk 3 nuanceert bestaande theorieën over kleinschalige mijnbouw als een overlevingsactiviteit die beoefent wordt door arme individuen, door ook de aandacht te vestigen op de toegenomen financiële betrokkenheid van een groep van elite-actoren die in de eerste plaats geïnteresseerd zijn in kapitaalsaccumulatie. Het is de betrokkenheid van deze spelers welke de opkomst van meer geavanceerde mijnbouwoperaties heeft mogelijk gemaakt.

In hoofdstuk 4 tracht ik een verklaring te bieden voor hardnekkige informaliteit in de sector, door bestaande debatten omtrent de informele sector te consulteren. Er wordt geargumenteerd dat deze informaliteit niet louter een kwestie is van te hoge fiscale en bureaucratische kosten in de formele sector, of van het doelbewust uitsluiten van kleinschalige mijnbouwers door de overheid en de grootschalige mijnbouw, maar dat ze ook een reflectie is van een bepaalde logica van accumulatie. Meer bepaald zal worden aangetoond dat de massale groei van kleinschalige mijnbouw ook gezien kan worden als het resultaat van een crisis in de kapitaalintensieve grootschalige mijnbouw, welke een transitie teweegbracht naar meer flexibele kleinschalige mijnbouwactiviteiten, waarbij accumulatie berust op de uitbuiting van een goedkoop en informeel arbeidspersoneel.

De resterende hoofdstukken hebben vooral betrekking op de tweede onderzoeksvraag naar de bestuurlijke realiteiten in de sector. In hoofdstuk 5 tracht ik de vraag te beantwoorden naar de relatie tussen de immense informele mijnbouwsector in Compostela Valley en de Filipijnse staat. In tegenstelling tot wat vaak intuïtief verondersteld wordt, is de informele mijnbouw niet nefast voor de draagkracht van de Filipijnse staat. Integendeel, de expansie van kleinschalige goudmijnbouw in Compostela Valley is paradoxaal genoeg hand in hand gegaan met een consolidatie van de lokale staat, met lokale politici die zich zijn gaan inzetten voor een bestuurlijke stabilisering van de zogenaamde ‘informele’ goudmijnbouw. Waar lokale politici profiteren van de aanwezigheid van informele mijnbouw als een bron van fiscale inkomsten en van politieke legitimiteit, is deze bestuurlijke configuratie ook voordelig voor een heel scala aan andere actoren die inkomen vergaren uit kleinschalige mijnbouwactiviteiten. Tevens wordt beargumenteerd dat de centrale rol van lokale politici in de informele mijnbouw dient gezien te worden als de uitkomst van een historisch gegroeid elitepact tussen nationale elites en lokale politici, waarbij de laatsten een hoge mate van autonomie genieten binnen de lokale politieke economie, in ruil voor hun rol als vertegenwoordigers- en indien nodig verdedigers van de statelijke orde.

Hoofdstuk 6 focust op de positie van (informele) landeigenaars, en hun relatie met de kleinschalige mijnbouw, door middel van een comparatieve analyse van Compostela Valley, Oost-Congo en Liberia. In tegenstelling tot een intuïtief verondersteld antagonisme, blijkt uit onze analyse dat er een hoge mate van wederkerigheid bestaat
tussen beide partijen, welke vaak aanleiding geeft tot min of meer geïnstitutionaliseerde systemen voor inkomensverdeling. Ondanks het informele karakter van deze arrangementen, wordt te pas en te onpas gerefereerd naar legaliteit en naar ‘de staat’ om deze arrangementen te legitimeren.

In hoofdstuk 7 verschuift de focus naar de positie van gewapende actoren, en meer bepaald naar de relatie tussen rebellen en de lokale staat. Door middel van een comparatieve analyse van Compostela Valley en North Cotabato (2 provincies met een sterke aanwezigheid van respectievelijk communistische- en Moslimrebellen) zal worden aangetoond dat ook de grens tussen lokale rebellen- en statelijke structuren eerder fluïde is. In het specifieke geval van Compostela Valley zijn communistische rebellen van het New People’s Army een integraal onderdeel geworden van de politiek-militaire-commerciële netwerken die de kleinschalige mijnbouw controleren, en waarbinnen lokale politici een steeds belangrijkere rol zijn gaan vervullen. Om deze situatie te verklaren wordt verwezen naar (1) het toegenomen belang (vooral sinds decentralisatie) van de lokale staat als een accumulatie- en legitimatiestructuur; en (2) het belang van sociale relaties, en dan vooral familiebanden, in het overbruggen van het onderscheid tussen statelijke- en rebellenstructuren.

In hoofdstuk 8 worden deze lokale bestuurlijke arrangementen, welke gebouwd zijn rond de kleinschalige mijnbouw, gesitueerd binnen de bredere bestuurlijke realiteit binnen de Filipijnse mijnbouwsector. Er zal worden aangetoond dat verschillende pogingen om de bestuurlijke controle over minerale rijkdommen te decentraliseren hebben geleid tot een hoge mate van institutionele ambiguïteit, en onduidelijkheid omtrent wie de autoriteit heeft om de toegang tot minerale rijkdommen te sanctioneren. Binnen deze gefragmenteerde institutionele realiteit proberen verschillende actoren en actorgroepen zich nu te positioneren om hun controle over minerale rijkdommen te maximaliseren. De eerder beschreven coalities tussen lokale politici, kleinschalige mijnbouwoperatoren, landeigenaars en gewapende actoren zijn hiervan een uitdrukking. Deze complexe institutionele realiteit geeft aanleiding tot een reeks van (soms gewapende) conflicten over toegang tot minerale rijkdommen, waarbij althans in Compostela Valley de tegenstelling tussen kleinschalige en grootschalige mijnbouw het strijdtondeel bij uitstek is. En hoewel deze institutionele contestatie mogelijkheden biedt voor emancipatie, door het hervormen van bestaande verdelingsmechanismen, is er ook een hoog risico voor elite capture door lokale politici.

Tenslotte breng ik in hoofdstuk 9 mijn verschillende argumenten samen in een ‘master narrative’ over de kleinschalige mijnbouw in Compostela Valley. Het centrale argument dat doorheen deze doctoraatscriptie loopt is dat de immense groei en transformatie van de kleinschalige goudmijnbouw, als een product van de informalisering van de mijnbouwsector in haar geheel, hand in hand is gegaan met de opkomst van een
bestuurlijke orde die gericht is op het voortbestaan en zelfs de verdere expansie van de kleinschalige goudmijnbouw. De gevestigde belangen binnen deze bestuurlijke orde, welke in essentie focust op een minimalistische erkenning van informele land- en mijnbouwrechten, bevinden zich in een heterogene coalitie van lokale politici, mijnbouwfinanciers, lokale landeigenaars, en gewapende actoren, voor wie de kleinschalige goudmijnbouw een cruciale bron van inkomsten is. Tegelijk wordt gewezen op het bestaan van een immens informeel arbeidsreserve dat weliswaar afhankelijk is van de sector voor haar inkomen, maar zich tegelijk in een zeer kwetsbare positie bevindt, en ten prooi valt aan een hoge graad van uitbuiting.
CHAPTER 1: INTRODUCTION

This introductory chapter has three central objectives. First I will present some preliminary observations about artisanal and small-scale mining (ASM) in the Philippines, with special attention for Compostela Valley province, the geographical focus of this PhD-thesis. Based on these preliminary observations, I will then outline the three overarching (sets of) research questions that have guided my research. Finally, I elaborate on some of the methodological challenges associated with doing research on ASM, and how I have opted to deal with these challenges.

ASM IN THE PHILIPPINES AND THE COMPOSTELA VALLEY GOLD RUSH

In recent decades ASM has witnessed a spectacular expansion worldwide, with current estimates putting the number of people engaged in what is commonly defined as “labour-intensive, low-tech mineral exploration and processing” (Hilson, 2011, 1032) at 20-30 million people, producing around 15-20 per cent of global mineral output (Buxton, 2013). In parallel with this expansion, there has been a notable increase in scholarly attention for the sector. While most academic attention has gone to ASM in Sub-Saharan Africa (particularly in Tanzania and Ghana) and to a lesser extent in Latin America (particularly Brazil and Guyana), Southeast Asia remains underrepresented in the ASM-literature, although this is gradually starting to change.

One Southeast Asian country with a sizeable ASM-sector that has hitherto remained below the radar of academic research is the Philippines. While the peninsula has a century-long tradition of artisanal gold mining (Caballero, 1996), since the 1980s ASM has seen a massive expansion, particularly in the Cordillera mountain ranges of northern Luzon and in the eastern mountain ranges of Mindanao, the southernmost island of the Philippines. While ASM-operators now target a wide range of minerals, gold continues to be the sector’s backbone. While there are no official statistics regarding the number of ASM-operators nationwide –not least due to persistent informality– most estimates range between 200000 and 500000. And while reliable output figures are also lacking, yearly

1 See for example Spiegel, 2012 on Indonesia; Spiegel, 2014 on Cambodia; and Lahiri-Dutt et al., 2014 on Laos.

2 One notable exception is a study on mercury pollution in the Agusan River basin in Eastern Mindanao (Appleton et al., 2006).
statistics released by the *Bangko Sentral* (the Philippine Central Bank), which still retains a legal monopoly on gold buying, can nonetheless provide us with some indications regarding overall growth trends in the sector (see figure 1).

![Figure 1: Gross production value in the mining sector, in billion PHP](image)

Since the mid-1990s there has been a clear upward trend in ASM-output, and in different years it even surpassed that of large-scale metallic mining. However, after reaching a record high of PHP 42.9 billion (around US$ 1 billion) in 2010, and despite historically high gold prices, output dropped to a trifling PHP 0.3 billion (below US$ 7 million) in 2013. Rather than being indicative of an existential crisis in the ASM-sector, countless key informants suggested that this dramatic drop was first and foremost the result of new taxes on gold sales, imposed by the Bureau of Internal Revenue (BIR) in 2011. While the export of ASM-gold is still prohibited by law, unofficial estimates by traders and government officials suggest that over 90 percent of ASM-gold, while typically processed locally, is now smuggled to Hong Kong and then onwards to mainland China (Francisco, 2012). In 2011, Hong Kong authorities recorded 81,192 kilograms of gold imported from the Philippines, while official Philippine export data (i.e. gold exported by large-scale mining companies) amounted to only 3 percent of that volume (Ibid.). Using the average 2011 gold price as our point of reference, illegal gold exports to Hong Kong in that year alone were worth over US$ 4 billion. Finally, figure 1 reveals a massive increase in large-scale mining output since the late 2000s, due in part to massive mineral price increases.

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4 In 2011 the gold price averaged US$ 1,571 per troy ounce, or approximately US$ 55.40 per gram (source: http://www.nma.org/pdf/gold/his_gold_prices.pdf.)
Despite the existence of a fairly elaborate formal regulatory framework, in the form of Republic Act 7076 (the “people’s small-scale mining act” of 1991), in addition to the buoying illegal trade in gold, most of the actual small-scale gold mining operations—the small-scale extraction of other minerals is prohibited by law—are taking place without the necessary government permits and licenses, and are located outside government-sanctioned Minahang Bayan (can be translated loosely as “people’s mines”, and is the Philippine equivalent of ASM permit areas). Instead, ASM is often taking place “illegally” in what the national government sees as public lands, large-scale mining concessions, timber areas and/or nature reserves.

Probably nowhere are ASM-activities more ubiquitous than in Compostela Valley province, the self-proclaimed “gold mining capital of the Philippines”. Traveling through the province at the height of the latest gold rush in 2012, it was impossible not to notice the signs of the ongoing bonanza, with a steady stream of saddam (6 by 6) trucks traveling back and forth between the mining areas and the numerous carbon-in-pulp processing facilities scattered throughout the province. Tellingly, the province’s ‘symbol of unity’ is the solidarity ring, a piece of jewelry forged out of 1,5 kilograms of pure gold, donated by the governor’s political supporters, and displayed during a yearly Bulawan (gold) festival.

Figure 2: Map of the Philippines indicating Compostela Valley province

According to most accounts, ASM first emerged in Compostela Valley soon after the Second World War, when poverty-stricken upland communities became engaged in rudimentary river panning activities as a sideline to upland farming. However, the real gold rush began in the 1980s, when at one point the (in)famous Diwalwal gold rush area (depicted on the front cover) alone was allegedly home to over 100000 miners (Crimmins, 2007). While ASM continued to expand at a gradual but persistent pace over the next decades, it would take until the late 2000s before a second major gold rush enveloped the province.

![Figure 3: A typical gold rush area somewhere in Compostela Valley](image)

Today, Compostela Valley’s ASM-sector is characterized by high degrees of heterogeneity. Based on working practices and output levels, a rough distinction can be made between three types of small-scale gold mining activities—although in reality this distinction is not always clear-cut\(^6\). A first and fairly rudimentary type of ASM is river panning, which relies on the use of a simple pan or sluice box and gravity to capture gold particles (see figure 4). Gold panning often occurs in the vicinity of larger mining projects,

\(^6\) A fourth type, hydraulic mining (*banlas*), has become progressively unimportant over the years, although it continues to be rampant in other Mindanao provinces.
which tend to enrich the surrounding rivers. An upsurge in river panning can often be observed following heavy rains, when gold-bearing sediments are released.

A second type of small-scale gold mining activities are smaller and self-financed tunneling operations (see figure 5). While credit for these operations is sometimes provided by the landowner or by local store-owners, the *corpo* (team of miners) will often pool its own resources. In these smaller tunneling operations, revenue-sharing tends to be more or less equal, with each corpo member retaining one share of the net proceedings (i.e. the money that remains after processing).

![Figure 4: River panning](image)

![Figure 5: A number of smaller tunnels](image)

The third and final type of ASM-operations, which are the defining feature of ASM in Compostela Valley, are bigger tunneling operations with outside financiers. In some cases these financiers merely provide the capital for basic tools and equipment like pick-axes, mining sacks, and food for the labour force. In other cases, outside capitalization results in a significant degree of mechanization, pushing the boundaries of what qualifies as ASM according to international definitions that emphasize the sector’s labour-intensive, low-tech character (Hilson, 2011). To be sure, these operations still rely on a massive workforce for the actual extraction of the gold ores (see figure 6). At the same time they also use heavy machinery like pneumatic drills, excavators, explosives, diesel generators, water pumps, and mine carts; while ore transport takes place in massive trucks. Furthermore, many of these operations boast a high degree of labour specialization, employing portal guards, carpenters, electricians, explosives experts, and in some cases...
even geologists. These tunnel complexes invariably start from a main portal operated by the ‘management’. This main tunnel portal usually branches out into numerous side-tunnels (destinos), which are financed either directly by the management, or by an independent financier. While sharing modalities are subject to a significant degree of local variation, the ‘management’ will often retains 20-70 per cent of the net proceedings, while the remaining share accrues either to the corpo or to the destino. In the latter case there is an additional round of revenue sharing involving the destino financier and his corpo.

![Image](image_url)

**Figure 6: The Australia tunnel portal, one of the biggest ones in the Diwalwal gold rush area.**

Meanwhile there are two major gold processing methods. The first and more rudimentary form involves the granulation of ores in a ball mill (see figure 6), after which mercury is added to capture part of the gold particles. If this first processing phase indicates a high gold content, stockpiled ball mill tailings are brought to a Carbon-In-Pulp (CIP) processing plant (see figure 7). Here, gold ores are dissolved in a limestone-cyanide slurry, after which carbon is introduced to ‘capture’ the gold particles. This ‘impregnated’ carbon is then ‘cooked’ (using a blowtorch) to recover most of the gold, as well as the silver. Since the gold rush in the late 2000s, Compostela Valley has also seen the emergence of several laboratories, whose assay (mineral content) readings have significantly decreased the geological risk inherent to gold mining. Together, these assay readings and the higher recovery rate of CIP-processing have significantly decreased the geological risk inherent to small-scale gold gold mining.
Figure 6: A ball milling facility

Figure 7: A Carbon-In-Pulp processing plant.

Figure 8: An assay laboratory
As elsewhere in the Philippines, ASM in Compostela Valley is a predominantly informal affair. Adding to these regulatory complexities is the presence of a range of armed actors, with Compostela Valley bearing the imprint of decades of insurgency- and counterinsurgency warfare. As will be discussed in more detail in chapter 7, in the 1980s, in a context of a pervasive rural subsistence crisis caused by decades of government neglect, and with the regime of dictator Ferdinand Marcos reverting to increasingly authoritarian strategies to suppress societal demands for change, the uplands of eastern Mindanao became a stronghold of the Maoist Communist Party of the Philippines (CPP) and its armed wing, the New People’s Army (NPA) (Abinales, 2000). After roughly a decade of decline in the late 1980s and 1990s, in recent years the NPA has regained much of its former strength, and continues to wage what is now effectively the longest-running Maoist insurgency in the world (Espejo, 2011). From the start of the first gold rush in the 1980s, the NPA has allegedly maintained close ties with ASM, which considered to be a major source of ‘revolutionary taxes’ (ICG, 2011). The presence of the NPA as well as various other armed rent-seekers, including army, police, and various paramilitary militias, further add to a popular image of anarchic ASM-areas.

OUTLINING THE RESEARCH QUESTIONS

When I started my research, I ventured into virtually uncharted academic terrain. There was a near-complete lack of prior research on ASM in the Philippines, on historical trends in the Philippine mining sector7, and on the sociopolitical history of eastern Mindanao8. Instead, an image persists of the eastern Mindanao uplands as a wild frontier, a rebellious and “unruly” (Scott, 2008) place that escapes government supervision. This image is nicely captured by references to the (in)famous Diwalwal gold rush area as the “wild, wild West of the Philippines”. This ‘frontier’ character of my research sites presented me with various methodological challenges, which will be discussed in more detail below. Meanwhile to guarantee the internal consistency of my PhD-research while maintaining an open mind towards the issues at hand, I identified three overarching (sets of) research questions, which became further specified as my research progressed.

A first and fairly straightforward question relates to the factors underlying the dramatic expansion of ASM in Compostela Valley. This question becomes all the more relevant when considering the relatively advanced (i.e. capitalized and mechanized) state of some of province’s ASM-operations when compared to those in other countries and other regions in the Philippines.

7 A slightly outdated exception is Lopez, 1992.
8 Notable exceptions include Abinales (2000) and Tiu (2005), both of whom study historical processes of state formation on the eastern Mindanao (agricultural) frontier. However, both authors fail to provide a history of the uplands, where most of the ASM-operations are taking place.
A second set of research questions pertains to the regulatory situation in the ASM-sector. At first I set out to understand why national government efforts to formalize and regulate the sector have largely failed to materialize. Inspired by an unfolding research agenda of my research unit, I aimed to move beyond such a narrow focus on formal policy interventions, by considering the real regulatory complexities of Compostela Valley’s purportedly anarchic ASM-sector. I was particularly interested in understanding how access to mineral-bearing land is organized, and I wanted to gain a better understanding of the role played by state- and armed actors in ASM.

A third and final set of research questions, and probably the most challenging of all three, are those related to the distribution of risks and benefits within the sector i.e. who benefits and loses from the expansion of ASM and from current (regulatory) realities in the sector? While there should be no doubt that the ASM-sector now provides much-needed livelihood opportunities to a massive workforce, and gives a massive boost to local and even regional economies, I wanted to avoid the pitfalls of an uncritical acceptance of ASM as a panacea for rural development. Even when leaving aside ASM’s dramatic impact on regional ecosystems (Appleton et al., 2006), it quickly became clear that the distribution of risks and benefits in the sector is far from equal.

**METHODOLOGICAL CHALLENGES AND CHOICES**

Given the frontier character of my research, I was forced to rely mainly on primary data collection. For this purpose I spent nearly 8 months doing field research in the Philippines. While the bulk of this field research took place in Compostela Valley, I also paid shorter research visits to mining areas in Agusan del Norte and South Cotabato province (also in Mindanao), and in Benguet province (on the Northern island of Luzon).

Different methodological challenges conspire to prevent easy primary data collection in ASM-communities. A first set of challenges relates to sector-specific variables such as fluctuating income- and production levels, which make it difficult to collect accurate micro-economic data from ASM-operators (Heemskerk, 2005). In addition, the mobile and transient character of gold rush mining in particular (Jónsson & Bryceson, 2009; Nyame & Grant, 2014), which was described by several respondents as a “hit and miss activity”, makes it difficult to identify and follow up on respondents. Throughout my research, I was repeatedly confronted with respondents who had moved on to a different mining area; and in one instance I was even faced with the disappearance of a mining area altogether. Another sector-specific challenge is the fact that most ASM operates on “the fringes of or completely outside the law” (Sinding, 2005: 244), resulting in a lack of official data about ASM –although this observation can to some extent be qualified based on the empirical
evidence presented in this PhD-thesis. This informality –or “illegality” according to many national government officials– makes ASM-operators wary of outside inquiry, particularly in cases where they operate inside a large-scale mining concession or protected area. Together, high degrees of mobility and informality mean that the ASM-population is in many ways a “hidden population”, which poses particular problems for the (random) selection and sampling of research sites and respondents (Watters & Biernacki, 1989).

A second set of challenges is related to the presence of a range of armed actors in the Compostela Valley uplands, many of whom now have a stake in the mining sector. These include not only communist rebels of the New People’s Army (NPA), but also army battalions, Philippine National Police (PNP), paramilitary units like the Citizen Armed Force Geographical Units (CAFGU), (supposedly unarmed) barangay militias like the Civilian Volunteer Organizations (CVO), and various indistinct extortionist groups and ‘private armies’ working at the behest of private political and commercial (mining) interests. In addition to posing a security threat, which is particularly pressing in areas with competing mining interests –often but not always between ASM and large-scale mining– the presence of armed actors brought up a range of methodological challenges. Arguably the most important is difficulties in obtaining access to information, to research sites, and to respondents (Barakat et al., 2002). Many respondents were (understandably) reluctant to share sensitive information about the role of armed actors. Despite its decade-long presence in the region, the NPA in particular remains somewhat of an enigma: while frequently referred to by respondents –albeit implicitly rather than explicitly– few respondents were willing or able to elaborate on the exact role played by the NPA in the ASM-sector. Furthermore, different areas included in the research had ongoing counterinsurgency operations, which not only limited my mobility as a researcher, but also resulted in a high degree of suspicion on both sides of the insurgency / counterinsurgency divide, so that I had to be careful not to become associated with either one of the warring parties. Finally, a combination of alcohol and drugs, the proliferation of loose fire-arms, and various “illicit” activities like gambling and prostitution, all add up to a fairly unpredictable situation in mining areas, especially at night.

A third and final set of challenges is related to geographic and climatic circumstances. Bad and sometimes even lacking road infrastructure and mountainous terrain made many of the mining areas very difficult to reach, forcing me to travel for hours in public transport, on the back of a motorcycle or a horse, or by foot. These accessibility problems were further compounded by unpredictable weather conditions, which have undoubtedly become more unpredictable in recent years. At several instances I was confronted with torrential rains, tropical depressions, storms and at one time in late 2012 even with a typhoon. Leaving aside for a moment the devastating consequences for the local population, these extreme weather conditions repeatedly cut off my research sites from the outside world, so that monitoring weather forecasts became part of my everyday routine.
To summarize, the major methodological and logistical challenges that I faced during my research were (1) A near-complete lack of existing research, (2) A hidden research population characterized by high levels of mobility and informality, (3) A volatile security environment marked by the presence of different armed actors that have a stake in ASM, and (4) Geographic and climatic conditions which hampered my mobility and the accessibility of my research sites. Finally, I should add to this list the language issue. However, because English is the language of tuition in the Philippines, most respondents were at least able to understand my questions, and in many instances to actually respond to them. However, my partner was present at all times to translate where needed, and by the end of the research (partly due to my residing with my assistant and his family), I had gained a basic and passive understanding of the Visayan dialect, particularly where it concerned discussions about mining.

Together with my local partner, I worked out a research routine that allowed me to deal with some of the more practical and logistical challenges identified above. For example, to gain easier access to the different mining sites, we coordinated closely with local government officials, working from the provincial level downwards to the barangay (the lowest level of government in the Philippines). While this meant spending countless and often frustrating hours doing courtesy calls and waiting for a letter of recommendation, once we had such a letter it became much easier to move around and to find willing respondents. To deal with the sometimes volatile security situation, we equally relied on a range of local contacts (particularly barangay officials), and took some precautions, like bringing a ‘getaway driver’ in the more volatile mining areas.

The selection of research sites as well has been influenced by accessibility- and security concerns. I opted for an in-depth case study of one mining area (Bukal in Nabunturan) that was relatively accessible –although it still required me to travel at least 90 minutes (one way) from where I was staying, depending on the weather– and was the scene of an ongoing gold rush at the time of my initial field research in 2012. However, to offset or at least diminish a potential bias of my research findings, I paid numerous visits to other mining areas, both inside (in the municipalities of Monkayo, Maco, and New Bataan) and outside (in the provinces of South Cotabato, Agusan del Norte and Benguet) Compostela Valley province. While these shorter visits, which usually lasted 1-2 weeks, did not enable a more systematic comparison between these different research sites, they did allow me to understand resonance i.e. recurrent and divergent “elements, dynamics, and relations” (Lund, 2014: 226). Furthermore, in two of the chapters in this PhD-thesis I do present a more systematic intra- (chapter 7 on the relationship between armed actors and the state) and cross-national (chapter 6 on the relationship between ASM-operators and landowners) comparative analysis, which allows me to illustrate the wider relevance and applicability of some of my research findings.
Turning to my actual methodological repertoire, I needed a set of data collection methods that are “informed by the shifting social complexities unique to unstable field sites”, and allows for “a level of investigative flexibility on the part of the ethnographer” (Kovats-Bernat, 2002: 210). Hence, I opted for a range of flexible qualitative research methods, prime amongst which semi-structured key informant interviews and thematically oriented oral histories. Oral histories are an indispensable source of historical evidence ‘from below’ (Thompson, 2000), and can provide a grounded understanding of how ordinary lives intersect with broader processes of socio-economic and institutional transformation (Locke & Lloyd-Sherlock, 2011). They are well-suited to trace changes in informal and transient economies, as illustrated by Storm-Clarck’s (1972) work on the largely unrecorded history of the mining sector in Victorian-era England. I was particularly interested in understanding how individual lives were affected by the gradual expansion of ASM—and vice versa. While problems may arise with regards to historical recall, these can be partly offset through the comparative chronological structuring of oral histories in order to verify their internal consistency (Lummis, 1981). Finally, to facilitate the orderly recollection of memories, I also relied on visual techniques like timelines (Chambers, 1994) and historical mineral price charts, which proved to be an indispensable tool to stimulate discussions with- and between respondents on the localized effects of trends in global mineral markets.

Both in the case of the semi-structured interviews and oral histories, I interviewed a wide range of respondents, although for the oral history interviews my main targets were local landowners, ASM-financiers, and mining labour. Respondent selection took place on the basis of snowball sampling, relying on earlier respondents and local figures of authority (particularly barangay officials) to identify other respondents. In addition to facilitating access to respondents (due to having a reference from earlier respondents), snowball sampling has the additional advantage of offering insights into local social networks (Noy, 2008). Given the sensitivity of many of the issues at hand, I made a deliberate choice not to record my interviews, and to instead rely exclusively on field notes. Respondent anonymity was (and still is) respected at all time, except in cases where respondents explicitly agree (or even request) to be named. To facilitate a discussion on more sensitive issues, I also organized interviews in neutral settings outside the mining area, including in the house of my assistant in the poblacion (town center) of Nabunturan.

Finally, for qualitative data analysis, at first I attempted to undertake a more systematic qualitative coding exercise in Nvivo (software for qualitative data analysis). However, I quickly found out that overly rigid coding procedures risked fragmenting my data, leading to a loss of narrative flow. Henceforth I came to rely on a more flexible approach towards data analysis, using my interview transcripts and oral histories as “a quarry” (Yin, 2008) from which I reconstructed the interaction between individual life stories and trends in the wider political economy.
CHAPTER 2: THEORETICAL ENTRY POINTS

In this theoretically oriented chapter I will situate this PhD-thesis at the interface between different academic debates. Indeed, to answer the research questions identified in the introductory chapter, I opted to pragmatically combine selected findings from the ASM-literature with insights from other academic debates, particularly those on informal sector activity and on the ‘anthropology of governance’. In part, this choice to combine insights from different academic debates and disciplinary backgrounds was informed by the fact that this PhD-thesis is based on a series of articles. At the same time I am strongly convinced that this pragmatic and combined theoretical approach is well-suited to obtain a more holistic understanding of the multi-faceted ASM-phenomenon.

Clearly, it is not my intention in this chapter to provide an exhaustive overview of these different theoretical debates; all the more so because each of them is discussed in more detail in the different chapters included in this PhD-thesis. Rather, I will start by identifying some of the shortcomings of the existing ASM-literature in explaining the somewhat peculiar situation in Compostela Valley, where ASM has moved well beyond subsistence level. I then adopt a step-by-step approach to explain my rationale for engaging with different other bodies of literature. Finally, I provide an overview of the different chapters included in this PhD-thesis, all but one (the concluding chapter) of which are edited versions of articles that were either published earlier, or are currently in the review- or publishing process.

WHITHER THE ASM-LITERATURE?

While by no means exhaustive, the 170 search results produced by the Web of Science database upon entering the search term “artisanal and small-scale mining” reveals a lot about the current state of research on ASM. For one, ASM-expansion in recent years and decades has gone hand in hand with an increase in the number of yearly publications dealing with the subject, from a mere 2 in 1997 to 38 in 2014. Furthermore, based on a ranking according to Web of Science categories, a rough distinction can be made between a majority of publications in the field of environmental sciences (most of which deal with

9 A book search in the WorldCat database, while producing far less ‘hits’, more or less confirms these observations.
mercury pollution) and a smaller share of publications in the interdisciplinary field of development studies. For the purposes of my PhD-research, I was mainly interested in the latter body of work, although a case can be made for research that aims to exploit the synergies between both strands of literature.

WHAT EXPLAINS THE MASSIVE EXPANSION OF ASM?

ASM was long seen as an activity practiced by opportunists who were looking to “get rich quick”, and even today this narrative persists in policymaking circles and among the audience at large. At least in academic circles, however, a consensus has emerged that for the overwhelming majority of ASM-operators, their involvement in the sector is mainly poverty-driven (Heemskerk, 2001; Hilson, 2009). More precisely, ASM-expansion has been attributed to, amongst others, the detrimental impact of structural adjustment and an associated crisis in large-scale mining (Banchirigah, 2007), the declining viability of (peasant) agriculture (Hilson & Garforth, 2012), and in some countries also to the devastating effects of armed conflict (Maconachie, 2011).

By answering questions with regards to the expansion of ASM, the ASM-literature dovetails with that on livelihood diversification (Banchirigah & Hilson, 2010). However, as can already be gleaned from this brief overview, the ASM-literature has focused primarily on identifying and understanding the factors that push people into ASM, with poverty as the common denominator. This poverty-driven view of ASM-expansion contributes to an image of a sector composed primarily or even exclusively by desperate, poverty-stricken operators that lack the necessary capital to move beyond subsistence level. While this image may well capture the situation in some sub-Saharan African countries, it is squarely at odds with that in Compostela Valley, where ASM has moved (far) beyond subsistence level, and now boasts significant levels of capitalization and professionalization.

As I will demonstrate in chapter 3, to fully account for the situation in Compostela Valley, attention needs to be paid to ASM-expansion as a product of a complex interplay between different push- and pull factors. Here, it is interesting to refer to those authors who have argued that, in addition to offering opportunities for social mobility within the workforce (Jónsson & Bryceson, 2009), ASM also provides scope for outside investment and elite accumulation (Mawowa, 2013). A particularly pressing issue in this regard is the increased involvement in the ASM-sector of Asian investors, notably from China and South-Korea (Hilson et al., 2014; Weng et al., 2015).
PERSISTENT INFORMALITY EQUALS REGULATORY DISORDER?

The first part of my second research question i.e. why does informality persist despite government efforts to formalize the ASM-sector, has been dealt with extensively in the ASM-literature (e.g. Siegel and Veiga, 2009; Clausen & Baretto, 2011; Hilson, 2013). Existing explanations for persistent informality in ASM are often legalistic in kind, emphasizing the existence of a range of entry barriers that prevent or discourage formalization for the overwhelming majority of poor ASM-operators. Prominent examples include a range of fiscal and administrative requirements (Hentschel, Hruschka & Priester, 2002), elite capture of the formalization process (Fisher, 2007), and government support for large-scale mining, which limits mineral-bearing land available for ASM (Hilson & Potter, 2005; Banchirigah, 2007). These legalistic explanations typically feed into policy recommendations that focus on ‘democratizing’ registration procedures and on segregating mineral-bearing land for ASM (Hilson, 2013).

As I demonstrate in chapter 4, these legalistic explanations also apply to the predominantly informal ASM-sector in the Philippines. At the same time I will demonstrate the shortcomings of more ‘mainstream’ legalistic explanations in the case of Compostela Valley where, even in cases where a permit has been issued to a registered ASM-cooperative, the membership of this cooperative is typically restricted to financiers, landowners and/or tunnel owners. Meanwhile the ASM-workforce at large remains bereft of formal-legal recognition. This failure of existing legalistic accounts to account for persistent informality in the workforce can partly be related to the aforementioned poverty-driven view of ASM, which cultivates an image of poor individual ‘smallholder’ operators. Such a view is at odds with the growing degrees of differentiation in the ASM-sector of Compostela Valley, both within the workforce, and between the workforce and a class of ASM-entrepreneurs.

The second part of the question, that related to the real governance situation inside otherwise mostly informal ASM-areas, has received far less attention in the literature. Some clues may be derived from the economic history literature on the 19th century US gold rush, which counters popular perceptions of a gold rush as “a chaotic scramble for high-profit opportunities in an open access setting, where the premium is on speed” (Clay & Wright, 2005: 156), by describing the bottom-up emergence of sophisticated systems for regulating access to mineral-bearing land (Umbeck, 1977). Likewise, some of the more anthropologically oriented literature that deals with present-day ASM has analyzed complex informal organizational practices for handling uncertainty and risk (Grätz, 2003, 2004; Geenen, 2011), and the complex ways in which these informal arrangements intersect with formal governance institutions (Fisher, 2007; Jønsson & Fold, 2009). Nyame and Blocher (2010) have drawn attention to the existence of mutually beneficial arrangements between informal ASM-operators and customary land claimants in Ghana.
Similarly, in chapter 6 I (together with two of my colleagues) demonstrate the existence of mutually beneficial revenue sharing arrangements involving ASM-operators and informal landowners. Finally, Fisher (2008) places ASM “at the margins of the state”, where access to (mineral) resources is subject to continuous negotiation between ASM, state actors, and mining companies. In doing so, she ventures into the body of literature on the anthropology of the state that is discussed in more detail below.

Finally, where the role of armed actors is explicitly or implicitly –what is described here as ASM is sometimes referred to as artisanal mining, small-scale mining, illegal mining, or simply (gold or diamond) mining– discussed in relation to ASM, it is usually outside the scope of the more ‘mainstream’ ASM-literature. Instead, the relationship between “lootable” (Le Billon, 2001) mineral wealth (which is often extracted through artisanal- and small-scale mining methods) and armed actors has been extensively debated in relation to broader debates about an alleged “resource curse (for an overview of these debates see Cuvelier et al., 2014). Here, ASM is mainly seen as a source of rents that provides armed actors with the motivation or opportunity to become engaged in armed conflict. In engaging with these debates, Lahiri-Dutt explicitly criticizes the tendency to equate ASM with armed conflict and chaos, claiming that theories about an alleged “resource curse” fail to acknowledge how “mineral resource management is characterized by multiple actors with their multiple voices”, including those embedded in what she refers to as “community mineral economies” (Lahiri-Dutt, 2006: 19). Garret, Sergiou and Vlassenroot (2009), meanwhile, provide a more nuanced account of the role of armed actors in the ASM-sector, by describing how an army brigade in the eastern DRC sustained itself through mining- and mineral marketing activities, the taxation of mineral transport routes, and ultimately by setting up a system of “coercive security governance”:"an institutionalized political and economic system of rules that allows reliability of agreements between the military leadership and the civilian population” (Garret et al., 2009: 11). Similarly, in chapter 7, I demonstrate how in Compostela Valley, armed actors, ASM-financiers and local elected politicians have become drawn into “peculiar coercive arrangements” (Hedman & Sidel, 2000) that revolve around the rents produced by informal ASM.

WHO BENEFITS AND WHO LOSES?

The third and final question i.e. who benefits and who loses from the current state of ASM in Compostela Valley, was clearly the more challenging of the three. Most of the existing ASM-literature emphasizes how existing formal regulatory frameworks favor large-scale mining over ASM-operators, who remains excluded from formal mineral rights (Hilson, 2013). Instead, ‘illegal’ ASM-operators find themselves misrecognized, criminalized, and all too easily associated with armed conflict (Lahiri-Dutt, 2006) and various other social
and environmental woes (Tschakert, 2007). At the same time, insofar as ASM persists amidst these formidable threats, it is sometimes seen as a popular form of resistance against state policies that promote large-scale mining (Lahiri-Dutt, 2006; Bush, 2009).

Far less attention has been devoted to the distribution of risks and benefits within the ASM-sector. While most authors now pay lip service to the immense heterogeneity that characterizes ASM in many countries, a tendency still persists to talk about the sector in ‘community’ terms (e.g. Lahiri-Dutt, 2004; Bush, 2009). This failure of at least some analysts to meaningfully differentiate within the ASM-sector is (yet again) particularly problematic in cases like that of Compostela Valley, where ASM is characterized not only by high degrees of differentiation, but also by a skewed distribution of risks and benefits, both across the workforce and between the workforce and a class of ASM-entrepreneurs.

Initial clues concerning the distribution of spoils within the sector may nonetheless be derived from the aforementioned authors that pay attention to (mostly informal) organizational arrangements and practices of risk- and benefit sharing inside ASM-areas (e.g. Grätz, 2003; Jónsson & Fold, 2009). Both Fisher (2007) and Ojukutu-Macauley & Keili (2008) provide a fairly detailed description—respectively in Tanzania and Sierra Leone—of a multi-layered organizational structure involving mining labour, different types of middlemen, and financiers. Cutting across this multi-tiered organizational structure are “socio-economic differences and power relations that reveal the level of differentiation in the sector” (Fisher, 2007: 751). However, linking back to my second set of research questions, virtually no attention has hitherto been paid to how these power relations and the associated distribution of risks and benefits in the sector intersects with trends in the wider political economy.

**SUMMARY: WHITHER THE ASM-LITERATURE?**

Summarizing this brief albeit critical assessment of the ASM-literature in light of my research questions, it should be clear that it has severe shortcomings in accounting for the current state of small-scale gold mining in Compostela Valley. Most of these shortcomings can be related to the persistence of fairly simplistic poverty-driven views of the ASM-sector as a rudimentary subsistence sector composed of poverty-stricken individual operators. This poverty-driven ASM-sector is often contrasted with a modern, corporate mining sector, in what is described as a “dual mining economy” (Banchirigah, 2007).

However, this dominant understanding of ASM as a subsistence economy is at odds with the situation in Compostela Valley, where ASM is characterized by significant degrees of capitalization and differentiation. In this (and similar) environment(s), a one-sided poverty-driven view risks obscuring the complexity of existing organizational arrangements, the complex intersection between formal and informal institutions
(Teschner, 2012), and the (skewed) distribution of risks and benefits that accompanies these arrangements.

Finally, while increased attention is now being paid to the complex and multi-layered struggles over access to mineral-bearing land between a wide variety of actors, chief among which ASM-operators and large-scale mining (e.g. Fisher, 2008; Luning, 2008; Geenen, 2012), an image still emerges from the literature of mining areas that are somehow disconnected from trends in the wider political economy. This prevents a fuller understanding not only of existing regulatory arrangements inside these mining areas, but ultimately of who stands to benefit and lose from these arrangements. In short, to answer the research questions outlined in the introductory chapter, I needed to consult different other bodies of academic literature.

“INFORMALIZATION” AND THE ASM-WORKFORCE

To remedy some of these shortcomings of the ASM-literature in accounting for the current state of ASM in Compostela Valley as a largely informal phenomenon, I decided to revisit longstanding debates on informal sector activity (for an excellent overview see Chen, 2008). As I demonstrate at length in chapter 4, such an exercise revealed that the ASM-literature, by emphasizing legalistic explanations for persistent informality, has neglected so-called structuralist perspectives on informal sector activity (Castells, Portes & Benton, 1989). These structuralist approaches analyze “informalization” (Meagher, 1995) as a long-term systemic process, embedded in the ebbs and flows of global capitalism (Tabak & Crichlow, 2000). Instead of treating the expansion of informal sector activity as simply a bottom-up response to economic crisis and over-regulation (cf. the legalistic perspective), informalization is seen as a capitalist response to a crisis of accumulation in the formal economy. More precisely, in an attempt to counter declining profit rates, employers have increasingly reverted to the exploitation of a cheap, unprotected and flexible informal labour reserve.

Relying on such a structuralist approach, in chapter 4 I will demonstrate how at least in Compostela Valley, the massive expansion of ASM as a predominantly informal activity can also be understood as the product of a profound crisis in large-scale mining, which was caused by a combination of domestic instability and a global commodities crisis. As a result of this crisis, a gradual transition took place away from a regime of accumulation that revolved around capital-intensive large-scale mining, to one built around flexible ASM and the exploitation of informal labour. Significantly, different actors previously employed in the higher echelons of the large-scale mining sector played an active role in facilitating this transition from capital-intensive to labour-intensive mining methods.
In part, this more critical understanding of ASM-expansion as indicative of a broader process of informalization in the mining sector—and arguably in the economy at large—provided me with initial clues as to who is currently on the winning (a group of successful ASM-entrepreneurs) and on the losing (the lion’s share of the informal workforce) side of distributional arrangements within the sector. However, to gain a more nuanced understanding how the distribution of risks and benefits in the sector is embedded in broader sets of power relations, I needed to move beyond a critical analysis of persistent (in some instances partial i.e. in the workforce) informality, by turning my analytical attention to the real governance situation inside ASM-areas.

THE ANATOMY OF MINERAL RESOURCE GOVERNANCE

HYBRID MINERAL RESOURCE GOVERNANCE?

In my attempt to come to terms with the regulatory complexities in Compostela Valley’s ASM-sector, and inspired by the research agenda of our research unit, I was initially drawn to a body of literature on what came to be known as “hybrid governance” (Meagher, 2012), or “governance without government” (Raeymaeckers, Menkhaus & Vlassenroot, 2008). In an attempt to move beyond state-centrist notions of governance and public authority, this literature aims to understand “real governance” (Hagman & Péclard, 2010) as it exists in areas where state control is weak, contested, or even non-existent. In these areas, governance—and public authority, for that matter (Hoffmann & Kirk, 2013)—is seen as the outcome of a complex process of negotiation between a wide range of actors, which may include state actors from different branches and levels of government, traditional leaders, but also armed actors like rebels (Weinstein, 2009) or warlords (Reno, 2009). Building on these “hybrid approaches to governance and state building” (Meagher, 2012: 1073), Sikor and Lund (2009) propose to analyze the “recursive constitution of property and authority” i.e. the ways in which people’s efforts to have (competing) claims over natural resources recognized by (competing) public authorities, simultaneously affect broader struggles over public authority, by strengthening the authority of “the authorizers”. As I will demonstrate throughout this PhD-thesis (particularly in chapter 5), in the Philippines local elected politicians have appropriated a central role as authorizers in the purportedly informal ASM-sector, relying on the normative and coercive strength of the state to sanction access to mineral-bearing land.

Clearly, this body of literature on hybrid governance has thoroughly influenced my PhD-research, as it convinced me to empirically analyze the machinations of public authority and regulatory order inside ASM-areas that are all too often presented as conflict-ridden
and anarchic spaces (Le Billon, 2008). However, the limitations of this literature in accounting for the regulatory situation inside Compostela Valley’s mining areas quickly became apparent. For one, this body of literature has repeatedly been criticized for uncritically emphasizing the negotiability of governance, while glossing over the potentially predatory traits of local regulatory orders (Meagher, 2012). While this critique is perhaps a bit overdrawn, it nonetheless remains quintessential to analyze “who benefits and who loses from instances of negotiability?” (Peters, 2004: 269). Secondly, the premium put on hybrid- and non-state forms of governance fails to account for why at least in the Philippines, state actors (local elected politicians) play a crucial role in regulating the informal ASM-sector. For this reason I turned my attention towards two other bodies of literature, one of which—that on the anthropology of the state— dovetails with that on hybrid governance.

**THE ANTHROPOLOGY OF THE STATE**

The literature on ‘the anthropology of the state’ (Trouillot, 2001; Sharma & Gupta, 2006) provided me with important clues as to why state practices persist in the regulation of informal ASM. To be sure, there is no denying that many states, pressured by the forces unleashed by neoliberal globalization and economic restructuring, have undergone a radical process of decentralization and privatization. Many states have effectively ceded a range of regulatory powers to local (semi-)private actors, some of whom are now staking (competing) claims to public authority (Hibou, 2004). At the same time, it has been observed in different contexts—even in places with a purportedly weak state presence—that state-sanctioned legality exhibits surprising resilience as a frame of reference to stake claims to public authority and -natural resource access (Comaroff & Comaroff, 2007; Nielsen, 2013). Similarly, in chapter 6 me and my colleagues demonstrate how in very different geographical contexts (i.e. the Philippines, the DRC and Liberia), informal arrangements between landowners and ASM-operators are replete with references to state-sanctioned legality.

The trick to solving this apparent paradox is to no longer see ‘the state’ a fixed set of institutions that exercises control over a particular territory, but instead as “an open field with multiple boundaries and no institutional fixity” (Trouillot, 2001: 127), punctuated with references to the “idea of the state” (Lund, 2006) as an abstract and impersonal source of authority that stands above society, and serves as a particularly potent legitimizing repertoire (Hansen & Stepputat, 2001). At the same time, while state-sanctioned legality may well persist as a legitimizing repertoire on which different actors can bank to stake claims to wealth and power; particularly in countries with a weak state bureaucracy the rather chaotic process of state decentralization and -privatization has led to a (further) fragmentation of the state (Hansen & Steputat, 2001). While government
actors continue to fulfill vital roles as “licensing and franchising authority” (Comaroff & Comaroff, 2007: 139), governments themselves are now subject to high degrees of “system-internal pluralism”, whereby different branches and levels of government co-exist uneasily or even compete for supremacy (von Benda-Beckman, 2002). Building on these observations, in chapter 8 I draw on theories of incremental institutional change (Mahoney & Thelen, 2009) to demonstrate how different efforts to decentralize mineral resource governance in the Philippines have led to high degrees of institutional ambiguity, and uncertainty over who holds the authority to sanction access to mineral resources. While creating the conditions for an entire range of mineral resource conflicts, this institutional ambiguity also creates opportunities for various actors to contest existing arrangements for the redistribution of mineral resource wealth across society.

TRAJECTORIES OF STATE FORMATION IN THE PHILIPPINES

Finally, to fully understand the particularities of governance arrangements in Compostela Valley’s ASM-areas, including the central role played by local elected politicians, I engaged with a critical historical-institutional body of literature on trajectories of state formation in the Philippines. As will be discussed repeatedly throughout this PhD-thesis, despite a longstanding tradition of administrative centralism, since the advent of American colonialism in the early twentieth century local strongmen-politicians have played key roles as frontier stabilizers, maintaining sociopolitical stability while espousing the symbols of the democratic state throughout the peninsula (Abinales, 2000; Wong, 2006). In return, these local politicians can bank on the coercive and legitimizing strengths of state rule to entrench themselves at the “commanding heights” of the local political economy (Sidel, 1999).

In short, as I will demonstrate in chapter 5, the involvement of local politicians in ASM and the preponderance of state practices in the regulation of ASM can be seen as intricate outcome of an elite pact between political elites at the national and sub-national level. At the same time I will also suggest that the looming expansion of large-scale mining under the tutelage of (sections of) the national political elite now risks undermining this elite pact, with possibly far-reaching consequences for sociopolitical stability.

ORGANIZATION OF THE PHD-THESIS

While the theoretical overview presented in this chapter already contained repeated references to the different chapters included in this PhD-thesis, it is still important to present a more detailed overview; all the more so because these different chapters are (slightly) edited versions of articles that have either been published earlier (chapters 3, 5, 6 and 8), have been accepted for publication (chapter 4), or are currently undergoing review
(chapter 7). While chapters 3 and 4 are primarily aimed at gaining a better understanding of ASM-expansion as a predominantly informal phenomenon, chapters 4 to 8 provide an empirical analysis of local governance arrangements in the ASM-sector, and how these are embedded in the wider political economy. Throughout, critical attention is constantly paid to understanding who benefits and who loses from existing arrangements in the sector.

In chapter 3 I engage with ongoing debates in the ASM-literature on the different factors fuelling the sector’s persistent expansion in recent decades. I will demonstrate that in Compostela Valley, in addition to providing a safety net for poor people who remain bereft of other meaningful livelihood opportunities, the ASM-sector has also attracted the attention of a heterogeneous class of outside financiers who are primarily interested in accumulation opportunities. It is the gradual involvement of these ‘capital interests’ that has allowed ASM to evolve far beyond subsistence level.

The entry point for chapter 4 are academic debates over the causal explanations for persistent informality. I argue that the legalistic explanations that currently dominate the ASM-literature fail to account for the persistence of informality in the massive ASM-workforce. To remedy this shortcoming, I propose an integrative approach that also pays critical attention to the exploitation of informal labour as an underlying rationale for persistent informality. More precisely, I demonstrate that the massive expansion of ASM as a predominantly informal activity is the product of a transition away from formal, capital-intensive large-scale mining to flexible, labour-intensive ASM, whereby the logic of accumulation revolves around the exploitation of informal labour. Significantly, this logic of accumulation transpires in regulatory arrangements that put a premium on the recognition of mineral property rights, to the detriment of labour rights.

Turning to my empirical analysis of governance dynamics in the ASM-sector, in chapter 5 I demonstrate that the expansion of informal –and according to many people ‘illegal’– ASM in Compostela Valley, instead of undermining state power, has paradoxically gone hand in hand with a consolidation of the state in (parts of) the uplands. More precisely, by capitalizing on the legitimizing and coercive strengths of the state, local politicians have come to play a vital role in the regulatory stabilization of otherwise informal ASM, thereby indirectly contributing to its further expansion. This regulatory stabilization benefits not only these politicians themselves, with ASM being a prime source of fiscal revenues and rents; but also caters to the interests of a heterogeneous coalition of ASM-financiers, local landowners, and a range of armed rent-seekers, all of whom benefit from the persistence of ASM as a key source of rents. This existence of “joint institutions of extraction” (Snyder, 2006) involving public and private actors is then explained with reference to the longstanding tradition of decentralized statebuilding described above.

While the first (ASM-financiers) and second (local politicians) group of these vested interests are given due attention in chapters 3 and 5, in chapter 6 I zoom in on the position
of (mostly informal) landowners, by means of a cross-national comparative analysis of the relationship between ASM-operators and surface landowners in Compostela Valley, Liberia, and the eastern DRC. In all three cases, but arguably more so in Compostela Valley than in the other two cases, informal arrangements for mutual benefit-sharing now connect the interests of local landowners with those of ASM-operators. In addition, in all three cases these purportedly informal arrangements are legitimized through implicit and explicit references to state-sanctioned legality.

Chapter 7 zooms in more explicitly on the role of armed actors, by presenting a comparative analysis of relations between local state- and rebel structures in the conflict-affected provinces of North Cotabato and Compostela Valley. In both provinces, barangay-level politics in particular are now characterized by a seemingly counterintuitive rapprochement between state- and rebel actors. In North Cotabato this entanglement is more direct, with rebel commanders becoming directly involved in electoral politics; whereas in Compostela Valley the intricate relationships between local politicians and the NPA (as well as various other armed actors) are embedded in indistinct networks that now reign over the province’s ASM-sector.

Chapter 8 transcends the locality, in an attempt to situate these localized regulatory arrangements in broader mineral resource governance regimes in the Philippines. It is argued that various efforts to decentralize mineral resource governance have given rise to a highly ambiguous institutional environment, wherein various actors are now contesting the distribution of mineral resource wealth across society, sometimes becoming embroiled in real (armed) conflicts on the ground. Arguably the most important axis around which conflicts over mineral resource wealth are now taking place is that between large-scale mining companies supported by (sections of) the national government, and ASM-operators that are a part and parcel of indistinct political-military-commercial networks at the subnational level.

In the ninth and concluding chapter, I piece together these different arguments, in an attempt to provide (in some cases initial) answers to the research questions outlined in the introductory chapter. In doing so, I combine my critical account of ASM-expansion with my historical-institutional analysis of governance dynamics in the sector. It will be argued that the informalization of mining in the Philippines, epitomized by a shift from formal, capital-intensive mining to informal, labour-intensive ASM, has gone hand in hand with the emergence of a local regulatory order centered around local elected politicians that are spearheading a process of “informal formalization” (Benjaminsen & Lund, 2003) of land- and mineral tenure relations. While this local regulatory order caters to the interests of a heterogeneous coalition of local politicians, ASM-financiers, royalty-receiving landowners and armed rent-seekers; it simultaneously glosses over the needs of a massive workforce that remains extremely vulnerable to exploitation.
CHAPTER 3: ‘CAPITAL INTERESTS’ AND ASM-EXPANSION

ORIGINAL ARTICLE:

BACKGROUND:
This article was my first publication on ASM in the Philippines, and is best read as a historical introduction to the ASM-sector in a country that received no prior attention in the literature on ASM.

ARTICLE ABSTRACT:
In line with trends observed in several other countries, small-scale gold mining in Compostela Valley province has expanded immensely, and now boasts a high number of more advanced (i.e. more capitalized and mechanized) operations that push the boundary of what is usually considered artisanal and small-scale mining (ASM). A historical, fieldwork-based analysis is presented of the diverse factors underlying the current situation. It is argued that existing accounts of ASM-expansion, by focusing disproportionately on the role of poverty in pushing people into ASM, fail to satisfactorily account for the state of gold mining in Compostela Valley. Whereas this poverty-driven narrative may well explain the constant supply of mining recruits, it risks obscuring how for certain groups, ASM harbors important opportunities for capital accumulation. More specifically, the increased engagement in gold mining on the part of a heterogeneous class of mining financiers enabled ASM to evolve from rudimentary- into relatively mechanized operations with highly complex working- and revenue sharing arrangements. The nascent gold mining elite has entrenched itself in a regulatory environment amenable to the further expansion of gold mining. These observations suggest that more critical attention should be paid to the ‘capital interests’ driving similar transformations of ASM elsewhere.
INTRODUCTION: DEBATING THE EXPANSION OF ASM

In recent years scholars have attempted to understand the factors underlying the massive expansion of ASM in developing countries. The literature on rural livelihood diversification has proven highly instrumental in this endeavor (Hilson, 2011). In this literature on livelihood diversification, a variety of push- (e.g. risk management, subsistence crisis) and pull factors (opportunities for income accumulation) have been identified that determine diversification behavior (Barrett et al., 2001). Significantly, attention has also been devoted to the socially segmented nature of livelihood diversification. For most people, diversification is primarily a matter of necessity, with a growing labour reserve pushed into a “scramble for income” (Bryceson, 2002), combining easily accessible and usually low-return livelihood activities. For some, however, particularly those with the resources necessary to surmount entry barriers to high-yielding activities, diversification harbors opportunities for accumulation (Start & Johnson, 2004).

Reviewing existing explanations for increased diversification into ASM, debates have hitherto been dominated by two opposing narratives. On the one hand, in policymaking circles and amongst the audience at large, an idea persists that individuals are lured into ASM by the prospect to ‘get rich quick’ (for an academic illustration see Godoy, 1988). While this particular understanding of ASM-operators as opportunist fortune-seekers may duly apply in particular cases, an academic consensus has emerged that the majority of those engaged in ASM are primarily driven by economic (subsistence) needs and a lack of viable livelihood alternatives (Heemskerk, 2001; Hilson, 2010). More specifically, ASM-expansion has been attributed to a range of push factors, which play out to varying extents in different contexts. Particularly in sub-Saharan Africa, the detrimental impact of structural adjustment on (peasant) agriculture and formal sector employment has been a major factor in fuelling ASM-growth (Banchirigah, 2007; Hilson, 2010; Hilson & Garforth, 2012). In countries like Ghana (Hilson, 2010) and Tanzania (Chachage, 1995), the liberalization and privatization of the mining sector have also contributed significantly to ASM-expansion, with many of those retrenched from large-scale mining subsequently finding their way to ASM. At the same time, by limiting land available for agriculture and legal ASM, government support for large-scale mining (LSM) further boosts informal ASM, often within company concessions (Hilson & Potter, 2005; Banchirigah, 2007). Finally, in countries like Liberia (Hilson & van Bockstael, 2011) and Sierra Leone (Maconachie, 2011), armed conflict and associated economic and institutional breakdown have also been major factors fuelling ASM-expansion. In short, most scholars have focused predominantly on identifying the push factors that explain increased diversification into ASM, positing an intimate association between poverty and ASM-expansion.
Part of the reason for this rather one-sided focus on poverty as an explanatory variable for ASM-expansion may lie in the literature’s geographical bias towards Sub-Saharan Africa, where ASM often does qualify as an artisanal, low-tech undertaking, driven by subsistence needs. However, in some regions and countries ASM has now moved firmly beyond subsistence level, boasting a level of capitalization and mechanization that pushes the boundaries of established definitions of ASM as a labour-intensive and low-tech undertaking (Hilson, 2011). Notable examples include Ghana (Hilson, 2010), Guyana (Clifford, 2011), and Brazil (Graulau, 2011). Significantly, both Clifford (2011) and Graulau (2011) draw (cursory) attention to the role of outside capital in enabling the expansion of ASM. Building on these initial observations, in this chapter I will demonstrate that, in order to explain the massive expansion of ASM in Compostela Valley and its subsequent transformation into a highly heterogeneous sector with fairly mechanized and professional operations, analytical attention needs to be paid to the ASM-sector as a site for accumulation. More precisely, while the seemingly unremitting supply of new labour recruits in the ASM-sector is rooted in a pervasive crisis in (upland) agriculture, large-scale mining, and ultimately in labour markets writ large; my empirical evidence suggests that the fairly ‘advanced’ state of ASM in Compostela Valley can only be fully accounted for when considering the role of (outside) capital (read: ASM-financiers) in pushing the sector forward in terms of working practices and output levels.

THE EXPANSION AND TRANSFORMATION OF ASM IN COMPOSTELA VALLEY

A CONCISE HISTORY OF UPLAND SETTLEMENT

While good historiographical research on eastern Mindanao is lacking, it is clear that present-day Compostela Valley province long remained bereft of substantial human settlement. From the early 20th century onwards the entry of American and Japanese plantation agriculture in the coastal regions surrounding Davao gulf forced existing inhabitants (today’s ‘indigenous people’) further inland (Tiu, 2005). Following Philippine independence at the end of World War 2, migration to the more remote ‘frontier areas’ of Mindanao really took off, predominantly on the part of Christian settlers fleeing overpopulation and social unrest in other parts of the peninsula (Wernstedt & Simkins, 1965; Umehara & Bautista, 2004). This trend was facilitated by infrastructural development, particularly road construction. In the case of Compostela Valley, the construction (in 1938) of a national highway connecting Davao to Agusan, and the expansion of corporate agriculture, were of paramount importance in inducing Christian in-migration. This Christian influx went hand in hand with a further retreat of the ‘indigenous’ population into the uplands, where they came to rely on a combination of
hunting and swidden farming (*kaingin*) (Rodil, 2003). Throughout the 1950s and 1960s these same uplands saw an (often aggressive) expansion of corporate logging and mining, bringing in its wake more migrant labour from the Visayas and Luzon; although these companies also recruited unskilled ‘indigenous labour’. As will be discussed in more detail in chapter 4, the subsequent downturn in the mining sector in the 1980s gave further impetus to the process of ASM-expansion, by creating a pool of (semi-)skilled mining labour. Meanwhile extractive industry expansion, in combination with persistent poverty and military aggression, provided fertile grounds for the expansion of the communist New People’s Army (NPA) in the 1970s and 1980s (Abinales, 2000). The construction of logging roads by these same companies gave further impetus to upland settlement (Wernstedt & Simkins, 1965). Migrant logging labour increasingly settled in the vicinity of the logging operations, initiating a pattern of ‘chain migration’ whereby “relatives, friends and village mates follow in the footsteps of the pioneer settlers” (Umehara & Bautista, 2004: 65). During the 1970s and 1980s the number of upland settlers increased rapidly, mingling with- and in some cases displacing existing (indigenous) inhabitants, many of whom retreated further into the uplands. While the narratives of these newcomers differ, most if not all of them were motivated by a combination of social crisis in their home regions, and the prospect of securing a piece of land or a job on the Mindanao frontier.

**THE LIMITATIONS OF UPLAND FARMING AND THE FARMING-GOLD PANNING CYCLE**

In line with trends observed elsewhere in Southeast Asia, rapidly decreasing land availability due to persistent demographic growth, in combination with increased demand for cash crops like banana, coffee and abaca, led to a gradual intensification and sedentarization of upland agriculture (Cramb et al., 2009). Pretty soon, however, the limitations of upland farming became apparent, with respondents citing diverse problems, including:

1) Seasonality and an inability to bridge cash-stripped periods in-between harvests;
2) Expensive inputs and problems in accessing (affordable) credit;
3) Challenging environmental conditions, including erosion, steep slopes, and bad soil quality;
4) Low and fluctuating prices and dependency on traders because of the distance to markets and -processing facilities;
5) Decreasing land availability and increased landlessness due to demographic growth;
6) Lacking legal tenure, deterring investment in the farm; and
7) The intensification of armed conflict between the government and the communist NPA in the 1980s, with secure access to the farm no longer guaranteed.
As a result of these trends, upland settlers were increasingly unable to sustain themselves through upland farming alone, and were on the lookout for alternative income sources. However, a mounting debt crisis had plunged the Philippines into “a period of financial and economic crises, stagnation, and political turbulence” (Umehara & Bautista, 2004: 18), and in tandem with the escalation of conflict and a structural crisis in (upland) agriculture, commercial logging and mining also suffered amidst a deteriorating investment climate. In this depressed socio-economic environment, upland inhabitants increasingly found recourse in small-scale gold mining.

Already in the 1960s and 1970s, some of the migrant labour with prior experience in gold mining in their home region had started panning for gold in the rivers and creeks of Compostela Valley. These initial panning activities targeted free gold (i.e. gold that does not require processing), which was brought to Sino-Filipino gold buyers operating from Tagum City. Pretty soon other upland settlers joined in on these panning activities, which were increasingly supplemented by hydraulic mining (locally known as banlas or flusher panning). These embryonic ASM-activities were seen as a sideline to upland farming, and were practiced when there was little work in the farm or when income was too low to cover subsistence needs. At the same time, as was repeatedly alluded to in fieldwork interviews, the income from gold panning was also used to support the development of the farm:

“Gold panning started as a communal activity. (…) The money was used to pay farm workers and to invest in farm tools and animals, and sometimes also in coffee.”10

“The farm was our main concern, panning was the sideline (…) If we had no more work in the farm, we went panning (…) It helped us to develop the farm and hiring workers.”11

“The first time I went flusher panning was with my neighbor. I bought tools for 1000 pesos, but after a week I already recovered. The panning was for additional income, it allowed us to maintain consumption and we could buy fish. (…) Sometimes when there was high income I invested in the farm, mainly in tools. But farming remained the priority.”12

Initial ASM-expansion provided room for the development of gold buying and ball mill processing. Whereas these activities were increasingly performed locally, gold buying networks were dominated by Sino-Filipino merchant networks that operated from Tagum City. The example of Alberto is illustrative of these processes. A landowner and barangay official in an upland barangay of Nabunturan municipality, the increase in gold panning in

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10 Interview with landowner, Maco, October 2012.
11 Interview with landowner, Nabunturan, September 2012.
12 Interview with landowner and purok chairman, Nabunturan, October 2012.
the 1970s convinced Alberto to purchase a ball mill. He was supported by a Chinese merchant from a nearby village, who provided him with start-up capital, and bought his gold.

**THE TRANSITION FROM CORPORATE MINING TO ASM**

Booming global mineral markets in the post-war decades induced a corporate mining boom in the Philippines, and Compostela Valley (back then was still part of Davao del Norte province) saw the start of several large-scale mining projects. While initially focused on copper mining, by the end of the 1970s decreasing demand for copper and skyrocketing gold prices compelled these companies to shift their attention to gold mining (Lopez, 1992). The gold boom was short-lived, however, and by the mid-1980s corporate mining was mired in a deep crisis. The investment climate suffered amidst profound political and economic instability, with debt-driven growth under the Marcos regime coming to an end and political opposition mounting, including by a virulent communist insurgency that was particularly active in eastern Mindanao (ICG, 2011). Arguably even more important were sector-specific factors, including a volatile legal environment; corrupted management structures and debt accumulation in the sector; and above all negative trends in global mineral markets, which made large-scale, capital-intensive mining increasingly unprofitable (Clad, 1988; Lopez, 1992). In response to increasingly unfavorable employment conditions in large-scale mining in the early 1980s, an exodus – both forced and voluntary – of (semi-) skilled mining labour commenced. It was these labourers who swarmed out over Compostela Valley, initiating the first tunneling activities.

These embryonic tunneling targeted gold veins close to the surface, which were still readily available at the time, and required limited capital input. Hence, operations were often self-financed, and after the gold was processed and sold and all expenses deducted, the net income was divided equally amongst corpo members, who were usually friends or relatives. Furthermore, from the start tunneling operations were undertaken in close coordination with local, mostly informal landowners, who not only received a share of the proceedings, but also came to fulfill a role as middlemen recruiting local labour. As indicated in the preceding section, this labour was in ample supply due to a pervasive upland subsistence crisis. This reciprocity between migrant miners and local landowning families is nicely captured by the following quote from a landowner:

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13 The transition from large-scale mining to ASM is described in much more detail in chapter 4.

14 But also to other places throughout Mindanao, including T’Boli in South Cotabato province and Buga in Bukidnon.
“APEX-workers were the ones who started tunneling here (...) We received 1 share as landowner, but most of the workers are also my family, so eventually we got 4 out of 7 shares.”15

THE CAPITALIZATION OF ASM AND THE NASCENT GOLD MINING ELITE

Whereas these more rudimentary, self-financed ASM-operations continued to proliferate throughout the following decades, their limitations soon became apparent. As miners followed gold veins deeper and deeper into the mountain, the risk for flooding and tunnel collapse increased considerably. Furthermore, because they are self-financed, these operations tend to be discontinuous, hinging on the availability of cash for basic supplies and equipment. These obstacles were overcome by a gradual process of capitalization, with outside financiers providing the financial resources necessary for timber reinforcements and equipment like generators and water pumps, but also for food and shelter for the workforce. For the miners in question this meant that they no longer had to worry about subsistence needs, so they could focus on mining full-time. Meanwhile rising levels of capitalization went hand in hand with (potentially) bigger profit margins for the financier. Under a scheme that became popularly known as back-financing, after deducting operational expenses and the landowner’s share, the financier retains two or three shares of the ores, while the rest is divided equally amongst corpo members. Aside from shifting part of the risk to the workforce, this revenue sharing arrangement guaranteed highly motivated labourers (Godoy, 1988). Control over labour (recruitment) and over the day-to-day management of the operations was increasingly outsourced to ‘trusted’ team leaders –often experienced miners– and local landowners, who are assumed to be able to guarantee peace and order due to their position in local authority structures. Meanwhile within the corpo, an embryonic system of labour division emerged between diggers (abanteros or “those who move forward”) and unskilled haulers (atraseros or “those who retreat”). While in some cases these atraseros are included in the revenue sharing, in most cases they are paid on a ‘per sack’ basis.

By the mid-1980s Compostela Valley hosted several mining areas, including those in places like Ngan (municipality of Compostela), Boringot (Pantukan), Mainit (Nabunturan) and Masara (inside the APEX-concession in Maco). However, the transformation of ASM into the capitalized and mechanized operations, that now possibly set ASM in Compostela Valley apart from that found in many other countries, was most apparent in the Diwalwal area in Monkayo (for a journalistic account of the Diwalwal gold rush see Gonzales & Conde, 2002a, 2002b; Bagayaua, 2008). Following the gradual involvement of Sino-Filipino merchant capital from nearby Tagum City, what started out as smaller tunneling

15 Interview with landowner, Maco, October 2012.
operations similar to those found elsewhere in Compostela Valley gradually evolved into big tunnel portals owned and maintained by corporate-like ‘management’ structures. While some of these mining groups eventually registered with the Bureau of Internal Revenue, the operations in question were never fully formalized. Competing for underground ore bodies, these mining groups gradually ‘oligopolized’ access to an intricate underground web of tunnels and destinos (side-tunnels) financed either directly by the management or by ‘independent’ financiers.

In tandem with this professionalization of ASM, more complex systems of labour division ensued. Labour in the main (i.e. management-owned) tunnel portal such as electricians, haulers, explosives experts, and drillers, were increasingly paid a fixed wage. Corpo members inside the destinos, meanwhile, continued to work under the revenue sharing scheme that made small-scale gold mining so appealing in the first place. However, revenue sharing became increasingly skewed in favor of the financier. After the landowner is given a 10 per cent share and the financier has been recompensed for all operational expenses, net proceedings are divided between the management of the main tunnel portal and (in case there is one) the destino. Within these destinos there is a second sharing between the destino owner (financier) and the corpo. The precise allocation of revenues between capital and labour depends on a range of factors, including not just the degree of capitalization, but also the reputation of the tunnel owner, the proven gold content of the tunnel, and the size of the management. The management share typically varies between 20 and 70 percent, while that of the destino will (obviously) vary from 30 to 80 per cent. Leaving aside these revenue sharing arrangements as such, financiers developed various other strategies to appropriate a bigger share of the surplus, which will be discussed in more detail in chapter 4. Still, even these more capitalized operations continued to rely heavily on manual labour for digging, hauling and processing ores. Hence, higher degrees of capitalization expanded rather than reduced the ASM-sector’s ability to absorb surplus labour.

At the same time the gradual capitalization of ASM created opportunities for accumulation for a nascent and highly heterogeneous mining elite. As regional political and economic elites felt the pinch of economic crisis, they were looking for ways to invest and accumulate money, preferably foreign exchange. ASM provided them with an exciting and potentially highly lucrative investment opportunity. Xavier, a member of a small-scale mining association and the owner of several tunnels and a processing plant, is a good illustration. His family owned a 6 hectare vegetable farm and a lumberyard. However, during the 1980s the logging industry was facing severe problems and the lumberyard went broke. While the farm could sustain the family’s consumption needs, it failed to provide opportunities for social mobility for the children. For this reason, Xavier’s father heeded the call of his friends to venture into gold mining. As he grew older, Xavier gradually became engaged in mining himself.
This increased involvement of outside financiers did not prevent a degree of social mobility within the workforce. Several of the landowners and miners who ‘got lucky’ by hitting ‘high-grade’ – a highly arbitrary term which basically means high income-earning over a short period of time – started their own tunneling and processing operations. One example is Jun, who started working as an abantero in Nabunturan in 1985. Back in those days operations were still basic and based on equal sharing. After working in several tunnels he hit ‘high-grade’, and he used this income to finance several of his own tunnels in different mining areas. He also bought a ball mill to process his ores, allowing him to save money that would otherwise be spent on a ball mill operator.

Another important segment of the nascent mining elite was Sino-Filipino merchant capital. From the start, Sino-Filipino merchants were in firm control of gold buying, processing and the trade in mining supplies. In the wake of the Diwalwal gold rush these merchants became directly involved in financing ASM. Meanwhile by the end of the 1980s the transition from corporate large-scale mining to informal ASM had come full circle, and in tandem with the (semi-)skilled labour force, many of those (formerly) employed in the higher echelons of large-scale mining became engaged in the booming ASM-sector. Aside from financing mining operations, these people would also bring along machinery, mining expertise, and in some cases entire teams of skilled miners. Consider the story of Romeo, who started working in APEX mining as an assistant-miner in 1981. Because the risks associated with the job were out of line with low wages, many of his colleagues left the company in the 1980s. By 1990 APEX was no longer in a position to pay the salaries, leading to increased social unrest and eventually the stoppage of the mining operations. He then decided to join some of his colleagues, who had been invited by one of the APEX-engineers to the nearby province of Agusan del Sur, where he worked in an operation that was “very similar” to that of APEX.

Finally, attention should be drawn to the relationship between armed groups and ASM (this relationship is discussed in more detail in chapter 7). Without falling prey to wild-west like clichés, in the 1980s and early 1990s eastern Mindanao was a highly volatile and militarized region. Despite attempts on the part of the martial law regime to establish some degree of control over Mindanao’s resources (presidential decree 1899, the first law on small-scale gold mining, is but one example), particularly in the uplands this control was virtually non-existent. Instead, a range of armed groups – ranging from army battalions over communist rebels of the New People’s Army (NPA) to Muslim rebels of the Moro Islamic Liberation Front (MILF) – were roaming eastern Mindanao. In those mining areas where some degree of stability was attained, it usually hinged on ‘gentlemen’s agreements’ between ASM-financiers and armed actors who provided ‘protection’ services. Consider the following interview excerpts:
“The situation was very insecure, many groups were clashing. Some were Muslims, NPAs and the army. Their relationship with the mining was very close. They were all asking for a share, and in return they say “we will protect you”, but in reality everybody pays because everybody is a threat.”

“In the 1980s the NPA maintained peace and order in the area. (...) Financiers could operate as long as they paid their contribution. The NPA would ask for ‘shifting’ in the good tunnels. (...) Even today the NPA monitors the area and asks money from those with ‘high-grade’. (...) In 1986 the army entered the area and we had to evacuate to Nabunturan. After a week we returned and the operations resumed. The army detachment stayed until 1992 and also did shifting. (...)”

While the rank-and-file of these groups were often directly involved in ASM, either as diggers or as portal guards, several of their commanders started financing tunnels. The volatile security situation resulted in armed actors having a comparative advantage over their ‘civilian’ peers, and many of those (formerly) affiliated with armed groups became figures of authority inside mining areas. Over time, highly heterogeneous commercial-military networks emerged which came to preside over the ASM-sector.

THE 1990S: ASM-EXPANSION AND REGULATORY STABILIZATION

Throughout the 1990s ASM continued to expand at a gradual but persistent pace, despite relatively low gold prices. In line with dynamics observed elsewhere (Bryceson & Jønsson, 2011), the sector witnessed increasing degrees of labour mobility, with migrant miners moving between different mining areas in search of good mining opportunities. In tandem with rising degrees of labour mobility, financiers also began to diversify geographically. Capitalizing on a network of informants throughout the region, whenever an area was deemed ‘high-grade’, the bigwigs try to work their way in. While this often entails absorbing existing tunnel operators and the landowner in the new tunnel management and associated revenue sharing arrangements, in other cases financiers have been known to start new, bigger tunneling operations, aimed at ‘undermining’ the others, or simply to revert to the use of force to monopolize access to gold-bearing land.

The expansion of tunneling went hand in hand with the increased availability of processing facilities. Landowners –many of whom gradually started to neglect farming– and financiers increasingly invested in their own ball mills, which meant not only that ores could now be more readily converted into gold locally, but also that people had a greater sense of control over the commodity chain, which further added to ASM’s appeal and accessibility. The late 1980s also saw the introduction of carbon-in-pulp (CIP) processing.

16 Interview with former miner, Maawab, January 2012.
17 Interview with landowner and barangay official, Nabunturan, October 2012.
Although it would take years before CIP-processing became accessible for smaller ASM-operators, the higher recovery rates associated with CIP-processing dramatically improved the profitability of ASM, also because silver could now be extracted. Taken together, these different trends—increased mobility of capital and labour, and better and more accessible processing facilities—created ‘multiplier effects’, with mining skills and technology gradually diffusing throughout Compostela Valley. As a result, throughout the 1990s tunneling operations of varying sizes and with various degrees of capitalization were mushrooming throughout the region.

A final factor that should be taken into account is the changing political environment, which became increasingly amenable towards the survival and arguably the further expansion of ASM. Slowly but surely, local state institutions emboldened by the local government code of 1991 were penetrating the uplands, with the barangay (the lowest political-administrative unit in the Philippines) in particular becoming an important source of fiscal-regulatory authority. Barangay politics inside mining areas were increasingly dominated by local miner-landowners who had a stake in maintaining a degree of regulatory stability, also to protect their own interests in ASM. For this purpose, the barangay started to undertake a range of regulatory interventions, while relying on the Civilian Volunteer Organization (CVO), a barangay militia, for the enforcement of peace and order. This gradual emergence of a barangay-centered regulatory order, which will be discussed in much more detail in chapter 5, became a factor in its own right enabling the expansion of ASM.

THE NEW GOLD RUSH

Particularly in recent years, and partly as a result of skyrocketing gold prices, ASM underwent a renewed, dramatic expansion. Several new gold rush sites emerged (notably in Nabunturan and Maragusan), while areas that were deemed exhausted were rehabilitated or have even become ‘high-grade’. This process was galvanized by a further ‘democratization’ of processing, with the municipality of Nabunturan in particular (due to its location along the national highway) witnessing a proliferation of CIP-plantas. For many financiers, higher gold prices made it worthwhile to invest in a planta, as illustrated by the following interview excerpt.

“We started with our progressive operation in the 1990s. We started with a ball mill but some years ago we realized that it is best to own your own planta, otherwise you lose lots of money. For outsiders we charge 65000 pesos plus additional expenses per 20 tonnes.”

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18 Interview with mining financier and planta owner, Nabunturan, February 2012.
In addition, Compostela Valley now boasts several laboratories that employ professional chemists. In combination with better processing methods, the assay (mineral content) readings provided by these laboratories significantly reduced the ‘geological risk’ inherent to gold mining, enabling gold to be detected even in those areas where gold veins are not visible. Consider the following account given by a landowner-miner in Nabunturan:

“We started exploring in our area because there is now a CIP in Nabunturan. It is easier to extract gold, even when the assay is not very high or the veins are not big (…) When we find a vein, we bring some rocks to the laboratory, and when there is a high assay we look for a financier (…) We need to be quick in order to access the high-grade, before others do.”

Meanwhile the supply of new labour recruits shows no sign of abating. Rather, there is now an apparent oversupply of labour in some mining areas, as illustrated by the hordes of people engaged in river panning or in reworking the tailings (mocking) of bigger tunneling operations. During one field visit, the author spent several hours talking to people in what they called the ‘unemployment shelter’. What all of them had in common was the fact that they were mainly young migrants from a rural background. Being non-local usually implies being bereft of a connection to local landowners and barangay officials, who are often prime gatekeepers in local labour markets. While the livelihood trajectories of today’s miners exhibit a significant degree of variation, there are also important similarities, not least with regards to persistently high levels of mobility, both in spatial and sectoral terms. For many miners, ASM fits in with a longer and seldom progressive trajectory of livelihood diversification, which usually involves job-hopping between inferior and temporary jobs that straddle the formal-informal divide.

Two brief examples can illustrate these observations. The first one is that of Jorito, who started his career as a fisherman in Zamboanga in the early 1980s. While his income was decent, the job was very dangerous, so he moved on to become a ‘truckboy’ (truck assistant) for several months. He then became an employee in his aunt’s rice store free of charge, before finding a job in a banana plantation in Panabo City. Here he met his girlfriend, who was from Nabunturan. In 1989 they moved to Nabunturan, where Jorito became engaged in mining, first as a ‘sacker’ filling ore bags; then as an abantero moving between different tunneling operations while maintaining the coffee farm of his parents-in-law. In 2010 he started a self-financed tunnel together with his neighbors, but due to small and discontinuous income he is now on the lookout for abantero work. However, competition is tough these days. The second example is that of Raymond, who was born in Davao del Sur, where his parents worked as farm workers in a DOLE plantation. When he was 13 years old he started working night shifts in a bakery to contribute to the family income. After he met his girlfriend he decided to look for a better job, ending up working.

19 Interview with landowner, Nabunturan, October 2012.
intermittently in construction and farming. 2001 was a dramatic year, as his partner died and both of his parents lost their jobs in the plantation. Together with his parents he moves to Kapalong, but a lack of income soon lures him to Nabunturan, where his brother-in-law works as a miner. Soon however his brother-in-law heads leaves for Manila, leaving him stuck with no contacts. He tries to make ends meet by combining a range of jobs, including tire repair and logging. In 2012 his brother-in-law returns and helps him to access a corpo. Today he works as an abantero, and for the first time ever he manages to earn a decent living. While this is not the right place to discuss the structural problems facing the Philippine economy, these examples hint at a profound crisis in (rural) labour markets. Long-term observers have suggested that economic crisis and underdevelopment in the Philippines (and in Mindanao in particular) have now assumed a (quasi-)permanent character (Bello et al., 2005). Despite impressive growth rates, economic development continues to be highly uneven, and labour markets have proven incapable of absorbing a growing labour surplus (Ofreneo, 2013).

Finally, as will be discussed in much more detail in chapter 5, the heterogeneous class of ASM-financiers has become further entrenched in local politics. The governor, provincial board members, municipal mayors and countless barangay captains in Compostela Valley are now known to have a stake in ASM. In different mining areas included in the research, barangay officials are now facilitating and in some cases even administratively sanctioning agreements between financiers and landowners, usually in exchange for ‘fees’ and ‘donations’. The provincial government is constructing roads that connect the mining areas to the lowland areas, and has put in place a sophisticated checkpoint system to tax ore transport, regardless of whether or not the ASM-activities in question are officially recognized by the national government. While falling short of full-blown formalization, this seemingly chaotic plethora of regulatory interventions nonetheless imbue ASM with a degree of regulatory predictability that facilitates its further expansion.

**CONCLUSION**

Over the past few decades, small-scale gold mining has emerged as an increasingly important livelihood for tens- if not hundreds of thousands of people in Compostela Valley. In line with findings in the existing ASM-literature, ASM-expansion in Compostela Valley is primarily rooted in persistent (agricultural) poverty and a pervasive crisis in labour markets. However, while this poverty-driven narrative can duly account for the seemingly unremitting supply of new labour recruits, it is unable to explain the profound transformation that the sector has undergone since it first emerged in the 1970s-1980s. More precisely, rudimentary panning and tunneling activities in line with the vast majority of ASM-activities worldwide, were increasingly accompanied- and replaced by more capitalized and mechanized tunneling operations that push the edge of what is
encapsulated by most existing definitions of ASM. Perhaps somewhat paradoxically, these more capitalized operations and the more complex working practices associated with it have significantly improved the sector’s capacity to absorb surplus labour. Underlying this remarkable transformation is the increased involvement of a heterogeneous class of mining financiers. Whether having worked their way up the mining hierarchy, or becoming engaged in ASM from the outside, this involvement is not so much driven by subsistence needs as by a desire to accumulate income. Compared to earlier literature (arguably with the notable exceptions of Macmillan, 1995; Graulau, 2011 and to a lesser extent Clifford, 2011), I have made efforts to understand the composition of this nascent ASM-elite. Furthermore, attention has also been drawn to how these ‘capital interests’ have gradually acquired political power, contributing to the creation of a regulatory environment that is permissive if not amenable towards the further expansion of ASM.

The relevance of these findings transcends Compostela Valley. While in many countries and regions (particularly in sub-Saharan Africa), ASM persists as a rudimentary subsistence activity, in countries like Suriname (Heemskerk, 2004), Brazil (Graulau, 2011), Guyana (Clifford, 2011), but also in Ghana (Hilson, 2011) and Tanzania (Fisher, 2007), ASM is undergoing a similar –albeit perhaps less outspoken– transformation, with an increased incidence of more complex ASM-arrangements that boast higher degrees of capitalization and mechanization. It would be an interesting and rewarding exercise to understand the processes fuelling this expansion elsewhere. In line with the analysis provided in this chapter, critical efforts should thereby be made to identify the ‘capital interests’ in the ASM-sector, and how they take shape in- and interact with the broader sociopolitical environment.
CHAPTER 4:
ASM AND THE INFORMALIZATION OF MINING

ORIGINAL ARTICLE:
Verbrugge, B. (Forthcoming / Accepted for publication). The Economic Logic of Persistent Informality in Artisanal and Small-Scale Mining: Accumulation through Exploitation in the Southern Philippines. Development and Change.

BACKGROUND:
Taking up the question of persistent informality, I was surprised to find such a blatant disconnect between the ASM-literature and academic debates on informal sector activity. In this article I attempt to bridge this divide, leading to a radical re-interpretation not only of the reasons for persistent informality, but ultimately also for the massive expansion of ASM in recent decades.

ARTICLE ABSTRACT:
The article critically evaluates existing causal explanations for the persistence of informality in artisanal and small-scale mining (ASM), which share a legalistic focus on entry barriers and political impediments that prevent or discourage the formalization of poverty-driven ASM-operators. These explanations fail to fully explain the situation in cases such as that of the Philippines, where ASM is characterized by a differentiation between a poverty-driven workforce and a dominant stratum of ASM-entrepreneurs. Even where otherwise hampered formalization frameworks provide ASM with a degree of legal recognition, said recognition is usually limited to these more powerful ASM-interests, while excluding the workforce at large. An integrative approach to analysing informality in ASM is then proposed, which complements the existing legalistic focus on entry barriers with a structuralist concern over the exploitation of informal labour. Seen from this perspective, the massive expansion of ASM in the Philippines can alternatively be seen as the product of a transition away from capital-intensive large-scale mining, to a flexible regime of accumulation built around the exploitation of informal ASM-labour. This observation urges us to pay more critical attention to the economic logic and the vested interests underlying the (selective) persistence of informality in the workforce.
INTRODUCTION

Despite notable efforts on the part of host governments to regulate ASM, informality remains one of the sector’s defining features (Siegel & Veiga, 2009). Existing analyses of persistent informality in the sector tend to emphasize the fiscal, administrative, and political barriers that prevent “poverty-driven” (Hilson, 2010) ASM-operators from gaining legal access to mineral-bearing land (Hilson, 2013; Van Bockstael, 2014). However, these explanations fail to fully understand the situation in Compostela Valley, where ASM has reached a more advanced stage, and is characterized by a growing differentiation between a dominant stratum of ASM-entrepreneurs and a massive workforce. While existing causal explanations for the persistence of informality in ASM can duly explain why the former fail to secure the necessary permits and licenses, they are incapable of explaining why informality in the workforce and in employment arrangements persists, even in cases where a permit has been issued.

To develop a more holistic understanding of the diverse causes and consequences of informality for different categories of actors involved in the ASM-sector, including the workforce, this chapter proposes an integrative approach for analyzing informality in ASM. Such an integrative approach bridges the divide between the existing ASM-literature and structuralist informalization approaches, which treat the massive expansion of informal sector activity in recent decades as an intricate product of economic crisis and -restructuring. More precisely, dwindling opportunities for accumulation in the formal sector have induced a massive shift towards strategies of accumulation that rely on the exploitation of cheap and flexible informal labour (Castells et al., 1989; Tabak & Crichlow, 2000). Applying this integrative approach to the predominantly informal ASM-sector in Compostela Valley reveals how, following a profound crisis in the capital-intensive large-scale mining sector in the 1980s and early 1990s, a massive transition occurred to more flexible ASM, whereby accumulation revolves around the exploitation of a massive informal workforce. In short, while informality is indeed partly a product of entry barriers and political impediments that serve to exclude ASM-operators from the formal economy, persistent informality in employment arrangements is also a matter of exploitation, and serves the interests of a dominant stratum of ASM-entrepreneurs.
TOWARDS AN INTEGRATIVE APPROACH FOR ANALYZING INFORMALITY IN THE ASM-SECTOR

COMPETING THEORETICAL APPROACHES TO INFORMAL SECTOR ACTIVITY

Entry, exit, and exclusion as dominant causal explanations

Insofar as the informal sector received attention prior to the 1970s, it was often approached from a modernist viewpoint, as a remnant of traditional societies that is bound to disappear with economic progress (Tabak & Crichlow, 2000). The continued expansion of the informal sector in subsequent decades, both in developing and in developed countries, sparked intense academic debate. Initial explanations for the persistence of the informal sector were steeped in a pervasive dualism, which assumes a strict dichotomy between the formal and the informal sector. One influential approach, closely associated with the International Labour Organization, saw the informal sector as a marginal economy populated by petty entrepreneurs (ILO, 1972). These dualist approaches treat informal sector growth as ‘counter-cyclical: expanding in times of crisis, and contracting in times of growth.

With the ascendance of neoliberal development paradigms, more optimistic, legalistic approaches to informality emerged. Closely associated with the work of Peruvian economist Hernando de Soto (2000), legalistic approaches view the informal sector as a reservoir of “plucky micro-entrepreneurs” (Chen, 2008: 22) who lack formal property rights due to various fiscal-regulatory barriers that prevent their entry in a formal sector dominated by a “mercantilist” elite that deliberately aims to exclude them (de Soto, 1989). These observations legitimized minimalistic formalization programs that focus on the registration of (previously unregistered) property rights. In recent years a related voluntarist approach has gained popularity. While also paying attention to fiscal and regulatory barriers in the formal economy, the focus lies on how these provide rational economic actors with incentives to exit the formal economy (Maloney, 2004).

While these leading approaches to informal sector activity continue to resonate widely, they have been criticized on a number of accounts. For one, by depicting the informal sector as a homogeneous group of self-employed individuals, they fail to recognize the heterogeneous and segmented character of informal sector activity (Biles, 2008). Furthermore, the dualist assumptions underpinning these approaches preclude a fuller

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20 This section draws on Chen (2008), who provides an excellent overview of different theoretical approaches to informal sector activity.
understanding of how the informal sector is entangled with the formal sector, and how the expansion of informal sector activity is embedded in the “longue durée” of capitalism (Tabak & Crichlow, 2000).

**Structuralist informalization approaches and the exploitation of informal labour**

Engaging with these criticisms are neo-Marxist, structuralist approaches to informal sector activity. Closely associated with the work of Alejandro Portes (Castells et al., 1989; Portes & Schauffler, 1993), structuralist approaches do not study the informal sector as a distinct set of economic activities, but draw attention to informalization as a long-term systemic process, embedded in the ebbs and flows of global capitalism (Tabak & Crichlow, 2000). The expansion of informal sector activity in recent decades is not simply seen as a bottom-up reaction to economic crisis or over-regulation, but as a capitalist response to a crisis of accumulation in the formal sector. More precisely, to counter declining profit rates and to avoid “the costs of social security obligations and other substantial overhead costs of formal sector operation” (Meagher, 1995: 260), employers have increasingly reverted to the exploitation of a cheap informal labour reserve.

Analytically, structuralist approaches focus on three distinct features of informal sector activity\(^1\). First, they aim to understand the heterogeneous and differentiated character of the informal sector. Portes and Schauffler (1993) distinguish between subsistence-, autonomous-, and subordinate informal sector activity. While the first two categories form the domain of respectively dualist and legalistic approaches, the third category involves those activities linked with production and consumption in the formal economy, and forms the focal point of structuralist approaches. Similarly, Harriss-White distinguishes between small-scale informal activity (i.e. those activities with minimal entry barriers and “below size thresholds for taxation and labor regulation”) and interstitial informal activity, which takes place “in and around registered or formal businesses or state bureaucracies” (Harriss-White, 2010: 171). In reality, of course, informal sector work is characterized by complex employment arrangements that cut across these categories (Biles, 2009). Nonetheless, for analytical purposes it is still useful to distinguish between informal self-employment (including both informal own-account workers and informal employees) and informal wage employment (Chen, 2008).

Secondly, attention is drawn to the intricate connections that connect the formal to the informal economy. The defining logic of these connections is the exploitation of informal labour by formal sector interests. This exploitation can occur directly, with companies hiring workers “off the books”, or indirectly, through outsourcing and subcontracting as “the primary means of linking the formal and the informal economy” (Peterson, 2010: 224). Attention has also been drawn to the role of middlemen who recruit and discipline

\(^{21}\) This section draws heavily on Meagher, 1995.
informal labour, and act as “the link between providers of capital in the form of raw materials or semi-products’ and ‘workers whose labour adds value to them’” (Breman, 1999: 455).

A third focal point is the enabling role of state institutions and social networks in processes of informalization. Although many states simply lack the capacity to regulate the informal economy, “the expansion of informality since the 1970s (...) demands the complicity of the state” (Meagher, 1995: 265). For one, “ambiguous and inconsistent policy, and policy that is difficult to enforce, represent an implicit encouragement of informalization” (Ibid.: 277; see also Fernandez-Kelly & Garcia, 1989). The enabling role of the state in the informalization of the economy was –somewhat paradoxically– further galvanized by structural adjustment, which supported a “deinstitutionalization and decentralization of the economy” (Meagher, 1995: 278). Finally, state actors may be politically inclined to condone or even support informal sector activity, because it provides the population with valuable opportunities for survival and accumulation, thereby contributing to sociopolitical stability (Rubbers, 2007). Where social networks are concerned, for our purposes it is particularly important to understand them as an organizational structure that connects “the employer to a supply of “trustworthy” labour” (Weiss, 1987: 229).

Towards an integrative approach

While these different approaches to informal sector activity clearly have explanatory power in the face of persistent informality, each of them offers only a partial explanation for persistent informality as it presents itself to a particular section of the informal economy (Chen, 2008). Whereas legalistic and voluntarist approaches are clearly more relevant in the case of the informal self-employed, persistent informality in the workforce often stems from a combination of exclusion (from existing regulatory frameworks) and exploitation, and is better understood through a structuralist prism.

What is needed, then, is an integrative approach for analyzing informality, which couples a nuanced understanding of the structural characteristics of the informal economy to an analysis of different types of informality; combining causal explanations that focus on entry, exit, exclusion as well as exploitation (Chen, 2008). Similarly, Biles proposes to study the informal sector through the holistic concept of regulation, which pays attention not just to “the legal status of the activity” but also to “the relationship between employer and employee (access to social protections and benefits such as health care and pensions), and conditions within the workplace (e.g. working conditions, hours, and wages)” (Biles, 2009: 116).

While Meagher (1995) discusses the role of the state and social networks separately, for analytical purposes I opted to discuss them together.

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THEORETICAL REFLECTIONS ON THE PERSISTENCE OF INFORMALITY IN ASM

Informality: a question of entry, exit and exclusion?

As discussed in chapter 3, ASM-observers have long been preoccupied with disproving images of a sector composed of opportunist fortune-seekers. An academic consensus has emerged that attributes ASM-expansion to a pervasive subsistence crisis, caused by interrelated processes of structural adjustment, de-agrarianization (e.g. Banchirigah, 2007; Hilson, 2010; Hilson & Garforth, 2012), and in some cases even by armed conflict (Hilson & Van Bockstael, 2011). This poverty-driven view of ASM as a survival activity whose “low barriers to entry mean that smallholders only require a pick and shovel to start working” (Kamlongera, 2011: 1131) is surprisingly akin to earlier dualist understandings of the informal sector, which treat it as a marginal subsistence economy.

Meanwhile the idea that poverty-driven ASM-operators require enforceable property rights is now well-established in policy circles, and many countries have set up permit-and licensing schemes (Siegel & Veiga, 2009). However, efforts to formalize ASM have largely failed to materialize. Causal explanations for the persistence of informality are in line with dominant legalistic approaches to informal sector activity, emphasizing the fiscal-administrative barriers and political impediments that prevent and/or discourage formalization (Tschakert & Singha, 2007; Maconachie & Hilson, 2011; Hilson, 2013; Van Bockstael, 2014). The prevailing sentiment in many countries is nicely captured by Banchirigah’s observations about Ghana: “Although the government has long legalised ASM, requiring prospective applicants to follow a series of streamlined regulations to obtain a concession, ineffective policies and bureaucratic inefficiency have impeded formalisation, making illegal activity more appealing.” (Banchirigah, 2008: 29).

With regards to political obstacles, important questions have been raised over elite capture of the formalization process. In Tanzania, formal licenses accrue primarily to those actors with the necessary procedural knowledge and political connections. Another major reason for the persistence of informality in many countries is government support for large-scale mining (Hilson & Potter, 2005; Banchirigah, 2007). In several of these countries, ASM-formalization was a “legislative afterthought”, introduced after mining companies monopolized access to mineral-bearing land (Banchirigah & Hilson, 2009). Hilson even sees informality as “an intentional construct on the part of policymakers and donors” (Hilson, 2013: 56), who prioritize large-scale mining over ASM, while “making it extremely difficult for individuals to secure the necessary paperwork and licenses to participate in the latter” (Ibid.: 54).

Still others have noted how at least some ASM-operators may not necessarily be interested in acquiring a formal license (Geenen, 2012), and may instead be satisfied with access that
is negotiated informally (Van Bockstael, 2014). Meanwhile Cartier and Bürge have noted that “Operating without a license offers many gold miners greater mobility and flexibility in their search for commercially viable gold deposits and also suits more rudimentary, temporary and seasonal mining activities” (Cartier & Bürge, 2011: 1089).

**Whither differentiation and exploitation?**

Causal explanations for the persistence of informality in ASM that focus on *entry, exit, and exclusion* resonate widely, and give rise to policy recommendations that focus on ‘democratizing’ registration procedures and on segregating mineral-bearing land for ASM (Hilson, 2013). However, based on the critical overview of theoretical approaches to informal sector activity provided above, several shortcomings can be identified. These shortcomings essentially stem from rather simplistic images of a dual mining economy that is assumed to be bifurcated between formal, capital-intensive large-scale mining; and informal, poverty-driven and rudimentary ASM (for a recent example see Canavesio, 2014). While these images may well capture the situation in some countries, these overly simplistic dualistic assumptions bar us from fully appreciating the complexity of ASM, and the reasons fuelling its persistent informality, in cases like Compostela Valley.

For one, images of an exclusively informal ASM-sector do not always correspond to realities on the ground. Instead, in countries with a longstanding tradition of ASM-regulation such as Ghana and Tanzania, the sector has “evolved into a highly intertwined group of semi-formal sectors operating with varying degrees of legal registrations.” (Teschner, 2012: 308). Furthermore, as Chachage (1995) has demonstrated for the Tanzanian case, there has been a long history of interaction between large-scale mining and ASM, with the latter typically in a subordinate position. Arguably more problematic is that explanations which treat ASM as a poverty-driven subsistence sector often fail to account for its heterogeneous and differentiated character. In recent years, our understanding of the different working practices, employment arrangements, and organizational practices in ASM has improved immensely (e.g. Jønsson & Fold, 2009; Cartier & Bürge, 2011). Furthermore, research in countries as diverse as Tanzania (Fisher, 2007), Guyana (Clifford, 2011) and the Philippines (see chapter 3) has revealed a formative role for outside financiers. More precisely, the injection of outside capital has led to a growing differentiation between ASM-operations in terms of their level of capitalization and professionalization, but also to a differentiation between a class of ASM-entrepreneurs and a poverty-driven workforce. In all, however, attempts to explain persistent informality in ASM remain disconnected from these more nuanced understandings of the structural characteristics of the sector. One notable exception is Fisher, who couples a discussion of formalization efforts in Tanzania to an empirical analysis of working- and sharing arrangements in ASM. In doing so, she argues that while formalization efforts benefit “certain wealthier categories of people, who fit into the
model of an ‘entrepreneurial small-scale miner’” (Fisher, 2007: 735), they simultaneously neglect existing employment arrangements, thereby reinforcing rather than mitigating existing practices of exclusion and exploitation.

Towards an integrative approach for analyzing informality in ASM

In short, existing analyses of persistent informality in the ASM-sector are strongly influenced by dualist, legalistic and (to a lesser extent) voluntarist approaches to informal sector activity. What is lacking in the ASM-literature is an engagement with structuralist concerns over the exploitation of informal labour, and its position in broader strategies of accumulation. In short, there is an urgent need for an integrative approach for analyzing informality in ASM, which complements more ‘mainstream’ concerns over entry, exit and exclusion with a critical structuralist concern over exploitation. Such a structuralist lens obliges us to look at (1) Historical processes of differentiation in the ASM-sector; (2) Possible (historical) linkages between ASM and large-scale mining; and (3) The role of state actors and social networks in the recruitment and possibly the exploitation of informal labour. In the remainder of this chapter, I will illustrate the added value of such an integrative approach in the case of Compostela Valley province.

THE CASE OF COMPOSTELA VALLEY PROVINCE

REGULATORY EFFORTS AND PERSISTENT INFORMALITY

Since the start of the 1980s gold rush, successive governments have undertaken efforts to extend the state’s regulatory control over ASM. In 1984 president Marcos created a highly permissive permit system for ASM through Presidential Decree No. 1899. In 1991, Republic Act No. 7076 (the ‘People’s Small-Scale Mining Act’) put in place more stringent requirements for ASM, creating provincial/city mining regulatory boards authorized to segregate ‘people’s small-scale mining areas’ (Minahang Bayan) wherein 2-year renewable contracts may be awarded to ASM-cooperatives registered with the securities and exchange commission and the cooperative development authority. Both PD 1899 and RA 7076 reflect international understandings of ASM, defining small-scale mining as “artisanal with heavy reliance on manual labor and without the use of explosives and/or blasting accessories (...) prohibited from using sophisticated and/or heavy equipment, i.e. excavators, loaders, backhoes, dozers, drilling machines and/or

23 Relevant laws and regulations can be consulted on the website of the Mines and Geosciences Bureau: www.mgb.gov.ph.
related or similar equipment for the extraction and/or breakage of materials”

Several other administrative- and executive orders further specified and tightened existing regulations, particularly in the domain of land use, safety, and environment.

Despite these different regulatory efforts, most ASM-operations continue without the required permits. Furthermore, while the bangko sentral (central bank) retains a formal monopoly on gold buying, after reaching an all-time high of 42.9 billion Philippine Pesos (around US$ 1 billion) in 2010, official gold sales have plummeted, and there has been a massive increase in illegal gold smuggling (Francisco, 2012). In the remainder of this chapter I aim to provide an explanation for the persistence of informality in the ASM-sector based on the integrative approach outlined in the previous section. For the sake of analytical clarity, this explanation will be structured along the lines of the four major causal explanations for informality as identified by Chen (2008): entry, exit, exclusion and, last but not least, exploitation.

ENTRY, EXIT AND EXCLUSION: VIABLE EXPLANATIONS FOR PERSISTENT INFORMALITY?

Informality as a deliberate exit strategy?

At least in part, informality is a matter of lacking state capacity, with numerous state officials complaining how limited human and financial resources prevent them from monitoring ASM-activities, which often take place in remote areas. This situation is further complicated by the transient nature of ASM—which is often described as a “hit-and-miss” activity—and the presence of armed groups, some of which (particularly the communist New People’s Army) are hostile towards (national) government actors.

While lacking state capacity offers opportunities to evade government supervision, ASM-operators also have clear incentives to do so. Government officials repeatedly suggested that exit is indeed a viable causal explanation for the lack of official permits: “We are waiting for them, they should join forces, form a cooperative, and apply for a permit. Then they should come to our office and comply with the registration procedures. But they do not respond, it seems that they are not interested in being regulated.”

ASM-operators, many of whom no longer qualify as small-scale according to existing definitions, would indeed have a major problem if they would have to comply with the strict “mine safety rules and regulations” provided by Administrative Order 97-30, or the ban on mercury use—still a widely used method for gold extraction—introduced by Executive Order 79. Furthermore, the dramatic rise in illegal gold trading since 2011 is clearly the result of the

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25 Interview with provincial government official, Nabunturan, October 2012.
imposition of a 2 percent excise tax and a 5 percent withholding tax on gold sales (Francisco, 2012).

**Informality due to entry barriers?**

While ASM-operators thus have clear incentives to evade government regulation, most still expressed a sincere hope to obtain a permit. However, a range of fiscal and administrative barriers prevent most of them from actually doing so. Applicants need to comply with a seemingly endless list of requirements in order to qualify for a permit or contract, including notarized application forms, survey plans prepared by a land surveyor, a surety bond, a technical evaluation report from the MGB, Environmental Compliance Certificates from the Department of Environment and Natural Resources, business permits and zoning certifications issued by local governments, a mining plan prepared by an engineer, and proofs of financial and technical capability issued by a financial institution. These different administrative requirements carry significant costs, in the form of filing-, processing-, clearance- and registration fees. These costs are further inflated by pervasive rent-seeking, with respondents admitting to having paid “standard operating procedures” or “under the table” to smoothen the permit (renewal) process. Respondents from different provinces mentioned permit costs ranging from PHP 100,000-300,000 (US$ 2500-7500), an amount most ASM-operators can never produce.

**Informality as a product of an exclusivist formal economy?**

In addition to these entry barriers, various political impediments conspire to exclude ASM-operators from the formal economy. In addition to pervasive rent-seeking on the part of state officials, the allocation of permits is also plagued by nepotism and patronage. It is crucial for ASM-operators to have connections at the level of the provincial governor, who retains a high degree of control over the allocation of permits through the Provincial Mining Regulatory Board. Ultimately, this gives rise to the fairly paradoxical situation whereby those able to comply with the permit process are often amongst those who no longer qualify as small-scale miners according to existing legal definitions.

Another key requirement for ASM-operators to even qualify for a permit is to obtain the consent of existing surface- and/or mineral rights holders. In some cases, land- and associated royalty rights are claimed by a tribal community under the Indigenous People’s Rights Act of 1997. Furthermore, and in line with the situation in countries like Ghana (Hilson, 2013), the national government seems to be prioritizing large-scale mining over ASM, awarding increasingly large tracts of mineral-bearing land to large- mining companies, who are reluctant to (legally) condone the presence of ASM inside their concession. Finally, large portions of mineral-bearing land have been declared as protected areas by the national government, effectively making them off bounds for mining.

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26 This list was provided by the Provincial Agriculturalist Office (PAGRO) of Compostela Valley province.
**Whither persistent informality in/for the workforce?**

Most analyses end here, providing causal explanations which focus on entry, exit and/or exclusion. However, such explanations cannot fully account for the situation in places like Compostela Valley where, despite a clear stipulation in RA 7076 that “All persons undertaking small-scale mining activities shall register as miners (...) and may organize themselves into cooperatives in order to qualify for the awarding of a people’s small-scale mining contract”, the workforce remains effectively excluded from existing formalization efforts. Instead, even where a cooperative has been issued a contract, its membership is often restricted to financiers and royalty-receiving landowners. In an attempt to remedy this shortcoming, I now turn to a historical, structuralist analysis of ASM in Compostela Valley, which pays central analytical attention to processes of differentiation in the sector, to historical linkages between ASM and large-scale mining, and to the role of state actors and social networks in the informal mining sector. The central argument that will be presented is that the massive expansion of predominantly informal ASM-activities in Compostela Valley can alternatively be seen as a process of informalization in the mining sector, epitomized by a transition away from capital-intensive large-scale mining, to a flexible regime of accumulation built around ASM and the exploitation of informal labour.

**ASM-expansion and the informalization of mining in Compostela Valley**

**Boom-bust cycles in the Philippine mining sector**

While the Philippines have a long history of artisanal gold mining (Caballero, 1996), during American colonial rule in the first half of the 20th century the country saw the emergence of a modern mining sector (Habana, 2008). In 1936, Commonwealth Act 137 put in place a mineral tenure system that enabled the government, as the exclusive owner of mineral resources, to grant private large-scale mining concessions (Lopez, 1992). While the nascent corporate mining sector displaced and/or absorbed many of the artisanal miners as unskilled wage labour, it did not destroy ASM altogether. Instead, cursory evidence suggests that the expansion of large-scale mining gave further impetus to ASM, as “The exposure of deeper lode veins made by the big mines made readily available more mining holes and enriched the panning streams to these small mines” (Habana, 2008: 37). Power relations soon tilted in favor of the mining companies, which became “the main gold buyers, principal employers, and sources of credit and patronage.” (Ibid.: 33). However, the corporate mining boom came to a grinding halt with the outbreak of the Second World War.

In the post-war decades war metallic mining expanded dramatically, and the 1950s and 1960s saw the emergence of ‘mining giants’ like Philex and Atlas, which opened mining
projects throughout the country (Ofreneo, 2009). Under the impetus of rising gold prices, the 1970s became “undoubtedly the busiest for the mining industry as a whole. Old, dormant gold mines were reopened, new gold mines developed, existing copper mines expanded, and new copper projects undertaken” (Lopez, 1992: 264). While respondents indicated that these mining companies also employed cheap, unskilled local labour, particularly for infrastructure development, they ultimately relied on capital-intensive mining methods and skilled mining labour, which was reportedly among the best-paid in the country.

By the 1980s, however, a combination of factors triggered a major crisis in the mining sector. The global oil crisis of the 1970s-1980s and the associated drop in mineral prices rendered capital-intensive large-scale mining increasingly unprofitable (Lopez, 1992; Santos, 2001; Ofreneo, 2009). The outbreak of a severe debt crisis led to rising pressures on the Marcos regime, with civil unrest and armed insurgency on the rise, particularly on the southern island of Mindanao (Abinales, 2000). Creditors lost faith in the Philippines, leading to unprecedented levels of capital flight (Hutchcroft, 1991). Faced with these uncertain prospects, president Marcos and his entourage were increasingly preoccupied with enriching themselves through “Crony business failures associated with an unstable environment which discouraged long-term local investment in favor of short-term gains” (Pinches, 1996: 112).

The situation in the mining sector was no different. In 1974 President Marcos promulgated Presidential Decree 462, which sought to get rid of neocolonial ties with the US by putting a 40 per cent constitutional bar on foreign ownership. However, it also led to a retreat of foreign financial and human capital from the mining sector (Lopez, 1992). The subsequent ‘Filipinization’ of the mining sector coincided with a proliferation of ‘one-of-kind arrangements and special deals’ (Clad, 1988: 76), whereby the Marcos government granted loan guarantees to selected local mining projects, many of which later defaulted on their debt obligations (Santos, 2001). In 1981 the government suddenly raised mining taxes, revealing once more the regulatory volatility in the mining sector (Lopez, 1992; Santos, 2001). In this environment, a growing number of mining companies fell prey to corruption, mismanagement, and rising production costs.

The post-war mining sector of Compostela Valley provides a good illustration of these trends. From the 1950s onwards, Compostela Valley witnessed the entry of several big copper mining projects. After reaching their apex in the late 1970s and early 1980s, however, these projects fell prey to an interplay between fledgling mineral markets and corporate mismanagement. The workforce bore the brunt of the crisis: “The crippling price crisis in the metals market and the recession-depression in the Philippines in the first half of the 1980s forced many mining companies to institute all kinds of cost-saving measures, including ways to reduce labour costs” (Lopez, 1992: 376). Increased social
unrest further galvanized the process of decay. APEX mining, still the biggest mining project of Compostela Valley, is a good example. Starting out as a copper mining project in the early 1970s, in response to rising gold prices in the 1980s APEX pursued an aggressive expansion of its gold mining operations (Lopez, 1992). However, by the early 1980s the company’s operations went into decline, and by the mid-1980s the APEX-concession was effectively controlled by a small group of company guards and engineers who were increasingly reneging on their responsibilities vis-à-vis the workforce, which “received no more salaries, had no cooperative, no canteen and no more supplies”27. This cleared the way for militant labour activism, spearheaded by the militant Southern Philippines Federation of Labor (SPFL), which eventually culminated in a general strike in the late 1980s. While the engineers managed to temporarily stave off the labour shortage by hiring short-term contractual labour, by 1991 APEX, like nearby North Davao mining and SABENA mines, was forced to shut down its operations.

**From corporate mining, over subordinate ASM, to autonomous ASM**

Worsening conditions in large-scale mining led to an exodus of (semi-)skilled workers, many of whom became involved in rudimentary tunneling activities that targeted surface gold veins. Up to this point the narrative still conforms to existing accounts of ASM-expansion in countries like Ghana (Hilson, 2010) and the DRC (Geenen, 2011), where former large-scale mining labour played an important role in ‘kick-starting’ ASM. In the Philippines, however, this transition to ASM was not confined to the ‘rank and file’. Instead, upon realizing their dwindling prospects in large-scale mining, a number of those involved in the higher echelons of the mining companies also shifted their attention to ASM, and came to play a vital role in the sector’s subsequent maturation.

By the early 1980s, the APEX-management –or what remained of it– responded to the expansion of ASM by in initiating an “outside project”, which consisted in buying ores and ball mill tailings from ASM, and processing them inside the APEX compound28. In return, ASM-operators received a per ton lump sum, based on assay (mineral content) readings provided by the APEX-management. While compensations were not necessarily deemed fair by the miners in question, respondents nonetheless suggested that this additional source of income “inspired us to dig more ores”29. Thus, instead of being merely a subsistence response to economic crisis on the part of a destitute workforce, the shift to ASM was actively supported by corporate mining interests.

From the mid-1980s onwards ASM would gradually ‘emancipate’ itself from corporate mining, as epitomized by the end of APEX’ outside project in the late 1980s. Some of the engineers and chemists previously employed in APEX and nearby North Davao mining

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27 Interview with former APEX-employees, Maawab, January 2014.
28 This was confirmed by several respondents, but see also Lopez, 1992.
29 Interview with small-scale miner, Maco, February 2014.
decided to pool their skills and resources to set up their own corporation, Value Minerals (VMI). While VMI also financed its own tunnels, its main activity consisted in buying and processing ores and ball mill tailings from other ASM-operators. For this purpose VMI established the first CIP processing plant in Compostela Valley (and possibly in the Philippines as a whole) that was not owned by large-scale mining\(^{30}\). This led to a gradual democratization and diffusion of CIP-processing throughout Compostela Valley, which dramatically increased the profitability and feasibility of ASM.

By the early 1990s the transition to ASM had even taken place inside the large-scale mining concessions. Following APEX’ closure in 1991, while many of its former workers left for one of the numerous gold rush areas in the region, others became engaged in ASM inside the company premises. Instead of a spontaneous effort on the part of a destitute workforce, this shift was orchestrated by the remaining APEX-engineers. Under the new set-up, they provided the workforce with materials (“sacks, picks, hammers, timber and nails”\(^{31}\)) to maintain the tunnels, while retaining as much as 60 per cent of the ores. The remaining 40 per cent accrued to the workforce, although former workers recalled a company guard by the name of Chavez –known for “his big hands he used to slap you with”\(^{32}\)– who played a key role in overseeing the operations, and who took an additional cut of the workers’ share. This manual mining episode lasted for roughly 3-4 years, after which APEX allegedly –the MGB claims to have no written records on this period– started sub-contracting its claim and infrastructure to outside investors.

In nearby New Bataan, a similar combination of labour activism, company mismanagement, and decreasing copper prices led to the bankruptcy and subsequent nationalization of SABENA mines in the early 1980s (Santos, 2001). At around the same time part of SABENA’s mining concession witnessed the emergence of gold mining activities that were described by one respondent as “not large-scale, but also not really small-scale, they used blasting and a backhoe (…) there was manual labour inside the tunnel”\(^{33}\). According to several respondents company guards were involved in organizing these tunneling activities, and some even claimed that “the management had a helicopter just to take away the gold”\(^{34}\). While the labour force worked under a revenue sharing arrangement, remunerations were discontinuous, and as a result many of the workers started ‘going solo’. The end of this ‘illegal gold mining project’ coincided roughly with the end of martial law in the mid-1980s, and only several years later aforementioned Value Minerals (VMI) started tunneling the area anew.

\(^{30}\) Several interviews were conducted with VMI-employees in January-February 2014.

\(^{31}\) Interviews with former APEX-employees, Maco, February 2014.

\(^{32}\) Ibid.

\(^{33}\) Interview with former SABENA-miner, New Bataan, February 2014.

\(^{34}\) Ibid.
So far, I have demonstrated that the initial expansion of ASM in the 1980s and early 1990s can be understood as the product of a profound crisis in large-scale mining, with many of those previously involved in large-scale mining shifting their energy and resources to ASM. This included labourers looking for ways to compensate for their lost income, but also company cadres and skilled personnel who attempted to capitalize on shifting opportunities for accumulation. To fully understand the rationale underlying this transition away from capital-intensive large-scale mining to labour-intensive ASM, we now turn to an empirical analysis of the social relations of production in ASM, which reveals that accumulation strategies have (increasingly) come to revolve around the exploitation of informal labour.

**Differentiation and accumulation through exploitation in the ASM-sector**

Initially, ASM was a small-scale, self-financed affair, with miners and surface landowners each retaining an equal share of the ores. However, as demonstrated in chapter 3, the sector soon witnessed an increased involvement of outside financiers and skilled experts, enabling a capitalization and professionalization of ASM. This in turn led to a growing differentiation between artisanal- and more capitalized, “medium-scale” –as respondents themselves referred to them– tunneling operations; and between a dominant stratum of ASM-entrepreneurs and a massive workforce that is now falling prey to rising rates of exploitation. **Exploitation** is understood here as “the existence of a “surplus value” remaining when the value of a worker’s wage and the value of the means of production consumed by a worker are subtracted from the value of a worker’s produce. The rate of exploitation is the ratio of this surplus value to the value of the wage” (Burawoy, 1976: 1056).

In the first instance the financier advances the operational expenses for the mining operations. These include the price for mining tools, sacks, a generator, a water pump, and timber reinforcements. Some financiers also provide the workforce with food and shelter, and in some cases even with cash advances. Depending on the size of the operations, they also hire unskilled hauling-, packing and processing labour and/or (semi-) skilled workers such as carpenters, electricians, and sometimes even chemists and engineers. While the former are often hired on a casual basis and receive low piece-rate wages (e.g. per bag, per sack), the latter earn fairly decent wages and have longer-term job security. In addition to these operational expenses, and depending on the area in question, there is also a range of rent-seekers who will ask the financier for a share of the revenues. One, the (often informal) surface land claimant(s) often receive a 10-15 per cent royalty share. Local politicians also ask for a range of fees or “privileges”, and in many cases there is also a tribal association claiming land- and royalty rights under the Indigenous Peoples Rights Act (IPRA). Inside a Minahang Bayan, the rights-wielding cooperative will also ask for a royalty. Finally, Compostela Valley is home to a range of armed rent-seekers like the police (who also supply explosives), the army, and communist and Muslim rebels. These
operational expenses and rents are often deducted from the gross revenues, and put serious downward pressures on the net revenues that are redistributed between the financier and the workforce.

The financier’s cut of these net revenues ranges from one share (with the number of shares depending on the number of workers) to 70 per cent. However, 40-60 and 60-40 (per cent) are common schemes for the distribution of revenues between the financier and the workforce. This workforce is invariably organized in a corpo, a group of miners operating a particular tunnel, which is headed by a team leader. Whereas corpo members supposedly retain one share each, it is not uncommon for the team leader or selected corpo members to receive a bonus from the financier. The situation becomes more complicated in bigger tunnel complexes, where tunnel portals branch out into side tunnels (destinos). While the main tunnel and some destinos are maintained and financed by the management, other destinos have independent financiers. In the latter case, there is a multi-tiered system of benefit-sharing, whereby the management usually retains 40 to 60 percent of the destino’s revenues, while the rest is shared between the financier and the corpo of the destino in question.

Similar sharing schemes have been described elsewhere in positive terms (Godoy, 1988), and they are indeed characterized by a degree of mutuality: while financiers shift part of the risk to the labourers, the latter retain a chance to strike it rich, and are in many cases guaranteed subsistence by the financier in the form of basic food provisions, shelter, and sometimes even cash advances. However, these provisions (like various other inputs) often come from the financiers’ own hardware store, warehouse, or gasoline station, and it is well known that financiers will mark up the price of these inputs. More importantly, many financiers now own their own processing facilities, either in the form of a ball mill or a more sophisticated CIP-planta, whose recovery rate (according to local respondents) is 2-3 times that of a ball mill. In cases where workers are paid in kind, they will process their ore share in a local ball mill, leaving the tailings for the owner who will then process these tailings in a planta for a custom milling fee (usually around PHP 80,000 or US$ 2,000 for 20 tons). Increasingly, however, financiers process their ores directly in their own planta (or that of one of their associates), paying the workers a cash share and deducting the costs for ore transport and -processing as part of the operational expenses. At least intuitively, the higher recovery rate of CIP-processing should lead to a higher share for the workers. However, the sheer complexity of CIP-processing makes it difficult for workers to monitor production levels, while making it easier for financiers to cheat on the workforce. CIP-processing also enables the extraction of silver, the revenues of which are rarely (if ever) included in the revenue sharing. Ultimately, ASM in Compostela Valley is now characterized by high degrees of capital concentration, with financiers and processing plant owners –following the initial example of VMI– coalescing into cartel-like structures. Wherever a promising tunnel prospect arises, these ‘corporations’ will come in
and buy out- (by including them in the management), compete with-, or even drive out existing operators.

Based on these initial observations, it can already be observed that the distribution of benefits in the sector favors a dominant stratum of ASM-entrepreneurs, a range of (armed) rent-seekers, and to a lesser extent those commanding vital skills and experience. Meanwhile the majority of the workforce, while depending on ASM for subsistence, is falling prey to high rates of exploitation. It should therefore not come as a complete surprise that several respondents expressed a clear preference for smaller, self-financed operations, because in their experience financiers will simply exploit the workforce. These observations about exploitation become more pressing when considering the dismal working- and living conditions inside ASM-areas. Miners work long hours inside narrow and extremely hot tunnels, faced with a constant risk of tunnel collapse, exacerbated by the use of explosives. There is also a high risk for pulmonary diseases and even suffocation, due to inadequate or non-existent ventilation. In order to cope with this extreme working environment, an increasing number of the workers is turning to the use of methamphetamines (shabu), which makes the situation even more dangerous. Meanwhile processing labour –and the mining population at large, for that matter (Appleton et al., 1999)− faces serious health risks due to a constant exposure to mercury and other toxics. Living conditions outside the tunnels are hard, particularly for the massive migrant workforce which relies on the financier for subsistence. Foodstuffs are basic, often not more than rice with canned sardines or dried fish, while accommodation in the “bunkhouse” is often not more than a plastic sheet for cover, and rudimentary beds made of rope. A final factor to consider is the high variability and volatility of income due to the geological uncertainty of gold mining. While this uncertainty is partly offset by the provision of subsistence needs and cash advances by the financier, which are widely seen as a token of goodwill, most respondents agreed that these provisions also function as a form of debt bondage, instilling a sense of loyalty and even obligation in the workforce (Breman, 1999).

The enabling role of the state and social networks

In this final section I will briefly consider the role of the state and social networks in condoning- or even facilitating accumulation through exploitation of informal ASM-labour. In retrospect, it is remarkable how PD 1899, which was promulgated by President Marcos in 1984, captured the logic driving the informalization of mining, which was in full swing at the time. Not only did it mention that a combination of “inflation, volatile commodity prices, multiple increases of oil and fuel prices, stringent environmental control measures and high cost of capital” proved disastrous for large-scale mining, it also recognized explicitly that the “abundance of cheap labor in the Philippines, relative flexibility and simplicity of operations, minimum capital requirements (…) are among the arguments that lend support to the development of small-scale mining”. Ultimately, PD
1899 put in place a minimalistic permit system that paid little to no attention to the woes of the workforce. This minimalistic focus on mineral tenure (and to a lesser extent on environmental regulation), to the detriment of labour rights, was essentially upheld in subsequent regulatory efforts, if not in rule than at least in practice. As noted earlier, despite a clear stipulation in RA 7076 that “All persons undertaking small-scale mining activities” should register as members of an ASM-cooperative, in practice this is a privilege reserved for a dominant stratum of ASM-players. In the meantime both the Marcos government and successive democratic governments profited handsomely from ASM in the form of beefed-up gold reserves, as the central bank retains the exclusive right to buy ASM-gold (Clad, 1988). Seen from this perspective, the government can even be seen as being among the vested interests in the exploitation of informal labour.

However, the absence of formal labour regulation does not necessarily imply an absence of regulation or even social protection as such, because “work and wellbeing” in the informal economy are often regulated by informal social institutions (Meagher, 1995; Harriss-White, 2010). However, while several respondents indeed suggested that ASM has “developed its own system of social security”35, these ‘homegrown’ social security mechanisms are very limited in scope. As one respondent succinctly but cynically summarized the financier’s obligations: “The government is not watching over your shoulder. You do not have to pay philhealth or SSS36. If something happens to one of the miners, you just pay the family a few thousands to buy the silence”37. Furthermore, whereas local miners can rely on local social networks (mostly based on kinship ties), the growing migrant labour force usually remains bereft of such connections, and instead depends on the financier-patron, whose main concern is a cheap and reliable workforce.

To guarantee a steady supply of cheap and trustworthy labour, financiers rely on a range of strategies that combine economic, political, and (the threat of) coercive power (Da Corta, 2011). In the previous section I have already drawn (cursory) attention to economic coercion, particularly the mechanism of debt, as an instrument to discipline the workforce. There is another strategy that deserves brief attention, namely the use of middlemen for recruiting and disciplining the workforce (Breman, 1999). Every corpo is headed by a team leader, usually an experienced miner who commands the respect of the other miners. His main tasks relate to organizing the underground mining operations and monitoring the workforce, ensuring the unity of the corpo and preventing workers from leaving38. The team leader also acts as a key gatekeeper for prospective labour recruits. Another key figure is the ‘runner’, who supplies the mining operations, and acts as the ‘eyes and ears’ of the absentee financier in the area. At least in Compostela Valley, portal guards also play

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35 Interview with anonymous respondent, Quezon City, March 2014.
36 Philhealth and the Social Security System are respectively a national health insurance program and a semi-privatized social insurance program that require contributions from employers.
37 Interview with anonymous respondent, Davao City, January 2014.
38 Interview with team leader, October 2012, Nabunturan.
a vital role in monitoring the workforce. Like the aforementioned Chavez in the APEX-operations, they often have a reputation for violence, and do not shy back from using (physical) force to discipline the workforce. A final albeit quintessential role is reserved for the landowner and his kin who, in exchange for a royalty share and priority access to labour opportunities in high-grade tunnels, will monitor the area and the workforce that resides in it. As will be demonstrated in more detail in chapters 5 and 6, the authority and coercive capacity of local landowners is intimately entangled with that of the barangay, the lowest political-administrative unit in the Philippines.

CONCLUSION

This chapter began by critically reviewing existing explanations for persistent informality in ASM, which are characterized by a ‘legalistic’ emphasis on regulatory barriers and political impediments that prevent or discourage poverty-driven ASM-operators from obtaining the required permits. It was then argued that these legalistic explanations fail to fully explain the situation in countries like Compostela Valley, where ASM is now characterized by high degrees of differentiation, both within the workforce, and between this largely poverty-driven workforce and a dominant stratum of ASM-entrepreneurs. Significantly, even in cases where otherwise hampered formalization efforts now provide ASM with a degree of formal recognition, the registration of ASM-operators is limited to this dominant stratum of ASM-entrepreneurs, while excluding the workforce at large.

In an attempt to provide a more comprehensive explanation for the different causes and consequences of informality for different sections of the ASM-sector, I have attempted to bridge the divide between the ASM-literature and theoretical debates on informal sector activity. This exercise led to an integrative approach to analyzing informality in ASM, which complements a legalistic focus on entry barriers and exclusion, with a structuralist concern for the exploitation of informal labour. Applied to the Philippines, this integrative approach revealed that the massive expansion of predominantly informal ASM can alternatively be understood as a process of informalization in the mining sector writ large; epitomized by a transition from capital-intensive large-scale mining to a regime of accumulation built around flexible ASM and the exploitation of informal labour. Ultimately, these observations force us to rethink the diverse origins and implications of informality in ASM. While the existing literature projects an image of poor ASM-operators that remain excluded –deliberately or not (Hilson, 2013)– from the formal economy, I have also drawn attention to the vested interests in the (partial) persistence of informality in the form of a workforce bereft of formal-legal recognition, let alone protection.
This more critical understanding of informality, which pays central analytical attention to the position of the workforce in historical trajectories of differentiation within the ASM-sector, can also inspire a future research agenda. For one, it would be very interesting to adopt a comparative perspective in order to explore to what extent the informalization angle helps shed new light on the expansion of ASM as a predominantly informal sector in countries like the DRC, where Rubbers (2006) describes a remarkably similar process of “informal privatization” in Gécamines, a mining company in Katanga province. The critical approach to informality in ASM proposed in this chapter may also help shed new light on the relationship between ASM and large-scale mining. All too often, this relationship is approached from a dualistic perspective, which assumes a binary distinction or even an antagonism between informal and rudimentary ASM-activities on the one hand; and a modern, formal large-scale mining sector on the other (Canavesio, 2014). While many countries are indeed characterized by a co-existence of large-scale mining and ASM, this chapter has illustrated that simplistic dualist images risk glossing over the heterogeneous and differentiated character of ASM, and the complexity of its (historical) interaction with large-scale mining.
CHAPTER 5:
UNDERMINING THE STATE?
INFORMAL ASM AND STATE FORMATION

ORIGINAL ARTICLE:

BACKGROUND:
This article is due to appear in a special issue on ‘Illicit economies and the state in Southeast Asia’ in Critical Asian studies later this year (June 2015). It was the outcome of a panel at the EuroSEAS conference in 2013 in Lisbon.

ARTICLE ABSTRACT:
Building on critical perspectives on the state and the informal economy, this article provides an analysis of the “state of the state” on the eastern Mindanao mineral frontier. In the first instance the author explains that the massive expansion of informal small-scale gold mining, instead of undermining state rule, has given rise to joint institutions of extraction that promote the interests of local politicians and informal miners, amongst others. Relying on the coercive and legitimizing strengths of local state institutions, local politicians have created an environment conducive to the persistence and arguably the further expansion of small-scale gold mining. In the process, they not only beef up their personal authority and the state’s fiscal revenues, but also contribute to the consolidation of state rule on the upland frontier. Transcending the local level, this parallel process of small-scale mining expansion and state consolidation, the author argues, can be understood as the result of a long-standing tradition of decentralized state building through local strongmen-politicians. Finally, attention is drawn to the expansion of large-scale mining and how it is highly likely to upset the sociopolitical stability built around joint extraction regimes in the informal small-scale mining economy.
INTRODUCTION

In chapters 3 and 4, I have presented a critical analysis of the different factors underlying the expansion of ASM as a predominantly informal activity. In doing so, I transcended dominant understandings of the ASM-sector as a subsistence economy, by drawing attention to the existence of complex strategies for accumulation, which essentially revolve around the exploitation of informal labour. In this and the following chapters, I provide an empirical analysis of governance dynamics in the ASM-sector.

The existence of a sizeable informal or even “illegal” ASM-sector is often seen as a harbinger of state weakness. Building on critical debates on the relationship between the informal (mining) economy and the state, in this chapter I interrogate this proposition through an empirical inquiry into the anatomy of the local state on the ASM-frontier in Compostela Valley Province. I will demonstrate that the expansion of informal ASM, instead of undermining state power, has gone hand in hand with a consolidation of state rule in the locality. Rather than resulting from a deliberate top-down strategy on the part of a national state that attempts to project its fiscal-regulatory power over the “unruly uplands” (Scott, 2009), this localized process of state consolidation results from of a bottom-up engagement with the state by local elites, who attempt to legitimize and enforce “joint institutions of extraction” (Snyder, 2006) centered around the “informal formalization” (Benjaminsen & Lund, 2003) of land- and mineral rights in a volatile frontier setting. While local miner-politicians have come to rely on ASM as a source of rents and fiscal revenues and as a platform to assert their authority, a heterogeneous coalition of landowners, ASM-financiers and armed rent-seekers now benefits from a regulatory environment that is conducive to the sector’s survival, and arguably even its further expansion.

This parallel process of ASM-expansion and state consolidation is then critically evaluated against the background of broader trajectories of state formation. It is argued that the mutual entanglement between the local state and informal ASM is an intricate product of a longstanding tradition of decentralized statebuilding through local politicians. More precisely, in exchange for pacifying the frontier and for upholding the normative supremacy of democratic state rule (Abinales, 2000; Wong, 2006), local political elites have long enjoyed a high degree of autonomous control over the local political economy (Sidel, 1999; Lara & Schoofs, 2013). So far, then, this account reads like a story of an advancing resource frontier that gradually becomes incorporated into the circuitries of a decentralized Philippine state. At the same time I offer a timely reminder of the inherent volatility of resource frontiers (Tsing, 2003), by drawing attention to how the looming expansion of large-scale mining may portend a partial breakdown of joint extraction regimes built around ASM, with potentially profound consequences for sociopolitical stability.
STATE RESILIENCE AND THE INFORMAL MINING ECONOMY

THE PERSISTENCE OF ILLEGAL MINING: A HARBINGER OF STATE WEAKNESS?

For academic observers from different disciplinary backgrounds, the existence of a sizeable informal, illicit, or illegal ASM-sector poses important challenges for state resilience. Fiscal sociologists, for one, would argue that the state’s inability to extract revenues from ASM weakens its financial capacity and hence its ability to deliver vital public services, ultimately undermining its authority and legitimacy (e.g. Levi, 1988; Bräutigam et al., 2008; Larsson, 2013). As Di John notes, “the extent to which the state monopolizes tax collection, the territorial reach of the revenue authority, tax levels, tax effort, the diversity of tax revenues and the manner in which tax is collected—all contribute to identifying the likelihood of state resilience.” (Di John, 2010: 10).

Other authors engaged in debates on the political economy/ecology of conflict have suggested that the availability of lootable resources – i.e. resources that require minimal bureaucratic infrastructure to extract and tax (Le Billon, 2001) – provides opportunities for rent-seeking outside formal government structures. This may in turn facilitate the formation of alternative power centers built around these resource rents, like that-politicians who cultivate their own patronage networks (Reno, 1999), or secessionist rebel movements which contest state power (for a critical overview of these and related arguments, see Cuvelier et al., 2014). Building on these observations, authors like Reno (1995; 1999), Nordstrom (2001; 2004) and Duffield (2001) draw attention to what they describe as “shadow networks” or “shadow states”. The formation of these “shadows” has been facilitated by globalization, with increased global demand for illegal or even illicit goods, combined with the availability of a transnational structure for trading these goods, allowing local actors to bypass formal state structures and to connect directly with transnational capital. Another defining characteristic of these shadows is the pervasive blurring of boundaries between formal–informal, legal–illegal and state–non-state: “While these networks are not comprised by states themselves”, Nordstrom explains, “neither are they entirely distinct from, or opposite to, states—they work both through and around formal state representatives and institutions.” (Nordstrom, 2001: 36). Nonetheless, due to the authority and resources at their disposal, state actors often occupy key positions in shadow networks, but as rational actors that seek to maximize self-interest, rather than as apologists of legal-bureaucratic state rule. In the long run, this instrumentalization of the state for self-interest, or so it is claimed, undermines the legitimacy and effectiveness of state institutions.
ASM figures prominently in this body of literature, albeit sometimes under a different designation\textsuperscript{39}. First, given the specific materiality of the alluvial mineral deposits of gold, diamonds, and gems that are often targeted by ASM-operators are considered extremely lootable (Le Billon, 2001). Secondly, for geophysical reasons ASM often takes place in peripheral regions, where the presence of state institutions is a priori limited, and sometimes contested by non-state (armed) actors (Fisher, 2008). Thirdly, ASM-communities are frequently depicted as violent and anarchic spaces, replete with uprooted young males that are prone to rebel against vested authorities (Le Billon, 2008).

**RETHINKING THE RELATIONSHIP BETWEEN THE STATE AND THE INFORMAL ECONOMY**

This dominant interpretation of informal ASM as a harbinger of state weakness can be criticized on a number of accounts. For one, as suggested in chapter 4, Meagher (1995) has demonstrated that state institutions play a vital role in facilitating long-term processes of “informalization”, which is understood as an integral response of capitalism to a crisis of accumulation in the formal economy (see also Weiss, 1987). More precisely, through ambiguous and inconsistent policy formulation and lax law enforcement, states create incentives and opportunities for employers to hire informal labour. Meanwhile empirical studies of the state “from below” suggest a high degree of implicit or explicit support for informal activities on the part of local state officials, who are motivated by political (i.e. support from the huge number of people involved in the informal economy) and/or by personal (i.e. augmenting meager government salaries) reasons (e.g. Rubbers, 2007). Meanwhile local state officials are known to bank on the networks and authority vested in formal statehood to regulate access to and shape the rules in the informal economy, and to cultivate clientelistic ties with informal economic actors (Pattenden, 2011).

Snyder (2006), meanwhile, develops a convincing institutionalist critique of the “resource curse” literature, drawing attention to the possible development of “joint institutions of extraction” that enable “cooperation between private and public actors who share income by exploiting resources” (Snyder, 2006: 948). These joint institutions of extraction allow for income from lootable resources to be used to “provide the revenue with which to govern and, thus, produce not disorder but stability” (Ibid.: 962). Still others draw attention to how the economic rents produced by the informal economy may become a constitutive part of a broader elite pact geared toward the maintenance of sociopolitical stability (Sherman, 2003).

While the existence of unofficial ties between state officials and the informal economy is duly recognized in the literature on the shadows discussed in the preceding section, the

\textsuperscript{39} What is described in this PhD-thesis as ASM is referred to by other authors as small-scale mining, illegal mining, or simply gold-/diamond mining.
authors discussed here share a critical, less essentialist, and more empirically grounded understanding of the state. In recent years this approach has been strengthened by a body of literature on “the anthropology of the state” (Sharma & Gupta, 2005; Eriksen, 2010; Vu, 2010), which aims to criticize and transcend established perspectives on the state as a fixed set of formal-legal institutions. Instead, state formation is approached as a fluid and dynamic process involving a broad range of actors, both public and private, who draw upon the “idea of the state” (Trouillot, 2001; Lund, 2006) as an abstract and neutral source of political authority and as a legitimizing repertoire to underpin claims to public authority. Approached from this perspective, rather than representing an inevitable distortion of legal-bureaucratic rationality, the reliance of state actors on the registers of state rule to extend control over the informal economy can, somewhat paradoxically, strengthen the “fantasy of the state” (Hansen & Steputat, 2001) as a unitary, objective, and hierarchically organized institutional configuration.

Combining these different critical approaches towards the informal/illega sector and the state results in an understanding of the state as a dynamic institutional configuration with intricate ties to the informal economy. It is such an understanding that will form the analytical basis for my empirical analysis in the remainder of this chapter. I will demonstrate that on the local level, the interests of state actors and those of various other actors who have a stake in the ASM-sector have become intimately intertwined in joint institutions of extraction. These joint institutions of extraction, I then argue, are an integral part of a broader elite pact between local and national-level political elites, whereby the former receive a high degree of political and economic autonomy in exchange for upholding sociopolitical stability and for representing the state on the (mineral) frontier.

**JOINT INSTITUTIONS OF EXTRACTION AT THE ASM-FRONTIER**

**FRICTION AND STABILITY ON THE UPLAND FRONTIER**

The settlement of the Davao region and its gradual integration into the (post-)colonial state was intimately related to the extraction of the region’s resources (Abinales, 2000). Evidence suggests that Compostela Valley was left largely untainted by the initial expansion of plantation-based agriculture during the American colonial period. This changed after independence in 1946, when settlers from the north of the country started arriving in hordes in the more remote “frontier regions” of Mindanao (Wernstedt & Simkins, 1965). In tandem with the expansion of commercial logging, these settlers

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40 While there is some overlap between this historical section and that presented in other chapters, I nonetheless maintain it here in order to guarantee the consistency of the arguments presented in this chapter.
gradually moved into the uplands, home to indigenous tribes which—in parallel with processes elsewhere in Southeast Asia (Scott, 2009)—retreated further into the mountains. While successive governments tried to support the orderly settlement of Mindanao, migration to the upland frontier was a largely spontaneous process, taking place without government supervision. As a result the uplands, most of which are owned by the state as public land, saw a proliferation of illegal squatters (Abinales, 2000: 100-101).

While this process of upland migration sparked localized tensions between incoming settlers and indigenous inhabitants, in the immediate postwar decades the Davao region enjoyed a relatively high degree of sociopolitical stability (Abinales, 2000). Until the 1970s land was still in ample supply, and existing upland settlers willingly vacated plots of land in return for compensation. Indeed, rather than being a question of dispossession, interviews with upland settlers suggest that the migrant influx led to an embryonic market for informal land claims, although compensations offered by newcomers were often ridiculously low. Furthermore, most in-migration followed a pattern of “chain migration”, whereby “relatives, friends and village mates follow in the footsteps of the pioneer settlers.” (Umehara & Bautista, 2004: 65). As a result, nascent upland communities were often dominated by a few settler families who came from the same home region. As these settler families intermarried with one another and with the region’s indigenous inhabitants, cross-cutting ties of kinship and solidarity began to emerge in upland communities. A final albeit crucial factor contributing to the stability of the Davao frontier was the role played by local-strongmen politicians, who relied on a combination of personal charisma, patronage, coercion, and the legitimacy inherent to elected officialdom to pacify the locality, all the while acting as a liaison between Manila-based national elites and regional economic power brokers (Abinales, 2000; see also Wong, 2006). I will return to the latter point in more detail below.

From the late 1960s onwards, several trends conspired to undermine frontier stability. One important factor was the gradual exhaustion of the land frontier, which was caused in part by the aggressive expansion of extractive industries (particularly plantation agriculture, commercial logging (Vitug, 1991), and to a lesser extent corporate mining) under the control of national-level elites (Abinales, 2000). Indeed, growing local tensions over land access coincided with a centralization of power in the hands of the martial law regime of dictator Ferdinand Marcos, to the detriment of local strongmen-politicians who were no longer able to fulfill their role as frontier stabilizers. Instead, the regime increasingly relied on handpicked local allies and military might to maintain stability. In this increasingly polarized and repressive environment, the communist New People’s Army (NPA) found fertile grounds for expansion, and by the early 1980s the uplands of eastern Mindanao had become one of the hotspots in the increasingly brutal war between the NPA and the Marcos regime. It was in this volatile environment that ASM underwent a rapid expansion. In this chapter I focus on one particular factor that facilitated, and arguably even
supported, the further expansion of the ASM, namely its progressive entanglement with local state institutions.

**THE EMERGENCE OF A BARANGAY-CENTERED REGULATORY ORDER**

To gain a better understanding of the process of state consolidation on the ASM-frontier, let us consider the example of barangay Bukal in Nabunturan. In the 1980s, amidst intensifying confrontations between the NPA and the army, ASM-activities began to emerge in Bukal. Following the restoration of democracy on the local level in the late 1980s and early 1990s, prominent members of local settler families formed an alliance with former Davao del Norte provincial governor Prospero Amatong, leading to the creation of barangay Bukal in 1995. For various reasons Bukal is now referred to as a “special barangay.” It is located entirely in public land, and a significant part of its territory coincides with a protected landscape. For this reason the national government has hitherto failed to recognize human activity in the area, including the ubiquitous ASM-activities. Notable exceptions include a large-scale mining permit issued to ALDEVINCO, and a certificate of ancestral domain title (CADT) issued under the 1997 Indigenous Peoples Rights Act (IPRA) to NASBATRICO, a tribal association which now holds priority rights over the mineral resources underlying their ancestral domain (USAID, 2011a). However, for reasons I will not discuss at length here, NASBATRICO lacks both the capacity and legitimacy to wield these priority rights effectively. Instead its role is now confined to the collection of checkpoint fees, which I discuss in detail below. Finally, unlike other barangays Bukal is not entitled to internal revenue allotments (IRA) from the national government, which usually represent the number one source of local government revenues. Instead it depends on a combination of yearly stipends from the province and municipality as well as locally raised revenues.

After Bukal’s establishment in 1995, barangay officials started registering informal land claims, land transfers, and other economic activities. For this purpose the barangay (through barangay ordinances) created several puroks, administrative subdivisions of the barangay. Over time the barangay emerged as the key regulatory authority in the local economy and in informal land markets, and became the first point of call in the case of land- and other disputes. Only when the barangay captain fails to mediate effectively will a dispute be referred to the mayor, to the formal judiciary, or to national government agencies. Remarkably, in addition to land tenure regimes sanctioned by the national government, representatives of national government agencies and even local courts usually take into consideration existing informal settlement patterns on the barangay level.

Before proceeding to my discussion of regulatory dynamics in the ASM-sector, two additional observations should be highlighted that are crucial for understanding my arguments. The first one is the personal involvement of local politicians in ASM. As in
many other mining barangays, barangay officials in Bukal are among the vested interests in the ASM-sector, either as mining financiers, as owners of processing plants, or as landowners that receive ASM-royalties. Taking part in electoral politics in the Philippines is a somewhat peculiar and according to most observers a highly corrupt affair, with vote-buying as a defining feature of elections on all levels. In Bukal, as in other mining barangays, the price for a vote can go upwards to PHP 2,000 (US$ 50). So what convinces miners to invest in politics? As Sidel (1999) explains, discretionary control over local state institutions in the Philippines entails privileged access to accumulation opportunities in the local economy. Indeed, barangay officials use their priority access to the state and its coercive machinery in the form of the Civilian Volunteer Organization, the purportedly unarmed barangay militia, to protect and expand their own economic interests. In the case of ASM, barangay officials often mobilize the CVO as portal guards. Furthermore, they can use the state indirectly, as gatekeepers in the local economy, to solicit “contributions” from those who desire to invest locally. Finally, local politicians have access to broader, vertically organized political party networks that provide access to patronage from higher-ranking politicians (Landé, 1968). As will be discussed below, however, this image of local politicians as rent-seekers is somewhat misleading, as it obscures an important degree of reciprocity in local politics.

The second important observation relates to the increased centrality of formal-legal authority in the exercise of public authority. While the barangay captain is usually a charismatic figure, the prestige associated with elected officialdom and having relationships with higher-ranking politicians are undoubtedly a boon for his personal authority. In this sense, the nascent barangay-centered regulatory order described above illustrates a broader process of state penetration, not necessarily as a fixed set of institutions, but as a legitimizing repertoire based on the idea of legal-bureaucratic rationality as an abstract and universal source of power. As will be demonstrated below, these two trends –i.e. the progressive involvement of local politicians in ASM and the increased reliance on the “idea of the state” (Lund, 2006) as a legitimizing repertoire– have enabled the emergence of “joint institutions of extraction” (Snyder, 2006) centered around the “informal formalization” (Benjaminsen & Lund, 2003) of local land- and mineral tenure relations by local politicians.

THE REGULATION OF INFORMAL MINING: FROM BROKERAGE TO INFORMAL FORMALIZATION

Understanding the machinations of regulatory authority inside mining areas requires a basic understanding of the process through which ASM-operators secure access to mineral-bearing land. Whenever they want to explore or operate in a given area, they will need the consent of existing surface land claimants, who will typically receive a 10 percent
royalty share. In case local self-financed miners or financiers are familiar with the landowner in question, said access is negotiated directly. In other cases, the financier will usually approach barangay authorities as the assumed representatives of local landed interests, and as the pivot of local security arrangements. A barangay official will then step in and connect the financier with the landowner in question. In return, barangay officials solicit a range of “contributions” from financiers. In some cases these donations are monetary in form; in other cases they are granted the “privilege” to operate a high-yielding tunnel (shifting). These contributions are particularly prominent in election periods, when rival politicians seek to woo financiers into beefing up their campaign funds. Here it is also important to mention that when a financier or landowner hits “high-grade,” he will often be confronted with a range of other armed rent-seekers, which may include army, police, CVOs, rebels, and/or indistinct extortionist groups. As will be demonstrated in chapter 7, in many cases these armed rent-seekers develop some kind of “live and let live” arrangement with local politicians.

Over time barangay officials have transcended –but not cast off– their role as brokers in the local economy. Instead, as ASM-operations expanded further, they developed more sophisticated ways to extract rents from and expand their regulatory control over ASM-activities. In several of the mining areas that I visited during my research, I found that the barangay is now not merely facilitating, but is actively registering and sanctioning agreements between financiers and landowners, particularly in cases where it concerns bigger tunneling operations. After an oral agreement is reached between the respective parties, a written agreement is drafted by the purok or the barangay, specifying the parties involved, the revenue sharing modalities, and the conditions of withdrawal. The registration of this agreement and the tunnel in question typically come with a registration fee, which is but one example of a broader range of fees the barangay, and increasingly also the municipality and province, are now imposing on ASM-operators, gold buyers and owners of processing plants. Upon paying these fees, ASM-operators are issued with “official” receipts and a range of stamped documents, like community tax certificates, environmental permits, barangay- and municipal clearances, and business permits.

These fiscal-regulatory efforts in ASM were given renewed impetus when a massive new gold rush enveloped Compostela Valley in the late 2000s. In ten “collection centers” (read: roadblocks) spread out over seven municipalities (see table 1), representatives from different local government units, together with tribal organizations holding a certificate of ancestral domain, and in some cases also with ASM-permittees, started taxing ore transport. At the time of the research in 2012-2013, Bukal had two such checkpoints. In the first one of these checkpoints, the barangay and municipality were collecting respectively PHP 300 (US $8) per dump truck, and PHP 30 (US$ 0.8) per bag of ores. In the other checkpoint, the Mansaka tribal association (Nasbatrico) was charging PHP 500
(US$ 12) per truck. Similar to the issuance of permits and clearances mentioned above, these payments invariably come with stamped receipts.

While revenue data were difficult to collect on the barangay level, barangay officials in Bukal explained that in addition to their own checkpoint revenues, they are now entitled to municipal collections in excess of PHP 100,000 (US$ 2,000) per year. The province of Compostela Valley, meanwhile, keeps detailed accounts of these “mining revenues,” which are booked either as donations or as environmental user’s fees (see tables 1 and 2). In total, these revenues far outstrip the share of excise tax collected from formal ASM- and large-scale mining operations (see table 2). In 2012, the province collected PHP 13.6 million (some US$ 340,000), and while lower than in previous years – mainly due to the devastating impact of typhoon Pablo – this amount still adds up to approximately 65 percent of fiscal revenues from mining, and some 13 percent of locally raised revenues. At the same time, the significance of these revenues should not be exaggerated, as local governments continue to rely disproportionately on external resources, particularly the internal revenue allotment, which accounts for about 80 percent of provincial income.

Examining these different fiscal-regulatory interventions, several legal contradictions emerge. To be sure, most of the interventions described above, including donations to local government units, now have a legal basis in the 1991 local government code, which defines the mandate of local government units in the era of decentralization. Furthermore, these regulatory interventions have gone hand in hand with a range of local government executive orders and -ordinances aimed at “rationalizing” (as local government officials described it) ASM. However, the legal status of many if not most of the actual ASM-operations remains fundamentally unclear. For this reason, local politicians supported the formation of ASM-cooperatives throughout the province. These cooperatives have subsequently applied for an official ASM-permit, but for various reasons including the overlap with large-scale mining concessions, most of these requests are still pending. However, the formation of legally registered (with the Cooperative Development Authority) ASM-cooperatives and the administrative trail left behind by these formalization attempts all contribute to imbuing ASM with at least a semblance of legality.
Table 1: Comparative statement of mining fees, 2012

<table>
<thead>
<tr>
<th>COLLECTION CENTER</th>
<th>DONATIONS</th>
<th>ENVIRONMENTAL USER’S FEE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Camanlangan, New Bataan</td>
<td>P 10 (Sept. 2011)</td>
<td>P 443,115</td>
<td>P 5</td>
</tr>
<tr>
<td>Bugac, Mainit, Nabunturan</td>
<td>P 5 (Nov. 2011)</td>
<td>P 52,365</td>
<td>P 5</td>
</tr>
<tr>
<td>Ngin, Compostela</td>
<td>P 5 (Sept. 2011)</td>
<td>P 11,550</td>
<td>P 5</td>
</tr>
<tr>
<td>Mainit, Nabunturan</td>
<td>P 5 (Dec. 2010)</td>
<td>P 867,800</td>
<td>P 5</td>
</tr>
<tr>
<td>Mt. Diwalwal, Monkayo</td>
<td>N/A (May 2011)</td>
<td>P 5</td>
<td>P 298,463.50</td>
</tr>
<tr>
<td>New Leyte, Maco</td>
<td>N/A (May 2012)</td>
<td>P 5</td>
<td>P 71,970</td>
</tr>
<tr>
<td>Panoraon, Maco</td>
<td>N/A (May 2012)</td>
<td>P 5</td>
<td>P 58,661</td>
</tr>
<tr>
<td>Pamintaran, Maragusan</td>
<td>P 15 (July 2009)</td>
<td>P 3,238,991</td>
<td>P 5</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>P 4,978,504</strong></td>
<td><strong>P 1,935,032.50</strong></td>
<td><strong>P 6,913,536.50</strong></td>
</tr>
</tbody>
</table>

Table compiled from data retrieved from Office of the Provincial Treasurer, Compostela Valley. Last updated April 2013.

Table 2. Comparative statement of revenue collected from mining operations

<table>
<thead>
<tr>
<th>CALENDER YEAR</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sand and Gravel tax</td>
<td>P 2,052,168.48</td>
<td>P 2,535,159.97</td>
<td>P 2,431,745.26</td>
<td>P 2,269,868.26</td>
<td>P 2,740,493.70</td>
</tr>
<tr>
<td>Small Scale Mining</td>
<td>P 1,008,130.00</td>
<td>P 356,248.90</td>
<td>P 1,511,265.00</td>
<td>P 22,020,247.40</td>
<td>P 19,632,802.01</td>
</tr>
<tr>
<td>Environmental User’s Fee</td>
<td>P 6,930,110.00</td>
<td>P 15,582,346.00</td>
<td>P 13,476,122.50</td>
<td>P 9,029,209.58</td>
<td>P 4,601,425.43</td>
</tr>
<tr>
<td>Miscellaneous (Donation)</td>
<td>P 236,715.00</td>
<td>P 1,008,130.00</td>
<td>P 356,248.90</td>
<td>P 1,511,265.00</td>
<td>P 22,020,247.40</td>
</tr>
<tr>
<td>Occupation Fee</td>
<td>P 317,994.65</td>
<td>P 4,039,431.91</td>
<td>P 2,620,839.00</td>
<td>P 129,570.00</td>
<td>P 129,570.00</td>
</tr>
<tr>
<td>Excise Tax</td>
<td>P 236,715.00</td>
<td>P 1,008,130.00</td>
<td>P 356,248.90</td>
<td>P 1,511,265.00</td>
<td>P 22,020,247.40</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>P 2,052,168.48</td>
<td>P 9,465,269.97</td>
<td>P 20,410,688.65</td>
<td>P 22,020,247.40</td>
<td>P 19,632,802.01</td>
</tr>
</tbody>
</table>

COERCION, LEGITIMACY, AND RECIPROCITY IN JOINT INSTITUTIONS OF EXTRACTION

Two fundamental and interrelated questions remain. First: why do ASM-operators and landowners comply with paying these donations, permit fees and transport taxes? Secondly: where does the money go? Initial clues with regards to the first question may be derived from the literature on the determinants of tax compliance, which argues that sustainable tax efforts hinge on a combination of coercion (i.e. the capacity of authorities to monitor and enforce compliance) and legitimacy (Levi, 1988; Levi & Sacks, 2008). At the same time, local politics in the Philippines are often depicted as a coercive and in some cases even predatory affair, dominated by “local bosses” and warlord-politicians (Sidel, 1999; Kreuzer, 2009).
Clearly, the role of coercion in local politics should not be underestimated. When asked about the consequences of not paying transport fees, financiers replied that their trucks could be confiscated by the provincial government or even by local officials of the DENR (a national government agency). It is also important to consider that Compostela Valley is home to armed groups who are all involved, to various extents, in the ASM-sector, primarily but not exclusively in the form of protection-cum-extortion activities. Threats and actual acts of violence by these groups have targeted mining and processing equipment (which sometimes mysteriously “catches fire”), ore transport, and in some cases even the physical integrity of financiers and/or their labourers. These armed groups sometimes cultivate indistinct ties with local politicians, giving rise to “peculiar coercive formations” (centered around local politicians and their private armies) that typically include people from all sorts of backgrounds, including (former) military, police, and even rebels (Hedman & Sidel, 2000: 58). Over time, CVOs have come to occupy a central position in these peculiar coercive formations. They are often mobilized by barangay officials to protect their investment, as one landowner and former barangay captain explained: “The CVO is in control of the mining area, and no goons are allowed. Many of the CVOs are NPA returnees, some of them are also the relatives of landowners or barangay officials, and they are all locals.”

In this opaque security environment, financiers are ever-wary of reprisal and, in Le Billon’s words, “sustain their access to resources and protect their investments by paying whoever is in power” (Le Billon, 2001: 569). Furthermore, it is also clear that part of the revenues extracted from ASM goes into the private coffers of politicians and local state officials. Even when leaving aside the “contributions” from ASM-financiers to politicians, a significant discrepancy still exists between what the province claims as official checkpoint rates (PHP 10-15 per bag) and what financiers claim to be paying (PHP 30). Furthermore, politicians maintain a high degree of discretion over the expenditure of these local revenues, which usually end up in a “general fund” that typically serves as a prime resource for patronage.

While coercive and even predatory traits are thus evident in local politics in mining areas, my empirical analysis has also revealed a high degree of reciprocity between local politicians and ASM-interests. Snyder (2006) describes such reciprocal arrangements as “joint institutions of extraction” (see section 2). On the one hand, local politicians devote money to interventions that indirectly benefit ASM-operators, including the construction of roads connecting the mining areas to lowland areas (where most of the processing takes place), and the provision of basic services like water and electricity. In addition, local politicians are in charge of maintaining the (supposedly voluntary) CVO, which provides at least some sense of security –however arbitrary– inside mining areas. More fundamentally, the broad range of fiscal-regulatory efforts described above seem to have induced a process of “informal formalization” (Benjaminsen & Lund, 2003) in local.

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43 Interview local landowner and barangay official, Nabunturan, October 2012.
informal—at least according to the national government—tenure regimes. The wide array of “official” documents, agreements, permits, and clearances, and associated fees and stamped receipts, all explicitly refer to state-sanctioned legality as an abstract and universal source of legitimate authority (Sharma & Gupta, 2005). On the one hand, this process of informal formalization contributes to a broad acceptance of rent extraction by local state officials as something normal and mundane, as explained by one ASM-financier: “Everywhere we go we ask permission from the barangay (…) They ask fees and donations; they do their work; we do not complain.” At the same time this process of informal formalization also benefits the interests of various other actors involved in the ASM-sector, by imbuing local tenure regimes with a sense of regulatory predictability. For landowners, the registration and sanctioning of landowner–financier agreements by the barangay further consolidates their informal land- and associated royalty claims. For ASM-financiers, complying with these contributions, fees, and donations should be understood as part of a broader strategy aimed at securing access to a high-value, geographically fixed resource in a frontier setting with an uncertain security environment and, at first sight, indistinct surface tenure systems. This reciprocity between ASM-interests and local politicians is reminiscent of Sikor and Lund’s observation about the recursive constitution of property and authority: “The process of recognition of claims as property simultaneously works to imbue the institution that provides such recognition with the recognition of its authority to do so. This is the ‘contract’ that links property and authority.” (Sikor & Lund, 2009: 1).

LOCALIZED JOINT EXTRACTION REGIMES AND TRAJECTORIES OF STATE FORMATION

This section transcends the locality, in an attempt to understand how the localized joint institutions of extraction described in the preceding section are embedded in broader trajectories of state formation. I argue that the existence of joint institutions of extraction centered around informal ASM-rents and the informal formalization of tenure regimes can be seen as a product of a longstanding tradition of decentralized statebuilding. More precisely, while the Philippines has a long history of de jure centralization, already during American colonial rule, local- and provincial-level powerbrokers retained a high degree of autonomy from Manila (Hutchcroft, 2000), including discretionary control over the state’s coercive machinery (Sidel, 1999; Hedman & Sidel, 2000). This local autonomy persisted after independence, when local elites were absorbed in a nascent mass democracy built around political party networks which served primarily as mechanisms for the disbursement of patronage to local politicians, who in turn delivered local votes to their

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44 Interview with ASM-financier, Nabunturan, October 2012.
national-level counterparts (Landé, 1968). And while the Marcos regime (1972–1986) achieved some success in reining in selected local power brokers, it did not overturn the localist basis of Philippine politics altogether (Hutchcroft, 2000). Instead, the local government code of 1991, which is often presented as a radical move away from a historically rooted centralism and a response to the authoritarian excesses of martial law (on decentralization in the Philippines see Eaton, 2001), was in fact a confirmation and arguably even a radicalization of this long-standing tradition of decentralized rule (Hutchcroft, 2000). According to Sidel, this history of decentralized state building has given rise to a highly coercive form of local politics, with local “bosses” relying on discretionary control over local state institutions and the state’s coercive apparatus to wield control in the local (informal) economy (Sidel, 1999; Hedman & Sidel, 2000; Lara & Schoofs, 2013). With economic modernization, political-economic control began to rely on more sophisticated forms of regulation (e.g. zoning ordinances, licenses, and franchises), with local politicians transforming themselves into brokers operating on behalf of landed interests and commercial capital (Sidel, 1999).

In the preceding section I have partly confirmed these observations, while at the same time qualifying them by drawing attention to a significant degree of reciprocity in local politics, in this case built around joint institutions of extraction that serve the interests of local politicians, local landowners and ASM-financiers. In this section I draw attention to a second form of reciprocity centered around informal ASM-rents –in addition to the joint institutions of extraction on the local level– namely that connecting the interests of local politicians and national-level elites. In the first instance, while local politicians derive personal wealth and fiscal revenues from ASM, the Bangko Sentral (Philippine Central Bank) has long bought ASM-gold on a “no questions asked” basis, and ASM has long been the number one source of national gold reserves. Perhaps more fundamentally, reciprocity between local- and national-level elites resides in local politicians’ contributions to sociopolitical stability and state resilience on the upland frontier (Abinales, 2000; Wong, 2006). Not only do local politicians use their authority and the resources at their disposal for local conflict resolution (Adam & Verbrugge, 2014), they also contribute to “pacifying, confronting, co-opting and surrendering” (Wong, 2006: 262) forces that compete with the state, including armed insurgents. Secondly, local politicians’ increased reliance on the fiscal-regulatory repertoire of the state to expand control over informal ASM –which in turn strengthens their own authority– simultaneously contributes to a reproduction of the “idea of the state” (Lund, 2006) and a broad acceptance of legal-bureaucratic rule in the “unruly uplands” (Scott, 2009). In short, it can be argued that the existence of joint institutions of extraction around informal ASM is a product of an elite pact between national-level elites and local politicians, with the latter fulfilling a key role in “sustaining the state’s administrative reach and politico-military control” (Lara & Schoofs, 2013: 249).
However, there are now important indications that (sections of) national level elites are reneging on their part of ‘the deal’, by taking measures aimed at combating “illegal” ASM. In the long run this may lead to a fragmentation or even a breakdown of joint institutions of extraction, with possibly important consequences for sociopolitical stability. In the first instance, as has been discussed in the introductory chapter, by imposing a 5 percent withholding tax and a 2 percent excise tax on gold sales in 2011, the government (the central bank) has effectively given up on its share of ASM-rents, driving ASM-operators into the arms of unofficial gold traders. Furthermore, Executive Order 79, which was introduced by the Aquino government (2010-) in 2012 in an effort to rationalize the mining sector and to attract more investors, contains several measures aimed at combating illegal ASM (see La Viña & De Leon, 2012 for a more elaborate discussion).

Arguably the most important threat for the stability of local institutional arrangements built around informal ASM, however, is the looming expansion of large-scale mining. Following the enactment of the 1995 Mining Act the national government, through the Mines and Geosciences Bureau (MGB), has started issuing permits to large-scale mining companies. As a result, as Figure 1 illustrates, most ASM-areas in Compostela Valley are now encapsulated by large-scale mining concessions. At the time of the research in barangay Bukal, the activities of ALDEVINCO (the rights-wielding company) were limited to handing out cease-and-desist orders (issued by the MGB) to ASM-operators, and negotiating with barangay authorities to enable a smooth (future) entry into the locality. As will be discussed in more detail in chapter 8, however, in different other mining areas throughout the province the entry of large-scale mining has already generated tensions and even conflicts over access to mineral-bearing land. Rather than playing out simply between ASM-operators and large-scale mining companies, these conflicts involve indistinct and dynamic coalitions of politico-military actors that defy easy categorization in terms of state/non-state and in some cases even insurgency/counterinsurgency. However, in line with the analysis presented above, local (would-be) politicians play a key role in these coalitions.
CONCLUSION

In this chapter I have presented an empirical analysis of the ‘state of the state’ on the ASM-frontier. Building on critical debates on the relationship between the informal economy and the state, I demonstrated that, rather than being detrimental to state power, the expansion of informal ASM went hand in hand with a consolidation of state rule in the purportedly “unruly” uplands (Scott, 2009). This parallel process of ASM-expansion and state consolidation is epitomized by the emergence of “joint institutions of extraction” (Snyder, 2006) that serve the interests of an indistinct coalition of local miner-politicians and a range of other ASM-interests. While local miner-politicians now rely on the sector as a source of fiscal revenues and as a platform to assert their authority, ASM-financiers and informal landowners benefit from a range of regulatory interventions undertaken by these same politicians, chief among which the legitimation of otherwise informal land- and mineral claims.

45 The mining tenements map was provided by the Provincial Agricultural Office (PAGRO) of Compostela Valley (situation as of June 2011). On this map I have attempted to indicate the location of SSM areas (black crosses) that were identified through personal observations and a map hanging in the barangay hall of Mt. Diwata, Monkayo municipality.
Transcending the locality, I then argued that these joint institutions of extraction on the local level are a constitutive part of a broader, historically rooted elite pact between local- and national-level political elites, whereby the former, in exchange for their prerogatives in the informal ASM-sector, fulfill key roles as frontier “stabilizers” and as agents of democratic state rule. At the same time attention was drawn to different trends that indicate a willingness on the part of (sections of) the national level elite to renege on their part of this elite pact, thereby possibly undermining local institutional arrangements built around informal ASM-rents, and possibly also the sociopolitical stability produced by these arrangements. The most important of these “threats from above” is the looming expansion of corporate large-scale mining.

To be sure, the long-term effects of large-scale mining expansion are as of yet undetermined, and much will depend on the inclusiveness of the new institutional arrangements accompanying said expansion. Local politicians are now working towards what they describe as a “win-win solution”, convincing mining companies to consider the interests of different actors that currently derive their wealth and power from ASM (which includes themselves). However, most mining companies are instead opting for militarization, in an attempt to monopolize access to mineral resources. And even if some of these companies would eventually prove willing to toe the consensual line, the hoped-for win-win solution is unlikely to meet the needs of the tens of thousands who now depend on ASM for their everyday survival. In the long run, both social justice and sociopolitical stability would be best served by more inclusive solutions aimed at accommodating local populations as a whole, rather than merely those individuals who command the necessary “policing power” to subdue local resistance. In chapter 8 I delve further into these unfolding institutional struggles over access to mineral resource wealth between ASM and large-scale mining.
CHAPTER 6:
ASM-LANDOWNER RELATIONS: COMPARATIVE INSIGHTS

ORIGINAL ARTICLE:

BACKGROUND:
Frustrated with (1) the lack of empirical evidence about the relationship between ASM and land tenure; and (2) a tendency to portray ASM-landowner relations as antagonistic and defined by dispossession; together with two of my colleagues we set up a comparative exercise, combining our field research experience in three different countries. As the main author, I did not only take the initiative for this comparative effort, but I also took the lead in editing the article and in developing the theoretical and conceptual framework for our comparative analysis.

ARTICLE ABSTRACT:
This article examines the relationship between artisanal and small-scale mining (ASM) and surface land tenure arrangements, through a comparison of mining areas in the southern Philippines, the eastern DRC and Liberia. In all three cases, ASM takes place in peripheral regions outside central state control, where both land- and mineral tenure are characterized by high degrees of informality. Based on our comparative analysis, we highlight three core propositions. First, the relationship between ASM and surface land claimants is not (merely) characterized by antagonism, but involves a significant degree of negotiation and mutual benefit-sharing. Secondly, even in places purportedly characterized by a weak state presence, people make constant references to state-sanctioned legality to underpin their (often overlapping) claims to mineral resource wealth; whether as miner or as a surface landowner claiming royalties. Thirdly, people's ability to effectively use state-sanctioned legality as a mechanism to access mineral wealth -and to exclude others from accessing this wealth- is not distributed equally, and hinges on access to vital financial and political resources.
INTRODUCTION

“mining is an industry distinguished from others by the exceptional characteristic that the interests of landlord and capitalist there join hands” (Marx, 1887: Chapter 15, section 9)

While the relationship between ASM and (smallholder) agriculture has received its fair share of attention in the ASM-literature (e.g. Maconachie & Binns, 2007; Hilson & Garforth, 2012), the relationship between ASM and surface land arrangements remains poorly understood. Instead, there is still a widely held belief that “local livelihoods rarely profit from mining activities” (Schueler et al., 2011: 528) due to their detrimental impact on the environment (including soil quality) and due to the dispossesion of local communities. In recent years, however, evidence has begun to emerge which suggests “symbiotic relationships (...) between artisanal miners and local communities, presumably due to the shared socio-economic benefits derived from the partnership between the two parties” (Nyame & Blocher, 2010: 50). For example, Pijpers (2014) draws attention to the existence of lease arrangements between farmers and miners in sub-Saharan Africa. In their ethnographic explorations of the west-African mining frontier, Grätz (2004), Werthmann (2009) and Mégret (2011) draw attention to the negotiated nature of ASM-sites, providing an initial overview of negotiation patterns between migrant miners and local settler communities. After an initial phase of resource appropriation, which may involve significant conflict between local settlers and migrant miners, some form of mutual understanding often develops around the economic benefits produced by ASM, which usually includes some kind of revenue-sharing arrangements between miners and local landowners (Grätz, 2004).

Building on these initial observations about the relationship between ASM and surface land claimants, this contribution presents a case-oriented comparison between the Philippines, the Democratic Republic of Congo (DRC), and Liberia. Our comparative analysis will pay central attention to the context-specific historical-institutional trajectories that explain the current situation (Byres, 1995). These three cases share a number of similarities that can be treated as constants, thus guaranteeing their comparability (Lijphart, 1971). In all three cases, ownership of subsurface mineral resources and significant tracts of surface land is vested in the ‘landlord state’. However, these landlord

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46 All three authors have done extensive field research, relying on a range of flexible qualitative research methods which allowed us to work our way around thorny political issues, and to establish relationships of trust with respondents. The Philippines section is based on nearly 8 months of field research (2011-2014); the DRC section is based on 2 months of field research (2012 and 2014) and a close coordination with the Bukavu-based NGO Action pour la Paix et la Concorde (APC); and the Liberia section is based on several field visits conducted between 2010 and 2012.
states have proven incapable or unwilling to effectively wield these rights, and instead harbor a range of informal resource claimants that operate on the fringes of state-sanctioned regulatory systems, including a sizeable and predominantly informal ASM-sector that has expanded massively in recent decades (see Smith, 2011 for the DRC; and Hilson and Van Bockstael, 2011 for Liberia). Indeed, as Fisher (2008) rightly notes, mineral resource extraction now takes place “at the margins of mineral resource governance”, where state authority is weak and fragmented, and where access – understood here broadly as “all possible means by which a person is able to benefit from things” (Ribot & Peluso, 2003: 156)– to mineral resources is subject to negotiation between a broad range of stakeholders (see also Luning, 2008). Adding to these complexities is the fact that all three case study regions can be described either as a conflict- (DRC and Philippines) or post-conflict setting (Liberia) and are, to various extents, home to armed actors involved in ASM. In the eastern DRC, both state and non-state armed groups are levying taxes on mineral exports, selling minerals for their own profit, and trading mineral rights for financial and military support. In the southern Philippines, the communist New People’s Army, the Armed Forces of the Philippines and various paramilitary groups are engaged in protection-cum-extortion activities, while the Philippine National Police is delivering explosives to ASM-operators. Meanwhile during Liberia’s long civil war(s), diamond and gold mines were controlled by various armed actors. More recently, the UN Group of Experts has warned that mining camps along the border with Côte d’Ivoire have provided “temporary employment, a means of subsistence and in some case a point of assembly” for Liberian mercenaries and Ivorian militias (UN, 2013).

Based on these preliminary observations, our comparative exercise is guided by two central research questions. First, in an environment (purportedly) characterized by a weak state –and consequently, one can assume, by a weak enforcement of formal tenure regimes– who, if anyone, is able to claim rights to surface lands and associated ASM-benefits? Secondly, on what basis does such claim-staking occur i.e. how are these claims legitimated, and how can this be related to the exercise of public authority more broadly? In the second section we present the three case studies, written respectively by Boris Verbrugge (the Southern Philippines), Jeroen Cuvelier (Eastern DRC) and Steven van Bockstael (Liberia). We then move on to a brief comparative analysis of these cases. In an attempt to provide (initial) answers to the research questions outlined above, we highlight three core propositions that can serve as a basis for future research. First, the relationship between ASM and local land claimants, rather than being defined by antagonism or dispossession, almost invariably involves a degree of negotiation and mutual benefit-sharing. Second, despite the assumed weakness or even absence of state institutions, claims to surface land and associated mineral rents often involve implicit or explicit references to state-sanctioned legality. In an attempt to explain this paradox, we make an incursion into the anthropological literature on the state, which treats it as “an open field
with multiple boundaries and no institutional fixity” (Trouillot, 2001: 127), underpinned by “the idea of the state” (Lund, 2006) as a particularly powerful legitimizing repertoire. Third, the ability of local landowners to effectively claim surface lands and associated mineral rents hinges on their ability to navigate within this multi-layered and increasingly fragmented state arena.

ASM-LANDOWNER RELATIONS IN THREE WEAK STATE ENVIRONMENTS

CASE 1: STATE PENETRATION MEETS LANDOWNER INTERESTS IN THE SOUTHERN PHILIPPINES

Upland tenurial complexities

Most ASM in the Philippines takes place in the mountainous upland interior of the peninsula. According to the Philippine constitution, ownership over most of these uplands, and the mineral resources underlying them, is vested in the Philippine state (USAID, 2011a). However, demographic growth and social dislocation in the lowlands have spurred subsequent waves of upland migration and settlement (Umehara & Bautista, 2004; Scott, 2009). In response to these realities, since Philippine independence in 1946 successive national governments have created a range of tenurial mechanisms that aimed at recognizing this reality (USAID, 2011a). Examples include logging permits, community-based forestry arrangements, but also mineral tenure arrangements for large-scale mining and ASM (Torres, 2012). While large-scale mining permits are awarded by the Mines and Geosciences Bureau, a national government agency, the authority to segregate small-scale mining areas (Minahang Bayan) has been devolved to local governments under Republic Act 7076, as part of a broader move towards decentralization. Whereas these different tenurial instruments fall short of full-blown property rights, Certificates of Ancestral Domain Titles (CADT) granted to tribal communities under the 1997 Indigenous Peoples Rights Act recognize customary ownership rights over ancestral domain, including all (mineral) resources inside this domain (USAID, 2011a). This principle contradicts the principle of state ownership of public land, and for this reason the IPRA has repeatedly (and so far unsuccessfully) been challenged in court.

Notwithstanding this broad range of tenurial mechanisms, a significant share of upland settlement and economic activity, including most ASM, remains bereft of national government recognition. As demonstrated in chapter 4, the persistence of informality is the result of a combination of diverse factors. In any case, the uplands now harbor an extremely complex tenure regime, characterized by a messy overlap between formal and informal claims to land and other natural resources. Consider the example of barangay
Bukal. Located entirely in public land, Bukal partly coincides with Mainit Hot Springs protected landscape, a conservation area. Another part overlaps with a large-scale mining permit issued to ALDEVINCO, a corporate mining outfit that emerged from ALSON, a logging company that was active in Bukal in the 1970s and 1980s. In addition, the barangay is now fully encapsulated by the ancestral domain of a Mansaka tribal association. However, realities on the ground suggest that Bukal is first and foremost an informal—and according to the national government illegal—small-scale gold mining area. In what follows a concise analysis will be presented of the historical interaction between ASM-expansion and local land tenure arrangements in Bukal.

**Migrant settlers and the inception of informal land markets**

As discussed in the preceding chapters, in the decades after the Second World War, Christian settlers from the north of the country increasingly penetrated the Compostela Valley uplands. In combination with the gradual introduction of cash crops, this settler influx led to a breakdown of clan-based land tenure arrangements. Rather than merely dispossessing local ‘indigenous’ Mansaka, however, this migratory influx sparked the development of a market in informal land claims, with newcomers purchasing or bartering a piece of land from existing inhabitants. However, due to ignorance and sometimes also fear, particularly on the part of the Mansaka tribals, the compensations that were offered for the land in question were often very low, with respondents even mentioning a radio or a horse.

For different reasons, the initial settlement of present-day Bukal was relatively peaceful (see chapter 5). Probably the most important factor was the fact that land access was—and continues to be—dominated by a few extended settler families. Most of the in-migration followed a pattern of ‘chain migration’ whereby “relatives, friends and village mates follow in the footsteps of the pioneer settlers” (Umehara & Bautista, 2004: 65). Most newcomers had pre-existing (kinship) ties within these families, who increasingly intermarried. Henceforth, Bukal witnessed the emergence of cross-cutting solidarity ties.

From the 1970s onwards, stability on the Mindanao frontier was increasingly undermined by rising social tensions, resulting from (para-)military aggression on the part of an increasingly authoritarian Marcos martial law regime, and declining land availability due to demographic growth and extractive industry expansion (Abinales, 2000). By the 1980s Compostela Valley had become one of the hotspots in the war between the martial law regime and the communist insurgents of the New People’s army, who found fertile grounds for recruitment in the uplands (ICG, 2011). In the case of Bukal, the expansion of commercial logging seems to have been a major source of local grievances. While tensions subsided in the 1990s, the persistence of the communist rebellion continues to have a restraining effect on outsiders in their dealings with upland landowners, some of whom are still (often correctly) suspected to cultivate ties with the NPA.
ASM-expansion and the rise of the landowner-rentier

In the 1960s migrant settlers with prior experience with mining in their home regions started panning for gold in the rivers and creeks of Compostela Valley, mainly as a sideline to upland farming. Panning was a community affair, with gold-bearing rivers and creeks considered open-access for local settlers. From the 1980s onwards Compostela Valley witnessed an expansion of small-scale tunneling activities that targeted surface gold veins. These initial tunneling activities were likewise a predominantly local affair, involving local labour and taking place in close coordination with local landowners. While some of these landowners received a share of the proceeds, most contented themselves with the share received by their labouring kin.

In parallel with the gradual capitalization and professionalization of ASM (described in chapters 3 and 4), local landowners came to play an even more central role in the ASM-sector. For one, landowners are usually more knowledgeable about the local security situation, and came to act as a liaison between the financier and armed rent-seekers. In addition, landowners play an important role in recruiting and disciplining local labour. Finally, the landowner became an important point of call in the case of disputes between different tunnel operators. In return, landowners benefit from the presence of ASM in different ways. Under a scheme popularly known as “back-financing”, they became entitled to a share of the ores (grabas). To increase this share, some landowners invested in processing equipment (particularly ball mills), which were used not only to process their royalty share, but also the revenues of local miners. In return for these milling services, in addition to a custom milling fee, landowners are usually left with the ball mill tailings, which can be re-processed in sophisticated carbon-in-pulp processing plants that have a much higher recovery rate (plantas). Furthermore, the landowner and his or her relatives retain priority access to labour opportunities in high-grade tunnels located in their land. Finally, in more established mining areas such as Bukal, some landowners responded to the growth of the mining settlement by subdividing their land into residential lots. According to one landowner, 150 m² of residential land now earns him 30000 pesos (roughly US$ 500), and while still cheaper than a titled lot in the lowlands, this is still rather expensive considering the lack of official title47.

State penetration meets landowner interests

The gradual expansion of ASM prompted an alliance between local landowner-miners and the provincial governor. This eventually led to the creation of barangay Bukal, in 1995. Unsurprisingly, those elected as barangay kagawads (council members) were members of prominent local settler families. With the assistance of a growing number of puroks (administrative subdivisions of the barangay), barangay officials started sanctioning informal land markets, providing landowners with a range of documents that recognized

47 Interview with landowner, barangay Bukal, October 2012.
their essentially informal land claims. By the mid-2000s, when a new and massive gold rush enveloped Compostela Valley – mainly as a result of skyrocketing gold prices – barangay officials had effectively emerged as the institutionalized representatives of local landowners. Barangay authority is backed up by the coercive capacity of the Civilian Volunteers Organization (CVO), a state-sanctioned auxiliary force that operates at the behest of barangay officials. At least in the case of Bukal, the CVO is composed almost entirely of communist rebel returnees.

Increased investment in ASM in turn led to a higher incidence of more capitalized, but still informal tunneling operations. Under the new sharing schemes accompanying this novel incarnation of ‘small-scale’ gold mining, landowners typically receive ten per cent of the revenues. While most respondents described these ten per cent as ‘non-negotiable’, some landowners do manage to negotiate up to fifteen per cent. While it was not immediately clear why this was the case, initial observations suggest that those landowners whose land had been confirmed high-grade, or those landowners who are well-connected politically, are better positioned in royalty negotiations. The barangay captain of Bukal, for example, receives fifteen instead of ten per cent in his capacity as landowner. Finally, it is important to note how even in these bigger operations, the landowner and his family retain priority access to good labour opportunities in high-grade tunnels.

In an effort to strengthen the barangay’s fiscal-regulatory control, and to simultaneously safeguard the interests of local landowners – many of whom have kinship connections inside the barangay – the barangay created standardized documents stating mining rules and sharing modalities. After an agreement is reached between a landowner and a financier, these documents are signed by both parties, by the barangay captain, and by the purok leader. Whenever a conflict arises between different landowners, or between a financier and a landowner, the barangay will step in to mediate. At the time of the research, for example, the barangay captain was mediating in a conflict between two landowners who were both claiming royalties from the same tunnel. In another case, “A Korean financier entered without an agreement (...) the barangay officials went there with the CVO and he was told to leave.”

Thus, rather than taking place at their expense, informal landowners in Bukal have benefited in different ways from the expansion of ASM. Meanwhile the ability of informal landowners to claim benefits from ASM has increasingly come to rely on the regulatory and coercive power of local state institutions. In fact, throughout Compostela Valley province, local politicians – many of whom are landowners and/or financiers themselves – are now actively sanctioning informal land claims, supporting the formation of ASM associations that apply for official permits. Notwithstanding notable exceptions, however,

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48 On the involvement of local state officials in informal land markets in Mindanao see also Gulane, 2013.
49 Interview with landowner, barangay Bukal, October 2012.
these formalization efforts have hitherto proven unsuccessful, which brings us to a final albeit crucial caveat, namely the way in which formal tenure regimes (i.e. those sanctioned by the national government) risk upsetting the informal institutional arrangements described above.

**The looming threat of formal tenure regimes**

Finally, Bukal serves as a potent example of how formal tenure regimes, i.e. those sanctioned by the national government, now risk upsetting these localized tenure arrangements. First, most ASM in Bukal takes place inside a conservation area, and environmentalists are pressuring local politicians to put a stop to the mining activities. So far however, these attempts have been unsuccessful, in part because some of the politicians in question allegedly have a stake in the mining. Secondly, Bukal is part of the ancestral domain of NASBATRICO, a Mansaka tribal association that is (successfully) claiming royalties from ASM in a checkpoint near the entrance of the protected landscape. For various reasons however, NASBATRICO is not considered a legitimate land claimant. A third and possibly more fundamental threat stems from ALDEVINCO\(^\text{50}\), a large-scale mining company which currently holds an exploration permit over part of Bukal. At the time of the research, ALDEVINCO was undertaking legal measures to exclude ASM from its concession, and it is uncertain how the future entry of large-scale mining may impact on existing tenure regimes, which harbor an important degree of mutuality between ASM and local landowners.

**CASE 2: NGO-SANCTIONED FORMALIZATION IN THE EASTERN DRC**

**Land rights in the Kivu Provinces**

In the eastern DRC, people’s relationships to land are shaped by different, coexisting sets of rules, including customary laws, and statutory land and mining laws. Customary land arrangements exhibit a high degree of intra-regional variation, and are characterized by high levels of negotiability (Utshudi Ona and Ansoms, 2011). Overall, in return for regular tribute payments to the customary chief or *Mwami*, an applicant can acquire usufruct rights over a piece of customary land. While the person in question cannot acquire full property rights –the land remains customary at all times– he does have the right to lease portions of the land to other people that are in turn obliged to pay tribute to the lessor (Van Acker, 2005).

After Congolese independence in 1960, this customary system started showing signs of erosion. In 1973 President Mobutu introduced the General Property Law, which declared all land property of the state. From then on, the only way to legally obtain land rights was

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\(^{50}\) The successor of ALSON, the logging company.
through a state-controlled administrative procedure involving registration and surveying (Van Acker, 2005: 84). This law was meant to put an end to the dual land system introduced by the Belgian colonial administration, which made a distinction between state land, and indigenous customary land. Since the General Property Law did not recognize customary land rights, a significant part of the population was suddenly at risk of becoming landless (Geenen & Claessens, 2013).

Throughout the following decades, land rights underwent a process of commercialization (Utshudi Ona and Ansoms 2011: 28). Tenure insecurity increased considerably, not only as a result of the state’s inability to effectively implement the new land laws – leading to a de facto persistence of the dual land system – but also due to the civil wars that hit the region in the second half of the 1990s (in 1996-1997 and 1998-2003) (Stearns, 2011). Forced displacement, the presence of armed groups, the growing inaccessibility and exhaustion of land, and rising social and ethnic tensions all contributed to the fact that people in the eastern DRC were increasingly experiencing difficulties to gain a livelihood through agriculture and cattle breeding, traditionally the most important sources of income in the region (Vlassenroot, 2012).

Finally, developments in the mining sector are also of vital importance to understand the complexity of land relations in eastern DRC. During colonial times, the country’s immense mineral wealth was almost exclusively exploited in an industrial manner, by large-scale private mining companies receiving big concessions from the colonial authorities (Rubbers, 2006). After Congolese independence, the nationalization and mismanagement of the mining industry by the Mobutu regime led to a gradual decline of industrial mining, and a concomitant emergence and growth of ASM. ASM-expansion gained full momentum in the 1980s, when Mobutu took a number of measures to ‘liberalize’ the sector. Ordinance-law 82-039 of 1982 stated that the state commissioner (commissaire d’état) has the possibility to designate deposits of gold, diamonds or other precious materials as open to artisanal mining, provided that the “technical and economic factors characterizing these deposits” do not meet the necessary conditions for industrial mining.

During the Congolese wars (1997-2002), ASM witnessed a further, dramatic expansion as a survival activity for thousands of men, women and children (Smith, 2011). At the same time, political-military elite networks started dominating the scene, developing various strategies to control and derive revenues from ASM: levying taxes on economic activities in mining areas, negotiating security arrangements with the mining population, creating systems of forced labour, selling minerals on the international market through their own commercial networks, and signing contracts with businessmen eager to work in areas under their control (Nest, 2011). Overall, the most important consequences of the wars were a militarization of mining areas and an ‘informalization’ of mining, with a growing
importance of unofficial rules for the organization of the mining process.

On the other hand, since the period of political transition (2002-2006), the Congolese Government has faced increasing pressures from international financial institutions to institute a series of reforms aimed at formalizing, liberalizing and streamlining regulations in the mining sector, in order to stimulate investment. Another important driver behind these reforms is the so-called ‘conflict minerals’ issue. At the international level, it is believed that the easiest and most effective way to end the conflict is to prevent armed groups from making money through the sale of minerals extracted in areas under their control. Recent years have thus witnessed the launch of a large number of government- and industry-led initiatives to promote transparency and traceability in the supply chains of the so-called 3T minerals (tin, tungsten, tantalum) and gold (Seay 2012).

**Mining reforms and formalization: the case of Nyabibwe**

One of the main testing grounds for the aforementioned reforms is Nyabibwe, a small mining town in South Kivu’s territory of Kalehe. From 1980 to 1984, Nyabibwe’s Kalimbi mine was operated in a semi-industrial manner by the Société Minière de Goma (SMDG). After the departure of SMDG, in a climate of pervasive regulatory volatility, Placide Chirimwami, a big landowner who had made a career for himself as a trader of coffee and cinchona, stepped forward and presented himself as the new owner of Kalimbi, although he lacked the official documents to support his claim. Because Chirimwami failed to evict the artisanal miners who had more or less taken over the mine, he tried to win their sympathy by setting up an organisation called COOMBECKA (*Coopérative du Bien-être de Kalehe*), which was officially recognized as a mining cooperative by the provincial authorities of South Kivu in 1993. During the Congo wars, Chirimwami managed to stay in control of Kalimbi thanks to his good contacts with rebel groups and Congolese army officers (Channel Research, 2013: 9-10).

Despite its turbulent history, Nyabibwe’s Kalimbi mine was selected as a pilot site for several high-profile reform initiatives aimed at formalizing ASM, and breaking the assumed link between ASM and armed conflict. Within a time span of only a couple of years, the mine witnessed the arrival of the Certified Trading Chains (CTC) project of the German Federal Institute for Geosciences and Natural Resources (BGR), the traceability and due diligence initiative of the International Tin Research Institute (iTSCi), the Conflict Free Tin Initiative (CFTI) of the Dutch Ministry for Foreign Affairs, and the regional tracking and traceability mechanism of the International Conference on the Great Lakes Region (ICGLR) (Levin, 2013). Moreover it is one of the only sites in South Kivu to have received a ‘green’ label. Joint Assessment Teams (*équipes conjointes*), composed of representatives from the different institutions involved in the regulation of Congolese ASM (public services, civil society members, the UN, BGR), have been carrying out field missions to evaluate –on behalf of the National Ministry of Mines– to what extent the
social and security conditions in and around the mines meet a number of internationally agreed upon standards. On the basis of these standards they can attribute green, yellow or red labels, and only minerals originating from mines with a green label can be legally traded and exported (Bashwira et al., 2014).

Given Nyabibwe’s selection as a testing ground for several mining reform initiatives, the Congolese government at the national level knew something had to be done about the contradictory governance arrangements at different levels of government. In fact, in 2010, when the first initiatives reached the Kalimbi mine, it was not even part of an Artisanal Mining Zone (Zone d’Exploitation Artisanale or ZEA), meaning that, according to the Congolese mining code, engaging in artisanal mining activities was technically illegal there. Between 2007 and 2012, the Canadian mining company Shamika Resources, through its subsidiary Shamika Congo Kalehe Sprl, held an exploration license (from the national ministry of mines) for the area covering the Kalimbi mine in Nyabibwe. During the same period, the provincial government of South Kivu took a completely different stance on the issue of artisanal mining in Kalimbi, as it officially recognized COOMBECKA as a mining cooperative (cfr. supra). The contradiction was eventually solved by making Kalimbi part of an Artisanal Mining Zone (ZEA) after the expiration of Shamika’s exploration license on 30 June 2012.

As a result of the various reform initiatives, Nyabibwe evolved from a relatively isolated and marginalized place that largely escapes government control, into an island of transparency and formality. Whereas in the past, ASM took place in an atmosphere of opaqueness and informality, today the international attention for Nyabibwe has become so immense that both local authorities and the various actors engaged in mining feel compelled to demonstrate their respect for the rule of law. State services are closely monitoring the implementation of the aforementioned traceability mechanisms, mining cooperatives are making sure that all artisanal miners are officially registered and are paying their taxes, and NGOs are making efforts to raise local stakeholders’ awareness of the need to comply with the new transparency measures.

As the following sections will show, Nyabibwe’s newly acquired status as an island of formality also had an impact on the interaction between local landowners and ASM. There are important indications that ASM-formalization has contributed to the formalization of land rights at the local level. International NGOs and civil society groups committed to sensitizing the population about the mining reforms appear to have raised awareness among local landowners about their rights. Some of these landowners now feel strong enough to break out of the customary arena by legalizing their traditional land titles, and by claiming compensation from artisanal miners operating on their land. It needs to be stressed that this is a new development. Before the arrival of the mining reform initiatives, local landowners with traditional land titles pertaining to pieces of land close to the
Kalimbi mine refrained from demanding such compensations because they felt intimidated by Placide Chirimwami, the local strongman in charge of the COOMBECKA mining cooperative.

**A dispute between local landowners and mining cooperatives**

For most people in South Kivu, it is difficult to secure access to land through the formal system. Not only do they lack the necessary knowledge and financial means to acquire a registration certificate, they also have to deal with lengthy and elaborate procedures, and with the challenge of having to cover long distances to visit a land registration office (Utshudi Ona 1 Ansoms, 2011). Nevertheless, in 2011, 7 families of local landowners in Nyabibwe decided to join hands in order to obtain an official land certificate from the land registry (*cadastre*). They substantiated their claim by referring to the fact that in the early 1970s, they secured a customary land title from the customary chief for the land where the Kalimbi mine was situated. Having been informed that according to the Congolese mining code, miners are obliged to pay compensation when operating on someone else’s land, the landowners thought it wise to have their traditional land title formalized, as they believed that this would greatly increase their chances of receiving said compensation.

Unfortunately for them, things did not go as planned, as the two mining cooperatives (COOMBECKA and COMIKA) initially refused to recognize their land title and were unwilling to offer them compensation. Chirimwami’s COOMBECKA even filed a lawsuit against the landowners for illegal occupation, but lost the court case. The ruling stated that landowners were entitled to receive 4% of the 10% production that a mining cooperative retains as royalty (Channel Research, 2013: 10). On 22 September 2011, an agreement was reached between local landowners and the COMIKA cooperative. It was agreed that the cooperative would hand over 4 per cent of the mining production to the landowners by way of compensation. Farmers who had acquired user rights on plots of land in Kalimbi from the landowners and had been working there before the beginning of the mining activities, would, on their turn, receive compensation from the landowners. However, COMIKA does not appear to have respected the abovementioned agreement. It was not until January 31-February 1 2013, when the Bukavu-based NGO *Observatoire Gouvernance et Paix* (OGP) organized a roundtable with the aim of finding a peaceful solution to the conflict outside of the courtroom that the two mining cooperatives agreed to give 3 per cent of their daily mining production to the landowners. For their part, the landowners would have the obligation to set aside 0.5 of those 3 per cent for community development. Still, there are indications that the issue is not entirely solved. In early June 2014 an international delegation led by Martin Kobler, the head of the UN Stabilization Mission in the DRC, wanted to visit the Kalimbi mine. They were reportedly stopped by one of the families of local landowners, who expressed anger and dissatisfaction with the way the compensation problem was handled by the mining cooperatives. The delegation
was only allowed to enter the mine after long negotiations with the local landowners\textsuperscript{51}.

\textbf{CASE 3: THE POWER OF FORMALITY IN AN OPAQUE REGULATORY ENVIRONMENT IN LIBERIA}

\textit{Tenurial complexities in Liberia}

Land rights in Liberia are strongly determined by the historical origins of the Liberian state, founded on behalf of a small group of freed slaves and/or their descendants living in the United States that were sent 'back to Africa'. After the formal creation of the Liberian republic, in 1847, it took several decades before those areas outside direct settler control (the \textit{Hinterland}) began to be integrated in the Liberian polity (Ellis, 2007; Gerdes, 2013). Settlers acknowledged the existence and legitimacy of customary land arrangements in the Hinterland early on (Alden Wily, 2007: 17). Instead of simply dispossessing the chiefs, they started purchasing –admittedly on highly unequal terms– lands from native communities, particularly those along the coastline. These purchased lands became public land, which could in turn be privatized through purchase by settlers and corporations. Several ‘indigenous’ groups living near Americo settlements responded to these shifts by setting up corporations in order to collectively buy land, such as the Kru Corporation which managed New Krutown in Monrovia. The land bought was generally managed on a collective basis, with some reference to customary practices (Falkman, 1972). This provides an early illustration of the complex entanglement between customary and statutory tenure systems.

After the Second World War, the laws governing the Hinterland were revised. Where customary land rights had previously been guaranteed, the 1956 Aborigines Law reduced these rights to protected occupancy and usufruct rights on land which was now state-owned (Alden Wily, 2007: 121). However, the Aborigines law was not included in a later codification of Liberian law (Ibid.:129-134), resulting in uncertainty regarding the status of customary land rights in contemporary Liberia. According to Stevens (2014), there has never been a clear definition of public lands in Liberian legal history, precisely because of the political implications of accepting customary land tenure as equal to statutory land ownership.

A recent World Bank report on land tenure suggested that "there is perhaps no country in Africa where less is known of customary systems of land tenure than in Liberia" (World Bank, 2008). In general terms, customary land is linked to lineage and identity. While ‘ownership’ is vested in the community, individual families can be granted inheritable plots of land, and ‘autochthonous’ Liberians can return to their homeland after many years and still be guaranteed access to land. In this sense we can refer to farmers that do not

\textsuperscript{51} Interview with researcher from Bukavu-based NGO, Bukavu, June 2014.
have statutory claims to land as landowners under customary law, even though ownership is vested in the community. Meanwhile ‘strangers’ can obtain access rights through the ‘stranger-father’ institution, whereby the ‘stranger’ needs to find an autochthonous ‘father’ that will be responsible for ensuring the stranger’s adherence to customary rules and norms. The stranger and his descendants are thenceforth locked into a politically subordinate position (Boas, 2009).

The creation of a state-sponsored version of ‘customary’ law as part of the government’s post-1945 unification policy, that deviated from ‘authentic’ indigenous laws, further added to the “ambiguity and confusion” (Unruh, 2008: 15) in land tenure arrangements, and had a detrimental impact on the tenure security of customary landowners in particular. Combined with other socio-political grievances, this insecurity became one of the key factors which fuelled the 1990s civil war (Richards, 2005). Meanwhile for elites, tenurial chaos means an opportunity “to acquire or preserve tenuous rights of land occupation, ownership, and use” (Unruh, 2008:15), leading to “one of the most extensive programs of private land acquisition outside of South Africa, Rhodesia and the Portuguese dependencies” (Liebenow, 1969: 209).

While many rural communities were able to formalize customary land claims through payment of a deed (World Bank, 2008; Corriveau-Bourque, 2010), these deeds represent no ironclad guarantee for tenure security, with problematic record-keeping and the issuance of fraudulent deeds often resulting in overlapping land claims. The 1974 Land Act attempted to rectify this situation by introducing a new land registration system, but the 1980 coup permanently halted these efforts (Brandy & Marquardt, 2013: 4). In post-conflict Liberia, fraud and malpractice continued, rendering the trustworthiness of the registration system “highly questionable” (Bruce, 2014). Overall, “massive confusion that exists on a range of legal, administrative, boundary, claim and ownership issues” constitutes the root land tenure problem in post-conflict Liberia (Brottem and Unruh, 2009: 999). Nevertheless, observers have noted an erosion of customary land governance systems, not only due to the destabilizing influence of the civil war and the persistence of youth unemployment, but also because of the increased perception of statutory land laws as being better suited to defend land claims against competing interests (Namubiru-Mwaura et al., 2012). In 2009, the Liberian Land Commission was created to clear up this confusion. The country’s Truth and Reconciliation Commission named land reform as one of the key priorities to increase the long-term stability of the country, and various donors supported its work. The new Land Rights Act that is currently being finalized explicitly champions the equal protection of land rights, both private as well as customary.

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52 It should be noted here that the authors do not subscribe to the view that there exists a ‘customary’ sphere of governance that has remained unchanged over time. Indeed, most of the literature rejects the notion of a fixed set of ‘customary’ rules predating colonial times.
Artisanal mining and surface land arrangements

With the exception of iron-ore operations, large-scale mining remains largely absent from Liberia, whereas ASM is ubiquitous in the country. While artisanal gold mining has rapidly gained in prominence since the 2008 financial crisis, artisanal diamond mining is historically the dominant form of Liberian ASM. The following section provides some initial observations regarding the interaction between these artisanal miners and surface land claimants.

Many of today’s artisanal mining communities have their origins in the artisanal mining boom of the late 1950s and 1960s, when miners came to virgin areas in the hopes of finding a profitable diamond deposit. Since all mineral rights belong to the government, only a government-issued mining license is required to commence mining, provided that the landowner does not object. Given the ambiguities surrounding customary land tenure, it can reasonably be assumed that, particularly during this early period of the mining boom—which took place after the enactment of the Aborigines Law in 1956—any objections presented by customary landowners were not as seriously considered as those of statutory claimants.

Although it is likely that many of these first mining camps were established within the peripheries of tribal lands, given the dearth of information on the history of (customary) landownership in the country, it is difficult to ascertain the precise histories of these settlements, or the modalities through which rights of access and tenure were negotiated or appropriated. Based on initial fieldwork observations, access to land in such settlements is often governed through a combination of statutory and ‘customary’ claims. Following the importance of ‘clearing the bush’ among indigenous Liberians’ conceptions over who has legitimate access rights to land, the first miners to arrive would then become customary landowners, performing a role akin to that of customary authorities for later arrivals.

The arrangements between surface landowners and miners are affected by two additional factors. First, the maturity of mining sites. In established mining sites, many landowners are directly involved in mining operations. Research in recent years has unearthed an intimate entanglement between ASM and smallholder farming. In some cases landowners are undertaking mining activities themselves, often on a seasonal basis. In recent years, landowners are increasingly striking arrangements with groups of mostly itinerant laborers (Hilson & Van Bockstael, 2011; 2012). In this case, landowners' relations to artisanal mining are best described in terms of investment rather than dispossession.

In a boom-type emerging mining site however, the sudden influx of miners in a non-mining community can lead to disputes and resentment. An interesting example is the town Mano River Kongo, just a few minutes walking from the border with Sierra Leone in Grand Cape Mount County. In 2009 diamonds were discovered, leading to a rush of prospective miners flooding the town. Most inhabitants recognized the discovery of
diamonds as "God's sparkle to help the town" and were benefiting handsomely, either by investing in mining operations, receiving rents as landowner, or by operating commercial businesses. At the same time, they were apprehensive over the fact that many miners were Sierra Leonean, and would repatriate their winnings instead of investing them in the town. More significantly, initial discoveries led many miners to dig very closely to the side of an unpaved road, which was the only connection this border town had with the rest of the country. The local community insisted that the miners join together and construct, or finance to construct, an alternative road instead. When this was refused, local attitudes towards mining soured, and the government was forced to issue a blanket temporary mining ban. Nevertheless, here too, the interaction between miners and landowners is more complex than dominant narratives suggest.

A second important variable determining the relationship between miners and landowners is the regulatory status of both parties. In most cases the landowner will receive some kind of compensation for the use of (part of) his land for artisanal mining activities. The modalities governing these rents are not specifically detailed in the Minerals and Mining Law –and most artisanal miners are not even covered by this law– beyond stating their entitlement “to just, prompt and adequate compensation”. However, the MML gives broad discretionary powers to the Minister of Lands, Mines, and Energy to intervene in case the landowner refuses mining operations (Republic of Liberia, 2000: 24-25). In practice, the type and extent of landowner benefits are subject to a great deal of negotiation, and can take the form of a lump sum, a regularly repeating constant payment, or a piece-rate payment depending on the mines’ production. In the context of the highly complex (mineral- and land) tenure situation in Liberia, the regulatory status of both the landowner and the miner will strongly influence the negotiating position of both parties.

It is very uncommon for miners lacking statutory or customary land rights to not negotiate access rights (and appropriate compensation) with landowners, unless the mining takes place in a ‘virgin’ area. Whether land is owned under customary or statutory land tenure arrangements, in order to be able to mine peacefully in close proximity to a rural community, it is necessary to obtain the permission of the landowner, or at least one influential community member that can assuage the community at large according to the ‘stranger-father’ custom. Sometimes a previously agreed upon payment is deemed unsatisfactory by the landowner, who may believe the mining operations to be more profitable than reported. In that case, the argument is about being given a ‘fair’ share of the profits, rather than being in competition over how to use the land. Many disputes also revolve around the proper demarcation of land, and can involve miners and non-miners, both of whom are confronted with the informality of land ownership. Often, these conflicts are resolved through specific traditional dispute resolution mechanisms (Namubiru-Mwaura et al., 2012). In other cases disputes over mining claims are intimately related to

33 Interview with a local miner, Mano River Kongo, January 2012.
some of the ethnical dimensions of the Liberian war: Sawyer (2005) describes how Mandingo, who are considered perpetual ‘strangers’ by many Liberians, saw their land use rights revoked by local Mano and Gio communities after the war. Mediation by the Ministry of Lands, Mines, and Energy led to a ‘rolling registration’ scheme whereby Mandingo mining claims were considered on a case-by-case basis, and “honored interchangeably and periodically with Mano/Gio claims” (Sawyer, 2005: 8).

The situation is different in cases where a non-landowning miner has secured a mining license. In these cases, customary landowners are particularly vulnerable, since they do not enjoy equal protection under the Liberian justice system. Here, the informal ways in which access to land is being negotiated among miners and non-mining landowners are highly dependent on the goodwill of the prospective miner. In some cases miners will even be able to secure mining licenses from local officials of the Ministry of Lands, Mines and Energy, without prior negotiations with the landowner (Namubiru-Mwaura et al., 2012: 86). As a recent study underscored, “even when they were located nearby, state institutions [that could help resolve property disputes] were often only accessible through interpersonal relationships and side payments” (Blattman et al., 2014: 8). This observation rings true both for land tenure and for formal mining claims, which are only accessible for those artisanal miners that have a financial backer or ‘supporter’, while others are excluded from the formal realms of the mining economy (Van Bockstael, 2014). A study on customary land tenure in Grand Cape Mount County similarly pointed to the fear that “people with money” would purchase all mining claims and potentially disenfranchise customary landowners. However, others within the same community noted the peaceful cohabitation between miners and farmers, stressing the linkages between smallholder farming and artisanal mining (Namubiru-Mwaura et al., 2012: 86).

Finally, while a landowner in possession of a private deed to the land is in a superior negotiating position, the government-owned mineral rights supersede all other ownership or occupancy rights of the land in question, provided that the latter are adequately compensated. However, this specification presupposes an entire realm of due process measures that are missing in contemporary Liberia. In practice, the government can freely exercise its authority to expropriate property as "eminent domain" without much constraint (USAID, 2011b). The biggest threat to landowners is therefore not a small artisanal mining operation, with whom the community usually negotiates terms, but rather the discovery of a significant diamond/gold deposit that attracts foreign capital, and can ultimately lead to forced displacement of an entire community without much due process. Artisanal miners’ access to land as well, is far more likely to be endangered by competing claims of more advanced mining operators which, under the 2000 Mining and Minerals Act, can be prioritized over previously existing ASM-activities.
COMPARATIVE INSIGHTS

MINER-LANDOWNER SYNERGIES

A first and more general proposition that can be derived from these three case studies, and one that is in keeping with scant existing research (Grätz, 2004; Nyame & Blocher, 2011), is that relations between ASM-operators and local landowners are not necessarily defined by antagonism. Instead, both the Liberia and the Philippines cases suggest a high degree of involvement of landowners in ASM, either as seasonal miners (Liberia) or as financiers of ASM-activities (Liberia and the Philippines). In addition, in all three cases there exists a degree of negotiation between ASM and local surface land claimants, which ultimately gives rise to some form of benefit-sharing. This benefit-sharing often (but not always) becomes institutionalized in the form of royalty arrangements, whereby landowners are entitled to a fixed (percentage) share of the mining revenues. However, the extent and form of these royalties is subject to a degree of variation, both within and between the different case study regions. In the Philippines case, for example, the range of benefits ASM offered for local landowners varied not only from one landowner to another, but was also more diverse, involving not just royalties but also priority access to good labor opportunities for the landowner and his relatives, and a competitive edge in the local gold processing market.

STATE WEAKNESS AND THE RESILIENCE OF STATE-SANCTIONED LEGALITY AS A LEGITIMIZING REPERTOIRE

In all three cases ASM takes place in peripheral regions where (central) state authority is weak, and where state institutions co-exist or even compete with other actors for public authority (Lund, 2006). In the DRC and in Liberia, customary institutions continue to play a more prominent role in local authority structures and in local tenure regimes than in the Philippines. One possible explanation might lie in the practice of indirect rule in Sub-Saharan Africa, which relied strongly on the integration of traditional, customary institutions in the colonial state apparatus (Mamdani, 1998). In many parts of Sub-Saharan Africa, customary chiefs have managed to secure a good position in the postcolonial political-economic arena, often making a career for themselves as politicians, businessmen or civil servants thanks to their dexterity in combining different registers of power and in constructing their public image on the basis of a highly eclectic and personal mix of all sorts of ‘traditional’ and ‘modern’ attributes (van Rouveroy van Nieuwaal & van Dijk, 1999). Meanwhile in the Philippines, the idea of statutory law and formal tenure seems to enjoy wider acceptance, and is now actively acted upon by local politicians who

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54 While Liberia was strictly speaking never colonized, it had many characteristics of a settler colony.
are spearheading a process of “informal formalization” in informal tenure regimes, epitomized by an increased reliance on written accounts and references to legality (Benjaminsen and Lund, 2003). In part, this reliance on state-sanctioned legality as a regulatory instrument and a legitimizing instrument for tenure claims can be traced back to US colonialism, which relied disproportionately on (elected) politicians – rather than customary authorities – as ‘agents of democratic state rule’ (Abinales, 2000).

In recent years and decades, however, Liberia and the DRC have also witnessed a further erosion of customary authority in favor of state-sanctioned legality, which is fast becoming the primary frame of reference to claim access to surface lands and subsurface mineral resources. In Nyabibwe, customary land claimants have approached the land registry to formalize their land claims, seemingly in an effort to secure rents from legally recognized ASM-cooperatives which now play a key role in regulating access to mineral wealth. So how to make sense of this ostensible paradox, i.e. the (alleged) weakness of state institutions on the one hand, and the continuous implicit and explicit references to state-sanctioned legality as a mechanism to access natural resources on the other?

The burgeoning literature on ‘the anthropology of the state’ (Trouillot, 2001; Sharma & Gupta, 2006) may provide us with some clues. On the one hand, pressured by the forces unleashed by globalization, many states have undergone a radical process of decentralization and privatization, whereby the state has effectively shed off a range of regulatory powers to local (semi-)private actors who are staking (sometimes competing) claims to public authority (Hibou, 2004). Important examples from our case studies include local strongmen-politicians and their armed militia in the Philippines; or mining cooperatives and NGOs in the DRC. At the same time our case study findings indicate that even in regions with a purportedly weak presence of the (central) state, state-sanctioned legality exhibits surprising resilience as a frame of reference underpinning claims to authority and natural resource access (Comaroff & Comaroff, 2007; Nielsen, 2013). In order to solve this paradox, then, we should transcend a focus on the state as a fixed set of institutions that exercises control over a given territory. Instead, the state is best seen as “an open field with multiple boundaries and no institutional fixity” (Trouillot, 2001: 127), punctuated with references to the ‘idea of the state’ (Lund, 2006) and legality as abstract, impersonal sources of authority that stand above society, and that serve as a particularly powerful legitimizing repertoire (Hansen & Stepputat, 2001). In the Nyabibwe case, this idea of the state and state-sanctioned legality as a legitimizing repertoire is actively acted upon by the NGO-community which, in coordination with state authorities, is taking part in various initiatives to reform and formalize ASM, with seemingly important spill-over effects in land tenure arrangements.

While state-sanctioned legality thus persists as a strong normative and legitimizing principle, particularly in countries with a weak state bureaucracy the rather chaotic process
of state decentralization and privatization has resulted in a (further) fragmentation of the state (Hansen & Steputat, 2001). And while formal state actors continue to fulfill an important role as “licensing and franchising authority” (Comaroff & Comaroff, 2007: 139), governments themselves are subject to high degrees of system-internal pluralism, with government institutions co-existing uneasily or even competing for supremacy (von Benda-Beckman, 2002). In this fragmented and multi-layered state arena, opportunities arise for actors to use references to state-sanctioned legality as a mechanism to claim and legitimize access to authority and (mineral) resources—whether directly (as miners) or indirectly (as landowners claiming royalties)—while attempting to exclude others.

**POWER AND ACCESS TO MINERAL RESOURCES IN A FRAGMENTED STATE ARENA**

This leaves us with a final yet quintessential question: if the interaction between ASM-operators and surface land claimants takes place in a dynamic and negotiated institutional field, underpinned by ubiquitous references to state-sanctioned legality, “who benefits and who loses from instances of “negotiability”” (Peters, 2004)? While we do not aim to provide conclusive answers to this question, based on the empirical material presented in this chapter we can nonetheless offer some tentative insights. In brief, and this is admittedly somewhat of a truism, the state arena is not a level playing field. Rather, those who command vital financial resources and political connections, and who have knowledge of bureaucratic procedures, are better equipped to position themselves within this multi-layered and fragmented state arena and to use (references to) legality as an access mechanism, than those bereft of such resources.

This observation is particularly apparent in the Liberian case, where those in possession of a formal mining permit or land title have a clear edge in negotiations over access to mineral wealth, either as a miner or as a royalty-receiving land claimant. Here, the ability to secure a formal mining claim depends on having access to vital financial and political capital—in the Liberian case usually provided by a ‘supporter’. So far, these observations confirm existing findings in the formalization literature. Here it is useful to refer to Fisher (2007, 2008), who convincingly argued that in Tanzania, efforts to formalize ASM have largely ignored local institutional realities and associated power relations, thereby potentially reinforcing the exclusivist tendencies inherent to these arrangements.

Based on our empirical evidence, we can and should make two additional observations that can deepen our knowledge and stimulate further research on local regulatory dynamics in mineral-rich regions. First, given the existence of mutually beneficial arrangements between (informal) land claimants and ASM-operators, there is an urgent need to better understand these arrangements as a basis for more appropriate policy interventions. This suggestion can be illustrated on the basis of the Nyabibwe case, where
the formalization of ASM is now having important spill-over effects in local land markets, providing incentives to informal, customary land claimants to formalize their land claims in order to strengthen their claims to ASM-rents.

Secondly, all three cases suggest that legality and formality have themselves –arguably to different extents– become the subject of negotiation and contestation, thus upsetting the dominant and fairly rigid approach towards the formal-informal divide. In this blurred space between formality and informality, opportunities for agency and emancipation arise. In the Philippines, access to formal tenure regimes is clearly subject to high degrees of elite capture, with national government policies seemingly biased towards corporate mining. Rather than facing marginalization in the informal economy, however, local landowner-miner-politicians have initiated a process of informal formalization (Benjaminsen & Lund, 2003) in local tenure arrangements, using the state as an instrument to defend ASM-interests. In Nyabibwe, local customary landowners feel stimulated by the strong presence of state institutions and NGOs to formalize their land claims in an effort to claim ASM-rents.

CONCLUSION

This chapter has analyzed the relationship between ASM and surface land claimants, by comparing three distinct geographical settings characterized by the (purported) absence of state-sanctioned regulatory order. Let us briefly summarize the main findings that emerged from this comparative effort. While the tenurial situation in many ASM-areas is indeed a far cry from formal tenure regimes as they appear on national government maps, this does not imply that the relationship between ASM and surface land claimants is inevitably antagonistic, unstable, or even unpredictable. Instead, both the southern Philippines, eastern DRC, and Liberia cases revealed a significant degree of negotiation between local (informal) land claimants and ASM, leading to fairly predictable institutional arrangements that enable mutual benefit-sharing. While these institutional arrangements persist partly or even completely outside the formal-regulatory reach of the central government, they are nonetheless replete with implicit and explicit references to state-sanctioned legality. These references should be understood as part of a broader effort of diverse actors to position themselves in a multi-layered “state arena” that has become increasingly fragmented as a result of processes of decentralization and privatization. In this environment, formality and legality are themselves subject to negotiation and contestation; and while this negotiation may entail significant conflict, it also offers opportunities for emancipation.
CHAPTER 7: STATE-REBEL RELATIONS IN MINDANAO: COMPARATIVE INSIGHTS

ORIGINAL ARTICLE:

BACKGROUND:
Based on our joint expertise on the dynamics of armed conflict in Mindanao, my colleague Jeroen Adam and me set out to contest prevailing images of a state-rebel antagonism. As the main author of this article, I took the lead in the editing process and in developing the analytical framework (i.e. the changing role of the local state as a structure of accumulation and legitimation). In addition to writing the Compostela Valley case, I have also contributed significantly to the North Cotabato case, which resulted from field research that we undertook together in the framework of a research commissioned by the Justice Security Research Programme, an LSE-based research consortium.

ARTICLE ABSTRACT:
This article challenges the pervasive notion of rebel groups in the southern Philippines as non-state actors opposing the penetration of the state. Instead, through a historically informed analysis of local politics in two Mindanao provinces with a presence of Muslim and communist armed insurgents respectively (North Cotabato and Compostela Valley), it will be demonstrated that particularly since the end of the Marcos martial law regime and subsequent democratization and decentralization efforts, local state- and rebel structures have become increasingly intertwined. On the one hand, this observation can be explained with reference to particular historical-institutional trajectories, which led to the establishment of the local state as a vital instrument for accumulation and for political legitimation. On the other hand, the current situation can only be fully understood when considering the wider set of social structures that cut across the state-rebel divide, prime amongst which those defined by kinship.
INTRODUCTION

For over thirty years now, the Southern Philippine island of Mindanao is home to two armed insurgencies. While most attention is devoted to the Muslim rebellions of the Moro National Liberation Front (MNLF) and the Moro Islamic Liberation Front (MILF) in the Western and Central parts of the island, since the 1980s the remote uplands of Eastern Mindanao have become one of the strongholds of the Maoist New People’s Army (NPA), the armed wing of the Communist Party of the Philippines (CPP). Whereas in the former case, the conflict was clearly framed in religious terms, in the case of the CPP-NPA the conflict obviously obtained a class-based character. Despite this different framing, most analysts trace the origins of these armed insurgencies to grievances resulting from the aggressive penetration of a (post-)colonial state – particularly the authoritarian Marcos regime – keen on exploiting Mindanao’s abundant natural resource wealth. Underlying these analyses is a strong tendency to treat both the Muslim and Communist rebellion as “ideology-based armed conflicts” directed against the state, and espousing “alternative state-visions” (Human Development Network, 2005: 2). For instance, in a recent article Podder describes MILF-structures as a “parallel system of governance that shadows elected government functionaries”, and that functions according to Islamic principles (Podder, 2012: 502). In another contribution, Hall argues that the demobilization of MNLF-fighters in the 1996 should be seen as a movement from non-state to state spaces (Hall, 2009: 24).

In this chapter we critically interrogate this assumed dichotomy between informal rebel structures and formal state structures, on the basis of an empirical analysis of local-level politics in two Mindanao provinces with a strong historical presence of Muslim and Communist insurgents respectively: North Cotabato and Compostela Valley. Our analysis will reveal that already during the authoritarian Marcos martial law years (1972-1981), but particularly following democratization and decentralization in the late 1980s and early 1990s, the often taken-for-granted distinction between local state- and rebel structures does not stand up to empirical scrutiny. Instead, both provinces have seen the emergence of indistinct alliances and networks that connect local politicians to paramilitary and rebel forces, particularly but not exclusively on the barangay level. Drawing on existing literature and our own fieldwork experience, we offer two related explanations for this seemingly counterintuitive observation. First, the mutual entanglement between state- and rebel structures can only be fully understood when taking into account the historical-institutional legacies of a particular trajectory of decentralized statebuilding, which established the local state as a “structure of accumulation” (Harriss-White, 2003) in the local economy (Sidel, 1999), and as an instrument for the legitimation of claims to public

55 While martial law was lifted in 1981, most observers agree that the Marcos regime retained many if not most of its authoritarian features until its ultimate demise in 1986 (Wurfel, 1991).
authority (Abinales, 2000). Secondly, moving beyond a purely state-centric analysis, critical attention is also drawn to how local state- and rebel structures are embedded in the wider social fabric, and to how various social relations –prime amongst which those associated with kinship– connect people at different sides of the state-rebel divide.

The remainder of this chapter is organized as follows. After providing some theoretical reflections about the ‘state of the state’ in the Philippines, we will present our empirical analysis of local-level politics in North Cotabato and Compostela Valley province. In both cases, we draw upon a combination of existing literature and primary data collected during different field visits over the past three years. Finally, we present a critical discussion of the most important findings of our analysis, and their implications for a broader research agenda.

**THE ‘STATE OF THE STATE’ IN THE PHILIPPINES**

**THE EBBS AND FLOWS OF THE LOCAL STATE AS A STRUCTURE OF ACCUMULATION**

*(Post-)colonial origins of the local state as a structure of accumulation*

As discussed in previous chapters, despite a long history of political-administrative centralism, local politicians have played a key role in (post-)colonial trajectories of statebuilding. While a class of ‘native politicians’ or principalia had already emerged under Spanish colonialism, their role became more pronounced during the first half of the twentieth century, when American colonial rulers imposed a system of democratic suffrage, and came to rely on local politicians as bridging figures between Manila and the periphery (Hutchcroft, 2000), maintaining social stability (Wong, 2006) and espousing the symbols of the state, prime amongst which upholding the democratic process (Abinales, 2000). In exchange for this dual role as statebuilders, local politicians retained a high degree of autonomy from Manila, and could bank on priority access to the local state as a ‘structure of accumulation’. The idea of the local state as a “structure of accumulation” was coined by Barbara Harriss-White in the context of rural India, to describe the ways in which the local state plays an enabling role in processes of capitalist accumulation, and simultaneously acts as a “regime of private extortion” for state officials (Harriss-White, 2003: 80). Similarly, in the Philippine context, Sidel has argued that American colonialism has given rise to a set of local state institutions which were not “simply a resource for patron-client relations”, but also a “complex set of predatory mechanisms for private accumulation” (Sidel, 1999: 146).
The capacity of the local state as a structure of accumulation was further expanded in the post-war decades. In the face of a persistently weak national army, local politicians started recruiting their own ‘private armies’ (Anderson, 1988), which were later effectively replaced by paramilitary militias and vigilantes (Kowalewski, 1992). All too often, however, ‘counterinsurgency’ and the maintenance of social stability served as a pretense for the ruthless protection of private political and economic interests (Kreuzer, 2009). Together, these “legacies served to blur the lines between state/society, civil/military, military/para-military, and legal/illegal, with a variety of peculiar coercive formations – notably so-called ‘lost commands’, ‘private armies’ and ‘fanatical sects’ – operating at the behest of entrenched local ‘warlords’ and landed oligarchs” (Hedman & Sidel, 1999: 58). Furthermore, state resources like government jobs and so-called ‘pork barrel funding’ (funds used by congressmen to reward political allies in their home province) gradually replaced land as the most important source of patronage and private accumulation (Nowak & Snyder, 1974; Magno, 1989). These patronage resources are disbursed through vertically organized political party networks, which are an important instrument in the hands of provincial-level delegates in congress to keep in check their local-level counterparts (Landé, 1968; Hutchcroft, 2000). In parallel with economic modernization and diversification, the local state also became increasingly important as a set of regulatory instruments to control access to the local economy (Sidel, 1999; Lara & Schoofs, 2013). Finally, local politicians can bank on the formal-democratic legitimacy inherent to statehood and state officialdom to shore up their local authority and standing (Abinales, 2000; Wong, 2006). We return to this point in more detail below.

**The Marcos conundrum and the closure of the state as a structure of accumulation**

When Ferdinand Marcos assumed the presidency in 1965 he embarked upon a path of centralization, culminating in the proclamation of martial law in 1972. Relying on a multi-pronged strategy, he succeeded in reining in on some of the prerogatives of local politicians. By centralizing control over the armed forces and the police, the coercive capacity of local strongmen was diminished (Hedman & Sidel, 2000). Furthermore, by centralizing control over patronage resources – significantly beefed up by international capital inflows – in the presidency, Marcos created a key instrument to win over the loyalty of local elites. Meanwhile the abolishment of congress and pork-barrel funding weakened the power base of the provincial-level political elites that had long dominated Philippine politics (Wurfel, 1991). In addition to creating regional planning bodies to coordinate and implement the regime’s development plans, Marcos also designed a series of institutions on the local level to curb the autonomy of municipal- and provincial-level strongmen, and to shorten the distance between the regime and the local population. The barangay (the lowest political-administrative unit in the Philippines) came to fulfill a vital role in the new constellation, not only as a service-hatch for development funds and as a counterinsurgency tool, but also as an instrument to shore up the regime’s democratic
legitimacy (Wurfel, 1991). Finally, local elections were tightly monitored, and served primarily as instruments to reward the regime’s allies and to disenfranchise its enemies (Franco, 2001).

To some extent, then, the Marcos regime succeeded in restructuring the political elite, and in reversing the traditional flow of power between the national and the local level, with local elites becoming increasingly dependent upon access to the president for patronage. Ultimately however, it failed to do away with the localist tendencies in Philippine politics, and continued to rely on regional elite support to implement the regime’s increasingly authoritarian agenda, and to fend off mounting opposition against the regime (Hutchcroft, 2000; Franco, 2001). For example, provincial governors loyal to the regime continued to wield significant influence over the appointment of provincial-level army commanders, and over local paramilitary militias like the Civilian Home Defense Forces (CHDF) (Hedman & Sidel, 2000). Important here is that Marcos excluded sections of local and regional elites from access to the state machinery (Abinales, 2000). As will be discussed below, some of these disenfranchised elites responded by throwing in their lot with the nascent rebel movement, in an attempt to reclaim their formerly privileged position within the state.

Democratization, decentralization, and the restoration of the local state as a structure of accumulation

As a result of a worsening economic crisis and authoritarian excesses, by the 1980s the Marcos regime faced mounting opposition from a broad range of societal forces, including (but by no means limited to) the armed rebellions of the communist New People’s Army (NPA), the armed wing of the Communist Party of the Philippines (CPP); and that of the Moro National Liberation Front (MNLF). The military mutiny and people power revolt that eventually overthrew Marcos and swept Corazon Aquino to power in 1986 ushered in an uncertain transition period, marked by a profound spirit of popular empowerment. The new 1987 constitution reflected this spirit, calling on congress to produce several pieces of legislation that can facilitate progressive social change. This included “a Local Government Code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization”56. The Local Government Code (LGC) was passed in 1991 in the form of Republic Act 7160, and devolved a series of fiscal and regulatory responsibilities to local government units (LGU): regions, provinces, cities, municipalities, and barangays (Legaspi, 2001). Examples include the enforcement of national environmental- and building laws; land reclassification and -subdivision; food inspection; and discretion over the issuance of business permits and -franchises. In addition, LGUs were given increased discretion over employment and procurement. Arguably even more important was the increased financial

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56 The 1987 constitution of the Republic of the Philippines, A. X, s. 3
capacity of LGUs, which now dispose of a range of instruments to extract local fiscal revenues. Furthermore, the introduction of a substantial and guaranteed share of national government revenues, in the form of natural resource rents and Internal Revenue Allotments (IRA), gave the local executive more room for maneuver vis-à-vis his national-level counterparts. In relative terms, the barangay in particular profited disproportionately from these new fiscal arrangements (Clark, 1999). Finally, the LGC reestablished mayoral control over the Philippine National Police.

Ultimately, while the LGC was presented as a response to the authoritarian excesses of the martial law regime, it was not a radical move away from a historically rooted centralism (Legaspi, 2001). Instead it is perhaps better seen as a restoration, and arguably even a further consolidation, of the local state as a structure of accumulation. Indeed, critical observers were quick to point out that “the Local Government Code of 1991 and subsequent decentralization efforts nor the pattern of sustained economic growth in the Philippines in the 1990s have seriously undermined the institutional and social foundations of boss rule.” (Hedman & Sidel, 2000: 108).

**WHITHER THE STATE IN PHILIPPINE SOCIETY?**

This perspective on the local state as a predatory structure of accumulation has been criticized on a number of accounts. For one, its top-down perspective leaves little room for understanding agency and social change, as it underestimates how throughout Philippine history, the elitist democratic system has systematically been challenged from below (Quimpo, 2005). Furthermore, its depiction of ‘warlord-politicians’ as selfish, profit-maximizing actors fails to recognize the discursive production of political authority within the confines set by societal norms (Wong, 2008). Finally, its state-centric perspective fails to recognize that “Normative and cognitive order in many areas of Philippine life (religion, kinship, identity), while strongly influenced by the state, are not necessarily dominated by it.” (Pertierra, 1999: 300; see also Pertierra, 2006).

While we do not aim for an exhaustive evaluation of these points of criticism, for the purposes of this chapter (i.e. understanding the intricate relations between local state- and rebel structures) it is nonetheless important to make two additional observations about state-society relations in the Philippines. First, in line with recent scholarship in the field of political anthropology, we recognize that formal-bureaucratic authority inherent to statehood is only one possible source of public authority (Lund, 2006) and that more often than not, public authority is a hybrid of legal-bureaucratic-, personalistic-, militaristic-, religious- and/or traditional authority. Similarly, in the context of the Philippines, both Wong (2006) and Abinales (2000) have argued that local strongmen-politicians’ capacity as statebuilders hinges on their ability to fuse legal-bureaucratic and more personalistic forms of authority, embedding themselves in local social structures. At the same time, and
partly as a product of the particular historical-institutional trajectories in the Philippines described earlier in this section, but also in line with trends observed elsewhere (Hansen & Steputat, 2001), state-sanctioned legality has emerged as a central- and arguably even the primary frame of reference for staking and legitimizing claims to public authority. In short, in addition to being a vital structure of accumulation in the local economy, the local state is also a crucial instrument for the legitimization of public authority.

A second observation—albeit one that is closely related to the former—is that it is paramount to pay attention to the ways in which both state- and rebel structures are embedded in wider sets of social relations, particularly those constituted by kinship. In this regard, this chapter builds on a literature that aims to understand how access to the state is mediated through multiple social institutions, including kinship and family relations, and the specific social status ascribed to these social identities (Harriss-White, 2003; Van Klinken 2014). It has been argued elsewhere that Philippine politics is a ‘family affair’ (McCoy 1993), with politics at different levels—but arguably more so on the local level—dominated by alliances between powerful and less powerful families, bound together by intermarriage and patron-client ties. According to McCoy (1993: 9-10), the emergence of powerful political family dynasties in the Philippines can be explained by reference to the growing importance of rents in the Philippine economy. Rents are defined by McCoy as restrictive state licenses which allow holders to gain a monopoly or oligopoly over particular markets. In other words, McCoy argues that privileged access to the state enables privileged control over markets by one and the same elite coalition. For specific historical reasons, in the Philippines this elite coalition is dominated by extended family networks. Crucially, due to this specific ‘oligarchic’ nature of the state in the Philippines, the supposed distinction between formal state institutions and non-state market institutions becomes a highly artificial one, as overarching kinship structures colonize both spheres.

Taking up these theoretical insights about the local state as a structure of accumulation and as an instrument for the legitimation of public authority that is firmly embedded in the local social fabric, we now turn to our empirical analysis of local politics in rebel-influenced territories in North Cotabato and Compostela Valley province.

THE MNLF, THE MILF, AND THE RISE OF COMMANDER POLITICS IN NORTH COTABATO

(POST-)COLONIAL STATE BUILDING AND THE DATU STRONGMEN

The Spaniards never really gained a foothold in Mindanao, and it was only with the advent of American colonialism in the early twentieth century that successful attempts were made to integrate the island into the colonial body politic. American statebuilding efforts
revolved around a strategy of indirect rule through a traditional Muslim elite, the so-called datus, who were gradually incorporated in the colonial administration (Abinales, 2009; 2010). In exchange for pacifying the locality and making the colonial state acceptable in Muslim communities, the datus could reinforce their political and economic pre-eminence by relying on privileged access to the financial and coercive resources, as well as the legal-bureaucratic authority inherent to statehood.

This strategy of indirect rule persisted after independence in 1946, albeit under different modalities, with Muslim elites becoming incorporated in a nascent mass democracy (McKenna, 1998; Abinales, 2010). Local politics in Muslim Mindanao increasingly gravitated towards ‘politics as usual’ as practiced elsewhere in the Philippines, organized around factional competition between family alliances embedded in political party networks that stretch all the way to congress, and act as prime vehicles for the disbursement of patronage (Beckett, 1993). In the post-war decades, this highly elitist constellation guaranteed the legitimacy of the Philippine nation-state in Muslim Mindanao, with the region enjoying a considerable degree of sociopolitical stability. These observations already represent an important qualification of the dominant historical narrative of Muslim Mindanao as one of eternal resistance against (post-)colonial state intrusion. Instead Muslim elites were engaged in a delicate balancing act: while maintaining a degree of autonomy from Manila, they also sought to capitalize on access to the state as a strategic resource to expand their political and economic preeminence, inevitably leading to their integration in the mainstream body politic.

**MARTIAL LAW AND THE EMERGENCE OF MUSLIM SEPARATIST MOVEMENTS**

This mutual accommodation between Muslim ‘policos’ and the (post-)colonial state came under increasing strain from the late 1960s onwards (Abinales, 2000). Mounting tensions were particularly apparent in the province of Cotabato, where post-independence politics had been dominated by the powerful Pendatun and Matalam families, which acted as a bridge between Manila and the Muslim population, and could tap into the state’s resource base to appease the local population (Beckett, 1993: 295-296; McKenna, 1998: 130). Due to various factors, the Pendatun-Matalam coalition gradually lost its pre-eminence to a nascent Christian settler elite. From the 1950s onwards, there was a massive influx of Christian migrants that sought to escape a mounting social crisis in other parts of the peninsula (Wernstedt and Simkins, 1965). Many of these migrants ended up in the fertile valleys of Cotabato, where the Muslim population was minoritized by the early 1960s (Borras and Guttierrez, 2004). Land pressures were mounting, with many Christian settlers obtaining private property titles, to the detriment of the native pagan and Muslim communities, that were increasingly facing dispossession.
While this process of dispossession was an important cause for the start of the Muslim rebellion in the late 1960s (Rodil, 2004; Borras, Lara & Vellema, 2011), this rebellion cannot be divorced from a broader logic of electoral politics. Christian demographic growth went hand in hand with the rise of a Christian political class, sections of which garnered the support of the Marcos regime (Mckenna, 1998; Franco, 2001: 223). This changing political landscape risked leaving important sections of the Muslim elite bereft of privileged access to the state. Partly for this reason, Muslim elites accepted the subdivision of Cotabato in a Christian-dominated south and a Muslim-dominated north in 1965 (Abinales, 2000: 164). By 1971, however, Muslims also lost the electoral edge in North Cotabato when Carlos Cajelo, with the blessing of president Marcos, was elected as the first Christian provincial governor (Beckett 1993: 297). In preparation for the 1971 elections, several Christian mayors in North Cotabato, together with the Philippine constabulary, supported the formation of vigilante groups known as Ilaga (‘rats’), which formed the vanguard for the increasingly violent dispossession of Muslim communities, and for a concomitant expansion of Christian political-territorial control (Franco, 2001: 215-221). Often the evicted lands were converted into private property for Christians, preventing Muslim communities from returning to their land once the violence had settled down.

In response to their looming loss of political-territorial clout vis-à-vis Christian settler elites, sections of the disenfranchised Muslim elites resorted to identity politics. Presenting himself as the protégé of the Muslim population, long-time governor of Cotabato Udtog Matalam initiated the Muslim Independence Movement (MIM) in 1968. In addition, local Muslim elites also created vigilante units (Franco, 2001: 222). The ensuing tit-for-tat violence between Christian and Muslim vigilantes was one of the key arguments for the Marcos regime to declare martial law in 1972. Later that year, radical Muslim students established the Moro National Liberation Front (MNLF), a guerilla army that vowed to fight for an independent ‘Bangsamoro’ or ‘Muslim nation’. The MNLF launched a series of attacks on military outposts, to which the Marcos regime responded by declaring open war against the MNLF. This also entailed the creation of paramilitary Civilian Home Defense Forces (CHDF), which played a major role in what is best described as the ‘ethnic cleansing’ of large parts of North Cotabato. The Muslim population was increasingly displaced to the remote border regions with the neighboring provinces of Lanao del Sur, Sultan Kudarat and Maguindanao, where the MNLF found fertile grounds for recruitment (Franco 2001: 223).

The MNLF’s establishment put elite Muslim families in a bit of a spot: “If they supported the martial law government they risked rebel retaliation and the loss of political legitimacy. If they supported the rebels, they invited government reprisals and the forfeiture of their political positions”. (McKenna, 1998: 162-163). Thus, their response was mixed. Some rejected the rebellion and threw in their lot with the martial law regime.
(for a case study on Lanao see Carter Bentley, 1993). Others adopted a more ambiguous stance, paying lip service to Muslim grievances while rejecting the radical demands of the MNLF, while advocating a stance of ‘critical collaboration’ vis-à-vis the regime. A third group, which mainly comprised of younger students and who openly criticized the moderate stance of the traditional Muslim elite, opted to join the rebellion. This strategic maneuvering by large parts of the Muslim elite remained as the war progressed. Importantly, this cannot only be explained solely on the basis of self-interest on the part of these elites. Instead, while some Muslim politicians were not keen on joining an armed rebellion and preferred the comfort and security of political office, others were very much aware that a continuation of direct armed confrontation would only result in more bloodshed, and that a rapprochement with the Philippine state was ultimately inevitable.

Hence, pretty soon after the proclamation of Martial Law, the MNLF-leadership entered into peace negotiations with the Marcos regime, eventually resulting in the 1976 Tripoli Agreement. This presented the MNLF-elite with opportunities to renegotiate the terms and conditions of its integration in the Philippine state. Vice versa, the agreement presented the Marcos regime with additional leeway to invite the ‘surrender’ of MNLF-commanders. For this reason the regime developed the so-called “attraction and amnesty” programs, which were meant to absorb former MNLF-fighters in local political structures. These programs attracted thousands of returnees (so-called balikbayan), including the former vice-chairman of the MNLF Abul Khayr Alonto (Molloy, 1988). Ultimately, this policy of attraction led to a further fragmentation of MNLF-structures, which increasingly came to resemble a loose coalition of local factions and commanders detached from the central command, cultivating relations with local politicians (Noble, 1981; Molloy 1988). Ultimately, Marcos’ downfall in 1986 opened the way for more serious negotiations with the MNLF, which eventually led to the establishment of the Autonomous Region in Muslim Mindanao (ARMM) in 1989, and a final peace agreement in 1996 that foresaw in the integration of approximately 5750 ex-combatants in the Armed Forces of the Philippines (AFP) (Hall, 2014).

Meanwhile, the peace process failed to satisfy some of the more radical elements within the MNLF. In 1977, several MNLF-leaders disgruntled with the peace talks formed a breakaway group: the Moro Islamic Liberation Front (MILF). The MILF vowed to continue the rebellion against the Philippine state under the leadership of the late Hashim Salamat. The MILF’s popularity received a boost after the establishment of the ARMM in 1989. The eventual ARMM was a heavily diluted territorial entity compared to what was originally envisioned in the 1976 Tripoli Agreement: following a plebiscite it only included the provinces of Maguindanao, Lanao del Sur, Sulu and Tawi-Tawi, later (in 2001) joined by the island of Basilan (except for Isabela city) and the city of Marawi (Rood, 2012: 257-258). Furthermore, the ARMM and its MNLF-leadership were increasingly facing allegations of corruption and mismanagement, leading to their further
de-legitimation in the eyes of large sections of Muslim society, which became increasingly susceptible for MILF-recruitment (Bertrand, 2000; Lara 2014). Yet, despite their more ‘radical’ stance, by the end of the 1990s the MILF-leadership had also entered into peace negotiations with the government. Failing to satisfy either one of the warring parties, these negotiations were interrupted by episodes of open armed confrontation in 2000, 2003 and 2008. Only as recently as October 2012, a peace agreement was finally signed, and the two parties are now no longer officially at war. In September 2014 this peace agreement culminated in a legal framework, the ‘Bangsamoro Basic Law’ which, pending the approval of Congress and the Supreme Court, should enable the creation of a new Bangsamoro autonomous region that will replace the current ARMM.

To summarize, with this short historical overview we have tried to illustrate that Muslim elites, rather than simply resisting their integration in the (post-)colonial state framework, were intimately involved in statebuilding efforts. Even the separatist Muslim rebellions, while usually seen as a radical rejection of the Philippine nation-state, can in part be understood as an effort on the part of disenfranchised Muslim elites to reclaim their formerly privileged position inside the state. At the same time, ordinary people’s support for the MNLF-rebellion was primarily informed by a sense of profound injustice caused by dispossession and government oppression. As a former MNLF-rebel explained: "After Martial law, it was declared that all the Bangsamoro should be killed... Even the students in Cotabato city were being killed during that time. All the Bangsamoro quit from studying. Not only the male students, also the female students were being killed. All of them have the feeling they have to defend themselves. That was why I joined the MNLF. No choice”

DEDEMOCRATIZATION, DECENTRALIZATION AND THE RISE OF COMMANDER POLITICS

Dynamics in Midsayap were very much in line with those found elsewhere in (North) Cotabato, with a first, peaceful face of Christian in-migration, wherein many migrants entered into tenancy arrangements with Muslim landowners which were considered as mutually beneficial. By the 1970s, as land became more scarce, the settlement process took a violent turn. With the support of Christian mayor Dequiña, Christian settlers formed the Ilaga (Rodil, 2004: 187); while young Muslim men joined the ‘Blackshirts’, which were later absorbed in the MNLF. However, Muslim resistance proved impotent in the face of the shrewd counterinsurgency tactics of the martial law regime, which increasingly relied on the brutal paramilitary Civilian Home Defense Force (CHDF). The resulting violence led to the displacement of the Muslim population to neighboring Maguindanao province, particularly to the municipality of Datu Piang.

57 Interview Bapa Ibrahim, Cotabato City, August 2014.
After 1976, this policy of confrontation was complemented by the aforementioned amnesty programs, which aimed at inviting the surrender of MNLF-commanders. In Midsayap, the local MNLF-strongman, Kumander Dante, heeded the call to join the government side. The dissolution of Dante’s leadership led to a fragmentation of local MNLF-structures, with several of Dante’s subordinates (by the names of Abusama, Tubog and Harrison) appropriating ‘commandership’ themselves, and folding back on their own territorial fief. By the mid-1980s southern Midsayap had effectively been transformed into a patchwork of competing territorial units, organized around the military might of ‘commanders’ with increasingly indistinct affiliations. As one respondent stated: “Some are in the army, others are in the MNLF or in the MILF. Since the end of martial law there are also more commanders with plenty of weapons who are independent”. These local commanders were mainly preoccupied with localized struggles over territory, and the people and resources residing inside it. It was in this heavily militarized and fragmented context that democratization and decentralization were introduced.

The first barangay elections after the restoration of democracy were postponed until 1989 for logistical reasons. They passed off without major upheaval mainly, respondents claimed, because of the lack of incentives to run for barangay positions, which were not yet remunerated. Nonetheless, in barangay Mudsing the elections turned out to be a harbinger for the conflict which came to grip major parts of Midsayap for years to come. Dagalas Urgad, the acting barangay captain under the Marcos regime, was defeated by Abusama Mangadta, an MNLF-commander. Urgad was ‘dishonored’ by this loss and turned to his cousins, who had completed their military training in Malaysia, for support. They were joined by commander Tubog, Abusama’s former MNLF-companion who had allegedly joined the MILF in the second half of the 1990s –although others claimed Tubog was simply a ruthless criminal, cattle-rustler and jueteng (a gambling game) bigwig. Abusama in turn coalesced with commander Asraf Tayuan, a high-ranking MNLF-commander who maintained close ties with Nur Misuari, was acting barangay captain of Kudarangan, and later joined the MILF as well.

Throughout the 1990s the conflict between the Abusama/Tayuan alliance and the Dagalas Urgad/Tubog alliance escalated into a full-blown turf war, displacing local inhabitants who evacuated to the neighboring barangays of Nabalawag, Nes, Tugal and Lower Glad. The violence further intensified in the run-up to the 1992 elections, the first to be held after the Local Government Code of 1991, which were eventually won by Abusama. Respondents unanimously agreed that decentralization, and more specifically the introduction of internal revenue allotments (IRA) and monthly stipends for barangay officials, had immensely raised the stakes of ‘capturing’ the local state. The direct involvement of these commanders in local politics also presented them with opportunities
to strengthen their coercive capacity, as control over barangay-level politics allowed them to legitimize their armed subordinates, transforming them into (supposedly unarmed) Civilian Volunteer Organizations (CVOs) (also known as barangay tanods). In short, control over local state institutions had a galvanizing effect on the resource base and the political-territorial clout of both alliances, contributing to a further escalation of the conflict.

To fully comprehend the machinations of electoral politics in this volatile environment, attention also needs to be paid to the interaction between different local government levels. Commander Abusama had entered into an alliance with the Dequiña family, the dominant Christian political dynasty at the municipal level. In exchange for delivering the Dequiñas the local vote, Abusama was allegedly supplied with money and weapons. Indeed, local commanders, who typically exert high degrees of territorial control, came to play a leading role in vote brokerage. During a focus group discussion, one respondent stated that “Commanders are supported financially by politicians. With this money they can buy weapons, but now they also buy big cars. It is still very common for politicians to work with commanders.”60 In the early 1990s Abusama and his peers in neighboring barangays could also capitalize on ongoing counterinsurgency operations. AFP-battalions and paramilitary Citizen Armed Force Geographic Units (CAFGUs)61 –primarily composed of Christian residents from barangays Nes and Salunaya, as well as Abusama’s own men– would not only set up camp in their territory, they also targeted their enemies under the guise of counterinsurgency operations against the MILF.62

An important factor enabling the rise of ‘commander-politicians’ was the aforementioned fragmentation of the MNLF, and its gradual absorption into state structures. The concomitant decrease in the frequency and intensity of counterinsurgency operations provided room for the penetration of the MILF in selected barangays in Midsayap. For certain families and personalities, particularly those that did not reap the benefits of this rapprochement between the MNLF and the state, the rise of the MILF provided opportunities to contest existing political-territorial arrangements. The 1994 elections in Nabalawag for example were “a very tense affair”, with the barangay captain being challenged by a candidate associated with the MILF.63 One of the main reasons fuelling the conflict between Abusama and Tubog was the refusal by commander Dante (their former superior in the MNLF who now occupied an important position inside the ARMM) to grant the latter access to the 1996 reintegration program; whereas the former was reaping the benefits of the program. Tubog therefore seceded from the MNLF, and

60 Interview political leaders, barangay Upper Labas, municipality of Midsayap, March 2013.
61 After the CHDF was disbanded in 1987, it was decided that it needed a successor. Hence the creation of the CAFGU under the tutelage of the Philippine Army.
62 Interview relative Abusama, Cotabato city, April 2013.
63 Interview political leaders barangay Nabalawag, Cotabato city, March 2013.
subsequently turned to the MILF. While Tubog’s precise affiliation with the MILF remains unclear—some claimed he merely acted as a ‘guide’ assisting the movement’s penetration in Midsayap—it is nonetheless clear that several MILF-commanders were amongst his close allies, and that his rising influence went hand in hand with MILF-expansion in Midsayap. Ultimately, Abusama’s murder in 1998 reigned in a gradual shift of power towards the Tubog alliance, which began to appropriate power in Mudsing and the surrounding Muslim-dominated barangays. This resulted in another armed confrontation in 2001 between Tubog and Puwa Mangadta, a relative of the aforementioned commander Abusama who was now on the side of the MILF (Unson, 2001). In the 2002 elections, Tubog became barangay captain in Tugal, while his wife defeated Abusama’s brother in Mudsing, and his close allies became the dominant political players in nearby barangays Rangaban and Nes. Ultimately, Tubog was murdered in April 2006.

As a result of this rivalry between the Tubog and the Abusama alliance in the second half of the 1990s, southern Midsayap witnessed a further bout in political violence, which left at least 7 barangay officials and many more ordinary people dead. Apart from these intermittent violence clashes, this type of commander politics also had a huge influence on different aspects of daily life with people particularly complaining about the high levels of extortion which were accompanied by constant intimidation. For instance, every harvest time, aides of the commanders entered peoples’ houses with empty sacks which were then supposed to be filled. This put a heavy burden on these communities which already were affected by high levels of poverty. Next, this type of socio-political environment proved to be polarizing and resulted in strong societal divides which were defined along loose family relations. Next, these societal divides also had a clear spatial definition. Importantly, for this specific case at least, these emerging alliances cannot be understood as being based on reciprocal patron-client relations. Rather, these can best be described as what a respondent referred to as the establishment of ‘small empires’, wherein free and fair elections were a mere fiction and these commanders/local politicians acted as true autocrats. Therefore, for the majority of respondents, the emergence of these feuds and highly autonomous commanders/politicians throughout the nineties were remembered with bitterness. This was not only because of the negative effects this had on daily livelihoods and fundamental democratic rights, but for many people, these feuds came to symbolize a diversion from a legitimate struggle for the rights of the Bangsamoro people towards a pointless intra-Muslim conflict driven by greed.

64 Interview political leaders barangay Tugal, Cotabato city, March 2013.
65 Individual interview former MNLF rebel leader, August 2014.
66 Interview resident Midsayap/civil society member, Cotabato city, January 2014.
67 Interview political leaders barangay Tugal, Cotabato city, March 2013
68 Interview relative Abusama, Cotabato city, January 2014.
In sum, this concise historical overview of the Abusama versus Tubog feud illustrates that binary distinctions between ‘informal’ rebel groups and ‘formal’ state institutions do not stand up to empirical scrutiny. Instead, the conflict described above took place between shifting family alliances involving commanders belonging to either one (or none) of the rebel movements and/or to the state. In other words, in a volatile political environment like that of Midsayap in the 1990s and early 2000s, maintaining access to both state and rebel structures is vital for the construction and maintenance of local political-territorial authority. So far this point has been illustrated for individuals bridging the state-rebel divide through their engagement as commander-politicians. In other instances, however, this divide is being bridged through kinship/family connections. The aforementioned Mangadta family is a case in point. While Abusama had decided “to join the government side”, his younger brother Tamarudin put forward the objective of becoming an MNLF-commander—an ambition thwarted by the acting MNLF-commanders at the time. Another brother of Abusama, Junie Mangadta, had the ambition of becoming an MILF-commander. After the 1996 peace agreements, this strategy whereby families cultivate connections simultaneously inside the government and inside armed groups could be witnessed throughout the province. Another example is that of Jimmy Matalam, the grandson of the aforementioned Udtog Matalam (the founder of the Muslim Independence Movement), who decided to become part of the AFP after having served as an MNLF-commander for several years—while also working as a government official at the same time. However, rather than simply switching sides from the MNLF to the government, the Matalam family became involved in a delicate balancing act, maintaining allegiances inside both the Philippine state, the MNLF and the MILF. Here, as suggested in the preceding sections, public authority can only be understood as a hybrid, with traditional authority (the Matalam family is considered to be a noble family) being combined with militaristic authority (through links with the MILF and the MNLF) and ultimately with the legal bureaucratic-authority inherent to statehood. Responding to questions regarding his allegiance, Jimmy Matalam replied: “To the family, secondary is the group. But we use the organization (AFP) as our shield. And also, some in our family, most belong to politicians. So we also use the government as a shield. And the MNLF, and the MILF.” This quote indicates that in a volatile socio-political environment such as that of Central- and Western Mindanao, people try to navigate between different institutional fields, including both rebel movements and the state. Throughout this entire balancing act, as indicated by Matalam himself, kinship/family structures continue to fulfil a vital role.

69 Interview relative Abusama, Cotabato city, January 2014.
70 Interview Jimmy Matalam, Cotabato city, September 2014.
THE NEW PEOPLE’S ARMY IN COMPOSTELA VALLEY

MARTIAL LAW AND THE RISE OF THE NPA

Rather than relying on indigenous ‘collaboration’, the initial penetration of state structures in eastern Mindanao was spearheaded by a Christian settler elite that worked in tandem with American colonial officials and American- and Japanese planter interests (Abinales, 2000; Tiu, 2005). As in other regions of the Philippines, the Davao region saw the emergence of strongmen-politicians that fulfilled a vital role in defusing potential social tensions at the frontier. As in Cotabato some years earlier, however, this stability was upset in the late 1970s and particularly in the 1980s, when eastern Mindanao became a hotspot in the war between the Marcos government and the communist New People’s Army (NPA).

The New People’s Army (NPA) was established on 29 March 1969 on the northern island of Luzon, as the armed wing of the Communist Party of the Philippines (CPP). It has waged a protracted people’s war against the Philippine government for over 45 years, which makes it the longest-running Maoist insurgency in the world (ICG, 2011). The CPP-NPA is a political inasmuch as a military force: true to Maoist doctrine, it aims to extend its political influence over the countryside, eventually encircling and taking over the cities. Since the end of the Marcos regime in 1986, the National Democratic Front (NDF), the umbrella organization of the left in the Philippines, has been engaged in “intermittent and inconclusive” peace negotiations with the national government. However, the only major achievements to date have been the signing of a Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) in 1998, and intermittent cease-fire agreements (ICG, 2011).

Initially concentrating their efforts on Luzon and the Visayas, CPP-NPA-organizers gradually found their way into Mindanao, and by the early 1980s Eastern and Central Mindanao had become one of the movement’s strongholds. The CPP-NPA even made inroads into Davao City, the regional urban hub and the third largest city of the country (ICG, 2011). The CPP-NPA’s rapid expansion in Mindanao can be related to a number of factors (Kerkvliet, 1986; Magno & Gregor, 1993). For one, demographic growth due to natural reproduction and in-migration, combined with the expansion of logging, mining and plantation agriculture, led to a gradual exhaustion of the land frontier. Combined with a worldwide commodities crisis, this increased pressures on smallholder farmers, many of whom were faced with the prospect of dispossession. The Marcos regime was failing to deliver vital public services, particularly in remote upland areas, and state institutions were instead perceived to be serving the interests of regional elites supportive of the martial law.
regime, many of whom were associated with the extractive industries that displaced the local population. Military and paramilitary forces were reverting to increasingly brutal strategies, and while partly successful in isolating part of the NPA’s (potential) mass base (Masa), this ultimately increased anti-government sentiment among the population. In this polarized environment, the NPA provided a recourse for the poor, a protection mechanism against land grabbing, cattle rustling, military abuse, and exploitation.

Despite this anti-elitist agenda, Rutten has also noted that “Alliances with elite politicians and landlords in villages and municipalities have always formed a necessary but problematic survival strategy for cadres” (Rutten, 2008: 23). Similarly, Marks observed that while “initial recruits were reacting to the increased authoritarianism of the Marcos administration (...) the movement’s ranks grew to include local politicians and priests dissatisfied with the government.” (Marks, 1993: 109). In all, however, existing research suggests that the presence of a massive pool of aggrieved (rural) poor was the main factor fuelling the erstwhile expansion of the NPA. Gradually but surely, the CPP-NPA managed to extend its influence over Eastern Mindanao, particularly in the uplands. In so-called red areas the movement was in near-complete control, setting up revolutionary forms of rebel governance (Weinstein, 2006), meting out revolutionary justice, and implementing a revolutionary land reform agenda (Marks, 1993). In-between these rebel-controlled territories and those controlled by the regime and its local allies lay a “twilight zone”, where territorial authority was contested, and where most of the actual fighting took place (Grossman, 1999).


The end of martial law in 1986 heralded a profound crisis in the left, because “the legal, democratic channels of claim-making were now restored, the dictatorship dismantled, and the need for an armed uprising against a dictatorial state removed” (Rutten, 2008: 301). This new context sparked intense divisions within the CPP-NPA, eventually culminating, in the early 1990s, in a schism between more moderate ‘rejectionists’ that adopted a rather pragmatic approach towards the new political order, and radical ‘reaffirmists’ who renewed their commitment to Maoist doctrine and armed resistance (Rutten, 2001, 2008). In Mindanao this crisis was exacerbated by Kampanyang Ahos, a bloody internal purge aimed at rooting out alleged military spies, which left hundreds of cadres death and convinced many others to leave the movement (Abinales, 1996, 2008). On the counterinsurgency front, the democratic governments of Corazon Aquino (1986-1992) and Fidel Ramos (1992-1998) adopted a multi-pronged strategy, combining local development projects with military prowess (Magno & Gregor, 1993). In Eastern Mindanao, as in other regions, the restoration of democracy on the local level went hand in hand with the
organization of vigilante units which assisted official law enforcement agencies and local elites in their fight against the NPA (van der Kroef, 1988; Hedman & Sidel, 2000). These militias were later absorbed into auxiliary or paramilitary forces like the CVO and CAFGU, which continued to operate under the close supervision of local elected politicians (Kreuzer, 2009). These paramilitary structures also offered refuge to former NPAs who wanted to lead normal lives under the protective gaze of the state. Vice versa, “For political entrepreneurs, former NPAs are attractive candidates for such positions, because of their skills and reputation for bravery” (Rutten, 2001: 331). Together, these trends led to a notable reduction in the number of NPA-regulars nationwide, from an estimated 25000 in the mid-1980s to approximately one fourth of that a decade later (Santos, 2010). In Mindanao as well, the combination of internal purges and counterinsurgency efforts had dramatically reduced the CPP-NPA’s military strength.

Rather than leading to its complete demise, however, a decade of decline eventually gave rise to a leaner and according to some observers a more determined NPA, which was able to reverse the trend of decline (Santos, 2010). The NPA’s resurgence was particularly spectacular in Eastern Mindanao which, depending on the estimates, was again home to 1500-6000 communist rebels by the end of the 1990s (Espejo, 2008). Some observers now suggest that the NPA’s military strength in Mindanao now rivals if not exceeds that of the 1980s (Espejo, 2011). In recent years this renewed military strength became apparent in a long series of NPA-attacks, which often involve dozens of well-armed regulars, targeting (amongst others) large-scale mining companies (“NPA rebels attack”, 2014), plantations (“NPA attacks Del Monte”, 2013), and selected local politicians (“NPA admits killing”, 2014) and/or traditional leaders (Manlupig, 2014).

Competing causal explanations exist for the persistence of the NPA in places like Samar, Negros, and eastern Mindanao, although most observers agree that revolutionary fervor is no longer the most important one. For some, the grievances fuelling the erstwhile expansion of the NPA in the 1970s-1980s still matter a great deal today, with poverty and landlessness, poor governance, injustice, and military abuse guaranteeing a steady supply of recruits (Holden, 2013). At the same time a shift in terms of membership has been noted. Whereas earlier NPA-recruits often had educated, urban, middle-class backgrounds, and hailed from outside Mindanao, today’s recruits are often young local guys from poor rural backgrounds for whom rebellion represents one of the few available livelihood opportunities (Santos, 2010). This observation in turn feeds into explanations that treat the communist rebellion as opportunity- or even greed-driven, depicting the rebellion as a “mafia” (Rosales, 2004) or a “business-like enterprise” (Magno, 2007) that is primarily interested in extorting revolutionary taxes. Significant for the purposes of this chapter, the NPA is also collecting “permit-to-campaign fees” or “election fees” from local politicians, the costs of which depend on the eyed position and the candidate’s financial capacity, ranging anywhere from P 10,000 into millions (Hookway, 2004; Magno, 2007).
Anecdotal evidence also suggests that in some areas, the NPA is demanding a regular share of local government revenues. Finally, Magno (2007) suggested that local insurgent units have reverted to bartering votes from within ‘their’ territory in exchange for money, guns and/or political support for leftist party list candidates. Reminiscent of the situation in North Cotabato, these attempts on the part of the NPA to tap into decentralized state resources are a first way in which distinctions between the local state and rebel structures have become blurred in the post-transition, decentralization era.

Together, these different observations provide us with initial insights into the reasons for the CPP-NPA’s persistence in eastern Mindanao. However, these explanations fail to account for the complexity THAT now characterizes the interaction between rebel- and state structures on the local level, which may in fact be a factor in its own right facilitating the CPP-NPA’s survival. In what follows, we will demonstrate that in Compostela Valley province, communist rebels have become an intricate part of the indistinct politico-military-commercial networks that now reign over the informal ASM-sector. As has been demonstrated in chapter 5, local miner-politicians have come to occupy central positions within these networks, relying on the state’s capacity as a coercive and legitimizing structure to protect the otherwise informal ASM-sector.

STATE-REBEL SYNERGIES IN SMALL-SCALE MINING NETWORKS

The initial expansion of ASM in Eastern Mindanao took place in the volatile 1980s, when the uplands were home to different armed groups exercising varying degrees of territorial control, prime amongst which the Philippine army and the NPA. Initially, the NPA was in firm control over some of the mining areas. In Pantukan, for example, the rebels were in charge of allocating mining claims. Furthermore, according to one respondent, as an NPA-supporter you were given a bonus every Friday, sometimes amounting to as much as 15-20 grams of pure gold. As the 1980s progressed, however, the army gradually extended its influence over the uplands. While this often involved significant fighting, at least in the gold rush areas of Compostela Valley the logic of insurgency and counterinsurgency never really took root.

The Diwalwal gold rush area in Monkayo municipality, by far the biggest and most notorious gold rush area in the Philippines, provides a good illustration. As early as 1987 a reporter from the Washington Post noted that “soldiers are digging alongside their adversaries from the Communist New People’s Army (NPA), who have taken a break from their fight to overthrow the capitalist system in order to pan for a little gold” (Richburg, 1987). The lack of clear-cut regulatory order in Diwalwal, and the proliferation of conflicts between tunnel operators induced a “market of protection” (Shah, 2006), which

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71 Interview with former Pantukan miner, Pantukan, November 2012.
72 Interview with former Pantukan miner, New Bataan, January 2014.
offered opportunities for policemen, soldiers and rebels alike. Aside from providing protection-cum-extortion services to tunnel operators, some higher-ranking cadres within these groups started investing in their own tunneling- and processing activities. As easily accessible alluvial deposits became exhausted, Diwalwal saw a violent phase of cartel formation, with mining financiers and armed actors pooling their resources in an effort to strengthen their position vis-à-vis their competitors. These different mining groups formed what is best described as private armies, whose task consisted not only in monitoring the labour force, but also in protecting the tunnels from outside intrusion, and fighting rival mining groups in “underground encounters”. These private armies were often composed of rag-tag bands of (former) communist and Muslim rebels, soldiers and policemen, giving rise to the enigmatic “fusion groups” and “lost commands” that soon became ubiquitous throughout the region.

Thus, already during martial law and the uncertain transition period which followed it, there was a blurring of the divide between insurgent- and counterinsurgent forces in Compostela Valley’s ASM-areas. The availability of gold rents seems to have induced a process of fragmentation in the different armed groups operating throughout the region, with local actors renouncing top-down hierarchies and becoming absorbed in regional political-commercial networks built around ASM (Le Billon, 2001). This process of fragmentation was facilitated by trends within these different armed groups. Nearing the end of the Marcos era, local army detachments were increasingly expected to fend for themselves. In addition, Marks noted, “In the absence of any other viable government presence, it was the battalions which became, like so many warlords, the rulers of their domains.” (Marks, 1993: 125). In the case of the NPA, a strategy of decentralization initiated by the movement leadership in the early 1980s resulted in a significant degree of autonomy for local commanders and their following (Tiglao, 1993). At the same time, after the end of the cold war and the loss of external funding, the CPP-NPA came to rely heavily on domestic revenue sources, and ASM soon became a vital source of revolutionary taxes (ICG, 2011).

This blurring of divides became more pronounced in the post-decentralization era, when several of the key players involved in these ASM-networks entered the political-electoral arena. As argued in chapter 5, a nascent class of miner-politicians started using the coercive and regulatory powers of the local state to legitimize and protect the otherwise informal ASM-sector, imbuing it with a sense of regulatory predictability that bodes well for its survival, and arguably its further expansion. At the same time, as argued in chapter 6, the barangay’s authority to maintain regulatory order cannot be divorced from its entanglement with local kinship structures, as it is typically dominated by a coalition of local landowning families who have diversified into small-scale gold mining.

73 Interview with former legal assistant of Compostela Valley governor, Tagum City, October 2012.
74 This account derives from several interviews with miners formerly or currently active in Diwalwal.
Significantly, particularly on the barangay level, relations between local politicians and communist rebels are not simply characterized by antagonism, but often involve a degree of negotiation, coordination, and in some cases even mutual accommodation. Barangay officials repeatedly indicated that they had no choice but to “negotiate” with everyone: the army, the police, higher-ranking politicians, but also the NPA. One barangay council member hinted at a tacit co-existence between the NPA and the CVO, the barangay-sanctioned militia: “The NPA respects that the center of the barangay is controlled by the CVO, and the NPA respects the influence of the CVO”. Many respondents saw essentially no difference between the actions of both groups, with both the CVO and the NPA now solicit –or extort– contributions and revolutionary taxes from ASM, while individual members of the CVO, the NPA, but also police officers and even army personnel often figure as portal guards. In this capacity, several respondents suggested, they often play a role in disciplining the workforce. At the same time it puts them in a position to monitor the mining operations as part of their taxation-cum-extortion activities: “You cannot avoid paying to the NPA, because they will often intrude the private armies”. Different respondents also confirmed that there exists a high degree of mobility between the rebel movement and local paramilitary groups, the CVO in particular. Even some barangay officials that were interviewed had a history in the armed left.

What we have attempted to illustrate so far is the existence of a multitude of relations between on the one hand local miner-politicians and their backers, in their capacity as financiers and/or as owners of processing facilities; and on the other hand rebel forces who have a clear interest in ASM as a source of revolutionary taxes, but in some cases also as a personal source of income. Seen from this perspective, the NPA and local miner-politicians share a mutual interest in fending off the expansion of large-scale mining, which now poses an important threat for the survival of ASM in the region. As will be discussed in more detail in chapter 8, in places like Monkayo, New Bataan, and Maco, large-scale mining companies have already had to contend with acts of resistance and even outright violence on the part of what they perceive as ASM-interests colliding with communist rebels.

Finally, to fully understand the relationships cross-cutting the state-rebel divide, analytical attention needs to be paid to the wider set of social relations in which both state and rebel structures are embedded. It was already suggested earlier that local state (particularly barangay) institutions are typically dominated by a coalition of local families, many of whom are now involved in ASM. Meanwhile, whereas many of the erstwhile NPA-regulars hailed from outside of the region, many of today’s members and supporters (the Masa) are recruited in local communities, which still harbor a massive pool of aggrieved young men and women who potentially see the NPA as a vehicle to struggle for greater

75 Interview with barangay official and mining financier, Nabunturan, January 2014.
76 Interview with two former miners, Nabunturan, February 2012.
social justice, or simply for personal emancipation. As a result, local respondents in many mining areas, including state officials and local militia members, now have cousins, siblings, neighbors, former schoolmates, or at least acquaintances within the movement. Consider the example of a datu (a traditional leader) with a long and distinguished record as an NPA-commander in the 1980s-1990s, who still maintains contacts within the movement. While several of his cousins are active inside the NPA, the datu himself has acted as an official tribal representative at the municipal level for several years, whereas his daughter was running for a barangay position in the 2013 elections. In short, after a decade-long presence in the province, the NPA has become firmly rooted in the local social fabric, and people have grown accustomed to its presence, which remains however somewhat enigmatic not just for an outside researcher, but also for a migrant gold rush miner: “I know there are lots of NPAs inside the mining areas, but it is very hard to distinguish them. They are all civilians there.”

In contrast with this locally rooted character of the NPA, the Armed Forces of the Philippines (AFP), despite considerable efforts to improve community relations, continues to be treated an outsider by many Comvaleños. The overall sentiment was captured by a barangay official in a mining area that is known for its strong NPA-presence: “The army treats this as a red area. And they are right: there is NPA, there is Masa. (...) Small-scale miners pay revolutionary taxes (...) But this is not a warzone, we have a peacekeeping alliance”. Obviously this has implications for the long-term dynamics of armed conflict. As suggested by a 2011 International Crisis Group report: “Local communities and politicians work around the conflict, often making pragmatic decisions to collaborate with one side or the other or both. This inhibits efforts to quash the insurgency by military and police, whose relations with local government units are fraught” (ICG, 2011: 10). Indeed, different respondents pointed to the existence of direct lines of communication between local paramilitaries who often serve as scouts for the army, and the NPA, which were aimed primarily at avoiding casualties on either side due to “misunderstandings”.

**CONCLUSIONS AND COMPARATIVE INSIGHTS**

In this chapter we have critically interrogated a pervasive tendency to portray the Muslim and communist insurgencies in Mindanao as being directed squarely against the Philippine state. Instead, our empirical analysis of local politics in two conflict-affected provinces revealed a high degree of overlap and mutual entanglement between state- and rebel structures. In an attempt to explain this observation, we have drawn attention to particular trajectories of (post-)colonial state formation, which established the local state as a vital instrument for accumulation and for the legitimation of public authority. In many ways,

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77 Interview with two former miners, Nabunturan, February 2012.
78 Interview with barangay official, Nabunturan, January 2014.
the situation described in this chapter is reminiscent of that in Colombia, where decentralization has given birth to indistinct coalitions between local politicians, paramilitaries, and in some cases even (communist) rebels. On the one hand, the survival and strength of armed actors has come to depend on their ability to tap into state resources (Eaton, 2006) and “state-mediated networks of power” (Ballvé, 2012). Vice versa, local politicians now depend on the coercive strength of these armed actors to reinforce their claims to political-territorial control. Rather than being anemic to processes of state formation, armed actors have become enmeshed in the further diffusion of the symbolic and normative registers of state rule (Ballvé, 2012). However, we have added a second layer of argumentation, drawing attention to the intricate ways in which state- and rebel structures are embedded in the local social fabric, with kinship relations in particular fulfilling a vital bridging role between state and rebel structures. Admittedly, much work remains to be done here, particularly in understanding the relationship between state/rebel forces and other “normative and cognitive orders” (Pertierra, 1999), including those of religion, ethnicity, and class.

While the two cases exhibit important similarities, there are also significant differences with regards to the form and extent of the interaction between state and rebel forces, which was much more direct and intense in North Cotabato as compared to Compostela Valley. While this may partly be explained by the more radical anti-statist ideology professed by the Maoist NPA, important clues may also be derived from the underlying economic structure. As suggested by numerous respondents, in the case of North Cotabato, particularly on the level of the barangay, state resources now represent a prime target for private accumulation and patronage, requiring a more direct form of control over the state apparatus. Meanwhile in Compostela Valley local state institutions, while important as a source of rents in their own right, simultaneously serve as an instrument to stabilize the ASM-sector as a vital source of income and rents for miner-politicians and the NPA alike. In this case, rebels may be more than satisfied with a “live and let live” arrangement with local politicians. The influence of underlying economic structures on the type of state-rebel relationship (and vice versa) is a second promising area of inquiry.

Finally, rebel-influenced or even rebel-controlled territories are often seen as places of exception within the Philippines. However, as hopefully demonstrated by the case studies presented in this chapter, these places actually share many of the characteristics of local “politics as usual” as practiced elsewhere in the Philippines i.e. factional competition between constantly shifting family alliances, embedded in vertical patronage networks tied up with political parties (Landé, 1968; McCoy, 1993). Nonetheless, based on the particularly violent type of barangay politics witnessed in North Cotabato in particular, it can be hypothesized that the presence of armed groups risks exacerbating some of the authoritarian tendencies evident in Philippine politics.
CHAPTER 8: DECENTRALIZATION, INSTITUTIONAL AMBIGUITY, AND MINERAL CONFLICT

ORIGINAL ARTICLE:

BACKGROUND:
Mining in general is now seen as one of the key sources of (armed) conflict in the Philippines. However, the precise reasons as to why this is the case remain fundamentally misunderstood. In this article I attempt to make an initial inventory of the most prominent types of mineral resource conflict; and to search for an underlying logic connecting these different types of conflict.

ARTICLE ABSTRACT:
Based on an analytical framework that builds on theories of incremental institutional change, this article interrogates the relationship between decentralization and mineral resource conflict in the Philippines. Here, efforts to decentralize control over mineral resource wealth have resulted in a highly ambiguous institutional arena, wherein heterogeneous actor coalitions are attempting to influence trajectories of institutional change, and the associated distribution of mineral wealth. On the ground, this institutional renegotiation produces a diverse range of conflicts. Emerging on top of these institutional struggles are local elected politicians, which raises important concerns over elite capture of the decentralization process.
INTRODUCTION

In this chapter I will transcend the level of the local regulatory order, which formed the analytical focus of chapters 5 to 7, by considering how it fits in with broader mineral resource governance regimes in the Philippines. The defining dynamic of mineral resource governance in the Philippines, as in other countries, is decentralization (e.g. Arellano-Yanguas, 2011 on Peru; Hirons, 2014 on Ghana). In recent years and decades, decentralization has emerged as a major policy emphasis worldwide, stimulating debates about the relationship between decentralization and various aspects of governance and economic development, including public accountability and corruption, poverty alleviation, intergovernmental fiscal relations, and the nature of political competition (see Faguet, 2014 for an overview). In development studies, specific attention has been paid to effectiveness- and equity concerns in the decentralization of natural resource management (Larson & Ribot, 2004), particularly in the domain of forestry (e.g. Larson & Ribot, 2004; Andersson, Gibson & Lehoucq, 2005; Batterburry & Fernando, 2006). A recurring argument in this body of literature is that otherwise well-intentioned decentralization initiatives are thwarted by political-economic considerations, with national governments “recentralizing while decentralizing” (Ribot, Agrawal & Larson, 2006), and local elites capturing newly devolved powers and resources (Béné et al., 2009; Maconachie, 2010; Pattenden, 2011; Poteete & Ribot, 2011).

A somewhat underdeveloped theme in this growing body of literature on decentralization is its alleged potential to mitigate or even to prevent conflict (Lijphart, 1977). A growing number of scholars has warned against an overly optimistic reading of the relationship between decentralization and sociopolitical stability. These scholars can roughly be divided into two groups. A first group is associated with the political science literature on civil conflict, and aims to identify the variables that mediate the relationship between decentralization (whether or not as part of a broader system of federalism) and intrastate stability at the macro level (Kymlicka, 1998; Brancati, 2008). A second group of scholars is more closely associated with critical development studies, and argues that decentralization increases institutional uncertainty, thereby producing conflicts between a range of actors staking competing claims to resources (Mccarthy, 2004; Peluso, 2007; Benjamin, 2008; Hagmann & Mulugeta, 2008).

Identifying with this second group of authors, this chapter adopts an empirical, bottom-up approach to analyzing the impact of decentralization on mineral resource governance—a theme that has hitherto received only scant attention in the decentralization literature (but see Maconachie, 2009; Arellano-Yanguas, 2011; Hirons, 2014) in the Philippines. First, I provide a more elaborate review of the existing literature that deals with the relationship between decentralization and intrastate conflict. I will also propose an analytical framework to analyze the impact of decentralization on local resource conflicts, which
draws heavily on insights from the literature on incremental institutional change (Mahoney & Thelen, 2009). I then provide a brief albeit critical historical overview of central-local ties and decentralization in the Philippines. Building on chapter 7, it is argued that the Local Government Code of 1991, the centerpiece of decentralization, was in fact a radicalization of a longstanding tradition of decentralized statebuilding through local politicians. Finally, I turn to my actual empirical analysis, arguing that various and seemingly uncoordinated efforts to decentralize mineral resource governance have given rise to a highly ambiguous institutional arena, marked by pervasive uncertainty regarding rule interpretation and enforcement. This institutional ambiguity creates opportunities for the renegotiation and contestation of institutional arrangements, and the associated distribution of mineral resource wealth across society. At the same time this institutional renegotiation is a political process par excellence, involving a range of conflicts between indistinct, asymmetric, and constantly shifting coalitions of actors that may involve, amongst others, government officials, large-scale mining companies, ASM-operators, tribal groups, and armed groups. In an attempt to make sense of this complex conflict ecology, three major cleavages are identified around which institutional struggles are now crystallizing, namely (1) Intra-government conflicts over fiscal-regulatory authority in the mining sector, (2) Conflicts between large-scale mining companies and ASM-operators over access to mineral-yielding land, and (3) Conflicts between tribal groups that seek to secure ancestral domain rights and associated mining royalties under the Indigenous People’s Rights Act. The common denominator underlying these different conflicts is the central role played by local politicians as gatekeepers in the mining sector. While it is impossible to predict future trajectories of institutional change, it is highly likely that they will continue to do so in the future. This raises important concerns over elite capture of the decentralization process.

**TOWARDS AN ANALYTICAL FRAMEWORK**

Decentralization is defined here broadly as “the transfer of power from the central government to actors and institutions at lower levels in a political–administrative and territorial hierarchy” (Larson & Ribot, 2004, 3). National policy-makers can have various incentives to support the devolution of power and resources to subnational actors. Some authors treat decentralization as part of a long-term strategy aimed at shoring up the legitimacy and power of the regime (Boone, 2003), while others also draw attention to short-term political considerations (Eaton, 2001). Rather than providing an in-depth discussion of the various arguments for and against decentralization, this theoretical section zooms in on one specific argument that has been coined in favor of decentralization, namely its alleged potential to prevent and/or to mitigate conflict. As noted in the introduction, existing theoretical-analytical approaches towards the
relationship between decentralization and sociopolitical stability can roughly be categorized in two groups: one that focuses on macro-level conflict, and one that draws analytical attention to micro-level political dynamics.

**DECENTRALIZATION AND INTRASTATE STABILITY ON THE MACRO-LEVEL**

The relationship between decentralization and sociopolitical stability has been extensively debated in the literature on civil conflict (for overviews see Bakke & Wibbels, 2006; Brancati, 2008). For some authors, decentralization reduces the likelihood of intrastate conflict, by enabling the inclusion of previously marginalized groups, thereby eliminating the grievances that fuel conflict in the first place (Lijphart, 1977). Others are more pessimistic, arguing that decentralization risks fostering centrifugal forces (Kymlicka, 1998), amongst others by providing subnational actors with the institutional structure and resources necessary to sustain (violent) mobilization (Snyder, 2000; Eaton, 2006). Still others argue that the relationship between decentralization and conflict is context-specific, and hinges on key variables like interregional inequality and ethnic heterogeneity (Bakke & Wibbels, 2006), or the presence of regional parties (Brancati, 2008).

Despite their disagreements, these authors share an analytical focus on the relationship between decentralization and conflict (mostly ethnic and secessionist conflict, but see Eaton, 2006) at the macro level. Furthermore, as noted by Brancati (2008), most of these authors draw on (comparative) qualitative case study material. A few others, including Brancati herself as well as Bakke and Wibbels (2006), use large-N statistical analysis to advance their theoretical claims. However, Bakke and Wibbels recognize the limits to the generalizability of their findings, stressing the need for “substantial case-study work to more carefully examine the mechanisms underpinning those findings” (37-38).

**VIEWS FROM BELOW: DECENTRALIZATION AND LOCAL RESOURCE STRUGGLES**

In recent years decentralization has attracted increased attention of a heterogeneous group of political anthropologists, human geographers, and development sociologists, who are primarily interested in understanding the impact of decentralization and democratization on local (resource) governance arrangements. Emerging from this body of literature is a series of related arguments about the intensely political character of decentralization, which is all too often presented as a technocratic exercise (Hadiz, 2004). While some of these authors make notable efforts to develop an analytical framework, most are primarily interested in providing an in-depth analysis of decentralization within a particular sociopolitical context, usually based on extensive field research.
Several authors adopting such a bottom-up approach have convincingly demonstrated that in many countries, democratic decentralization is “barely happening” (Larson & Ribot, 2004), or is subject to intense struggles between different government levels and -agencies over the eventual terms and extent of decentralization (Eaton, 2001). Particularly significant for the purposes of this chapter are those authors that draw attention to the tendency for decentralization to upset existing institutional arrangements that regulate access to natural resources, thereby creating opportunities for established or emergent elites to capture devolved power and resources (Béné et al., 2009; Pulhin & Dressler, 2009; Maconachie, 2010; Pattenden, 2011; Poteete & Ribot, 2011). In countries like Ethiopia (Hagmann & Mulugeta, 2008) and Indonesia (Mccarthy, 2004; Peluso, 2007; Schulte Nordholt & Van Klinken, 2007; Eilenberg, 2009), decentralization has gone hand in hand with an increase in conflicts over access to devolved power and resources between local elite networks. Significant for the purposes of this chapter, Arellano-Yanguas (2011) interrogates the impact of the new “localist paradigm” in the Peruvian mining sector, demonstrating how it has contributed to a range of conflicts over the distribution of mining rents. The following section aims to integrate these initial observations into a broader analytical framework for understanding the relationship between decentralization and local resource struggles.

TOWARDS AN ANALYTICAL FRAMEWORK FOR ANALYZING THE IMPACT OF DECENTRALIZATION ON RESOURCE STRUGGLES

The analytical framework proposed here draws heavily on insights from historical institutionalism, particularly on those authors working on incremental institutional change (Pierson, 2004; Mahoney & Thelen, 2009). In line with other institutionalists, these authors conceive of institutions as formal and informal rules that structure human behavior. However, instead of seeing them as “neutral coordinating mechanisms”, they are approached as “distributional arrangements that allocate resources unevenly” (Mahoney, 2010: 15) and that “reflect, and also reproduce and magnify, particular patterns of power distribution” (Thelen, 1999: 394). Moreover, while most institutionalists focus on exogenous shocks as sources of radical institutional change, these authors combine their power-laden approach to institutions with an analytical focus on incremental institutional change (Pierson, 2004; Mahoney & Thelen, 2009). Finally, historical institutionalism would not be historical if it did not pay attention to the determining influence of institutional legacies on existing institutional arrangements, on the power relations underpinning them, and on the strategic choices available to (groups of) actors (Pierson, 2004). While important questions remain with regards to the contextual factors that promote or discourage particular trajectories of incremental institutional change, Mahoney and Thelen (2009) suggest that institutional change is particularly likely to occur in those environments characterized by high degrees of
institutional ambiguity, where uncertainty over the interpretation and enforcement of existing rules creates opportunities for “agents of change” to assemble coalitions that seek to influence trajectories of change. Ultimately, a power-laden approach towards incremental institutional change draws central attention to “distributional conflict among aggregate actors as a basic driving force in history” (Mahoney, 2010: 15).

Approached from this perspective, the most important effects of decentralization may not necessarily lie in its sudden impact on institutional arrangements, but in the creation of long-term institutional ambiguity, which carries the seeds of incremental institutional change. In Mali, to name an example, decentralization has led to an “accumulation of several layers of powers with no single legitimacy and no longer any central institution capable of imposing its law and norms, thus greatly reducing the clarity of political processes” (Béné et al., 2009: 1945). Meanwhile in Indonesia, decentralization has also created a highly ambiguous institutional environment, characterized by “confusion about the distribution of power and authority between different levels of government” (Hadiz, 2004: 705). On the local level, this institutional ambiguity feeds into “highly volatile socio-legal configurations that create insecurity and heighten resource conflict” (Mccarthy, 2004, 1199) between different actors that are “competing, conflicting or colluding” (Béné et al., 2009: 1945), and capitalizing on divergent interpretations of the law to stake competing claims to power and resources. While these institutional conflicts and resource struggles unleashed by decentralization need not necessarily be destructive or disempowering, and can have important emancipatory effects (Ravikumar et al., 2013), evidence so far suggests that they are mostly an elitist affair, which ultimately serves to exclude the end-users.

HISTORICAL-INSTITUTIONAL LEGACIES AND CENTRAL-LOCAL TIES IN THE PHILIPPINES

A TRADITION OF DECENTRALIZED CENTRALISM

Throughout this PhD-thesis it has repeatedly been mentioned that despite a longstanding tradition of de jure centralized governance, local politicians have always enjoyed a high degree of autonomy, and use local state institutions as a structure for accumulation and the legitimation of their claims to public authority. According to Sidel (1999) this has given rise to “bossism”: a highly coercive form of local political-economic control whereby local politicians, often members of entrenched political dynasties, wield control in ‘authoritarian enclaves’ (Franco, 2001). For Abinales (2000), this prominent position of local politicians should be understood as part of a broader statebuilding agenda whereby local strongmen-politicians, in return for their local prerogatives, commit themselves to
upholding the democratic electoral process, and to preventing the rise of organized opposition against the state (see also Wong, 2006).

At the same time there were clear limits to local autonomy, with Manila-based elites retaining control over their local counterparts through vertical patronage networks organized around the main political parties (Landé, 1968). Furthermore, when Marcos assumed the presidency in 1965, he gradually centralized power in the hands of the presidency. However, while Marcos was fairly successful in reigning in selectively on local elites, the regime continued to rely on local powerbrokers for the implementation of its increasingly authoritarian development strategy. Ultimately, Marcos failed to do away with the localist tendencies in Philippine politics altogether (Hutchcroft, 2000). By the 1980s, the limits of the Marcos regime’s debt-driven developmentalist strategy became apparent, and it was faced with mounting opposition from a broad range of societal forces, ranging from disenfranchised local elites to Muslim and communist insurgents that were particularly active in Mindanao (Abinales, 2000).

DEMOCRATIZATION AND THE LOCAL GOVERNMENT CODE

The military mutiny and people power revolt that eventually overthrew Marcos and swept Corazon Aquino to power in 1986 ushered in an uncertain transition period, marked by a profound spirit of popular empowerment. The new 1987 constitution reflected this spirit, calling on congress to produce several pieces of legislation that would facilitate progressive social change. This included “a Local Government Code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization” (The 1987 constitution of the Republic of the Philippines, A. X, s. 3). While the Local Government Code was given high priority in congress, it would take until 1991 before it was eventually passed in the form of Republic Act (RA) 7160, which devolved important fiscal and regulatory responsibilities to local government units (LGUs; in descending order: the region, province, city, municipality and barangay (for a more detailed discussion see Legaspi, 2001; Yilmaz and Venugopal, 2013). Furthermore, LGUs became entitled to unconditional Internal Revenue Allotments (IRA) and a share of natural resource rents, which significantly decreased local politicians’ financial dependence on national-level patrons (Clark, 1999). Finally, the code reestablished local executive control over the police.

So what motivated national-level politicians to cede substantial power and resources to local politicians? According to Eaton (2001), the answer lies in a combination of realpolitik on the part of congress members, and the extraordinary political circumstances of the transition period. Decentralization was first and foremost a product of the emancipatory spirit of people power, and President Aquino saw it as one of the defining legacies of her presidency (1986-1992). Meanwhile at least some members of congress,
who were now bound by term limits, had ambitions to run for local office themselves one day, or at least had strategic allies (often family members) on the local level that would profit from a downward transfer of power and resources. Furthermore, national politicians managed to sneak in several safeguards in the Local Government Code that allowed them to retain at least some degree of control over their local-level counterparts (Eaton, 2001). For Siegle and O’Mahony (2006), decentralization was also a strategy to increase sociopolitical stability in the face of recurrent social conflict and rebellion. Two regions of the country that had experienced what was widely perceived as an ethnically motivated rebellion (the northern Cordilleras and the Muslim regions of Mindanao) during the Marcos years were placed under a special autonomy arrangement. However, even in those regions without such a special status, decentralization in the form of the Local Government Code can be seen as “a principal means to improve security by bringing government closer to the people” (Siegle and O’Mahony, 2006, 39). Significantly, in those areas of the peninsula with a strong rebel presence, the restoration of democratic state rule on the local level went hand in hand with brutal counterinsurgency efforts that involved vigilantes and paramilitary units supported by local (would-be) politicians (Van der Kroef, 1988; Hedman & Sidel, 2000). As confirmed by field research findings, many of these vigilantes were later transformed into state-sanctioned security forces (Kreuzer, 2009) such as the Civilian Volunteer Organization (CVO), a supposedly unarmed barangay (village) level police force.

In sum, as suggested in the previous chapter, while decentralization was in large part a response to the authoritarian excesses of the Marcos regime, the Local Government Code was not a radical move away from a historically rooted centralism (Legaspi, 2001). Rather, it is a (more radical) expression of a longstanding tradition of decentralized statebuilding and counterinsurgency through local politicians (Hutchcroft, 2000; Wong, 2006). Indeed, critical observers were quick to point out that the ‘democratic’ transition soon turned out to be nothing more than a restoration of the elitist pre-Marcos institutional structure, including a return to traditional-style patronage- and coercion-based local politics (Hedman & Sidel, 2000; Hutchcroft & Rocamora, 2003). This chapter builds on – and will hopefully qualify– these observations, through an empirical investigation of the impact of decentralization in the domain of mineral resource governance where, as we will see, decentralization has unleashed a range of open-ended struggles over future institutional trajectories and the associated distribution of mineral resource wealth.
MINERAL RESOURCE GOVERNANCE IN AN ERA OF DECENTRALIZATION

THE 1995 MINING ACT AS THE CENTRALIST BASIS OF MINERAL RESOURCE GOVERNANCE

While Spanish colonialism (which lasted from the early 16th century until 1898) failed to subjugate the entire peninsula, it did lay the basis for a highly centralized system of mineral resource governance centered around the Regalian doctrine, which vests ownership of public lands and all mineral resources in the (colonial) state. Notwithstanding a brief experiment with a freehold system under US rule, subsequent post-independence governments upheld this centralist spirit, which reached its climax during the Marcos years (Cabalda et al., 2002). While under Marcos, the mining sector was formally regulated through Presidential Decree 463, in reality it was governed by ‘special deals’ that benefited Marcos’ intimate circle of cronies (Clad, 1988). Amidst mounting economic and political instability, the Marcos regime gradually lost control over the mining sector, which increasingly fell prey to mismanagement and corruption (Lopez, 1992). This corporate mining crisis was aggravated by a global commodity crisis in the 1980s, when a combination of increased mineral supply and decreasing demand (mainly due to the global economic downturn) led to a collapse of mineral prices (Maizels, 1992). Ultimately, many large-scale mining companies were forced to shut down their operations.

As demonstrated in chapter 4, this large-scale mining crisis provided the space necessary for a dramatic expansion of ASM.

Subsequent governments in the post-Marcos era undertook a series of regulatory interventions aimed at reviving the fledgling mining sector. This eventually culminated, in 1995, in Republic Act No. 7942, “an act instituting a new system of mineral resources exploration, development, utilization and conservation”. Better known as the ‘Mining Act’, RA 7942 upheld the centralist spirit of the Regalian Doctrine, by stating that “Mineral resources are owned by the State and the exploration, development, utilization, and processing thereof shall be under its full control and supervision. The State may directly undertake such activities or it may enter into mineral agreements with contractors.” (Republic Act No. 7942, 1995: ch.I, s.2). The authority to administer and dispose of the state’s mineral resource reserves was vested in the secretary of the Department of Environment and Natural Resources, and is effectively administered by the Mines and Geosciences Bureau (MGB), one of the line agencies of the Department of Environment and Natural Resources (DENR) (Ibid.: ch.II, s.8-9). The MGB now has several mineral-tenurial instruments at its disposal to issue mining rights, including Exploration Permits (EP), Financial Technical Assistance Agreements (FTAA), and Mineral Production Sharing Agreements (MPSA). With notable exceptions, including
those areas covered by existing (small-scale) mining rights, mining rights can cover “all mineral resources in public or private lands” (Ibid.: ch.III, s.18).

In all, the Mining Act provides for a fairly clear-cut system of mineral resource governance, which centralized control over mineral resources in the hands of the national government. It aroused enthusiasm among (foreign) mining companies, and the number of mining applications increased dramatically over the following years and decades. As of January 31, 2014, there existed a total of 40 exploration permits covering 199,122 hectares, 339 MPSAs covering 602,012 hectares, and 6 FTAAs covering 108,872 hectares.

DECENTRALIZATION AND INSTITUTIONAL AMBIGUITIES IN MINERAL RESOURCE GOVERNANCE

However, as noted by a long-time observer of the Philippine mining sector, the congressional deliberations that eventually produced the Mining Act were completely detached not only from realities on the ground, where ASM had undergone a dramatic expansion; but also from a broader trend towards decentralization, spawned by a combination of short-term political considerations and long-term concerns over democratization and security. Significant for our purposes, this move towards decentralization also involved efforts to devolve control over mineral resources to a range of subnational actors.

First, the Local Government Code gave LGUs significant discretion over the issuance of permits and franchises, and over the enforcement of national environmental laws, stipulating that any project or program that “may cause pollution, climatic change, depletion of non-renewable resources, loss of cropland, rangeland, or forest cover, and extinction of animal or plant species” requires the approval of affected LGUs (Republic Act No. 7160, s. 27-28). Furthermore, in addition to automatic Internal Revenue Allotments (IRA) from the national government, LGUs also became entitled to a share of ‘resource rents’ collected from activities involving the development of mineral resources within their territorial jurisdiction (Clark, 1999). Finally, LGUs were given control over ASM (Republic Act No. 7160, s. 484).

Prior to 1991, artisanal and small-scale mining (ASM) was regulated by Presidential Decree 1899, a highly permissive permit system that was put in place by the Marcos government in 1984, allegedly to divert some of the ASM-gold into central bank coffers (Clad, 1988). In line with the broader trend towards decentralization and democratization,

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79 A regularly updated list of all approved mining permits and contracts is available online on http://mgb.gov.ph/lptt.aspx.
80 Interview with Edwin Domingo, former assistant director of the MGB, Quezon City, March 2014.
in 1991 congress enacted Republic Act 7076, or the ‘People’s Small Scale Mining Act’. RA 7076 created provincial/city mining regulatory boards (P/CMRB) that were mandated to segregate ASM-areas (*Minahang Bayan*) in public lands and to issue contracts inside these areas pending the consent of (potential) existing rights holders. Chaired by the MGB regional director, these mining regulatory boards are composed of representatives of respectively the local executive (the provincial governor or city mayor), small-scale mining, large-scale mining, and civil society. However, key informants from different provinces suggested that in practice these boards, if functional at all, are dominated by the local executive, who retains a high degree of discretion over the issuance of permits.

Finally, the same spirit of bottom-up empowerment eventually enabled the legislation of Republic Act 8371 (“*an act to recognize, protect and promote the rights of indigenous cultural communities/indigenous peoples*”) in 1997 (Eder & McKenna, 2008). While the Indigenous People’s Rights Act (IPRA) is not typically treated as an expression of decentralization, it nonetheless entails a radical devolution of rights over natural resources to indigenous communities. More specifically, the IPRA’s main focus lies on the recognition of political-territorial ancestral domain rights that amount to (near-)complete property rights, formalized through Certificate of Ancestral Domain Titles (CADT) awarded by the National Commission on Indigenous Peoples (NCIP). Both the implementation and evaluation of the IPRA focus on the (hampered) process of Free and Prior Informed Consent (FPIC), whereby outsiders need to secure the explicit consent of the majority of the indigenous community in order to secure “*any license, lease or permit for the exploitation of natural resources*” (Republic Act No. 8371, s. 46(a)), usually in exchange for some kind of royalty.

Significantly, these different laws co-exist uneasily not only with one another, but also with the centralist provisions of the 1995 Mining Act. According to the same observer cited earlier, “*there were no real efforts to synchronize the Mining Act with the ‘special laws’. We did not want to tackle the special laws, we trusted that local bodies would work out which law was appropriate (…) if necessary they can go back to old laws*”81. Together, this plethora of overlapping laws gives rise to a highly heterogeneous system of mineral resource governance, whereby different government levels and -agencies create contradictory and overlapping laws and administrative rules. In line with the analytical framework proposed in section two, this institutional ambiguity provides room for incremental institutional change, understood as the renegotiation of the institutional arrangements that distribute mineral resource wealth across society. This renegotiation of institutional arrangements is an intensely political process, that often produces conflicts on the ground. In order to substantiate this argument, and in order to make sense of current and future trajectories of institutional change, the remainder of this section provides an

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81 Interview with Edwin Domingo, former assistant director of the MGB, Quezon City, March 2014.
empirical analysis of the three major axes around which conflicts over the redistribution of mineral resource wealth are currently unfolding.

**INTRA-GOVERNMENT CONFLICT OVER LARGE-SCALE MINING**

The first type of conflict that has surfaced at least in part due to decentralization are intra-government conflicts over the expansion of large-scale mining. Increasingly, local politicians are using the provisions of the Local Government Code to oppose the entry of large-scale mining (Holden & Jacobsen, 2006). While some LGUs have merely withheld consent for selected mining projects, others have gone further, implementing moratoria or even an outright ban on mining activities within their territory. The national government has in turn undertaken various efforts to counter LGU-opposition to mining projects. The latest of these efforts is executive order (EO) 79. Issued by president Aquino in 2012, EO 79 can partly be read as a response to increased anti-mining activism, as it calls for the strict enforcement of environmental standards, closes a number of areas for mining, and issues a ban on the issuance of new mineral agreements pending the passage of new legislation on revenue sharing (Salamat, 2012). At the same time EO 79 calls on LGUs to “confine themselves only to the imposition of reasonable limitations on mining activities” and “to conform to regulations, decisions and policies ... promulgated and taken by the National Government” (Executive Order No. 79, 2012, s. 12). In this way EO 79, and subsequent opinions and memorandums issued by national government officials that confirm the primacy of national government laws over local ordinances, can be seen as part of a broader attempt on the part of the current administration to recentralize control over mineral wealth.

Undoubtedly the most widely cited case involving LGU-opposition to large-scale mining is that of the Tampakan open-pit copper-gold mining project in South Cotabato province, which is co-owned by Filipino Sagittarius Mining (SMI) and Swiss mining giant Glencore-Xstrata. On June 29, 2010, South Cotabato provincial Governor Fuentes signed into law a provincial environmental code that banned the use of open-pit mining methods (Aquiles, 2010). However, in February 2013, following an order by the MICC (the national coordinating council for the mining sector created by virtue of Executive Order 79), the Department of Environment and Natural Resources decided to grant the company its environmental compliance certificate, thus neglecting the provincial environmental code (“Finally, Tampakan”, 2013). Rather than fast-tracking the Tampakan project, however, the DENR’s move is indicative of a near-complete gridlock between the national government and LGUs. Meanwhile a combination of a deteriorating security situation (in recent years Tampakan has witnessed a parallel increase in illegal hydraulic mining and
communist rebel activity), increased anti-mining activism (particularly on the part of the church), and last but not least LGU-opposition, has led to repeated delays in the progress of the Tampakan project. There are now important indications that Swiss Glencore-Xstrata is planning to divest its majority share in the Tampakan project, with the company citing the legal uncertainty created by the provincial ordinance as one of its key motivations (Espejo, 2014).

The Tampakan case illustrates how local politicians emboldened by decentralization have become key gatekeepers in the large-scale mining sector. However, important questions remain with regards to their motivation to resist the expansion of large-scale mining. For Holden and Jacobsen (2006), this opposition stems from an interplay between civil society activism, a growing awareness about the environmental impacts of mining, and political-electoral considerations. However, countless LGU-officials indicated that they are not necessarily opposed to large-scale mining as such. Rather, they are fed up with what they perceive as a top-down decision process: “Whatever the MGB says, we are expected to comply. And whenever something goes wrong, guess who takes the blame?”

More importantly, numerous local government treasurers expressed frustration over the lack of fiscal benefits associated with large-scale mining. Under the Local Government Code, LGUs are entitled to a 40 percent share of previous year’s collection of excise tax from mining activities within their territorial jurisdiction (Clark, 1999). However, both the collection and redistribution of tax revenues are mired in problems (Gomez, 2010). The overall tax effort in mining is low compared to that in other sectors, not least because of a range of fiscal stimuli introduced to encourage investment in the mining industry. Furthermore, it has proven an arduous task for the relevant government agencies to correctly estimate output levels in large-scale mining, and consequently to collect accurate amounts of excise tax. Ultimately, LGU-officials complain about what they perceived as mere “hand-outs”, about long delays in the “downloading” of LGU-shares, and about the notoriously intransparant nature of revenue sharing.

**STRAINED RELATIONS BETWEEN ASM AND LARGE-SCALE MINING**

A second major type of mineral resource conflict is that between ASM and large-scale mining. At least in some areas, conflicts between ASM and large-scale mining have become entangled in complex ways with those between LGUs and the national government, as the presence of ASM can become a factor in its own right fuelling localized resistance to large-scale mining. Such is the case in Compostela Valley. As has

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82 Interview with municipal government official in Compostela Valley, October 2012.
83 Interview with provincial treasurer of Compostela Valley province, October 2012.
been discussed at length in chapters 3 and 4 in particular, since the 1980s Compostela Valley has witnessed a massive expansion of ASM, most of it beyond the formal-regulatory control of the national government, which consequently brands these ASM-activities as illegal. One of the main reasons for the persistence of informality is the fact that most ASM is now taking place inside large-scale mining concessions, without the official consent of the rights-wielding company. These observations feed into allegations on the part of ASM-operators that existing regulatory frameworks favor large-scale, corporate mining over ASM. As one ASM-financier described the current situation: “For us it is like climbing Mount Everest, while for them, they can come in and slide down the mountain. The paramilitaries are part of the package deal.” Executive Order 79 was interpreted as the latest illustration of this government bias against ASM, as it seeks to “contain” ASM in officially recognized Minahang Bayan, calling for the creation of a “Task Force Against Illegal Mining” (Executive Order No. 79, s. 10, s. 11). In addition, mining companies are calling on the MGB to issue stoppage orders to ASM operating inside their concession, and are now calling in the assistance from local governments, the police, or in some cases even the military to implement these orders. At least in the case of Compostela Valley province, however, attempts to root out ASM have hitherto proven largely unsuccessful. Here, images of an all-powerful alliance between ‘the government’ and corporate mining capital, united in their struggle to root out illegal ASM, fail to do justice to how the sector has become firmly embedded in the local institutional fabric, and has become intimately entangled with local political interests.

LOCAL POLITICS AND THE ‘ILLEGAL’ MINING ECONOMY

In the preceding chapters I have demonstrated how during the volatile 1980s, ASM was controlled by indistinct military-commercial networks comprised of police officers, army commanders and intelligence officers, communist rebels and mining financiers. Since democratization and decentralization in the early 1990s, some of these actors became involved in the local electoral arena, leading to the emergence of a group of ‘miner-politicians’ that cultivate intimate albeit indistinct connections with ASM-financiers and the various armed actors operating in the region, leading to a pervasive blurring of the state/non-state divide in what has been described elsewhere as “peculiar coercive arrangements” (Hedman & Sidel, 2000). These coercive arrangements, as well as the legitimizing powers of the state, have provided local politicians with the leverage necessary to expand their personal, fiscal and regulatory control over the purportedly ‘illegal’ ASM-sector.

As demonstrated in chapter 5, this mutual entanglement between ASM and local politics is particularly evident on the level of the barangay. In addition to high degrees of personal

84 Interview with barangay council member and ASM-financier, Nabunturan, January 2014.
involvement in ASM on the part of barangay officials, they have also developed inventive ways to extract rents from ASM. More importantly, in several mining areas they are now undertaking a range of sophisticated fiscal and administrative interventions in ASM, including the registration of tunneling agreements between mining financiers and (informal) landowners, mediation in disputes between tunnel- and/or landowners, and the issuance of business permits to owners of processing facilities. By the late 2000s, in response to a renewed gold rush, provincial authorities have even put up a system of checkpoints for the collection of “environmental user’s fees” and “donations”. Significantly, while the national government continues to brand the mining activities in question as illegal, most of these fiscal-administrative interventions have a legal basis in the Local Government Code, and are described in the amended local revenue code of the province.

In recent years provincial authorities have taken this regulatory drive one step further, using existing regulatory frameworks for ASM to initiate a bottom-up process of formalization. After the provincial mining regulatory board (PMRB) – which effectively operates at the behest of the provincial governor – has identified an ASM-area, it will file a formal request in the regional MGB-office for the technical and commercial evaluation of the area as Minahang Bayan85. According to MGB-officials, ASM-operators will often present them documents and tax receipts issued by LGUs to underpin their claims to the area in question. However, since most ASM takes place inside large-scale mining concessions, even if the area receives a positive evaluation, the company will not be willing to consent to the regularization of ASM inside its claim. Hence, the areas in question are now categorized as “proposed Minahang Bayan”. A provincial government official told the author that the province is now considering an ordinance that would enable the official recognition, at least on the level of the province, of Minahang Bayan inside large-scale mining concessions without the consent of the company, provided that the company “maintains no visible presence on the ground”. Large-scale mining companies, on their part, continue to approach the MGB to issue stoppage orders against illegal ASM, which are then delivered by local government officials, a representative of the Department of Environment and Natural Resources and/or by a delegation of state security personnel. So far however, these stoppage orders have proven futile, in large part, a mining company representative claimed, because “Those delivering the stoppage orders are actually those controlling the small-scale mining. They will take a picture standing next to the closed tunnel, and one week later it is operating again”86.

Thus, local politicians have taken center stage in the indistinct politico-military-commercial networks that reign over ASM, making inventive use of their mandate under decentralization to undertake a series of fiscal-administrative interventions in the

85 Interviews in Provincial Agriculturalist Office of Compostela Valley Province, January 2014.
86 Interview with community relations officer of large-scale mining company, Compostela Valley, January 2014.
purportedly “illegal” mining economy, thereby contesting the terms of legality itself. Indeed, what is classified as “illegal” by national government actors, may in fact be the outcome of an exclusionary legal framework, and may be considered perfectly legitimate on the local level (Lahiri-Dutt, 2007). In fact, several ASM-operators did not have the slightest idea about national regulatory frameworks, and considered their operations as legal because they were sanctioned by local government officials. Based on the analytical framework proposed earlier, it could be argued that local miner-politicians have emerged as agents of incremental institutional change, capitalizing on the institutional ambiguities produced by decentralization to tilt the institutional balance in favor of ASM. On the ground, however, these institutional struggles go hand in hand with real-life conflicts over access to mineral-yielding land, involving indistinct coalitions of actors connected with ASM and/or large-scale mining.

**CONFLICTS OVER ACCESS TO MINERAL WEALTH**

Diwalwal in Monkayo municipality is the most (in)famous example of conflict following the entry of large-scale mining. In the early 1980s ASM-activities similar to those found elsewhere in the region began to proliferate in the Diwalwal area. These activities underwent a gradual process of capitalization, with Sino-Filipino merchant capital investing in the further development of tunneling and processing activities. This gradual capitalization went hand in hand with the development of indistinct alliances between these mining financiers as well as army commanders, police officers, and communist- and Muslim rebels. In time, these groups became embroiled in violent conflicts over underground ore bodies. The situation stabilized somewhat in the 1990s, mainly (according to local miners) because of the interventions of barangay authorities, under the leadership of charismatic barangay captain Franco Tito and his “peace guards”. Whenever a conflict emerged between different tunnel owners, barangay authorities would intervene to restore order. However, this relative stability provided by the barangay-centered regulatory order was upset in the late 1990s, when Semco, a domestic subsidiary of Canadian Marcopper Mining, entered the scene. Rather than attempting to wrest control away from existing miners, Semco entered into a murky legal arrangement with JB Mining, one of the major ASM-groups operating in Diwalwal. Beefed up by its association with Semco, JB Mining began to (literally) undermine its competitors, leading to a renewed escalation of the dirty underground war, this time pitting informal ASM-operators—many of whom no longer qualified as ASM given their level of capitalization—against JB Mining (Gonzales & Conde, 2002). The conflict soon spilled over into the political arena: while barangay authorities were widely seen to cater to the interests of ASM, municipal politics were dominated by the Brillantes family, which was in charge of

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87 The following accounts are based on scant existing media coverage and a range of interviews inside and outside of the mining areas.
JB Mining. In response to the rising unrest in Diwalwal and surrounding areas, in 2002 president Gloria Macapagal-Arroyo proclaimed a 8100 hectare ‘Diwalwal mineral reservation’ that would be controlled by the Natural Resources Mining Development Corporation (NRMDC), the “corporate arm of the DENR” (Bagayaua, 2008). However, the government takeover and subsequent militarization of the area failed to defuse tensions. Instead, municipal mayor Brillantes was widely seen to be using his mayoral prerogatives and allegedly also his contacts in the army (he was a former military intelligence officer) to protect his own mining interests and to harass his ASM-foes. In 2003, mounting tensions culminated in the assassination of the mayor, allegedly by elements connected with ASM and the communist rebels of the New People’s Army (“Compostela Mayor”, 2003). As will be discussed in more detail below, the enactment of the Indigenous People’s Rights Act in 1997 further intensified the conflict, with different tribal groups siding with competing mining investors and local politicians. In 2008 the Arroyo government unveiled a new plan for the mineral reservation, which would be subdivided in 3 zones (Bagayaua, 2008): a “Tribal Mining Area” (TMA), “Mining Investment Areas”, and the Diwalwal gold rush area itself, which was placed under a very complex arrangement that ultimately failed to alleviate ASM’s concerns over large-scale mining expansion. Instead, at several instances state security forces have purportedly joined hands with JB Mining’s security guards (the “black ninjas”) to protect JB’s tunnels or to disperse protesting small-scale miners. Meanwhile it is a public secret that the communist NPA continues to profit handsomely from ASM in the form of revolutionary taxes (see ICG, 2011). In this way, the Diwalwal conflict intertwines in complex ways with the broader conflict between the Philippine government and the NPA. In recent years, tensions in and around the mineral reservation are again on the rise. While the national government is beefing up the presence of the army, purportedly to protect local communities from ‘extortionist’ communist rebels, ASM and leftist activists decry the militarization of Diwalwal, claiming that the army is only there to facilitate a take-over by multinational mining interests (these claims surfaced during various interviews, but see also “Army deploys”, 2010).

A second example is that of New Bataan, where, in the mid-2000s, PHILCO mining was confronted with a sudden expansion of ASM inside its exploration claim. PHILCO responded by beefing up its security forces, and by securing stoppage orders from the MGB regional office in Davao City. These orders were delivered to ASM-operators by delegations of DENR-staff, municipal and barangay officials, police, and in one instance even army personnel. Rather than leading to a stoppage of ASM, however, indistinct elements affiliated with ASM and according to some also with the communist NPA started harassing (and in one instance killing) PHILCO-guards, and repeatedly torched the company’s equipment. The situation was further complicated when in the late 2000s,

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88 Those parts of the reservation with low population density that are believed to be highly mineralized, and where mining rights would be awarded through competitive tender (Bagayaua, 2008).
ASM-operators supported by politicians at the municipal and provincial level, organized themselves into an association, and applied for the segregation of a “Minahang Camanlangan” (named after the barangay hosting the mining area). By the time of the last visit to the area, ASM was still in firm control. And while PHILCO had effectively transferred its rights to two other mining companies, Batoto resources and Agusan Metals Corporation, these companies did not maintain a significant presence on the ground, and the few remaining employees—ironically mostly local landowners who were collecting royalties from ASM themselves—admitted that it was very difficult if not impossible for the company to operate in the area.

TOWARDS A WIN-WIN SOLUTION?

Ultimately, the situation in Compostela Valley is best described as a “strategic stalemate”. On the one hand, large-scale mining concessionaires wielding formal mining rights are having a hard time to effectively exercise these rights due to the presence of ASM. On the other hand, ASM-operators now see their mining rights recognized in local institutional arrangements, but face a range of obstacles—not least the overlap with large-scale mining—that prevent the official recognition of these rights on the national government level. Nearly all actors involved—except (most) large-scale mining companies—now recognize the need to move towards a win-win solution. Even MGB-officials in the Davao City regional office were not entirely unsympathetic to the idea of working out a solution that is acceptable both for ASM and for large-scale mining, mainly because: “It is our job to promote mining (...) but now there are too many companies that are just speculating, just holding on to their claim as a future asset (...) this is our problem now.”89. However, important questions remain with regards to the willingness of large-scale mining to move towards such a win-win solution, and with regards to who would eventually benefit from such a solution. Initial observations suggest that corporate actors are now realigning, identifying local agents who can help tilt the institutional balance in their favor. Based on the preceding analysis, it should not come as a complete surprise that local politicians form one of their key targets, and several politicians previously sympathetic towards ASM have now openly aired their support for large-scale mining. Particularly in recent years, another important institutional player has entered the scene, namely tribal groups claiming priority rights over mineral resources and associated royalties under the Indigenous Peoples Rights Act.

89 Interviews in MGB regional office in Davao City, January 2014.
THE IPRA AND TRIBAL CONFLICTS OVER MINING ROYALTIES

The legislation of the Indigenous Peoples Rights Act (IPRA) in 1997 aroused significant opposition, not least on the part of the Philippine Chamber of Mines and the MGB, who argued that granting indigenous communities priority rights over their ancestral domain and over the (mineral) resources underlying it violated the constitutionally enshrined principle of state ownership of public lands and minerals (Eder & Mckenna, 2008). Others have drawn attention to the hampered implementation of the IPRA, and how it fits in with a broader trend towards the dispossession of indigenous communities by mining companies (Holden, Nadeau & Jacobsen, 2011). This section, like the previous one, seeks to qualify this dominant analytical focus on dispossession from above, by means of an admittedly initial discussion of tribal conflicts over mineral wealth unleashed by the IPRA, which can be seen as yet another illustration of the spirit of decentralization.

THE AHISTORICAL IPRA AND INDIGENOUS ‘COMMUNITIES’

To understand the impact of the IPRA on local institutional arrangements, we first need to critically evaluate its definition of Indigenous Peoples as “historically differentiated from the majority of Filipinos” (Republic Act No. 8371, 1997: s. 3(h)). By invoking an image of isolation and uniqueness, this definition obscures a long history of interaction between upland pagans and Christian lowlanders, which resulted in a serious distortion of traditional indigenous structures—a notoriously indistinct concept to begin with. Even prior to the IPRA, the Philippine state undertook various efforts to deal with the upland population, including the creation of different special bodies, agencies and programs (Eder & McKenna, 2008). Meanwhile increased upland migration on the part of non-indigenous settlers, combined with economic modernization, resulted in processes of social differentiation across the indigenous / non-indigenous divide (Dressler & Turner, 2008). Particularly (but not exclusively) in Mindanao, parts of the upland population were also recruited for insurgency or counterinsurgency purposes, spurring further divisions in upland communities (Asia Watch Committee, 1992).

Last but not least, the proliferation of political-administrative (barangay-, municipal, provincial and regional) boundaries that cross-cut the ancestral domain had a profound impact on indigenous authority structures. Particularly following democratization and decentralization in the early 1990s, many datus (the local term for a traditional leader) became directly (as candidates) or indirectly (as vote brokers) involved in political-electoral competition; a trend that was, somewhat paradoxically, encouraged by the National Commission of Indigenous Peoples when it called for the mandatory representation of indigenous peoples in local legislative councils in 2009 (NCIP
administrative order No. 001, s. 2009). As confirmed by various key respondents, this created opportunities for local politicians to expand their patronage networks into the indigenous community; and for educated, rich, or “brave” tribals to assert themselves as datus.

Ultimately, when NCIP-staff are now talking about “organizing a community” (i.e. identifying its leaders and delineating its ancestral domain), they are dealing with an upland population divided along the lines of class, clan affiliation, the insurgency-counterinsurgency divide, and last but not least dynamic political-electoral alliances. Given these cross-cutting cleavages, it should not come as a complete surprise that the entry of mining and associated royalties entails risks for conflict.

**MINING ROYALTIES AND TRIBAL CONFLICTS IN COMPOSTELA VALLEY PROVINCE**

Gold-rich Diwalwal can again serve as a good empirical illustration. After the enactment of the IPRA in 1997, different datus claiming to represent the Mandaya, Mansaka, Dibabawon and Manguanggan tribes, started filing overlapping ancestral domain claims over the area that contained the Diwalwal gold rush area. These competing tribal groups were connected with the different mining groups that were fighting over Diwalwal’s rich gold deposits, and that included not only armed actors but also miner-politicians (Canuday, 2008). The subsequent nationalization of Diwalwal in 2002 by the Arroyo administration went hand in hand with an effort to pacify the indigenous community. In close coordination with the different tribal groups, the NCIP started working towards a reunification effort, eventually resulting in the issuance of Certificate of Ancestral Domain Title 0702-0007 to the ‘four tribes of Monkayo’ (Canuday, 2008). However, while the indigenous problem was now legally settled, by no means did this solution end in-fighting within the tribal community. Things even got worse after the creation, in 2008, of the tribal mining areas (TMA) i.e. those parts of the Diwalwal mineral reservation wherein the four tribes of Monkayo could exercise their priority rights. After the four tribes had entered into a joint venture with the Philippine Mining Development Corporation and started looking for investors, different tribal leaders signed agreements –allegedly “in exchange for a signing bonus of millions”91— that covered overlapping areas. The resulting competition led to a spate of killings in the tribal community that continues until this day (“Mining Firm”, 2011).

A second example is that of Maco, where royalties from APEX mining –currently the only large-scale mining company in Compostela Valley province that is in the production

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90 The following accounts are based on a combination of key respondent interviews and scarce (online) media coverage.

91 Interview with tribal leader from Monkayo, Davao City, February 2012.
stage— are sowing discord within the Mansaka tribe. In 2003, the NCIP provincial office supported the formation of an association that convened indigenous land claimants from the different “impact barangays”, or those barangays directly affected by the APEX-operations. This association, SIMI, was dominated by the Onlos clan, headed by a certain datu Onlos. In 2008, after the Mansaka tribe was issued its CADT, APEX started paying royalties to both SIMI and MDCI, another organization controlled by Datu Onlos which was set up as a vehicle for the redistribution of APEX-royalties over 29 barangays that have a Mansaka mandatory representative. In 2010, however, datu Onlos was killed, and soon after this a new organization was created with the assistance of NCIP, APEX, and last but not least local politicians. While this new organization, MIPADMA, also absorbed several MDCI-members, others were sidelined, and there are now several barangays with both MDCI- and MIPADMA-aligned datus, with the latter on the receiving end of the royalty sharing. As in the Diwalwal case, electoral politics played a key role in sowing discord in the tribal community. 2010, the year of datu Onlos’ killing and of MIPADMA’s creation, was an important election year, and many MIPADMA-members became acting mandatory tribal representatives on the barangay- or municipal level; or at least have a clear affiliation with local politicians. Also telling in this regard is the ongoing construction (in February 2014) of an 11 million peso (around US$ 250000) tribal hall next to the municipal hall.

To be sure, these tribal conflicts over ancestral domain rights and associated royalties are embedded in a broader and much more complex conflict ecology. However, both in Maco and in Monkayo the situation at the time of the research was too volatile and sensitive to get to the heart of the matter without jeopardizing the security of the researcher or, more importantly, that of the respondents; and there was a general reluctance to discuss many of the issues at hand. Some tentative and more general observations can nonetheless be made. First, these tribal conflicts stand in close connection with political-electoral competition, and initial evidence suggests that—in line with the situation in countries such as Ethiopia (Hagman & Mulugeta, 2008) and neighboring Indonesia (Schulte Nordholt & van Klinken, 2007)—the decentralization of resources on the basis of ethnicity is fostering the growth of patronage networks that convene local politicians and ‘ethnic entrepreneurs’. Secondly, because several (self-proclaimed) tribal leaders have a longstanding involvement in ASM, these tribal conflicts also intertwine with the conflict between ASM and large-scale mining described earlier. For example, the late datu Onlos was known to be involved in ASM, and was a staunch opponent of the further expansion of large-scale mining in Maco (“Auction of Davao”, 2009). Thirdly, these tribal conflicts interact in complex ways with the broader conflict between the Philippine government and the communist NPA. As one datu from Monkayo stated: “Every tribe has its own security
strategy (...) some join the counterinsurgency of the AFP (...) if you don’t join you get killed because they say you are a communist”92.

**CONCLUSION**

Building on academic debates on the relationship between decentralization and conflict, I developed a conceptual-analytical framework that draws central attention to the ways in which decentralization offers opportunities for incremental institutional change, understood as a renegotiation of the ways in which power and resources are distributed across society. Such a renegotiation of institutional arrangements is a political process par excellence, and often goes hand in hand with (armed) conflicts on the ground. This analytical approach was then applied to mineral resource governance regimes in the Philippines, where various legislative efforts to decentralize control over mineral resource wealth to subnational actors co-exist uneasily with the centralist provisions of the Philippine Mining Act –purportedly still the basis of mineral resource governance in the country. This has given rise to a highly ambiguous institutional arena, wherein a broad array of actors are now contesting the redistribution of mineral resource wealth. In an attempt to make sense of these complex institutional struggles, three major cleavages were identified around which mineral resource conflicts are now crystallizing, namely intra-government conflicts over fiscal-regulatory authority in the mining sector, conflicts between ASM and large-scale mining over access to mineral-yielding land, and conflicts between tribal groups seeking to secure ancestral domain rights and associated royalties. Hence, rather than increasing sociopolitical stability, seemingly uncoordinated efforts to decentralize mineral resource governance have increased local mineral resource conflicts, by enabling a broad range of actors to stake competing claims to mineral wealth.

To be sure, the outcomes of these conflicts over institutional arrangements, while increasingly producing violent confrontations on the ground, are not necessarily negative. Instead they may produce substantial emancipatory effects, in the form of a redistribution of mineral resource rents to a greater number of people. In line with the new “localist paradigm” in natural resource management (Arellano-Yanguas, 2011), many would indeed consider increased local control over resources –whether in the hands of ASM or indigenous communities– to be a good thing. However, while decentralization may have offered opportunities for the redistribution of resource wealth in favor of selected local actors, two worrying trends are now becoming apparent.

First, partly as a product of ongoing decentralization efforts, but also as a legacy of a much longer history of decentralized statebuilding, local politicians play a key role in existing institutional arrangements, and will likely continue to do so in the future. In line with

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92 Ibid.
concerns raised by critical observers of the decentralization process in other countries, this raises important questions with regards to elite capture. These questions are particularly relevant when considering a second trend, namely the gradual (re)concentration of control over mineral resource wealth. On the one hand, mining companies are slowly adjusting their strategies to local institutional realities, by identifying key brokers – particularly local politicians and tribal leaders – that can help tilt the institutional balance in their favor. On the other hand, as discussed at length in chapters 4, processes of professionalization and capitalization in the ASM-sector have gone hand in hand with rising rates of labour exploitation.
CHAPTER 9: CONCLUSION

In this concluding chapter, I aim to bring together the arguments presented in the different chapters included in this PhD-thesis into a ‘master narrative’: a series of arguments about the state of the ASM-sector in Compostela Valley province. At the same time I will make efforts to transcend this more narrow geographical and thematic focus, by considering how my research findings speak to a broader research agenda on ASM, on trajectories of state formation in the Philippines, and on the interface between broader processes of economic and political transformation.

THE ‘MASTER NARRATIVE’: THE STATE OF ASM IN COMPOSTELA VALLEY

Before presenting my key arguments, it is useful to reiterate the overarching research questions that were identified in the opening chapter of this PhD-thesis:

(1) What explains the massive expansion of ASM in Compostela Valley, and its transformation from more rudimentary artisanal mining into a heterogeneous sector that also includes fairly advanced mining operations?
(2) With regards to the regulatory situation in ASM: a) What explains the persistence of informality; and b) What is the real regulatory situation inside ASM-areas?
(3) Who benefits and who loses from current (regulatory) realities in the sector?

In engaging with ongoing debates in the literature on the causal explanations for the massive expansion of ASM as a predominantly informal activity, in chapters 3 and 4 I have drawn central attention to ASM not merely as a subsistence activity (cf. the dominant poverty-driven narrative), but also as a site for accumulation for a nascent class of ASM-entrepreneurs, and for a heterogeneous group of (armed) rent-seekers. Adopting a critical, long-term perspective on shifting strategies of accumulation in the mining sector, I argued that the expansion of ASM in Compostela Valley is indicative of a broader process of informalization (Meagher, 1995; Tabak & Crichlow, 2000) in the mining sector as a whole. More precisely, in response to a profound crisis of accumulation in the mining sector, a transition took place away from capital-intensive large-scale mining, towards a regime of accumulation built around flexible ASM and the exploitation of informal labour.
In chapters 5 to 7, I presented an empirical analysis of regulatory realities in the ASM-sector. It was demonstrated how, particularly since the democratic transition and subsequent decentralization efforts in the early 1990s, local politicians have come to play a pivotal role in the regulation of purportedly informal ASM. More precisely, relying on the coercive and legitimizing powers of local state institutions, they have initiated a process of “informal formalization” (Benjaminsen & Lund, 2003) in local land- and mineral tenure regimes. While local politicians now benefit from the presence of ASM as a source of fiscal revenues, personal rents, and political legitimacy; I have also demonstrated that ASM-financiers (chapter 3), local landowners (chapter 6) and armed rent-seekers (chapter 7) equally profit from a local regulatory order that is amenable to the persistence- and possibly even the further expansion of ASM. Rather than constituting distinct actor groups, these different actors (i.e. politicians, financiers, landowners and armed rent-seekers) have come together in what is perhaps best described as “peculiar coercive arrangements” (Hedman & Sidel, 2000) that are sustained by the rents produced by informal ASM. I have suggested that these particular regulatory arrangements can be seen as an intricate product of a longstanding tradition of decentralized statebuilding through local elected politicians, who play vital roles as frontier stabilizers and protégées of the stately order (Abinales, 2000; Wong, 2006). However, as demonstrated in chapter 8, these regulatory arrangements do not operate in a vacuum. Instead I have drawn attention to a major threat from above, in the form of the looming expansion of large-scale mining under the tutelage of (sections of) the national elite, which risks undermining the institutional arrangements built around informal ASM, and the sociopolitical stability they generate.

Combining these two lines of inquiry –i.e. a critical analysis of shifting regimes of accumulation in the mining sector and a historical-institutional analysis of changing governance regimes– it can be argued that the informalization of mining has gone hand in hand with the emergence of a local regulatory order centered around the bottom-up formalization of land- and mineral rights by local politicians. While these regulatory arrangements centered around a minimalistic recognition of (mineral) property- and associated royalty rights cater to the interests of a heterogeneous local elite that currently derives its wealth and power from ASM, they largely ignore the needs of a massive informal workforce. While in Compostela Valley alone tens- if not hundreds of thousands of people now depend on ASM as their primary if not their only source of income, initial observations suggest that this workforce is falling prey to rising rates of exploitation. Ultimately, then, the state –understood as a multi-layered and fragmented institutional arena punctured with constant references to legality– has played an enabling role in processes of informalization in the mining sector (Meagher, 1995), adapting itself to shifting strategies of accumulation in the mining sector.
THE PITFALLS OF POVERTY-DRIVEN, DUALIST, AND POPULIST VIEWS OF ASM

So what are the implications of these findings for ongoing debates in the ASM-literature? In this section I aim to demonstrate how the empirical evidence presented in this PhD-thesis can serves as a timely qualification of three influential albeit rather simplistic narratives about the ASM-sector.

ASM AS A QUESTION OF SUBSISTENCE AND ACCUMULATION

A first narrative that has become extremely influential, both in academic- and in policymaking circles, is the poverty-driven view of ASM, which essentially treats it as a rudimentary subsistence activity practiced by destitute individuals. To account for the persistence of informality in the sector, this poverty-driven view is often combined with a legalistic focus on entry barriers that prevent poor and uneducated ASM-operators from securing a formal mining license. To avoid the pitfalls of an unfettered poverty-driven view, I approached the ASM-sector not merely as a subsistence safety net, but also as a site for accumulation. Such a perspective on accumulation strategies has exposed processes of capitalization within the ASM-sector, and an associated differentiation between a massive workforce and a dominant stratum of ASM-entrepreneurs. While several of these ASM-entrepreneurs were erstwhile miners who had struck it rich, hinting at a degree of social mobility within the workforce (Jónsson & Bryceson, 2009), the large majority were outsiders seeking to capitalize on newly emerging opportunities for accumulation.

These critical insights into processes of capitalization, differentiation and accumulation have in turn enabled me to better understand the selective nature of existing (analyses of) formalization efforts. More precisely, in line with the situation in Tanzania (Fisher, 2007), by emphasizing the issuance of mineral property rights, (severely hampered) formalization frameworks favor a dominant stratum of ASM-entrepreneurs to the detriment of a massive workforce that remains bereft of formal-legal recognition. This observation applies not just to the legal frameworks that exist at the national level (chief amongst which Republic Act 7076), but also to the local regulatory arrangements that were described in this PhD-thesis, which are primarily geared towards a minimalistic recognition of (otherwise informal) land- and mining rights. As such, my analysis can also be read as an invitation for policy-makers to think of more inclusive formalization policies that also target those “doing the dirty work” (Verbrugge, 2014).

The relevance of these findings transcends the confines of Compostela Valley. While the province may indeed be somewhat exceptional in terms of the magnitude of its ASM-
sector, initial indications suggest the sector has undergone a similar (albeit perhaps less outspoken) transformation in other countries, including a differentiation between a multi-layered workforce and a dominant stratum of elite players. There is an urgent need for a more systematic analysis of these processes of transformation and differentiation in the sector, the various actors enmeshed in them, and the ways in which these actors are included or remain excluded from ongoing efforts to formalize the sector.

MOVING BEYOND DUALIST ASSUMPTIONS

The poverty-driven view of ASM fits in with a broader narrative of a “dual mining economy” (Banchirigah, 2007; Hilson & Gatzinski, 2014). In line with earlier dualist approaches to informal sector activity (ILO, 1972), dualist perspectives posit a rigid dichotomy between on the one hand an informal and subsistence-oriented ASM-sector, and on the other hand an industrial large-scale mining sector. To be sure, in many countries a distinction can indeed be made between more labour-intensive ASM and capital-intensive corporate mining practices. However, as argued above, images of an entirely informal subsistence economy fail to do justice to the situation in the Philippines, where operations of varying sizes now operate with varying degrees of legal recognition (cf. Teschner, 2013 on Ghana).

Furthermore, my long-term perspective on shifting strategies of accumulation in the mining sector as a whole has revealed the existence of intricate relationships and continuities connecting ASM to large-scale mining. First emerging from the ashes of a moribund large-scale mining sector, ASM initially operated in a subordinate position to (former) large-scale mining interests, albeit only for a brief period of time. As ASM emancipated itself from large-scale mining, and developed its ‘homegrown’ elite that pushed ASM far beyond subsistence level, the logic of accumulation in the sector continued to revolve around the availability of a massive, cheap and flexible informal workforce.

In recent years, the Philippines have attracted renewed interest on the part of large-scale mining companies, who are increasingly venturing into areas with a significant ASM-presence. Building on my critical analysis of shifting strategies of accumulation in the mining sector, it will be particularly interesting to find out whether the renewed expansion of large-scale mining will herald a full-blown return to a regime of accumulation built around capital-intensive mining, or whether some alternative logic of accumulation will develop. In either case, what will be the position of the massive informal workforce that currently forms the backbone of the ASM-sector? The situation in Tanzania provides us with interesting albeit discouraging insights. Here, the liberalization of the mining sector and the subsequent proliferation of large-scale mining concessions had detrimental effects on the position of the ASM-workforce. On the one hand, as ASM-claimants started selling
their claims to mining companies, the position of those working inside these claims was rendered highly uncertain (Fisher, 2007). On the other hand, instead of simply displacing ASM and investing in more mechanized operations, many of these companies simply used their mining rights to levy rents from ASM, thereby indirectly putting further downward pressures on the revenue share of the workers (Chachage, 1995).

THE PITFALLS OF A POPULIST “RESISTANCE” NARRATIVE

A third and final perspective on the ASM-sector that has become more influential in recent years is a populist narrative which treats ASM as “a strategy of resistance to state mining policy and foreign mining operations” (Bush, 2009). In a similar vein, Lahiri-Dutt proposes to see informal ASM as “a popular resistance to the official mining economy” (Lahiri-Dutt, 2006: 19), with “people’s mines” reflecting “the efforts of communities to re-establish rights over local natural resources” (Lahiri-Dutt, 2004: 131). Even within the Philippine NGO-community, which has long been known for its virulent anti-mining stance, one now encounters NGOs –most of them associated with the left– that strive to protect (traditional) small-scale mining communities against the onslaught of corporate mining capital, which is said to work in tandem with the ‘neocolonial’ government in an effort to dispossess ASM. While a case can indeed be made to protect ASM as a vital source of employment, particularly when considering rising levels of youth unemployment (Hilson & Osei, 2014), based on the Compostela Valley experience several important qualifications can and should be made regarding the pitfalls of a populist narrative.

For one, undergirding these narratives is a particular representation of ASM-sites as homogeneous and harmonious “community economies” (Lahiri-Dutt, 2004) that are somehow devoid of internal power struggles and inequalities (Li, 1996). As hopefully demonstrated in this PhD-thesis, such an image is extremely problematic, as it glosses over complex processes of differentiation and a skewed distribution of risks and benefits across the sector. Uncritical efforts to empower ASM risk exacerbating rather than alleviating existing inequities within the sector.

Meanwhile suggestions that ASM-operators are at risk from being ‘dispossessed from above’, by an unholy alliance between ‘the government’ and corporate mining, while not entirely false, are nonetheless problematic in the Compostela Valley case. Despite repeated claims about the Philippine government’s “mining-based development paradigm” (Holden & Jacobsen, 2006), subsequent governments have been blowing hot and cold over the future of the mining sector, which is now subject to intense political debate both in congress and in civil society writ large. Furthermore, claims that ‘the government’ supports large-scale mining to the detriment of ASM neglect how local politicians emboldened by decentralization have actively resisted the entry of large-scale mining projects (Holden & Jacobsen, 2006), and are at least in Compostela Valley relying...
on the state as a coercive force and a legitimizing repertoire to protect informal ASM. Here, the state no longer emerges as a monolithic entity – in this case captured by multinational mining interests – but as a multi-layered and fragmented arena, underpinned by constant references to the “idea of the state” (Lund, 2006). As demonstrated in chapter 8, it is within this fragmented ‘state arena’ that various actors are now capitalizing on inconsistencies and overlaps in legal frameworks to stake (competing) claims to mineral resource wealth. It is here, in this fragmented institutional space permeated with references to the state, that room for agency exists, and where even the terms of legality itself have now come to be contested. At the same time serious concerns can and should also be raised over who it is that wins and who loses from instances of negotiability (Peters, 2004); with local politicians currently at the commanding realms of a political economy that ultimately revolves around the exploitation of an informal workforce.

**ASM AS AN ANALYTICAL ENTRY POINT INTO PROCESSES OF POLITICAL-ECONOMIC TRANSFORMATION**

Finally, this PhD-thesis can be read as an illustration of how ASM can serve as an analytical entry point for understanding trends in the broader political economy. In the existing literature, while increased attention is now being paid to the complex and multi-layered struggles between ASM and large-scale mining (e.g. Fisher, 2008; Luning, 2008; Geenen & Claessens, 2013; Geenen, 2014), mining areas still emerge as places of exception that are somehow disconnected from trends in wider society. In what follows, I will identify three ways in which my findings about the ASM-sector speak to ongoing debates on local politics, trajectories of state formation, and broader processes of political-economic transformation.

**PREDATION AND RECIPROCITY IN LOCAL POLITICS**

By and large, three major perspectives on local politics in the Philippines can be distinguished in the academic literature (for a more elaborate discussion see Kawanaka, 2007; Quimpo, 2008). A first one, the patron-client, factional framework, emphasizes the existence of (1) mutually beneficial but highly unequal patronage relations between local politicians and voters; and (2) factional competition between vertically organized patronage networks centered around these local politicians as representatives of broader family dynasties and -alliances (Landé, 1968). A second approach emphasizes the predatory and coercive character of local politics, with local ‘bosses’ (Sidel, 1999) seen to capitalize on the predatory potential of state institutions to wield control in the local
political economy. A third approach, which has become more influential in recent years, focuses on the role of local strongmen-politicians as statebuilders. Instead of highlighting the centrality of coercion, scholars like Abinales (2000) and Wong (2006) emphasize the importance of accommodation, with local strongmen relying on a combination of patronage, paternalism, and the legitimizing and coercive powers of the state to maintain social stability and to espouse the symbols of the democratic state. In this way, local strongmen contribute to the resilience of the state as a cognitive and normative order in society.

To some extent the research findings presented in this PhD-thesis give credence to all three approaches. For one, barangay politics in many mining areas visited throughout my PhD-research continue to be dominated by factional competition-, or in some cases an elite pact, between landowning families who have increasingly diversified into ASM. Furthermore, local politics still exhibits coercive and even predatory traits, with barangay officials relying on the (purportedly unarmed) CVOs to maintain peace and order and to protect their personal political and commercial (mining) interests, while also cultivating indistinct relationships to a range of other armed rent-seekers. Thirdly, however, and this is arguably the most important contribution of this PhD-thesis to ongoing debates on state-society relations in the Philippines, I have drawn attention to an important degree of reciprocity between local politicians and ASM-interests. Rather than revolving simply around patronage, this reciprocity has become institutionalized in a local regulatory order that is conducive to the survival and arguably even to the further expansion of ASM as a vital source of rents, and that is legitimated through constant implicit and explicit references to state-sanctioned legality as a vital legitimizing repertoire.

DECENTRALIZATION AS A GAME-CHANGER

In the broader literature on local politics and state-society relations in the Philippines, surprisingly little attention has hitherto been paid to the impact of decentralization. Where the local government code of 1991 (the centerpiece of decentralization in the Philippines) is explicitly discussed, it is usually in the more ‘formalistic’ public administration literature, which tends to treat it as a radical break with a longstanding history of political-administrative centralism, which was taken to the extremes during the Marcos martial law regime (e.g. Guevara, 2000; Turner, 2006; Yilmaz & Venegupal, 2013).

In this PhD-thesis I adopted a different stance, building on critical historical-institutional analyses that demonstrate how since the advent of US colonialism, the Philippines has been characterized by a high degree of de facto decentralization, with local politicians retaining a high degree of autonomy from Manila (Abinales, 2000; Hutchcroft, 2001). Seen from this perspective, decentralization is best seen as a continuation, and quite possibly even a radicalization, of this longstanding tradition of decentralized statebuilding.
Indeed, it has been demonstrated that most of the fiscal-regulatory interventions undertaken by local politicians in the purportedly informal ASM-sector refer—correctly or not—to the local government code.

In many ways the situation in the decentralized Philippine polity is reminiscent of that in nearby Indonesia, where decentralization—as part of the broader Reformasi reform movement—has opened opportunities for "provincial middle classes" to assert themselves in the broader political economy (Van Klinken, 2014), capitalizing on the state apparatus as a vital “structure of accumulation” (Harriss-White, 2003). In fact, based on chapter 8, it can be argued that ASM-elites in Compostela Valley are using local state institutions as an instrument in a broader institutional struggle over mineral resource access.

**ASM AS INDICATIVE OF BROADER PROCESSES OF POLITICAL-ECONOMIC TRANSFORMATION**

Finally, in contrast with images of the Philippines—or at least those regions outside of the peninsula’s major urban centers—as a predominantly ‘rural’ country, dominated by smallholder agriculture and large-scale landholdings, what is commonly referred to as ‘the province’ has undergone a dramatic socio-economic transformation. In many ways the expansion of ASM is indicative of these broader processes of transformation. The initial expansion of ASM as a fairly rudimentary activity was in large part a product of the declining viability of (upland) agriculture, which resulted from a combination of demographic growth and the expansion of extractive industries like logging, mining, and plantation agriculture (Cramb et al., 2009). However, since the 1980s, the ASM-sector has attracted the attention of a more heterogeneous array of actors, including not only poor rural dwellers in dire need of income opportunities, but also local middle classes and Chinese merchant elites that have started to diversify into ASM for accumulation purposes. Hence, the expansion of ASM is not simply indicative of broader processes of livelihood diversification (Bryceson, 2002) and possibly even de-agrarianization—i.e. a broader move away from agriculture towards a range of nonfarm activities—but also of the socially differentiated character of these processes, which offer opportunities for some to the detriment of others (Rigg, 1998).

In parallel with these processes of socio-economic transformation, different observers have noted rising degrees of human mobility (Kelly, 2011). Indeed, for countless respondents, their involvement in the ASM-sector fits in with a much longer trajectory of livelihood change, which not only involves moving back and forth between different jobs with varying degrees of legal recognition, but also entailed a significant degree of geographical mobility. Within the ASM-sector as well, one has seen the emergence of a massive group of migrant miners that move between different employers and different
mining areas, constantly on the lookout for (good) labour opportunities. Just like economic diversification impacts on processes of economic differentiation – and vice versa – spatial mobility interacts in complex ways with social mobility (Kaufman et al., 2004). This interface between human and social mobility is a particularly promising area for future inquiry, both in the ASM-sector (Jønsson & Bryceson, 2009) and beyond (Kaufman et al., 2004).

Increased economic diversity and human mobility induced by shifting economic frontiers also have a profound impact on human settlement patterns. In fact, ASM-areas like the Diwalwal gold rush area depicted on the front cover could be described as an expression of “the thoroughgoing urbanization” of rural Southeast Asia (Jones, 1997). These processes of (peri-)urbanization upset traditional and almost intuitive distinctions between rural areas with a primarily agricultural and natural resource-based economy, and urban areas with service-based economies (Lerner et al., 2011). Instead, what we are witnessing is a pervasive blurring of the rural-urban divide, both in economic, physical, and human terms (Rigg, 1998).

Ultimately, therefore, this PhD-thesis should be read as a critical exploration of how the expansion of ASM as a labour-intensive and primarily informal activity, and as a particular expression of these dramatic processes of socio-economic transformation, interacts with broader trajectories of sociopolitical change. More in particular, it has been argued that the gradual expansion of ASM into the “unruly” uplands (Scott, 1998) has gone hand in hand with the gradual emergence of governance arrangements centered around local state institutions, which facilitate accumulation for particular actors (in this case indistinct networks that connect local politicians to ASM-financiers, royalty-receiving landowners and armed rent-seekers) to the detriment of others (a massive informal workforce that is highly vulnerable to exploitation).


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