



Original article

'Bandits' and *machete* gangs: The criminalization of artisanal and small-scale mining in the Democratic Republic of Congo and Zimbabwe

Sarah Katz-Lavigne^{a,*}, Grasian Mkodzongi^b, Mark Nyandoro^c

^a University of Antwerp, Belgium; CEGEMI (Centre d'Expertise en Gestion Minière), Université Catholique de Bukavu, Democratic Republic of Congo

^b Tropical Africa Land and Natural Resources Research Institute, Harare Zimbabwe

^c Department of History Heritage and Knowledge Systems, University of Zimbabwe & Subject Group - History, Faculty of Humanities, North-West University (Vaal Triangle Campus), South Africa

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ABSTRACT

Scholars have examined the often 'illegal' status of artisanal and small-scale miners in Africa from a range of perspectives. Yet there is scope for further research on understandings of this 'illegal' character, which do not only include violations of the national legal framework for mining, but are also linked to broader (perceived) matters of criminality; miners themselves are also at times victims of 'banditry' and criminality. We apply a criminalization framework to analyse how artisanal miners are not only seen as 'illegal' for their non-state-sanctioned artisanal mining activities or for 'trespassing' on mining companies' concessions – often overlooked or even tacitly accepted as legitimate in a range of contexts – but frequently also perceived as criminal as perpetrators of other infractions such as theft or violence. Drawing on case studies from the Democratic Republic of Congo and Zimbabwe, we lay out the need to unpack the conceptual blurring between artisanal mining, and 'criminal bands' and actors who use violence, at theoretical and empirical levels. We argue that there is a need for additional research on the scale and scope of the phenomenon of (urban) criminality and how this phenomenon relates to (but is not reducible to), and intermingles with, artisanal small-scale mining.

1. Introduction

While resource extraction in resource-rich countries in Africa involves different modes of extraction and production, including artisanal and small-scale mining (ASM) by individuals and groups using basic equipment or mining with more mechanized equipment (Radley and Geenen, 2021); and large-scale mining (LSM) by industrial-mining companies, it is ASM that is typically singled out for the criminalization that is the focus of this article. Rather than distinct and separate modes of extraction, different types of ASM often coexist with LSM at the same sites. It has been estimated that around 10 million people in Africa work in ASM (World Bank, 2019).

Since the 1990s, in multiple countries including the Democratic Republic of Congo (DRC), large numbers of artisanal and small-scale miners have been displaced by large-scale mining companies (Canavesio, 2014). In Zimbabwe, state security forces have repeatedly cracked down on artisanal miners (Nyamunda et al., 2012; Mkodzongi and Spiegel, 2020). ASM miners in a variety of settings have been portrayed as 'illegal' by governments, mining companies, journalists,

non-governmental organizations, and global institutions like the World Bank. In a context of intense focus on mining practices in mineral supply chains and of 'due diligence' and 'conflict mineral'-type initiatives to address human rights, social, and environmental abuses in these supply chains, the spotlight has also been placed on the (presumed) linkages between ASM, smuggling, and criminality (Zabyelina and Van Uhm, 2020).

The issue of artisanal miners' 'illegal' status has been extensively discussed by scholars from a range of perspectives, including critical viewpoints (Nyamunda, Mukwambo and Nyandoro, 2012; Mkodzongi, 2020b; Van Uhm, 2020; Huggins, Buss and Rutherford, 2017). Yet there is scope for further research related to understandings of this 'illegal' character, which do not only include violations of the national legal framework for mining, but are also linked to broader (perceived) matters of criminality (Zabyelina and Van Uhm, 2020). Some scholars perceive and define ASM miners as bandits, criminal bands, or *machete* gangs (Zabyelina and Van Uhm, 2020). This tendency to equate artisanal miners with so-called 'criminal bands' blurs distinctions between artisanal miners as a category and actors who use violence, and suggests

* Correspondence author.

E-mail address: SarahKL@protonmail.com (S. Katz-Lavigne).

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that they are one and the same.

This paper contributes to a growing body of literature on the phenomenon of criminal activity and ‘banditry’ within and beyond artisanal and small-scale mining. Many academics and other researchers and practitioners have drawn attention to the fact that artisanal and small-scale miners in Africa have long been a stigmatized group, on the receiving end of discrimination by actors including governments, (international) NGOs and donors, corporate investors, and communities. Many scholars have written about the criminalization of ASM (Bester, 2023; Mkodzongi, 2023), and how artisanal mining, including the mining of sand, has been linked to violence and disorder (Shitima and Suykens, 2023) – such as when it comes to the *galamsey* in Ghana (Tuokuu et al., 2020) – as well as to criminal networks (Geenen, 2011). Artisanal mining continues to be primarily linked in the literature with its negative impacts, including environmental damage (Achina-Obeng and Aram, 2022; Lydia, Godwin and Isaac, 2022) and social impacts like health and safety issues; child labour; and conflict and violence (Bester and Uys, 2023). Similar framings have been applied in Latin America (Benites, 2023).

Drawing on case studies from the Democratic Republic of Congo and Zimbabwe to support the argument that ASM in Africa continues to be criminalized, albeit in evolving and context-specific ways, we lay out the need to unpack the conceptual blurring between artisanal mining, and ‘criminal bands’ and actors who use violence, in theoretical, empirical and comparative terms. We argue that there is a need for additional research on the scale and scope of the phenomenon of (urban) criminality and how this phenomenon relates to (but is not reducible to), and intermingles with, artisanal and small-scale mining.

A brief overview of national state policy in the DRC (a formerly colonized country) and Zimbabwe (a former settler economy) since colonial occupation reveals significant emphasis on large-scale mining to the detriment of pre-existing artisanal mining. In the DRC, artisanal mining and metallurgy thrived for hundreds of years, including before Europeans arrived in Africa. With the introduction of industrial mining by the colonial regime, however, ASM was nearly fully eliminated until its reemergence in the 1990s due to the decline in industrialization (Makori, 2019, p. 8). From 1890 to 1908, King Leopold II of Belgium oversaw a regime that rivalled the transatlantic slave trade in its brutality. It is estimated that from 1890 to 1910, more than 10 million Congolese people died because of systematic violence enacted by companies with rubber concessions and by the Belgian state (Makori, 2019, p. 8). Colonial trading companies annexed so-called “vacant” land that Africans did not occupy directly, purportedly to collect rubber and ivory. Leopold II’s control of Congo also saw the creation of companies to exploit African labour for colonial schemes including industrial mining in Katanga. In 1906, l’Union Minière du Haut Katanga (UMHK) was created by the Société Générale de Belgique and Tanganyika Concessions Ltd, marking the beginning of the process of extracting the Congolese Copperbelt’s mineral riches. During the first 30 years of UMHK, from 1910 to 1940, the company conscripted 180,000–250,000 men into its service (Makori, 2019, p. 21). During the colonial period and even after independence, the UMHK workers were subjected to wage relationships that, as with mine workers in southern Africa, were based on thankless work that ultimately exacerbated workers’ social vulnerability by diminishing their livelihood options and subjecting them to economic and political insecurity (Makori, 2019, p. 25). Makori (2019), writing on the Congolese Copperbelt, consequently points to “the warps and wefts, succession and overlap between the precolonial, colonial and postcolonial eras as each of these continue to inform the present.” (Makori, 2019, p. 13)

In Haut-Katanga and Lualaba, ASM miners have been largely viewed as illegitimate claimants to the resources at large-scale mining sites since the initial stages of corporations’ takeover of previously artisanally-mined sites, in the early to mid-2000s. Most Congolese copper and cobalt is extracted and processed by LSM companies. This has been the case since the contractual granting, starting in the 2000s, of state-owned

mining company Gécamines’ vast and valuable holdings to external investors (Iguma Wakenge 2018). This widespread process of privatization in the former (now subdivided) province of Katanga resulted in multiple public–private ventures, including 38 with Gécamines (Iguma Wakenge 2018, p. 1). Joint ventures entered by Gécamines (as a minority partner) include the Ruashi mine (an agreement signed with South African firm Metorex in 2004) as well as Tenke Fungurume (entered into with American company Phelps Dodge and Canada’s Tenke Mining in 2005) (Global Witness, 2006, p. 37). These mining projects have profoundly affected local communities, including through processes of mass displacement of villages, communities, and tens of thousands of artisanal miners. While the exact number of artisanal miners currently operating in the Congolese copper and cobalt sector is not known, it has been estimated that as many as 150,000 artisanal miners operate in and around Kolwezi, the capital of Lualaba province (Jolly, 2020), accounting for approximately 20 % of Congolese cobalt production (Panella and Putter, 2022). In recent years, particularly since the cobalt boom following rapidly-rising demand for the “green transition,” attempts have been made to (re)-incorporate certain miners in “responsible cobalt” projects, albeit on a far smaller scale than those displaced, and in a paternalistic and racialized manner.

In Zimbabwe, informal artisanal small-scale mining of alluvial gold by indigenous miners occurred in the Chegutu-Chakari, Gadzema and other areas before colonization in 1890. Some mineral exploration and prospecting persisted after 1890, especially following the failure (to materialize) of the so-called Second Rand. Throughout the colonial era up to the end of the Unilateral Declaration of Independence after 1979, apart from the focus on water and agriculture development, emphasis was placed on promoting large-scale mining in the context of colonial racial segregationist policies across all sectors including mining. The racial dimension of these policy frameworks and their links to the colonial past are echoed in Higgins’ work on racial profiling in Australia (discussed in more detail below). Work on racial capitalism in mining in southern Africa that informs the discussions around the legality of ASM mining in both the DRC and Zimbabwe includes Matthew Ncube, who concurs with Njabulo Chipangura that the history of gold mining in parts of the country (e.g. Eastern Zimbabwe) included various colonial players, because formal mining during the colonial era largely excluded indigenous black people from the economy as it favored settler-owned or foreign-owned mining companies (Ncube, 2021; Chipangura, 2019b).

Although informal mining existed in the colonial era, it was not as widespread as it is today. The reason for this pattern is that colonial policies in Zimbabwe forced Africans into wage labour in economic sectors such as manufacturing and agriculture, and restricted small-scale mining to white settlers. Thus, as noted, there was minimal mining by a few Africans who by and large engaged in traditional riverbank panning of alluvial gold (Mawowa, 2013). The racial approach portrayed in works by Ncube, Chipangura and Mawowa was informed by the choices of central and local state actors and related political dynamics shaping this policy realm. Zimbabwe’s policy framework was inherited and continually applied during the first years of independence (1980–1990) in which similar political dynamics and attitudes towards the artisanal gold mining sector were at play. However, with independence and particularly in the 1990s, the resulting policy choices shaped and reshaped state and mining institutions. In the 1990s after the Economic Structural Adjustment programs, informal artisanal small-scale gold mining activities persisted and assumed unprecedented proportions, albeit in a restrictive atmosphere and challenging economic environment during a period of complex political contestation between the state and the small-scale miners. From then on, state attempts at formalizing (or decriminalizing)¹ informal artisanal gold mining in Zimbabwe however wavered between conversations to formalize the sector and the

¹ For further information on the decriminalization of artisanal mining, see Chipangura, 2019a.

criminalization of artisanal and small-scale miners. By 2017, Zimbabwe was ranked in the top nine nations in Africa and top 25 countries in the world in gold production.

This brief context shows how national state policy in Zimbabwe's gold sector and in the DRC's cobalt sector has shifted over time in relation to ASM (also in relation to the changing character of state perception). In Zimbabwe, for instance, artisanal miners were criminalized since colonial times, particularly in terms of the supply chain perspective because the white settler government did not want racially segregated African miners to compete with them on an equal footing. This played out more in the Congolese case with more and more responsible sourcing projects being developed and effectively othering (i.e. the process of perceiving or portraying others as essentially alien or different) those miners not included in these projects.

The case studies of the DRC and Zimbabwe illustrate the similarities (as well as the dichotomies or contradictions) of their racially-oriented supply chains, allowing for contextual linkages in terms of the criminalization of artisanal miners in the two countries.

First, we draw on the concept of criminalization as a framework to analyse how artisanal miners are not only seen as 'illegal' for their non-state-sanctioned artisanal mining activities or for 'trespassing' on mining companies' concessions – which is often overlooked or accepted as legitimate in a range of contexts – but frequently also perceived as criminal in a more 'problematic' sense, as perpetrators of other infractions such as theft or violence. Without careful data collection and analysis, we argue, there is a danger of unquestioningly accepting dominant narratives that equate artisanal miners with 'criminal bands' or 'bandits', obscuring the complexities of the linkages between artisanal-mining actors, coercion, and violence, and oversimplifying complex dynamics (Kempers, 2020). Next, we apply this framework to cases from the Democratic Republic of Congo and Zimbabwe, examining how artisanal miners have been framed as problematic or violent in the context of a phenomenon of 'criminal bands' or bandits (like in the DRC) or 'machete-wielding bands' (in Zimbabwe). We examine the problematic nature of these assessments, which have the potential to lead to further criminalization of artisanal miners. Finally, we conclude by proposing further research concerning on-the-ground dynamics of violence and criminality in the context of artisanal mining, and beyond, in (rural-urban) areas of resource extraction.

2. Methodology

This article is based, first, on a literature review on artisanal mining and how it is perceived, including its "illegality" and how it has been, and continues to be, criminalized. Second, the article draws on extensive research in both the Democratic Republic of Congo and Zimbabwe. We selected these two country case studies because of our combined experience of undertaking research, specifically on ASM, in these countries. Beyond our combined expertise on these countries, both countries are resource rich and have vibrant ASM sectors, with similarities including how artisanal miners are organised socially and how informality has influenced criminality, resource grabbing and (violent) conflicts. Moreover, Zimbabwe and DRC are located in Central and Southern Africa and as such are relatively close to each other, although they do not share a border. It is important to note here that both countries are former settler colonies with similar experiences in terms of histories of colonial subjugation and resource grabs.

The research in the DRC was carried out in the provinces of Haut-Katanga and Lualaba, over a 7.5-month period from August 2016 to May 2017, with a focus on conflict at and around large-scale mine sites. One of the authors – working with Congolese researchers in Haut-Katanga and Lualaba – carried out semi-structured interviews with a range of actors, including government officials; mining-company employees; private-security company representatives; NGO staffers; artisanal miners; community members; and others. The interviews were complemented by non-participant observation as well as analysis of

relevant documentation (online and in hard copy) and attendance of relevant workshops. Additional periods of research in the DRC, with a similar methodology but different focus, took place in October 2022 (two weeks) and from January to March 2023 (two months) on the participation of male and female small-scale producers in transnational regulation of Congolese mineral supply chains, through the University of Antwerp's Driving Change project implemented with the Catholic University of Bukavu and the University of Lubumbashi. The bulk of the research in the DRC was conducted prior to the "cobalt boom" of the past several years, which has had major socio-economic impacts on the town of Kolwezi (the capital of Lualaba province) and beyond. Due to growing concern about human rights abuses and other "risks" in the cobalt supply chain, some actors have sought greater engagement with artisanal miners, including through due diligence frameworks and projects. Overall, however, large mining companies remain extremely reluctant to engage.

In Zimbabwe, the article benefits from over ten years of ethnographic field work focusing on the dynamics of artisanal and small-scale gold mining (ASGM) along Zimbabwe's mineral rich great dyke geological formation. The data utilised in this article was gathered as part of several research projects spanning a 10-year period. The research projects, although not connected to each other, focused on various aspects of artisanal gold mining along the great dyke. The initial project focused on agrarian transformation and livelihood diversification among small-holder farmers engaged in artisanal gold mining in the Mhondoro Ngezi District in central Zimbabwe (2009–2012); the following research project focused on mobility and livelihood diversification among artisanal gold miners (2013–2018) in Kadoma and Battlefields areas in central Zimbabwe. Follow up field work was also undertaken from 2019 to 2020 to investigate the political economy of formalization of Zimbabwe's artisanal and small-scale gold mining sector in Battlefields, Venice and Kwekwe. In late 2020, further fieldwork was undertaken along the great dyke (Kadoma, Kwekwe, Shurugwi and Zvishavane) focusing on violent machete gangs. The main aim of the research was to investigate the root causes of mine-related gang violence and how such violence was unfolding across Zimbabwe given the many media stories about so-called Mashurugwi machete gangs. The fieldwork involved interviewing artisanal gold miners engaged in gang violence and making a short documentary capturing the voices of the miners and what they perceived to be the root causes of violence. This fieldwork was critical in addressing certain 'myths' about machete gangs and the root causes of violent conflicts in Zimbabwe's ASGM sector. It also helped to highlight how gang violence was underpinned by class conflicts over access to scarce mineral resources and the elite grabbing of mineral rich lands supported by the state.

3. Background and literature review

In April 2016 it was reported from the mining town of Kolwezi, in southeastern DRC, that the town had gone from being a 'mining Eldorado' to a *repaire pour malfrats* (hideout for thugs²). According to local observers, there had been an increase in 'banditry' in the town after the copper price collapsed. During the night of April 16–17th, at least two people were murdered after they resisted armed robbery; this violence followed in the wake of a series of incidents affecting Kolwezi in the past several months (Poulet, 2016), pointing to interconnections between mining, global prices, and crime rates. Similarly, an Africa Report article on 'Zimbabwe's informal gold mines' speaks of 'violence, criminals and chaos' in the headline and starts by describing how 'A surge of attacks linked to Zimbabwe's growing artisanal mining sector, has killed hundreds of miners'. The author explains that 'many are now calling on the government to look into reforms that will allow citizens to mine legally and stop the gangs controlling the work.' (Smith, 2020) The article links

² First author's translation.

'illegal mining' with criminality, suggesting that an end to this type of mining, and the legalization of ASM, will also help tackle the problem of violence and 'criminals' operating in the ASM sector. A piece by the Chief Financial Officer (CFO) of the World Gold Council describes how up to '75 % of [artisanal and small-scale gold mining] ASGM activity occurs outside formal legal structures. Informality is endemic in many Global South countries and goes well beyond mining. 'Outside formal legal structures' covers a multitude of situations from being a traditional community activity through to 'casual informality', illegality and, ultimately, hard-core criminality'. The CFO adds that

it is very difficult for formal participants in the supply chain to accept gold from outside formal legal structures, meaning these miners have to trade with actors of less good standing. Unfortunately, there are too many predatory actors who use gold mined from outside the formal economy for wider criminal benefit including smuggling and money laundering (Heymann, 2020)

Similarly, Zabyelina and Uhm have observed how 'one of the most disturbing trends since the 1990s has been the increasing involvement of organized crime in mining activities in different parts of the world' (Zabyelina and Van Uhm, 2020, p. 5). Kemp and Owen argue, with respect to 'responsible' supply chains, that 'large-scale operators may inadvertently enable criminal groups or introduce criminal elements into their supply chain' (Kemp and Owen, 2019, p. 1096). Therefore, if miners themselves are not seen as criminal, the people they deal with may be, highlighting the issue of wider linkages and questions regarding criminality in the broader supply chain. Ideas surrounding illicit financial flows and smuggling therefore relate to broader dynamics and understandings about criminal(ization) and criminal activities in the sector. Sometimes these linkages are not clearly specified but rather implicit or assumed, for example in the following statement by the CFO of the World Gold Council: 'Formalization should also make miners less vulnerable to extortion by criminal groups' (Heymann, 2020).

Therefore, ASM tends to receive unfavourable (media) coverage, and is portrayed in a negative light, in diverse regions and settings (Bashwira et al., 2014; Makori, 2017, p. 798; Canavesio, 2014; Stoop, Verpoorten and Van Der Windt, 2019). The conflation of artisanal miners in African countries with conflict and/or criminality is not new, one example being the 'conflict diamond' narratives in which 'political leaders, combatants and miners were often indiscriminately conflated into one single category of 'greedy thugs'; even if the status of alluvial diamond diggers as victims and legitimate political agents rightly seeking social change, as well as their social diversity have been documented' (Le Billon, 2006, p. 789; Nyamunda, Mukwambo and Nyandoro, 2012). '[S]elective criminalization/legitimation' was one of the processes implemented to displace the artisanal mining of diamonds (Le Billon, 2006, p. 790). Crucially,

[i]n the consumer dystopias emerging from these narratives, violence was a purely criminal enterprise driven by "greed", or a senseless attack on "freedom", rather than the outcome of exploitative and exclusionary histories and uneven development. [...] This connected, in turn, to the justification of state-sponsored "terrorism" against artisanal miners in places like Angola (Le Billon, 2006, p. 795)

Multiple scholars have engaged with the 'illegality' of artisanal miners in the eyes of the national legal framework, some from a more critical perspective than others (Hilson and Potter, 2005; Banchirigah, 2006; Hilson and Yakovleva, 2007, 2008; Okoh, 2014; Bolay, 2014; Scheele et al., 2016; Owusu-Nimo et al., 2018; Makori, 2017; Tuokuu et al., 2020; Nyamunda, Mukwambo and Nyandoro, 2012; Geenen, 2020; Huggins, Buss and Rutherford, 2017; Mkodzongi, 2020b). Scholars like Banchirigah, and Siegel and Veiga, previously described 'illegal' ASM as a problematic issue for governments in Africa on the basis that this type of mining has led to a range of negative consequences, such as land degradation and social harms like sex work and

the spread of HIV/AIDS (Banchirigah, 2006; Siegel and Veiga, 2009). Miners are criminalized (Hönke, 2018) by being termed 'illegal artisanal and small-scale miners' (Okoh, 2014), 'illegal miners' (SOMO et al., 2016), or, as Guinean press and large-scale mining firms have referred to them, 'illegal gold diggers coming from abroad' (Bolay, 2014, p. 117). Governments and the media sometimes emphasize artisanal miners' supposed instability, violent conduct, and allegedly criminal character (Hilson and Potter, 2005; Siegel and Veiga, 2009). Yet the focus on their negative characteristics obscures the fact that ASM miners are 'a group of marginalized people of varying skill, education, and levels of training' (Hilson and Potter, 2005, p. 115).

Definitions of illegality are, crucially, linked to (perceived) encroachment on mine sites where artisanal miners are not (officially) allowed to operate, as in the case of the *galamsey* in Ghana (Tuokuu et al., 2020). Large-scale mining companies, in contrast, tend to be perceived and described as 'legal owners' (Bolay, 2014). Multinational corporations engage in 'disciplining dissent' by portraying some actors, including artisanal miners, as illegitimate (Hönke, 2018). In the DRC, corporations have refused to acknowledge the legitimacy of artisanal miners' demands, and either leave them out of their corporate social responsibility (CSR) actions altogether or include them in a restricted, selective manner (Geenen and Hönke, 2014) through what Nkumba-Umpula, Buxton and Schwartz (2021) have described as "islands of responsibility." Yet, as illustrated by dynamics across mine sites in southeastern DRC, LSM companies and their agents are themselves deeply embedded in a range of 'illegal' and 'criminal' structures of functioning and pursuits, including 'clandestine' mining (Katz-Lavigne, 2020a).

These views of ASM trickle down into policymaking:

contemporary legal and policy reform in Africa, while avoiding overtly labelling of ASM as criminal, tend to implicitly echo earlier characterizations of ASM, thereby delegitimizing it and the people involved, creating them as part of a lawless place which needs to be "brought into" the space of national development and legal investment, primarily through so-called "formalization" initiatives (Huggins, Buss and Rutherford, 2017)

These overlapping concerns about ASM, it is posited, can be addressed through a process of formalization. Government actors and other policymakers have implemented a range of formalization measures, in multiple ways in different African contexts, to try to better regulate and govern the sector and increase its contribution to the national treasury. Some literature has focused on the limitations and potential negative consequences of formalization policies (Geenen, 2012; Calvão, McDonald, and Bolay, Matthieu, 2021; Huggins, Buss and Rutherford, 2017; Siwale and Siwale, 2017). Thus far, formalization measures, such as the creation of artisanal miners' cooperatives, have met with mixed success in countries like the DRC (De Haan and Geenen, 2016).

In many African countries, ASM represents a valuable livelihood activity for a large, diverse population of artisanal miners from different regions, and their dependents (Hilson and Potter, 2005; Banchirigah, 2006, 2008; Siegel and Veiga, 2009; Bolay, 2014). Livelihoods in artisanal and small-scale mining are actively under threat, and continue to be eliminated by LSM investment encouraged by pro-industrial-mining government policies (Hilson and Potter, 2005; Banchirigah, 2006, 2008). The categorization of ASM miners as 'illegal' has a range of negative consequences. For example, 'the "illegality" of ASM in Ghana worsens the struggles of women in accessing formal legal and economic rights and work support services' (Arthur-Holmes and Busia, 2020). The Ghanaian ban on *galamsey* exposed those active in the ASM sector "to criminal and illicit networks", making it difficult for businesses to engage in effective due diligence and responsible sourcing practices' (Arthur-Holmes and Busia, 2020, p. 61). In Zimbabwe, the fact that the artisanal mining of gold is illegal makes it harder for miners to request government assistance (Mkodzongi and Spiegel, 2020). In that country,

it has been argued, gold miners' exploitation by government and other actors was influenced by the way the activity was criminalized (Mkodzongi and Spiegel, 2020, p. 5). The fact that artisanal miners do not have secure 'tenure' to the pits or claims that they operate increases the likelihood that they will be at the receiving end of 'attacks and eviction by the more powerful and politically connected individuals' if their pits start doing well or if, as in the diamond fields, there is a lucrative diamond find (Mkodzongi and Spiegel, 2020, p. 5; Nyamunda, Mukwambo and Nyandoro, 2012, p. 136).

There has therefore been significant exploration and examination of ASM's 'illegality', and how this characterization makes it easier for governments and LSM companies to overrule artisanal miners' claims to mine sites.³ Building on this literature, this paper engages with and further examines (evolving) understandings of ASM's 'illegal' and 'criminal' character, from ASM as violating the legal framework, to becoming increasingly perceived and defined as bandits, criminal bands, *machete* gangs, and more – a process that, as the case studies show, is complex, contingent, and non linear, and not necessarily chronological or unidirectional.

There remains significant scope in the literature for research into these phenomena. As Dery Tuokuu et al. (2020) explain, while prospects and challenges for formalization have received significant attention in the literature, 'the question of the criminalization of the sector and its consequences for local livelihood has received only limited attention' (Tuokuu et al., 2020, p. 52). There is a need for further research and data on criminalization and criminality within and beyond ASM. Dery Tuokuu et al. note that in the Ghanaian case, some attribute 'the increase in insecurity and crime across the country in recent times [...] to the ban on galamsey', but add that 'the media coalition against galamsey has disputed such arguments by stating that there is no direct correlation between the insecurity situation in the country and the ban on galamsey' (Tuokuu et al., 2020, p. 60). Dery Tuokuu et al. contend that 'regardless of whether the ban [on galamsey] is directly or indirectly causally related to the rise of insecurity, it is clear that the ban might have contributed to an enabling environment for insecurity to rise', since 'galamsey has been known to contribute to crime reduction in rural communities where it takes place' (Tuokuu et al., 2020, p. 60). Therefore, it is important to note that the presence of ASM as an economic activity does not just potentially contribute to increased criminality, but also has the potential to decrease it.

In this article we delve further into these criminalization processes, and their wider implications. This includes moving beyond a static assessment of artisanal miners' (legal) status at any given point in time, to examining changing definitions and perceptions of (different groups within the broad category of) artisanal miners (Katz-Lavigne, 2020a; see also Tuokuu et al., 2020). Specifically, there is a need for a better understanding of a certain type of conflict dynamics that has gone underexamined, especially across different contexts: that of 'criminal bands' active in ASM zones and beyond. According to Mkodzongi,

Acts of criminality among this group demonstrate desperation among the youths who are facing economic hardships but denied access to the only viable source of livelihood - artisanal gold mining. Yet wanton criminality among this group requires urgent attention as some of the *machete* gangs are now targeting innocent civilians and killing each other rather than collaborate to fight against the elite capture of gold rich ores (Mkodzongi, 2020b, p. 1487).

The literature to which this paper seeks to contribute includes the

expanding scholarship on illegal mining, illicit financial flows, and organized crime (Zabyelina and Van Uhm, 2020; Verbrugge and Geenen, 2019). Also less covered in the literature is evolution and 'slippage' in terms of understandings of 'illegality' within ASM (Kempers, 2020). We argue that there is a need for further theorization of ongoing, overlapping criminalization processes that accompany formalization policy solutions for addressing problems with ASM. With formalization expected to resolve criminality within ASM, there is a need for more work in this area. We take a critical stance, cautioning against (mis)uses of the term 'criminality'. Finally, we argue that there is scope for further research on how ASM fits into wider political economies.

4. Towards a theoretical framework: from 'illegality' to criminalization and 'criminality'

Our theoretical framework considers, and seeks to disentangle, the relationship and manifold (inter)linkages between 'illegality', 'criminalization', and 'criminality'. Artisanal and small-scale mining may be 'illegal' but, we argue, not 'criminal', since it is legitimate or at least widely accepted (Katz-Lavigne, 2020a). Actors involved in so-called 'illegal' ASM may also be, or not be, involved in not only illegal but also a wider array of activities of a 'criminal' and/or violent nature – yet they are often assumed to be 'criminal', simply by virtue of their 'illegal' status in mining. Different actors at times conflate illegality and criminality in the context of ASM. Therefore, it is helpful to distinguish between artisanal mining that is viewed as 'illegal' due to simply being against the law or informal, and 'ASM that is perceived to be associated with, or include, criminal violent behaviour'. These dynamics are complex and often not clear cut. For instance, ASM miners may engage in violent resistance to, and clashes with, security forces at LSM sites in order to gain access (Katz-Lavigne, 2020b) in a context of dispossession, which highlights the importance of carefully unpacking terms like "criminal", "banditry", and "violence".

There is a need to engage with, and distinguish between, several related phenomena, with multiple and evolving interlinkages: 1) making and considering ASM as 'illegal' in the sense that it contravenes the formal legal framework; 2) criminalization in terms of (broader) discourses and framing around criminality; 3) the attribution of criminal characteristics in the (local) context, which includes urban areas adjacent to or not far from mining sites; and 4) broader global 'illegalities' and 'criminalities', including smuggling and illicit economies. Recent policy initiatives have emphasized mapping the different actors and groups engaged in ASM (ASM Mapper), including actors involved in activities of an 'illegal' or 'criminal' nature (IPIS). It is argued that such a mapping should cover 'legal, informal, illegal and criminal groups and elements', locally and in terms of wider economic linkages (Kemp and Owen, 2019, p. 1096). Yet there is a need to critically reflect on such attempts to map and make visible (il)legality and criminality. For instance, ASM does not operate in a vacuum and is in fact often intertwined with state actors, LSM, and/or small-scale mining (Katz-Lavigne, 2020a).

Focusing on point 2) in the previous paragraph, 'criminalization' as a framework helps us understand how ASM has been conceptualized and portrayed by a range of actors and in some scholarly analysis. Criminalization refers in the descriptive, non-normative sense to 'defining certain human conduct (acts or omissions) as criminal offences and usually assigning to them a certain range of criminal-law sanctions' (Peršak, 2007, p. 6). A normative or evaluative perspective 'would, however, divert the attention to its moral character, emphasising, for example, that "to make some action a crime is to declare that it should not be done"' (Peršak, 2007, p. 6). There is also a distinction to be made between transforming a given action into a criminal one through making it illegal (i.e. the criminalization of an act like artisanal mining), or making a person into a criminal by making the activities they engage in illegal (the criminalization of actors, e.g. like artisanal miners, whether as individuals or as groups).

³ The limited capacity of the state to regulate is often complicated by state capture, through which corrupt politicians pander to the wishes of international mining companies that are mainly interested in extraction without exercising meaningful responsibility to the communities where they operate. In many instances, the politicization of state institutions affects the extent to which state officials can exercise oversight over mining companies.

Criminalization is, inevitably, a political process. Crucially,

the power to criminalise certain human conduct is an immense power that shapes our values, divides the population into criminals and non-criminals, limits people's liberty of action and can make (via imposing certain sanctions on certain conduct) some people's lives significantly worse (Peršak, 2007, pp. 5–6)

Policing and incarceration practices' cultural legitimacy centers on how, through the telling of stories, crime is made 'into a moral and political problematic worthy of (oftentimes violent) intervention' (Higgins, 2022, p. 2115). Crucially, the mediation of crime has historically been dominated by political elites' voices, including politicians, representatives of the police, and journalists, 'all of whom have derived authority from approaches to journalistic objectivity that largely elide the question of power, and particularly the question of race' (Higgins, 2022, p. 2115). Therefore, political leaders and so-called "experts" at the institutional level have taken center stage in producing narratives about crime and attempts to manage crime (Higgins, 2022, p. 2116).

The question of race is deeply significant when it comes to criminalization. Higgins describes how a dominant frame linked the Black African communities of Melbourne, especially men and boys, with a growing number of 'incidents of violent crime, public disorder and racialized social conflict in the city', often regardless of whether they were involved as victims or perpetrators (Higgins, 2022, p. 2117). Journalists and political commentators have made claims of a persistent danger of future crime by 'African gangs'. In this setting, those involved in the criminal justice system, and who are stopped or treated in a discriminatory manner by police, are disproportionately boys and men of Sudanese origin. Black African youth's criminalization by Australian media reflects a long-standing narrative that centers on Black violence: 'a racializing trope that relies, amongst other things, on the misrecognition of the vulnerability of Black subjects, and on obfuscating the overlapping forms of vulnerability inflicted on Black subjects through criminalization' (Higgins, 2022, p. 2117). The racial dimensions of these dynamics therefore represent a key prism for analyzing the contexts we consider below. In the DRC, for example, the longstanding colonial and racist dimensions of large-scale mining investment and labour organization have been well documented and continue to profoundly shape economic activity and resource extraction in the country today (Makori, 2017), including the reliance on precarious, poorly-paid, ASM labour working in dangerous conditions that would not be tolerated in the West (Andrews, 2021, p. 103). Similarly, in the Zimbabwe context colonial land and resource grabs forced blacks into a racialized system of migrant labour that was meant to subsidize mining capital within the then-Southern Rhodesia and across the border in south Africa. Under this system, black male mine workers were forced to provide cheap labour to white-owned gold mines while their wives subsidized their wages through peasant agriculture. The histories of the migrant labour system within Zimbabwe (Arrighi, 1970) provides an important conceptual lens to make sense of contemporary challenges facing artisanal gold miners (mobilities, violence and exploitative labour relations) and the tendency to criminalize their activities (Mkodzongi, 2020a).

In what follows, we unpack the broad descriptors 'illegality', 'criminalization', and 'criminality' as they pertain to ASM, drawing on case studies from the DRC and Zimbabwe. Our aim is to jumpstart broader reflection about the theoretical underpinnings of these different empirical dynamics. As noted, multiple actors nationally and globally have long viewed and portrayed artisanal and small-scale miners as 'illegal'. Yet the category of 'illegal' is not static but dynamic and evolving, at times referring to violations of the legal framework dealing with mining, and at other times to perceptions and definitions of miners as bandits, criminal bands, *machete* gangs, and other categorizations. There is therefore a need to interrogate definitions of 'criminality' when used in the context of local mineral supply chains and ASM. Moving away from a narrow focus on ASM miners as 'bandits' or 'criminals' would also make it possible to better understand the interplay and

interrelationships between the mining sector and criminal activity, including in urban areas, and with respect to the impacts on local livelihoods of mining 'boom' and 'bust' periods. These dynamics are of much interest in a context of growing demand and fluctuating prices, as is the case with cobalt and other minerals prized for their uses for the 'green transition'. More in-depth research in this regard would include not just the links between artisanal mining and 'criminality' or 'banditry', but also links with mining more broadly, including large-scale mining investment.

5. The criminalization of ASM and 'ASM-adjacent' activities in the Democratic Republic of Congo

In the following illustration we examine the language of criminality used to speak about artisanal miners who "steal" mineral ore from large-scale mining concessions in the copper- and cobalt-rich provinces of Haut-Katanga and Lualaba in the DRC. As noted, those involved in the artisanal mining sector are a highly diverse group, including many women. While only some miners enter LSM concessions to take products other than minerals, and even fewer do so with violence, the way certain actors – particularly mining-company representatives – describe them tends to encompass the broader population of artisanal miners and paint them with a 'criminal' brush. This portrayal goes beyond the more legalistic understanding of miners' 'illegality' typically embraced by international media and (national) policymakers.

According to a geologist with a company in the Lubumbashi region, during the corporate takeover of previously ASM-mined sites in the early to mid-2000s, there were over 5000 *creuseurs* (teams of artisanal miners) at the site where the company chose to invest. His company decided to purchase ASM minerals in order to avoid the 'dissipation' of 'their products' to other buyers. He described the company's purchase of minerals from the mining concession as if the miners were selling the company its own mangoes. He added that it was difficult to manage 5000 miners and traders and that these actors would sometimes remove their products at night, selling to a neighbouring company or to other purchasers (Geologist, Follow-Up Interview, 31 January 2017).

The geologist argued that artisanal miners engage in both digging and 'theft'. He highlighted their violent behaviour towards company employees (including those who drive loaders to collect minerals) and the security forces. Miners would come to the site in groups of 10, 50 or more, he said, even getting as far as the plant's feeder area. The machine operators call security, he said, but by the time security arrives (up to 30 min) the intruders have taken items and left. He added that there were a lot of *désœuvrés* (out-of-work or 'idle' people) among the population who are trying to eke out a living (Geologist, Follow-Up Interview, 31 January 2017).

Mining-sector respondents linked the 'theft' classification to the nature of artisanal miners' extraction. The geologist argued that miners from the area did not want to venture far beyond their neighbourhood to mine, so would 'steal' from the large-scale mining site instead. He described the taking of minerals that the company had already fragmented (broken up using equipment) as 'theft' and said that these miners are not real *creuseurs* (Geologist, First Interview, 27 January 2017). A security manager at that company also raised the issue of people who take copper cables for sale. He noted that a small police detachment was deployed and equipped with tear gas to protect the private security company (PSC) guards, who were attacked on a regular basis by gangs (*bandes*). He argued that this police presence was necessary given that violence had increased and 'delinquency' had evolved (*la délinquance a changé de face*). From 2005 to 2008, he said, the Industrial Guard (company security) could operate without a police presence. Beginning in 2009, as demand and competition for mineral ore grew, he said, the situation became much more violent, with the use of *machetes*, weapons, and stakes (*pieux*); all the mining companies called upon the Congolese National Police. He explained that 'mafia-like networks' (*réseaux mafieux*) involving 'ex-military, ex-rebel, criminal

offenders' (*ex-militaire, ex-rebelle, délinquant criminel*) are involved in clandestine extraction from LSM sites. Likewise, among the traders (who prefinance artisanal miners), he noted, there are military personnel, police, and magistrates, who are poorly paid and make a living out of small-scale mining (Security Manager, 27 January 2017). His remarks also highlight the linkages between the ebb and flow of world market prices, the functioning of "clandestine" extraction networks, and how ASM miners are perceived. The security manager described 2016, when there was a significant drop in the copper price, as 'disastrous', with many mineral purchasing depots (*maisons de vente*) closing. According to him, these 'gangs' would attack taxis (Security Manager, 27 January 2017), pointing to urban dimensions and interconnections.

In 2015, according to the security manager, the company recorded 116 'judicial' arrests, meaning arrests followed by deferrals to the local justice institution, the *parquet*. For this type of arrest to take place, he said, the person had to be either a repeat offender or violent, or have caused damage or engaged in 'sabotage'. Typically, *petits creuseurs* arrested for attempted theft are quickly released as the company is not able to follow all the cases. Of 136 arrests in 2015, there were 31 'attacks', meaning the attacks were perpetrated by organized groups armed with *machetes* and knives, with the aim to steal cables or engines. In comparison, according to the security manager, there are thousands of incursions by *creuseurs*, which they do not even record numbers for. In 2016, they recorded a nearly 400 % increase to 123 attacks (Security Manager, 27 January 2017). This data suggests that most incursions by artisanal miners are, by the security manager's own definition, not violent. When asked about whether the company keeps statistics on injuries of miners, the security manager replied that miners' injuries are 'quite light' and that in general, these were injuries caused by dog bites. These injuries, he added, were typically incurred by those who enter the open-pit mine site where the company deploys its operators and machines. Generally, these miners attack machinery operators to make them flee and then steal batteries and fuel: in his words, 'criminality'. He estimated that there had been five cases of dog bites in a year, which suggests that the company does not even keep statistics on miners' injuries. Finally, he mentioned the high security costs at the site, with each ton of ore produced costing 41 US dollars on average. He described these costs as very high compared to typical costs of 5 or 10 dollars per ton, which he linked to the 'extremely violent and organized criminality' the mining company has faced.

The security manager's argument that *creuseur* is not a profession provides important insight. According to him there is the *creuseur* who is fully legal, with his miner's card (*carte de creuseur*), working in a concession recognized for that activity. In contrast, he said, the *creuseur* who has chosen to operate in the 'black market' is an artisanal miner one day and a cable thief tomorrow who will take anything: cables, fuel, oil from the electric transformer, and community water pumps. When asked if some artisanal miners were not violent or part of these 'criminal networks', he indicated that this applied only to miners in authorized concessions – yet artisanal miners make up a large population for which it is difficult to generalize; they engage in a range of behaviours and have varying attitudes to risk (Katz-Lavigne, 2020a). Moreover, miners' lack of legal sites to operate is largely beyond their power to influence or change, as it results from a much larger structural problem and persistent policy failures by Congolese government and international actors alike. Therefore, common perceptions of ASM as 'illegal' feed into narratives of criminality. The security manager's views echo perceptions that artisanal miners and other actors who enter mine sites are driven by 'greed' (Okoh, 2014) rather than need. Yet as described by Katz-Lavigne (2020a), when artisanal miners resort to 'aggressive' and/or violent tactics (including attacks on security guards), they engage in such behaviour as a necessary strategy to (re)gain entry to ASM from which they have often already been (forcefully) removed, and/or due to the lack of other equally lucrative livelihood options in an economy heavily dominated by exclusion and inequality along racial capitalist lines. The comments of the security manager, a white citizen of a former colonial

power, regarding the supposedly criminal, violent, and thieving nature of those individuals – many of whom are destitute and struggling to survive – who enter large-scale mining concessions to seek minerals and items for resale, are a testament to the deeply racialized dynamics at work when it comes to "clandestine" entry into mine sites in south-eastern DRC.

While artisanal mining and those involved in it are layered and evolving over time rather than fixed, powerful narratives surrounding criminality persist. This highlights the need for in-depth, fine-grained analysis of different and competing perceptions of ASM in the DRC as a type of extraction, and of different actors in the ASM supply chain, in the rapidly-evolving and increasingly due diligence-focused policy environment of the DRC. This type of analysis is crucial if we understand definitions of ASM not only as externally imposed or 'top down' but as evolving, fed into by local and (trans)national processes and framing(s), and contested, including when it comes to increasingly popular meta-narratives such as 'legitimate ASM'. Narratives and beliefs surrounding ASM miners' inherent criminality delegitimize ASM. These perceptions cast doubt on the feasibility of solutions to the ASM 'problem' that rely on corporate willingness to grant (formal or informal) property rights to the large numbers of miners within their concessions, a policy approach around which the many international actors seeking to address issues in the cobalt-mining sector have seemingly coalesced.

Recent years have seen a boom in cobalt demand for electric vehicles in line with the so-called "green transition" in the Global North, including the European Union. In terms of a supply-chain perspective on the Congolese case, it is increasingly important to highlight the strategic dimensions of criminalization of ASM in light of these recent developments. Katz-Lavigne, in a recent publication, highlights how corporate investors in the DRC's cobalt sector, including large-scale mining companies, strategically wield narratives of ASM as "problematic" in order to improve their own reputations in a context of increased scrutiny of working conditions in the cobalt sector following the demand and price boom of recent years (Katz-Lavigne, 2024). In a similar vein, work by Nkumba-Umpula, Buxton and Schwartz (2021) highlights how mining companies and other actors, like NGOs and commodity-trading firms, use "best case" formalization pilot projects to burnish their reputations and those of the cobalt-mining sector generally, while the non-formalized majority of ASM is disavowed by these actors and investors for being riddled with human rights abuses and other issues (Nkumba-Umpula, Buxton and Schwartz, 2021).

6. Artisanal gold and diamond mining, violence and the criminalization of artisanal miners in Zimbabwe

While Zimbabwe is at times viewed as an outlier given its turbulent history in recent decades, Zimbabwe and the DRC provide relevant comparative perspectives on criminal activity, 'banditry', and regular commerce within and beyond artisanal and small-scale mining.⁴ Both countries have had markedly different historical trajectories, yet nonetheless both represent contexts in which artisanal mining has flourished and been encouraged (including by officials) at various times and in multiple contexts, yet also been heavily criminalized and violently repressed at different junctures. Zimbabwe's artisanal and small-scale gold mining (ASGM) sector, which dramatically expanded on the back of radical land and agrarian reforms implemented in 2000, has, as in the DRC, become a key source of livelihoods for a diverse group of people and especially unemployed rural and urban youths (Mkodzongi and Spiegel, 2020). Zimbabwe's ASGM sector has a long history; early gold mining operations during the colonial era were located on so-called ancient workings (Huffman, 1974). In the post-independence period after 1980, artisanal miners were given permits by Rural District

⁴ Despite the important role mining (and the revenue accruing from it) play in Zimbabwe, this sector is faced with several challenges.

Councils that allowed them to mine legally. However, when the activity expanded especially in the post-2000 era, artisanal miners were depicted as bandits and criminals to be rounded up by the police and incarcerated. Despite its informality and illegality, ASGM has become a key contributor to Zimbabwe's economy as a source of employment and foreign currency earnings (Mkodzongi, 2020a). State policy towards ASGM has moved from being supportive of the sector in the 1990s, to treating artisanal miners as criminals to be violently removed and incarcerated in the post-2000 period (Spiegel, 2015). More recently, the government has taken a more positive stance towards the sector, although it has failed to formalise it (Mkodzongi, 2023). The radical and controversial land reforms, occurring in the midst of an unabating economic crisis since the 1990s, meant that a growing number of economically struggling people entered the informal sector (Nyandoro and Hatti, 2018, p. 57). The informal mining sector grew because during the economic crisis, many people were made economically redundant when they lost their jobs during International Monetary Fund and World Bank-sponsored Economic Structural Adjustment programs, which led to massive retrenchments (Nyandoro, 2007, p. 326). Many workers were retrenched not only from mining, but also the agricultural and other sectors as enterprises began to downsize their operations with the decline of the Zimbabwe economy (Nyandoro, 2007, p. 326). Ultimately, the informal nature of the small-scale miners' (*makorokoza*) activities had a significant impact on their ever-expanding artisanal operations. Primarily because of the activity's informality (much widespread in most Global South countries' mining sectors and beyond), artisanal miners – *magweja* and *magwejelina*⁵ (colloquial terms for male and female informal artisanal miners in parts of the country) – in Zimbabwe face periodic state-sanctioned violent removals through nationwide operations whose main aim is to address 'criminality' and 'banditry'. These infamous nationwide police operations have been a subject of ongoing academic debates (Spiegel, 2014; Mawowa, 2013; Nyota and Sibanda, 2012; Towriss, 2013; Maringira and Masiya, 2016; Saunders and Caramento, 2017; Mkodzongi, 2020). Underpinning these nationwide operations were discourses of 'illegality' and 'criminal banditry' used to justify the violent eviction and incarceration of artisanal miners (Spiegel, 2014). More recently, the rise of so-called *mashurugwi* *machete* gangs led to the arrest of over 20,000 people (see Mkodzongi, 2020a). These nationwide police operations have triggered ongoing debates on the nexus of informality, violent conflicts (over access to resources at and around mining sites) and the need to formalize the sector (Mkodzongi and Zano, 2020).

Mkodzongi has explored the root causes of *machete* gang violence and the problem of informality in Zimbabwe (Mkodzongi, 2020a). Empirical data gathered in Chegutu, Kadoma, Chinhoyi, Shurugwi and Zvishavane (along the Great Dyke) shows the complex ways in which *machete* gangs operate and the way they are socially organized. This calls for a nuanced analysis of *machete* gang violence (within broader discourses of 'illegality' and 'criminalization' in the artisanal mining sector) beyond media generalizations which have influenced attempts by the state to end the violence. Interviews with miners in Kwekwe show that *machete* gang violence is directly linked to contestations over gold-rich sites among people of diverse classes, ethnicities and genders. A report in a local newspaper highlights how gang violence is triggered by conflicts over a gold mine:

Police in Kwekwe last week arrested a notorious leader of a *machete* gang in connection with attempted murder and murder in the

Midlands city. Cripwell Marandure (26), alias Tafadzwa of Mbizo in Kwekwe, allegedly leads a *machete* gang called Magrigamba, which is reportedly notorious for terrorising miners in Kadoma and Kwekwe. According to a police memo gleaned by *NewsDay*, on December 22, 2020 at around 6pm, the gang had a misunderstanding with Caldon Zibayiwa (27) of village 2 Doneni in Kadoma and the now-deceased, Active Machokoto (26) also of the same village over mining rights at Cricket 3 Mine in Battlefields, Kadoma. The group, which specialises in gang-related attacks, allegedly armed itself with spears, *machetes* and broken empty beer bottles, and attacked Zibayiwa all over the body leaving his bowels exposed (Mafirakureva, 2021; see also Nyoni, 2019).

The report illustrates the link between gang violence and competition over gold-rich mines, which in many places can lead to fatalities. The fact that most artisanal miners have adopted the use of *machetes* and other blunt instruments to protect themselves or to attack other miners, however, makes it difficult to separate 'genuine' miners and 'criminal bandits.' During our research along the Great Dyke, most miners we interviewed said that they had at one point been involved in violent confrontation with other miners. It is thus difficult to separate 'criminal' elements from genuine miners. In general, violent conflicts always erupt during a gold rush and subside after everyone has had a chance to work on a lucrative gold pit. Violence can also be a negotiating tactic to gain access to gold-rich ores.

The way artisanal miners are socially organized depends on location. In general, no miner operates alone given the labour-intensive nature of mining, and the risk of violence. Miners operate as syndicates in order to share the work load and also protect each other. It is these syndicates that can also mutate into '*machete* gangs'. While most artisanal miners in Zimbabwe do not engage in violence, increasing conflicts over gold-rich areas have forced them into '*machete* gangs' as a way of protecting themselves against potential attacks by rival groups or gangs (Zenda, 2019). However, apart from syndicates made up of genuine and regular miners, there are 'career' criminal gangs whose *modus operandi* is to rob people of their ore and gold. It is thus important to differentiate ordinary miners, who organise themselves into gangs to protect themselves from criminal attacks, from 'career' criminal bandits who mostly survive on robbing miners of their ore, gold or cash. In many places, it is becoming increasingly difficult to differentiate between these two groups as conflicts over gold mines have escalated.

In Zimbabwe, depending on geographical location, *machete* gangs engaged in mineral resource extraction are organized around kinship ties with a leader at the top. In Mashonaland West Province (in particular, Chegutu, Kadoma and Chinhoyi) these gangs are locally known as *Mbimbos* while in the Midlands Province (for example, Kwekwe, Shurugwi and Zvishavane) they are known as *Mashurugwi*. In this province, most *mashurugwi* gangs are believed to come from the small chromite, gold and nickel mining town of Shurugwi, formerly Selukwe.⁶ Gang members are generally led by what is locally known as a *Bhuru* (bull), and a band of gang members known as a *ngoro*. These bands usually organize themselves to go and 'bomb' a gold rich area where other miners are operating. 'Bombing' is the local word for attacking a mine site. For instance, during a 'bombing' operation, *ngoro* members will use an assortment of *machetes* locally known as *mabhamba* or knives ('anacondas') and guns to either evict their rivals and occupy the mine or to steal some ore for processing elsewhere.

In some cases, the gangs 'bombing' a mine may temporarily detain the victims of the 'bombing' operation and force them to work for a certain number of hours, after which the gang members collect the ore

⁵ Artisanal miners, commonly known in Zimbabwe as *makorokoza*, are also known in the country's Chiadzwa diamond mines as *magweja* and *magwejelina* – colloquial for male and female informal artisanal miners respectively – in the sense that they employed relatively cheap, easily accessible and rudimentary digging tools such as *mugwara* (iron rod). See Nyamunda, Mukwambo and Nyandoro, 2012, p. 112.

⁶ Shurugwi, in the Midlands Province of Zimbabwe, is richly endowed with natural resources. It is located on a mineral-rich Archaean greenstone belt, known in this area as the Selukwe (Shurugwi) Schist Belt, making the town one of the most mineral-rich towns in the country.

and run away. ‘Bombings’ can be repelled by those being targeted, and as a result, not all ‘bombings’ are successful. The dynamics of a ‘bombing’ operation can vary from being reasonably peaceful (if those being ‘bombed’ do not resist) to being extremely violent and fatal if they resist. ‘Bombing’ operations usually lead to police intervention and arrest of the *ngoro*. A *bhuru* organizing a ‘bombing’ will often bribe state officials like the police (a weakness in the institutions of the state) to secure the release of *Ngoro* members who might be arrested during an operation. Interviews in Zvishavane show that most *machete* gangs ‘buy’ their freedom after their arrest by bribing not only the police but also magistrates and other court officials. As illustrated by Nyandoro, bribery and related acts reveal the extant ‘official’ (and indeed not-state-sanctioned) corruption that pervades the mining sector (Nyandoro, 2020). These include bribery, like kickbacks, *baksheesh*, sweeteners, grease money and pay-offs, which are all notions of corruption seen from below as ‘redistributive’ corruption or payments required to make things pass or move more swiftly, smoothly, and/or favourably through ‘officialdom’ to avoid some burden (Ibid; Amundsen, 1999).

Therefore, it is important to highlight here that rival gang members do not always resort to violence to gain access to gold-rich ores. For example, in Zvishavane, we were told that gang members can enter into a ‘gentleman’s agreement’ which allows various groups (including the police and the military) to mine at a lucrative pit based on a rota system. Such an agreement allows everyone a chance to gain access to the gold-rich pit and benefit from a temporary gold rush. These ‘gentleman’s agreements’ show that beyond the violent banditry and ‘criminalization’ popularised in the media (and by government and institutional experts), rival gangs have the ability to make peace and to mine at the same location (Mkodzongi, 2020a). On ‘criminalization’ of the ASM, see also Hilson and Potter, 2005; Siegel and Veiga, 2009). After all, everyone wants gold and to participate peaceably in this lucrative commerce. No one is there to engage in endless *machete* wars as is often portrayed in the media. However, since a gold rush is always temporary, a gentlemen’s agreement is not permanent. It can expire, leading to a new confrontation especially if a new gold rush takes place. As a result, the cycle of violent confrontation is interspaced with temporary arrangements of peaceful co-existence.

Interviews with miners highlight the dynamics of *machete* gang violence and the way it has unfolded across different locations in Zimbabwe. The media depiction of *machete* gangs creates an impression of criminal bandits roaming the streets and hacking people to death, yet evidence on the ground shows that miners organize themselves into syndicates or gangs as a way of protecting themselves against an attack by a rival group or to gain access to a lucrative gold pit. In general, *machete* gangs are simply artisanal miners forced into violent acts due to the need to gain access to gold-rich ores or to defend their gold pits. As noted earlier, it is difficult to differentiate ‘criminal bandits’ from ordinary miners who belong to a syndicate or a gang formed for the sole purpose of protecting themselves against a potential attack. As observed by Mkodzongi, in the case of Kadoma, artisanal miners formed or joined gangs in order to defend themselves against eviction by politically connected elites (Mkodzongi, 2020). Political elites have the ability to utilize state institutions like the police, military, judiciary and officials from the Ministry of Mines and Minerals Development (MMMD) to evict artisanal miners who often operate mines or pits with no legal paperwork. State responses reveal the complexity of the networks and threads of power that have led to the formulation and reformulation of policies on formalizing artisanal gold mining in Zimbabwe. In most cases, the political elite employed institutions of the state to evict ‘illegal’ artisanal miners. However, miners can organize themselves into a *ngoro* to repel such a state-supported eviction.

In Zvishavane, a *bhuru* narrated to us how a rival syndicate attempted to take over a contested mine site by utilizing fraudulent claim papers obtained from corrupt MMMD officials. In response, the *Bhuru* organized his syndicate members to defend their mine using *machetes*, knives, and guns. Two of the attackers were shot and seriously

injured. We were further told that the *bhuru* whose *Ngoro* organized the attack enjoyed the support of influential people in the MMMD and other government departments. Interviews with miners show that MMMD officials are responsible for some of the conflicts in the ASGM sector, as they may allocate a claim to several people after being bribed. The deliberate double or multiple allocation of a gold claim is usually done to assist a preferred individual or gang in evicting a rival syndicate. This practice often leads to violent confrontation, especially when those targeted organize themselves to defend their mining operation. Historically, political elites bribed MMMD officials to secure fraudulent claim papers over a mine known to have high-grade ore. After acquiring the claim papers, they would visit their target mine to try to evict rival syndicates or make them pay rent. However, that tactic is increasingly being challenged by miners who can simply organize a *ngoro* to defend their rights over a lucrative gold mine.

What can be deduced from the contests over mineral resources in Zimbabwe is that informality and/or illegality is a major source of conflicts in the ASGM sector. Corruption in the claim allocation papers is also a big source of conflicts as people fight over gold claims. In general, the dramatic increase in the number of people pursuing mining-based livelihoods (due to an ongoing economic crisis) has intensified competition over a finite resource and thus conflicts. Competition over mineral rich lands is underpinned by class, as those who are politically connected or have the resources to acquire legal paperwork over a gold-rich area can try to evict poorly resourced artisanal miners, who may in turn resist the eviction by resorting to violence. Artisanal miners have therefore not been passive victims of elite resource grabs. They have organized themselves into syndicates (or gangs) to fight elite evictions. State officials (from the MMMD), have further fuelled conflicts through the double allocation of claims. In an environment of persistent economic crisis, police officers and the judiciary have made it difficult to rein in criminal gangs and to bring order to the mining sector; as state officials they can be easily bribed to release criminals.

Moreover, nationwide operations to address ‘criminal banditry’ often end up targeting innocent miners who are rounded up and arrested while their property is confiscated by the state. While hostility by the state apparatus was quite frequent and often had fatal consequences, especially for the ‘illegal’ artisanal miners or *magweja* and *magwejelina*, the violence escalated when security ‘operations’ were instituted to flush out these miners and at the same time ‘protect’ mineral resources like diamonds (Nyamunda, Mukwambo and Nyandoro, 2012). Notable state measures included what was termed ‘Operation Chikorokoza Chapera’ (no more illegal panning) mounted in early 2007, ‘Operation Hakudzokwi’⁷ (you will not return) instituted in late 2008 and ‘Operation Dzokera Kumusha’ (go back home), the decisive flushing-out operation introduced in January 2009 (Nyamunda, Mukwambo and Nyandoro, 2012; Anon, 2008; Spiegel, 2014). Many of these operations were underpinned by violence and gross human rights abuses. In the most recent operations to end criminal banditry, the police ended up targeting innocent or regular (legal) miners (instead of *machete* gangs), who were evicted and arrested before the police started mining themselves in collaboration with syndicates that they had created. There are many incidents of the police involving themselves in disputes over claims, injustice, and robbery of otherwise regular artisanal miners. The harassment and robbery of the miners was perpetrated by officials who colluded with clients who paid them well for ‘protection’. In reference to the harassment of miners by police forces, early in Operation Chikorokoza Chapera’s implementation, the former President of the Zimbabwe Miners Federation (ZMF), George Kawonza, revealed in the media that ‘we support fully the eradication of gold panning in this country but for legally licensed miners to be harassed in this manner is unacceptable’

⁷ This was an operation jointly carried out by security personnel at Chiadzwa diamond fields with the aim of decisively dealing with illegal diamond dealers and panners (Nyamunda, Mukwambo and Nyandoro, 2012).

(Makoshori, 2007; Spiegel, 2014). Given this scenario, artisanal miners are left with no choice but to form syndicates or gangs as a way of defending themselves from state-sponsored violence and elite capture of gold rich pits.

The characterization of artisanal miners as criminal bandits is thus often misleading, as many of the so-called gang members are simply artisanal miners protecting themselves from ore thefts and criminal attacks. We are not saying here that there are no ‘criminal’ gangs in the ASGM sector, but that there is a need to research and better understand these organizations as well. What we are arguing is that many artisanal miners just want to work and make a living out of gold mining. They are then forced into gangs as a way of defending themselves. The main problem with operations to address *machete* gang violence is that the police end up arresting everyone, including innocent miners, rather than target *machete* gangs. The gangs themselves are often known to the police and the judiciary, but have the financial resources to bribe their way out of police custody or to delay the court process until their cases go ‘cold’. A report in the state-owned *Herald* newspaper (11 March 2021) shows the problem with criminalization of ‘everyone’ in the attempt by police to address *machete* gang violence (Crime Reporter, 2021).

In the newspaper report, the story starts with the police arresting a certain Edmore Mupande on suspicion of ‘several cases of robbery’ with the suspect being found with ‘an axe, knobkerrie and a stolen phone’. However, if one scrolls down the story changes to police having arrested nearly ‘20,000 people for various illegal activities including *machete* gangs, foreign currency dealings, touts, unscrupulous fuel dealers, motorists with unregistered vehicles etc’. The report further shows that the police undertook several nationwide operations such as Operation ‘No to unregistered motor vehicles, No to dangerous weapons, No to touts, No to unscrupulous fuel dealers, No to *Machete* gangs’. However, such police operations to address criminality across Zimbabwean society and its mining landscape are always accompanied by human rights abuses and loss of property by innocent people, as the police tend to view all artisanal miners as criminals. As a result, the operation to end *machete* gangs morphed into a nationwide indiscriminate campaign to arrest artisanal miners. Those arrested invariably lost their property and were unlawfully detained without any recourse to justice.

The intensification of gang violence in the ASGM sector reflects competition over access to finite resources or precious metals such as gold and diamonds. The poor therefore organized themselves into ‘gangs’ as a way of defending their rights over access to resource-rich lands. The state has on the one hand played a contradictory role, by promoting the elite grabbing of resources through fraudulent claim papers and periodic arrest and eviction of artisanal miners, while on the other hand talk of formalization of the ASGM sector has not led to tangible results as the sector remains largely informal and underpinned by violent conflicts. The perpetual informality of the sector must be conceptualised within the context of historical and contemporary commodity frontiers (Verbrugge and Geenen, 2019) which are underpinned by a racialized system of exploitative migrant labour relations which seeks to incorporate local communities into global capitalism.

7. Conclusion

In this article, we applied a criminalization lens to shed light on the multiplicity of interlinkages between perceived illegality and criminality in the artisanal and small-scale mining sector in resource-rich African countries. Drawing on evidence from mining areas in the Democratic Republic of Congo and Zimbabwe, we have argued that there remains significant scope for additional research on evolving understandings and perceptions of the interlinkages between artisanal mining in African countries, “illegality”, and perceived criminality of the vast numbers of men and women miners involved in ASM.

The growing application of due diligence policy approaches developed in conflict-affected areas like eastern DRC, to the wider category of

‘conflict-affected and high-risk areas’ (which includes the DRC and Zimbabwe), likewise highlights the need for further research on granular conflict dynamics in regions not technically characterized by ongoing armed conflict, but where (micro-) conflict dynamics are very much present and struggles around access to resources at and around mining sites are a prominent part of social and political life. The presence in both countries of sought-after minerals for the so-called “green transition” (cobalt and copper in the DRC, and lithium in Zimbabwe) further highlights the importance of a comparative perspective. Due to space limitations, we were not able to engage with the important and extensive work on racial capitalism in mining in southern Africa. This is a very important area for further research, including how racial capitalist dimensions inform discussions around the legality of ASM in both the DRC and Zimbabwe.

Narratives surrounding illegality and criminality are echoed in current policy efforts to implement due diligence initiatives in the DRC, including discourses around smuggled gold, and what is deemed (globally) ‘legitimate’ ASM in the cobalt-mining sector. A 2022 research paper titled ‘Mining and illicit trading of coltan in the Democratic Republic of Congo’ by European-Union funded ENACT, for instance, refers to ‘a network of organized crime involved in the production and supply chain of coltan, and its connections to legitimate businesses in advanced economies’ - an assumption of innocence of these businesses in “advanced economies” that, as we have sought to demonstrate, does not hold in practice. Such assessments continue to inform global policy – including a rapidly expanding legal and program architecture for human rights due diligence – and, as we have argued, are reflected in, impacting on, and intertwined with events and dynamics at, around, and beyond mine sites in the DRC and Zimbabwe. These dynamics, in a context in which Congolese and Zimbabwean men and women work in poorly-paid, risky, and often violently enforced conditions to maintain the flow of copper, cobalt, diamonds, and gold to the global economy in a context of “green transition,” demonstrate continuity rather than change when it comes to colonial and racial dynamics in global resource governance.

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CRedit authorship contribution statement

Sarah Katz-Lavigne: Writing – review & editing, Writing – original draft, Investigation, Formal analysis, Data curation, Conceptualization. **Grasian Mkodzongi:** Writing – review & editing, Writing – original draft, Methodology, Investigation, Formal analysis, Data curation. **Mark Nyandoro:** Writing – review & editing, Writing – original draft.

Declaration of competing interest

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