Creating space for fishermen’s livelihoods: Anlo-Ewe beach seine fishermen’s negotiations for livelihood space within multiple governance structures in Ghana

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Citation for published version (APA):
Ghana’s multiple governing structure

Introduction
In Chapter 3 we indicated that it is crucial to have a thorough understanding of fisher livelihoods and their behaviour before we can understand governance arrangements in fisheries. Fishermen are not the only actors, and they do not operate in a vacuum. They live in communities where they participate in social activities and do their fishing. They are part of a wider society, which is organised, structured and governed in a certain way. They act within (or despite of) and react to an enabling – or a restrictive environment. Within these structures they negotiate livelihood space at home and – through migrations – in other places (Chapter 5). In order to understand their negotiations for livelihood space we need to understand the interface and find out with whom they negotiate. After all, structures are always implemented by individuals representing agencies, one of which is the state government.

This chapter has two goals. Firstly, it examines the fisheries governance debate and establishes what it is about and how it differs from the management approach to fisheries. Then it explains that government is only one of the actors in fisheries governance, given that there are also ‘traditional’ governing bodies in Ghana. The conceptual framework (see Chapter 1) therefore uses the term multiple governing structure. The meaning of this term will become clear when we focus on the local governance structure of an ideal-type coastal village or town.

Governance
In recent years the term governance has become a key concept in academic debates. It became popular when the World Bank introduced the term good governance to international development at the beginning of the 1990s (Kooiman & Bavinck 2005: 14). The exact meaning of governance is, however, unclear partly because a lot of studies fail to define governance and partly because there are so many definitions in use in a variety of disciplines such as: development studies, political geography, legal anthropology, international relations, public administration, political science, comparative politics, organisational studies and institutional economics (Hyden et al. 2004, Kooiman

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1 Compare Post & Baud (2002) for a same shift in urban governance (p. 10).
The definitions used differ from each other in terms of their (implicit) views on the state, civil society, power and the role of policymakers. They also refer differentially to formal, or indeed to informal or even illegal arrangements and either to government administration alone or also to organisations within civil society (Nuijten 2004: 103-104). Nevertheless, governance approaches share a focus on ‘the interaction between the state, the market and civil society’ (Kooiman 1999: 68).

Especially in developing countries the term governance is used interchangeably with government (see for instance the UNECA Governance Profile of Ghana 2004). At the same time others, often those who produce academic literature, stress the importance of other actors than government when using the term governance (Kooiman & Bavinck 2005: 14; Post & Baud 2002: 10). The problem with the many definitions of governance is that it has become a catchall concept which fails to make distinctions that are important for understanding what it means (Hyden et al. 2004: 16). This blurriness of the governance concept might also explain its popularity: ‘It is no coincidence (...) that the international community, especially the World Bank and the IMF, has taken refuge in the concept of governance (...) when referring to things political’ (Hyden et al. 2004: 11-12 – my emphasis). ‘The highly attractive and seemingly neutral concept of governance easily conceals inequalities and power relations’ (Nuijten 2004: 124).

Hyden et al. have generated a scheme (Figure 6.1) that compares four academic disciplines and distinguishes four key understandings of the governance concept.

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**Figure 6.1** Different uses of the governance concept

![Diagram of governance concept](image)

Source: Adapted from Hyden et al. 2004: 13.

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Hyden et al. state the following on governance: ‘Governance refers to the formulation and stewardship of the formal and informal rules that regulate the public realm, the arena in which state as well as economic and societal actors interact to make decisions’ (Hyden et al. 2004: 16). The authors understand governance as focusing on rules rather than on results, as examining processes and not performance and as being about both activity and process. They see governance ‘as reflective of human intention and agency but [it] is itself a process that sets the parameters for how policy is made and implemented’. They believe, therefore, that governance should be seen as a meta activity.

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(Hyden et al. 2004: 16). Governance is about ‘Who sets what rules, when and how?’ instead of the classical political economic question ‘Who gets what, when, and how’ (Ibid.: 17). This way of understanding governance ties in nicely with the importance of the entitlement approach in the livelihoods debate (Chapter 3) whereby understanding poverty has less to do with a shortage of assets and more with problems of access.

Kooiman et al. define governance as ‘the whole of public as well as private interactions taken to solve societal problems and create societal opportunities. It includes the formulation and application of principles guiding those interactions and care for institutions that enable them’ (Kooiman et al. 2005: 17).

Roughly speaking, governance perspectives have three common features: the conviction that ‘governing’ (decision making or solving problems and creating opportunities) is a matter of public as well as private actors; that the dividing lines between public and private actors are blurred so that interests cannot be classified as being public or private but as being frequently shared and finally that the basis for governance is in societal developments and that it constitutes a reflection hereof (Kooiman & Bavinck 2005: 15-16). The difference between the definition of Kooiman et al. and that of Hyden et al. is that the latter have a narrow definition focusing on rules whereas the former interpret it more broadly as institutions (including rules, but also rights, norms, beliefs, procedures, organisations) and includes the principles (rationality, responsiveness and performance) on which these are based.

What I find valuable as regards the governance perspective is that, when it comes to governing, it recognises the fact that more actors play a role than just the government and that the process is participated in by others such as fishermen and their organisations, NGOs and international bodies. Secondly, besides the state government Ghana also has a multiplicity of ‘traditional’ governments which have a constitutional basis (under the Chieftaincy Act 3). All the fisher communities along the Ghanaian coast fall under a traditional authority. In the case of the research locations these are respectively the Anlo traditional state (Woe), the Effutu traditional state (Akosua Village) and the Nzema traditional state (Half Assini). The governance structure in these locations is, therefore, inherently multiple-actor.

Another reason why I want to use the governance perspective is that it is longer term (in time) and broader (looking beyond the national fishing sector when assessing fisheries) than the management perspective. In line with Kooiman et al., I also believe that governance is about more than just the rules, but also rights, norms, beliefs, procedures and organisations and that these are embedded on the basis of distinct world views.

Analytical versus normative and instrumental approaches
Besides its analytical perspective, governance also has a normative perspective. As Kooiman & Bavinck put it, ‘Governance is both what it is and what it should be’ (2005: 16). This normative perspective on governance was most strongly brought to the fore by the World Bank with its good governance concept. However, it is extremely difficult to decide what good governance exactly is, given that, ‘any attempt to measure governance is fraught with controversy over which norms should prevail’ (Hyden et al. 2004: 23). In international development circles there is the tendency to use governance as a synonym for liberal democracy: ‘In other words, features found in the political systems

of Western societies have been elevated by the dominant agencies in the international development community to the level of being universally desirable' (Hyden et al. 2004: 23). This is then viewed by leaders as well as citizens in non-Western countries as a cover for extending Western influence in the global arena (Ibid., Post & Baud 2002: 3).

Instrumentalist approaches like of the World Bank are closely related to the normative approach like that of Kooiman et al. in that it sets common goals for the steering process. From an analytical perspective, however, the notion of common goals is problematic because it is unclear who defines them and whose worldview prevails. The problem with instrumental approaches is that focusing on collective objectives and defining governance problems in technical terms can de-politicise socio-political issues (Nuijten 2004: 109). In instrumentalist governance approaches culture can be treated as just another variable that can be adjusted according to certain political objectives or as another raw material part of the institutional resource bank.

Hyden et al. use the human rights arena (as the arena in which officially the broadest consensus is to be found on universally acceptable principles of rule) as a way to measure governance. Kooiman & Bavinck do two things. They explain what the current principles are that guide the international governance of fisheries today (Kooiman et al. 2005: 245-263) and in a later chapter they discuss what they have called meta-principles, principles that should guide fisheries governance at the meta level (Ibid.: 265-283). Decision makers in fisheries governance are continuously confronted with dilemmas; concerns, principles and goals which are not easily reconciled and which therefore require difficult choices to be made. What is important to understand is that governance is eventually about making these hard choices and that this decision-making is not only based on knowledge but also on values.

It is important to differentiate between an analytical, normative or instrumental perspective on governance. In this research I use the analytical governance concept because I want to study how things ‘are’ rather than how they ‘should be’.

Multiple governance structures in Ghana

Figure 6.2 is an ideal typical sketch of the governance structure focussing on fisheries, in a Ghanaian setting based on my research locations. I use this structure to explain how the governance structure in Ghana functions at village level. As we can see there are shaded and non-shaded elements; round forms, triangular shapes and square blocks. The shaded figures are traditional or hybrid (a mixture of Government of Ghana and traditional) organisations and the non-shaded figures are organisations related to the Government of Ghana (GoG) – with the exception of the triangular shapes which represent non-governmental organisations (NGOs). The round figures represent social roles, that is agencies comprising an individual such as a chief fisherman. The square blocks are organisations such as councils, departments and ministries. The colour difference shows at which level the organisation operates and the darker the colour, the higher the level. There are seven levels: sub-village level, village level, district level, traditional state level, regional level, national level and finally the international level (see Figure 6.3a). The arrows show the main connections and lines of contact (there are numerous other connections but showing all of these would not be conducive to the clarity of the scheme). There are three levels of thickness used for the arrows in the scheme. The thickest grey arrow is used to show a cluster of connections between levels. The black
Figure 6.2 Governance structure of an ideal type coastal village in Ghana

The local level is at the bottom of the figure, the darker the colour of the organisation, the higher the role it has. The shaded figures are traditional or hybrid organisations or roles. The scheme does not show all organisations and roles present in a village and excludes, for example, churches and traditional priests or sport and funeral organisations. I have focused on showing those organisations and roles that are of direct relevance for governance in a coastal village – so also those organisations and roles with special relevance for fisheries.

Source: author.

As I have explained in the Introduction some institutions / organisations can be hybrid, as they are a mixture between the Government of Ghana and the traditional governance system. As the hybrid connotation can differ from area to area (such as with the chief fisherman institution) and as this is a ideal typical scheme, I have taken these (hybrid and traditional) together.
Figure 6.3a & 6.3b The seven levels from below to top (level one sub-village to level seven international) and the five streams from left to right (stream one traditional/hybrid policy organisations to stream five NGOs).
arrow is used when organisations at different levels can be connected directly. The thin dashed arrows are used to show relevant horizontal connections. The thin lines are used to connect a certain organisation or role to another, and the thin arrows are used to connect an organisation or role to a relevant other organisation or role.

Figure 6.2 can be divided into five streams from top to bottom (see Figure 6.3b). The two left streams (1 and 2) in the figure are traditional organisations, the middle stream (3) and the stream to its right (4) with organisations linked to the GoG and the stream most right (5) with NGOs. Streams 2 and 3 (with rectangle organisations) comprise steering organisations such as parliament, district assembly and traditional councils. On the left and right side of these organisations are the more policy-oriented organisations (the ministries and departments on the right and the canoe fishermen organisations on the left) and on the far right there is the NGO stream. Here we see the interesting phenomenon that has been referred to as bypassing the state, where the NGO operating at the international level connects directly with its local (village) level organisation (Ferguson 1998). Ferguson questions the traditional opposition between ‘the state’ and ‘civil society’, and calls into question the vertical topography of power as he calls this thinking in analytical levels of local, national and global (Ibid.: 45-46). His article refers to numerous examples of political entities that can be understood as integral parts of a new, transnational apparatus of governmentality, not replacing the older system of nation-states but overlaying it and coexisting with it (Ibid.: 58-59). This research, which examines plural governance, in fact points to the same fact, namely that governing is a task not only performed by state actors, that state boundaries are much less relevant than is often thought (see Chapter 5) and hence are easily surpassed (by phenomena) or bypassed (for instance by NGOs).

As we can see, there are linkages between the traditional/hybrid organisations and those of the GoG. In the more detailed discussion of the organisations below we show how these linkages work. We focus on those organisations relevant to this study (local level and related to fisheries) and use examples from the research locations. We try to show what the implications are of this dual but linked structure of traditional and GoG organisations.

**International level**

At international level a couple of agreements and organisations play a role in fisheries governance in Ghana. International agreements to which Ghana is a signatory member include RAMSAR (1988) and the United Nations Convention on Law of the Sea (UNCLOS) (1983). The FAO is a United Nations organisation and acts as a neutral forum in which all nation states are able to meet to negotiate agreements and debate international policy. The FAO is also a source of knowledge and information and its mission is to help developing countries and countries in transition to improve agriculture, forestry and fisheries practices and ensure good nutrition for all.5 The SFLP and IDAF programmes are both, amongst others, FAO programmes that play an important role in relation to Ghanaian artisanal fisheries policy. The FAO has based its Regional Office for Africa in Accra. The FAO established the Fishery Committee for the Eastern Central Atlantic (CECAF) in 1967.6 The CECAF’s central body is the committee participated in by all countries active (including countries fishing under agreement) in the region (from Morocco to Congo). There is also a scientific sub-committee and various

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working groups (for instance on artisanal fisheries). The purpose of the committee is to promote sustainable utilization of the living marine resources of the region. The World Bank and IMF are important financers of (fisheries) projects of the Ghanaian government.

The GoG governance structure

- Steering organisations

Ghana is administratively subdivided into ten regions and 138 districts. The coastal regions are (from East to West) the Volta region, the Greater Accra Region, Central Region and Western region. These regions are subdivided into districts and these are in turn subdivided into areas. Regions are run by the Regional Coordinating Councils with the Presiding Member, Regional Minister and his deputies, two chiefs from the regional house of chiefs, and the regional heads of the decentralised ministries. Districts are controlled by District Assemblies (DA) as prescribed in the Local Government Law of 1988 (PNDC Law 207), Chapter twenty of the 1992 Constitution and the Local Government Act of 1993 (Article 462) (Mensah et al. 2006: 47). The people in charge of the districts are the District Chief Executives (DCE) who are the main representatives of the Central Government in the district. The DA consists of the assemblymen of which two-thirds are directly elected and one third appointed by the President in consultation with the chiefs and interest groups in the district. The presiding member of the DA is chosen from the assembly members by a two-thirds majority (Ibid.). The DA has deliberative, legislative and executive powers and offers services to the communities via the decentralised departments at district level (such as the Ministry of Health, MOFA and Education). It may also have its own developmental programs organised via collected revenues (such as market tolls, basic tax and district border tax) (Mensah et al. 2006: 48).

The coastal villages and towns are represented in the DA by their assemblymen. In Woe for instance there are three assemblymen and each of them represents an electoral area (Bawe, Afidome and Light House) in Woe. These assemblymen also hold a position in the town council of the villages and towns. The town council is the lowest level governance organisation of the decentralised Ghanaian state. Apart from the assemblymen and chair, the town council has chosen unit representatives (the earlier mentioned areas are subdivided in units), government appointees and extra representatives; of the chief (as a link to the traditional governance structure) and of important economic groups (such as fishermen or farmers). Some members of the town council are chosen and others are appointed.

- Executive organisations

- Ministry of Fisheries and Agriculture

As far as fisheries are concerned the Directorate of Fisheries of the Ministry of Fisheries and Agriculture (MoFA) (at the national level) was the most important governmental

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7 Figure 6.3b, stream 3.
10 Figure 6.3b, stream 4.
11 However, a separate Ministry of Fisheries was established in 2006.
organisation in the period of this research. The legal framework is embodied in the Fisheries Law of 1991 (PNDCL 256) together with the Fisheries Commission Act 457 of 1993, and with the in 2002 updated Fisheries Act (Act 625, 2002).

The Department of Fisheries was merged into the Ministry of Agriculture and Fisheries at the same time that the process of decentralisation started. It therefore became part of a wider agricultural unit while, at the same time, its tasks were shifted from being a general authority in fisheries to offering technical support to decentralised organisations (Lenselink & Cacaud 2001: 24). One of the problems is the usage of funds. The sources of income (levies, fees and fines) derived from the fishing industry flow back to the general ministry funds and wider national funds (NCU Ghana 2001: 12). The Fisheries Commission was created in parallel with other commissions that are responsible for natural resources, such as that of forestry. The division of tasks between the fisheries commission and the Department of Fisheries was not completely clear (Lenselink & Cacaud 2001: 24). In September 2001 a new position was created, namely a Minister of Fisheries. After my fieldwork period, in the year 2006, this Minister acquired her own Ministry of Fisheries, thereby separating fisheries from agriculture. This shows that the Ghanaian government is focusing more and more on fisheries. Figure 6.2 and the following is however based on the situation during the period between 2003 and 2005.

The regional level in Ghana is a relatively powerless link between national and district levels:

The region does not make policy, but passes policy down to the district and passes comment and problems from the districts to the centre. The region adds value via co-ordination where districts share problems or perspectives, and provides a level of technical expertise not available at the decentralised district level. The region also acts as a watchdog for both government and communities, in that it monitors performance against preset targets for district development. The region removes from central government the need to deal directly with 110 districts across the nation” (NCU Ghana 2001: 15-16).
In the decentralisation process the role of the organisations at regional level has been seriously diminished. There is hardly any budget – activities carried out by regional experts have to be requested and paid for by the districts. As a result, they cannot really make their own plans: ‘Morale at the regional level is also being undermined by evolving decentralisation. There is a sense that technical staff feel they are unappreciated and unwanted’ (NCU Ghana 2001: 16).

The MoFA is represented as the fisheries department at the district level in coastal communities. It falls under the Agricultural Districts Office and was set up as a consequence of national decentralisation policy (Bannerman 1998). The employees of the fisheries departments at district level are mainly involved in collecting a variety of statistics:

MK: What are your tasks as districts FD?
Fisheries officer: We gather hydrographic data for the Marine Fisheries Research Division in Tema. The temperature of the sea, we collect water samples to check the salinity. We collect fish catch data of canoe fishermen. We have 5 sampling stations in the district. Here we compile the data and then the research division people come to take it along. We do the Canoe Frame Survey every two to three years. (interview 36, 21-5-2004)

Mensah et al. report that there is a weak linkage in feedback from the communities to higher level MoFA organisations (Mensah et al. 2006: 49, see also Bamfo 2003: 26). Lenselink & Cacaud conclude that the decentralisation of responsibilities was not accompanied by the provision of sufficient funds and staff at local levels (2001: 25; see also NCU Ghana 2001: 15).

As can be seen in Figure 6.2, the fisheries department has a data collector working at village level. In Woe I met this man and spoke to him a couple of times. He would be on the beach every day to: ‘[Check on] their catches, the kind of fish they catch, the amount they sell it for, the price. There are many species, we sample them, we know

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12 In a later interview the officer tells me that only three out of the five sampling stations in the district are actually functioning. The one in Woe is one of those and the operator of Woe also collects data for another station. (interview 65, 16-7-2004)
their weight. I go there every day’ (interview 61, 17-08-2004). He has been doing this work since 1975. He is, in fact, the lowest ranking representative of the MoFA.

- Other relevant government organisations
Another important department at district level is the Wildlife Department which is part of the Forestry Commission of the Ministry of Lands, Forestry and Mines. The Wildlife Departments play an important role along the coast in Ghana as the managers of the coastal wetlands of which six have been declared RAMSAR sites.13 Wetland issues have been integrated into the National Land Use Policy but in 1999 there was still no clear government policy on wetlands.14 However, the consolidated Wildlife Laws of Ghana do exist (Act 43 plus all the subsidiary legislations, 2002) including the Wetland Management Regulations of 1999. In Akosua Village the Wildlife Department was quite visibly present with their little green office located at the main access point to the village, often manned by staff wearing green army-like outdoor attire. Furthermore there were signs around the RAMSAR protected lagoon with nature-protection slogans and public toilets, the bird-watching platform and refuse dumps which had been constructed by the Wildlife Department.

The last two ministries of importance as far as fishing is concerned is the Ministry of Justice which controls the courts and the Ministry of the Interior which controls the police. These organisations play a role in law enforcement at local level. The police become involved in fishing conflicts in cases of damage to property and assault. The police is regulated under the Police Service Act, 1970 (Act 350) and Article 200 (3) of the 1992 Constitution (Aning 2006: 11, 25). There are a number of courts in Ghana and these can be divided in two clusters: the lower (inferior) courts and the superior courts. The lower courts are the circuit and district courts, which serve as juvenile courts and family tribunals. The lower courts deal with smaller civil cases involving limited costs (5,000 US$ or less) rather than serious criminal cases with limited prison sentences. The superior courts are the Supreme Court, the Appeals Court, the High Court, the Commercial Court, regional tribunals and fast-track Courts.15 The traditional courts (see below) are officially accepted and regulated under the Chieftaincy Act and they have ‘the power to mediate local matters and enforce customary tribal laws dealing with such matters as divorce, child custody, and property disputes’.16

Community based fisheries management committees
The government of Ghana requested support from the International Development Association (IDA) and the World Bank in 1995 which resulted in an eight million US dollar Fisheries Sub-sector Capacity Building Project.17 Besides strengthening the capacity of the Directorate of Fisheries and improving the management system, this led to the instalment of a Monitoring Control and Surveillance (MSC) division and – later – to the development of Community Based Fisheries Management Committees (CBFMCs) all

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13 Ramsar is the name of a city in Iran where the Convention on Wetlands of International Importance was signed in 1971. It was decided that wetlands are ecosystems of considerable importance, comparable to forests, rangelands and marine ecosystems. Ghana became a member in 1988 (interview 56).
along the coast and inland round Lake Volta (MoFA 1997). The aim of the CBFMC is to manage the fisheries resources to ensure sustainable exploitation, mainly by checking whether the fishing gear and methods used comply with the rules. The committees work according to the fisheries law but can also formulate their own bylaws which have to be ratified by the DA's. The chief fishermen chair these committees whose additional members are representatives of all ethnic groups involved in fishing in a village, leaders or representatives of fish processors, a representative of the Ghana National Canoe Fisherman council and two representatives of Unit Committees of DA’s – one being a woman (Bannerman 1998 – section 5.5).

Woe was one of the communities that participated in a pilot project. However, in 2005 the CBFMC had ceased functioning. The chair of the town council, a lobster fisherman and one of the elders of the chief fisherman’s committee of elders, was a member of the CBFMC. According to the latter it is the government that caused the work to be terminated: ‘But since this [the pilot project] is gone, then, we have been hearing nothing at all. We made a proposal for the former minister of Food and Agriculture. But now he also is no more here (…). The government should invest in it – or else, for the time it will start, decline, decline, decline’ (interview 89, 1-11-2005). Mumford (where the idea of CBFMC started) and Cape Coast are always referred to by the ministry as good examples of properly functioning committees. However, committees fail to get off the ground in most communities. The Assistant Director of the Fisheries Department in Accra, Ms. Yeboah, referred to the unwillingness of the chief fishermen to cooperate and how strange she considered that to be given that most of them are or have been fishermen themselves. The districts fisheries department officer in Keta shares the same view: ‘These committees were formed, but the chief fishermen did their own thing. You see they are not literate. Some other members of the committee were literate. But you can’t remove the chief. New people were brought in and that was a problem. It has not been operating properly. Last year there was an evaluation of the committees and they concluded that it was not working’. And later on more on the role of the chiefs: ‘They get respect from the community, it didn’t work because most are illiterate, they are not transparent enough. They feel they are challenged in their authority, they have to go into too many details. They are not used to transparency’ (interview 36, 21-5-2004). However, Yeboah also points to the fact that the committees have not been successful because there was no balance between protecting the resource and supporting the people (interview 78, Yeboah, 14-10-2005). Woe was certainly not the only coastal town in which the CBFMC failed to function. In 2007, 76 percent of the 173 committees. Source: www.ghana.gov.gh/ministry_of_fisheries [Access date: July 2007].
CBFMC. First of all we discuss the organisations related to the traditional governance structure.

The traditional governance structure

- **Steering organisations**

The indigenous states in Ghana (such as the Ashanti, Ewe, Effutu) date back to pre-colonial times. With the British system of indirect rule, the institutions of chieftaincy were able to survive (Odotei & Awedoba 2006). The colonial state stripped many aspects of sovereignty from the pre-colonial states, turning them into chieftaincies (Ray 1995: 49). They are headed by a paramount chief under whom chiefs and sub-chiefs govern the settlements.

These chiefs come from the chief making clans or royal families living in the communities. In some traditional areas, although the chief rules the area by custom, the high priest or the land priest is regarded as the owner of the land. The fact that chiefs in Ghana play governing roles is inherent in the concept of chieftaincy – chiefs have executive, legislative and judicial powers in their communities according to traditional law. The chiefs are seen as the natural custodian of the customs and traditions of their people, maintain a link between their people and the ancestors directly linked with the founder of the state (through the royal lineages), are responsible for the overall welfare of their states and for maintaining law and order and for protecting their people from neighbours and enemies (Abotchie 2002: 49-50, Nukunya 2003: 70).

The institution of chieftaincy is built up through a series of hierarchical levels of authority (from household, compound, lineage, village, town, division to paramountcy) with a recognised head at each level, based on kinship with each lineage represented through its head on higher councils with clear procedures for linkage to higher, more powerful levels (Nukunya 2003: 68).

Since colonial times chieftaincy has been linked to the politics of Ghana (the Gold Coast at first) whereby various governments tried to influence the role of chiefs in political affairs (Boafo-Arthur 2001, Odotei & Awedoba 2006). It was mainly during the first republic of President Nkrumah that the power of the chiefs was seriously curtailed mainly by eroding their economic base – their stool lands. However, the chiefs were also under attack and seen as part of vested societal elites during the reign of President Rawlings (Boafo-Arthur 2001: 8). The relationship between the chiefs and the state in West Africa have been analysed as interdependent, with the state depending on the chief to implement its policies and to obtain specific information on the local community. On the other hand the chief depends on the state for its support to legitimate its power and obtain economic favours to distribute to his people (Van Rouveroy van Nieuwaal 1992: 21; see also Van Rouveroy van Nieuwaal 1999). Yet the institution chieftaincy managed to stay and has proven to be resilient. ‘Its resilience could, therefore, be attributed, in part, to the overwhelming support for the institution by the generality of the people as well as its ability to adapt to changing situations’(Boafo-Arthur 2001: 12; see alsoOdotei & Awedoba 2006).

All traditional states within the Ghanaian state are represented in the Regional Houses of Chiefs and the National House of Chiefs. This again is an organisation where the two parts of Ghana’s governance structure meet. The Paramount Chiefs meet each
other here a couple of times a year to discuss chieftaincy matters and fulfil an advisory role for the President.

Figure 6.6  The chief and sub-chiefs of Half Assini

Many coastal villages are headed by a chief, who is supported by a number of sub-chiefs and elders representing area groups (wards) in the villages. The following description is based on the Anlo-Ewe traditional governance village structure. Every ward is a residential group, occupying a portion of the town, of which the core usually consists of members of a single lineage, being the descendants of the first settler of that section. The wards are often headed by the head of the dominant lineage, helped by the heads of the various other lineages (Nukunya 1999: 14). The chief meets the ward heads on a regular basis in the traditional council. Besides this council, the elders of the royal lineage also have important functions in the local government as the main advisors to the chief (Nukunya 1999: 13). The latter are also responsible as the judiciary. The chief’s court is the highest in the village and deals with the settlement of disputes between the inhabitants, if they cannot be solved at lower levels (see also Overå 2001: 14). Cases such as murder, stealing and adultery are always dealt with at the level of the chief’s court (Abotchie 2002: 51). Ewe traditional court rulings are based on oral traditions expressed in proverbs, aphorisms, axioms and examples (Abotchie 2002: 52) of which its political norms are derived from the supernatural (Abotchie 2002: 54). The working of the court is therefore based on the belief which both the chief as his subordinates share in their common accountability to supernatural forces (Abotchie 2002: 55). Above the village chief’s court, there are the courts of the divisional chiefs and the finally of the paramount chief or Awoamefia in Anlo-Ewe (Nukunya 1999: 13).

The traditional council and the town council (and the DA) work together. All policies spoken of at the traditional council are communicated to the assemblymen, who then communicate it to the DA, and vice versa. Any ideas for projects that citizens come up
with are brought to their unit committees. The unit representatives bring it to the town council and from there the assemblymen take it to the DA. The assemblymen play an important role in the communication between town and district levels (interview 35, DA member Woe, 19-05-2004).

- Executive organisations

The chief fisherman is one of the sub-chiefs of the village chief. He chairs the fisheries committee which advises the chief on fisheries matters. All fisheries matters are first handled by the chief fisherman. The institution of chief fisherman is an important institution in Ghanaian fisheries. As one can see from Figure 6.2, the chief fisherman fulfils a liaising role between the fishermen and higher level organisations. It is also an old institution in the Central Region, with the chief fisherman from Winneba claiming to belong to the line of chief fishermen extending back to 1600 (interview 104, 19-12-05). In those coastal villages where fishermen have been fishing for centuries (mostly in Fante and Effutu coastal communities) a chief fisherman assisted the chief with the settling of all fisheries matters. In these communities this is a hereditary function. ‘However, the person is elected by the fishermen and must be an exceptionally experienced, wise and respected fisherman’ (Overå 2001: 15). When I asked the chief fisherman of Woe who can be chosen as chief fishermen, he explained that you need to be a net owner, an older person, and you need to have proven to have the ability to solve problems (interview 32, 6-5-2004). In the other coastal regions the institution of chief fisherman was introduced later.

It is probably the Fanti who exported the institution of the chief fisherman to other coastal communities with whom they came into contact via their migrations (see Chapter 5). When exactly this institution came into being in the other coastal communities is unclear. In the event that there was no chief fisherman, the village chief would be in charge of the fisheries affairs – as he is for other community matters (Odotei 2002: 26). According to the chief fisherman of Winneba, ninety percent of the chief fishermen in Ghana are appointed by the community and not on a hereditary basis (interview 104, 19-12-05). I also asked the fisheries officer of the Keta District how long the institution of chief fishermen had existed in Ghana, and he answered: ‘Since 1984 or so, then the creation started that all communities must have a chief fisherman, as head of the fishing communities’ (interview 65, 16-7-2004).

The chief fisherman works with a council of elders and they settle disputes between fishermen, between processors and fish traders and between those groups, and advice fishermen. He coordinates rescue operations in the event of accidents at sea (Bannerman 1998 – part 5) and collects revenue from fines of fishermen breaking rules and receives token fees of fisher migrants who come to fish on his beach. As with other traditional institutions religious aspects are intrinsically part of it. In the case of the Fanti the chief fisherman (Apofohene) is also the fishermen’s religious leader: ‘together with the priests of the Sea God (Bosompo) and of other gods that are relevant in the field of fisheries, he performs rituals to ensure good fishing’ (Overå 2001: 15). In the case of the Ewe, the chief fisherman is also involved in religious rituals related to fisheries. Odotei, who writes about the history of artisanal fisheries in Ghana, has this to say: ‘The religious aspect of the fishing industry was a phenomenon which was crucial to the artisanal

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23 Figure 6.3b, stream 1
marine fisheries. In the past, the whole fishing industry revolved round a religious core’ (Odotei 2002: 26). We will examine this in more detail in the next chapter.

Figure 6.7 Chief fisherman of the Fanti fishermen in Half Assini

The chief fishermen often play an important role in the communities. The chief fisherman of Winneba is a senior divisional chief and replaces the paramount chief of Winneba when he is away (interview 104, 19-12-05) and the chief fisherman in Woe is one of the elders in the traditional council of the village chief (field data). However, they also play an important role in relation to the GoG structure. As Ms Yeboah of the Directorate of Fisheries in Accra says: ‘So they are in charge of the fishing area, they show law and order, they perform the traditional rights. They act as a liaison between government and their people’ (interview 78, 14-10-2005). He also negotiates with government organisations about benefits, credit and inputs for the fishermen (Overå 2001: 16). ‘In the periods when ‘premix’ for the outboard motors have been subsidised, the chief fisherman had the authority to issue licences to the beneficiaries and to distributors of the subsidised fuel’ (Ibid.: 15). In fishing villages where fishing is the major industry this makes the chief fishermen more important than the chief in terms of being a link to external sources (Ibid: 16).

A couple of times a year the chief fishermen of Ghana gather at national level in the Ghanaian National Canoe Fishermen’s Council. This is the main Canoe Fishermen organisation in Ghana and membership (of chief fishermen) is automatic.24 There are also other direct lines between the fishermen and governance organisations, such as the fisheries representative in the town council.

Implications of migration

The plural governance situation as described above, with organisations related to the Government of Ghana and to traditional governance at local level, becomes even more plural in a situation of migration. Anlo-Ewe beach seine fishermen migrating from their home area to other villages in Ghana will be confronted with another setting of Government of Ghana organisations and traditional government organisations, combined with organisations and institutions related to their Anlo-Ewe traditional government, at their migration destination. They will therefore need to operate in a governance setting with three sources.

Anlo-Ewe fishermen in Half Assini explained to me what they need to do when they arrive in Half Assini and want to fish there. You should first go to the landlord, the owner of the land, then to the town chief and then to the Anlo-Ewe chief (fisherman) and ask each of these men permission (interview 79, with the son of the chief fisherman, 20-10-2005). Migrant fishermen are apparently never refused. The Jomorro District Director of Agriculture in Half Assini explained to me why migrant fishermen cannot be refused permission to come and fish: ‘In Ghana here there is the policy that a Ghanaian can come to fish everywhere. That is not restricted’ (interview 80, 20-10-2005). In fact local traditional leaders have to abide by national law and this shows how the governance system is mixed.

Akosua Village falls under the jurisdiction of Winneba and the fishermen living in Akosua Village need to ask permission from, and pay royalties for their land to, the Effutu traditional ruler in Winneba (see Appendix 3). As fishermen they first fall under their own chief (fisherman) but if he is unable to solve the issue, or if Effutu fishermen are involved in the conflict, the chief fisherman of Winneba gets involved. He also happens to be the chief fisherman representative of the whole Central Region. The chief fisherman of Winneba explained how he is a real chief, not an appointed one as is mostly the case, but a hereditary chief:

‘We have traditional chief fishermen and non-traditional ones. My position as chief fisherman is hereditary, my great grandfathers, grandfathers, my fathers and brothers were all chief fishermen. So it is a heritage. I am a traditional ruler, I am a gazetted chief. We are called Apofohene. But some chief fishermen are non-traditional, they are chosen.’ (interview 106, 19-12-2005)

The Anlo-Ewe fishermen are also represented in the CBFMC of Winneba, with two members. The Anlo-Ewe fishermen also have their own district assemblyman, an Ewe who represents them in the district assembly. In Chapter 8 two cases will be discussed, one in Akosua Village and one in the home area of the Anlo-Ewe beach seine fishermen, both cases in which the interplay of multiple governance structures and interaction with the fishermen will be set out.

Fisheries governance and management

In fisheries literature shifts have been made from top-down management approaches via co-management (Wilson et al. 2003) or no-management (Jul-Larsen et al. 2003) to governance approaches (Kooiman et al. 2005). The growing realisation of the need for increased participation by resource users in fisheries management (co-management) can be seen in a wide range of policies and programmes worldwide (Pomeroy & Berkes 1997: 465) as we saw above.
Fisheries crises are sometimes called complicated as there is not only disagreement about solutions but also about the nature of problems (Mason & Mitroff 1981). The fisheries sector is characterised by uncertainty, diversity, complexity and dynamics (Kooiman & Bavinck 2005: 13). The consequence of this is that traditional methods of dealing with problems (i.e., where complex issues are often considered an intellectual design question and are approached by giving research and science a central role) no longer suffice (Witteveen & Enserink 2007: 278). Moreover, Beck’s Risk Society (1992) in fact suggests that a growing number of societal problems are so complicated and can only be solved with a new interplay of actors next to the state, such as the industry and science. The interactive governance approach was developed because the proponents believed that the current crisis in the fisheries sector cannot be solved by conventional methods (Kooiman & Bavinck 2005: 12).

An interactive governance approach to fisheries is more inclusive than the management approach and is more capable of addressing the diversity, complexity and dynamics of the sector. It goes beyond the direct problems at hand, looks further than only the fisheries sector and considers long-term societal trends and needs (Kooiman & Bavinck 2005: 16). An interactive governance approach is principle-based and this is needed to address the major concerns of ecosystem health, social justice, livelihoods and employment, food security and food safety (Bavinck et al. 2005: 9). ‘Governance is the broader concept, which invites a more reflexive, deliberative and value-rational methodology than the instrumental, means-end oriented management concept’ (Jentoft 2006: 671). The governance concept, as discussed above, provides the conceptual framework for this thesis.

I will however also use the term management, and it is understood in this thesis to be: all kinds of activities people purposely undertake on a collective level to regulate fisheries (by making rules or developing norms based on existing – or new – values). Management is all activities people undertake to structure the usage of the resource, whereby they not only address the organisational aspect of the activity related to access, interaction, extraction and marketing but also (in doing so) create or base themselves on a normative order. My definition of management corresponds to what Kooiman and Bavinck have called the first order governance. Thus it is about the day-to-day affairs and means ‘solving the constant stream of problems which surface in the fish chain – problems of supply, price, market, employment, work-satisfaction, etc.’ (Kooiman & Bavinck 2005: 19). However, management as I see it also relates to what Kooiman & Bavinck have called second order governance, namely the institutional arrangements within which first order governing takes place and the ‘reconsideration and adaptation’ of it (Ibid.: 20). I see making new rules directly related to the fishing activity as a management task. Yet making a new rule based on, for instance, a principle that relates to more than only the fishing activity, is more an act of governance.

In Chapter 7 we focus on the regulating activities that the Anlo-Ewe beach seine fishermen have undertaken (next to and in relation to the government). First, however, we need to address the notion of property rights. The property rights discussion has proven to be quite central to discussions on fisheries management, governance and natural resource management in general. The outcome of the debate is crucial for understanding who the players actually are – who has the right to manage and thus who sets the rules – and it is therefore a matter of governance. The logic of answering the questions has, however, been strongly biased. Understanding this is important in order
to understand the whole idea of actors in governance having highly different world-views.

**Property rights**

Fisheries management is a form of natural resource management. Having the right to manage a resource means that one has a say about the resource. This means that either one is the owner or the owner(s) has/have appointed you in his/their name. Once we talk about ownership, we enter the field of property rights. The debate on ownership and property rights has for a long time been a dominating feature of natural resource management debates. Schlager and Ostrom distinguish four types of property rights holders: the owner, the proprietor, the claimant and the authorised user. They distinguish between an operational level of access to and use of a resource (see Chapters 1 and 3 for the access to and usage of the resource with the entitlements debate as also discussed by Dietz 1996 and Sen 1981) and a collective choice level consisting of management, exclusion and alienation rights (Schlager & Ostrom 1992: 16-19). The difference between rights at the operational level and the collective choice level is crucial since holders at the latter level have the authority to devise future operational-level rights *(Ibid.: 15)*. The right of alienation, which the owner holds, is often believed to be crucial for the efficient use of the resource. Having the authority to alienate, exclude and manage and exploit property is ‘one of the most salient elements of power through which people can be subordinated at all levels of socio-political organisation’ (Von Benda Beckman 1995: 318). As Jentoft also states, fisheries management is inevitably political (Jentoft 2000: 58). Hardin (1968) suggests that private or state ownership is the only solution to prevent overexploitation. His vision (Tragedy of the Commons) has been very influential for many fisheries and coastal managers have since then assumed that, in the absence of state interference, no regulation occurs and that, consequently, chaos is inevitable (Jentoft et al. 2005). However as Schlager & Ostrom state: ‘ownership, however, does not guarantee the survival of a resource’ (1992: 21). Absence of ownership has been called open access, ownership by private people or firms has been called private property, ownership by communities has been called communal property and ownership by the state has been called state property (Berkes et al. 1989 in Symes 1998: 5). These have been called property regimes. These property regimes can be de facto or de jure or a mixture. In a de jure open access situation, there can be a de facto communal property regime.

**Broadening the perspective**

This property rights approach in which there is a differentiation between different rights holders is useful, but it has also been criticised. Symes, for instance, writes that the concept of property rights is used incorrectly. Not the concept of property should be used but usufruct: ‘the right to use and derive profit from a piece of property belonging to another, provided the property itself remains undiminished and uninjured in any way’ (Symes 1998: 4) in fisheries. We can talk about property only once the fish has been caught; a crucial difference when talking about sea in comparison to land. Only the owner has direct rights over the resource, while the others have indirect rights, or property related rights. Von Benda-Beckman (1995) emphasises in this light the fact that property rights are more a sanctioned social relationship between people than between persons and things. Moreover, Berry (2004: 89) sees property as a social process.
Gordon (2006) has used these insights to write about the fisheries sector in Central Africa and explores how ‘societal groups like patronage networks, clans, families, religious congregations, and ethnic and national communities are mobilised to challenge or to secure and strengthen resource claims’ (p. 8). From his work we understand that the academic property rights discussion does not necessarily fit the African context. We can understand why this is so if we look at the property relations of pre-colonial Africa, in which the concept ‘owner’ crucially means something else altogether. First of all, ownership in pre-colonial Africa was orally grounded (via stories, told histories) and not via written documents. Secondly the ownership was legitimised by the relationship between the owner and ancestral spirits and thirdly owners were often subordinated to ‘new’ rulers who at some point had conquered ‘the land’ (read: the people) but still recognised the first rulers as owners of the land via their relationship with the spirits (Gordon 2006: 10). Rights were therefore reconfirmed and challenged via the retention and retelling of the oral narratives (Ibid.: 11). In his book Gordon shows how colonial arrangements superimposed over pre-colonial arrangements, which implied a redefinition of the way people and resources were perceived and ruled. The most influential colonial idea was that of communal property that became administered by colonial ‘traditional’ chiefs on behalf of their ‘tribal’ subjects (Ibid.: 16). The functioning of (post-)colonial states resting on ‘traditional’ rulers resulted in a ‘confusing array of formal and informal mechanisms, which were enmeshed in both modern and traditional rationales’ that ‘arose to define, legitimise, and enforce access to resources’ (Gordon 2006: 17). This ‘confusing array’ can be recognised in many African settings, including in Ghana with its dual governance structure. Understanding such constructions and how they function in practice – as beautifully described by Gordon for the Mweru-Luapula area in Congo and Zambia – is key to understanding how natural resources in Africa are managed in practice.

Legal pluralism and institutional bricolage
The dual governance structure that exists in Ghana has elsewhere been called legal pluralism. Legal pluralism is ‘a situation in which two or more legal systems coexist in the same social field’ (Merry 1988: 870 cited in Bavinck 2001: 35). It assumes that the state is not the only legislator and that ‘traditional law’ exists in the absence of, or in addition to, state law (Jentoft et al. 2005). This situation means that different rules can be applicable to the same situation, and therefore are redundant or in conflict -whereby individuals risk breaking one rule while adhering to another- while also giving individuals room to manoeuvre (Jentoft et al. 2005, K. von Benda-Beckmann 1981). Bavinck (2001) has described this for the Indian state of Tamil Nadu where management systems existed of artisanal fishermen, mechanised boat fishermen and the state alongside each other. Legal pluralism is an important concept especially for understanding resource-related conflicts. Law is then understood as a normative order, a set of rules structuring human conduct, whereby in the field of legal pluralism it is understood that there is a multiplicity of law sources in any given society (Bavinck 2005). A legal system is more than only law, for ‘rules are backed up by organisational structures and by authorities, who possess instruments, including sanctions, for design and enforcement, as well as for the mediation of disputes’ (Bavinck 2005: 811). With a legal pluralist perspective to fisheries conflicts in the South:
‘conflict[s] becomes almost unavoidable when industrialised fishers, and governments, make use of
the same sea spaces that older fishing populations do, though according to very different sets of rules
and perspectives’ (Bavinck 2005: 817).

The advantage of this perspective is that it points out that parties in such conflicts fun-
damentally disagree about what belongs to whom, and why, and who decides, because
they reason from a different legal system (Ibid.).

Pluralism of institutions gives room for manoeuvring but also for institutional brico-
lage: gathering, borrowing and applying mechanisms already part of existing institu-
tions, styles of thinking and sanctioned social relationships (Cleaver 2002: 15-16).
Cleaver questions how likely it is that institutional crafting, i.e. new institutions, estab-
lished with a strong focus on formalisation, transparency, representation, regulation and
rights, provide the answer to collective resource management (Ibid.: 13). Using data
from Tanzania she shows that it is important to understand that resource users have
multiple identities despite the fact that often only productive identities (such pastoralist
or agriculturalist) and a limited number of social roles (such as leaders or women) are
emphasised. Having multiple identities and therefore diverse cultural and social net-
works means that people relate to a variety of norms and practices; which can be
negotiated (Ibid.: 17-21). This non-systemic, ad-hoc action makes resource users into
bricoleurs (Levi Strauss 1962, Cleaver 2002). The bricoleurs borrow from each other’s
cultures in their institutional bricolage – which has also been described as leakage of
cultural rules and meanings across societal divides. Institutions are preferably multi-
purpose – Cleaver gives an example of church choirs joining to sing in church, but also
functioning as credit groups, collective labour groups and acting as singers in ‘tradi-
tional’ ceremonies (Cleaver 2002: 21-25). She has noticed that in the institutions formed through bricolage in her research area in
Tanzania, it is common to actively embed relations of co-operation in cultural and social
life and to emphasise inclusive relations. Norms of conflict avoidance are common to all
resource user groups and there is a strong desire to solve conflicts at the lowest level
possible, whereby conflicts are not seldom minimised or turned towards co-operation
and if fines are levied the proceeds are used to ‘celebrate forgiveness’ as a communal
activity. Cleaver does not avoid addressing accounts of mistrust and social stratification
impacting negatively on some in the community – but she aims to show that literature
on institutional design and policy documents by contrast have other norms prevailing in
dealing with conflict, emphasising confrontation and punishment rather than compro-
mising and reconciliation (Ibid.: 25-27).

Power connected to different government structures
As we saw, rules are only meaningful if they are backed by organisational structures
and by authorities to enforce them, to impose sanctions if needed and also to mediate in
the event of conflicts (Bavinck 2005). The people who can decide, enforce, and imple-
ment management decisions are people with power. However, fisheries management
may also provoke resistance thereby making it less potent (Jentoft 2005: 6). Power is a
slippery concept, with social scientists often disagreeing on what it is (Jentoft 2006:

25 This also nicely shows how all people’s assets can be potentially meaningful for people’s livelihoods
(Chapter 3).
Jentoft introduces power to the agenda of fisheries researchers and puts forward four propositions relating to power and distribution in fisheries management:

1. Fisheries management systems always produce winners and losers.
2. Winners support the existing management system, whereas losers oppose it.
3. Winners always try, and in most cases are able, to block any management reform that would not be in their interest.
4. Winners have the power to reinforce the management system and ensure that it sustains their benefits (Jentoft 2006: 675).

These four propositions serve as hypotheses that can ‘guide research in the direction of powerful actors, but also encourage research into the actual practice of power, i.e. how power is exercised in real situations, and who is doing what to whom’ (Jentoft 2006: 675). One might assume that the power lies with certain groups and is connected to certain roles – but it is only in practice that one can see where power is. The best way to understand what power is and how it works is to study it in particular situations as Flyvbjerg (2001) argues. ‘Understanding how power works is the first prerequisite for action, because action is the exercise of power. And such understanding can best be achieved by focusing on the concrete’ (Flyvbjerg 2001: 107 quoted by Jentoft 2006) Analysing concrete situations will reveal where power is and how it plays a role. To understand power in practice Nuijten (2005) advises to focus on conflicts, public events and on interactions between officials and peasants (or other social groups) (referring to Long 1989). Conflicts are more often mentioned as good ‘food’ for analysis and function quite centrally in natural resource management studies (Bennett 2000, Homer Dixon 1999, Adano & Witsenburg 2004); Nuijten (2005: 9): ‘conflictive situations give insight into the central issues at stake, and the power struggles and practices which develop around them’. One might however wonder if focusing on conflicts will not give a certain bias while also somehow implying that if there is no conflict there is no power at work. Whereas one could also reason that conflict is a positive sign – actors take the risk to challenge power.

Power is a crucial concept in fisheries management – being an inevitable political activity or process (Jentoft 2000: 58) – and power differences have often been neglected or inadequately addressed in co-management studies. That has to do with a different blind spot in many of these studies – the heterogeneity of communities. Moreover, if heterogeneity is addressed in studies it is argued that heterogeneity works against collective action – Vedeld has studied the commonly-held view that ‘the smaller and more homogeneous the group the stronger its ability to perform collectively’ – which he found not necessarily to be true (Vedeld 2000: 1, 12). First of all, it is also often not clear what is meant by heterogeneity. As Vedeld argues, ‘[i]t may be particularly important to distinguish between political heterogeneity (disagreement about the authority structure), heterogeneity in endowments, entitlements (wealth) and in economic interests’ in use of natural resources (Ibid.: 11-12). He found that it is often more important to focus on heterogeneity amongst leadership groups than between groups in a community as such (Ibid.: 17). Assessing power and heterogeneity means understanding that stakeholders in a process do not hold a same level of power. It is also important to view heterogeneity not as a static given but as a dynamic process, in reaction and relation to certain processes; ‘the heterogeneity issue should be contextualised and studied in a historical perspective’ (Ibid.: 13, 18). Last but not least the encounters at the interface
between local and external agents and arrangements are also important (Ibid.: 17 and refers to Long 1989).

Tying the threads together
In NRM thinking, property rights have played and still play a central role; for one has the right to manage if one has a say about the resource. However, ownership in the African context differs from the western ideas on which the theoretical debate is based. These discrepancies already point to what has been called legal pluralism in which locally held ideas on ownership can differ from the ideas held by the international organisations that inform postcolonial African governments as well as, for instance, the World Bank, IMF and FAO. Furthermore, in studies focusing on institutions in NRM it is often not acknowledged that resource users have multiple identities and thus relate to multiple norm systems. Furthermore the institutions to which they relate also become mixed (institutional bricolage) which also makes them more durable. Institutional crafting as the solution to natural resource crises becomes less likely to be successful if crafters lack sufficient local knowledge. It is also important to understand the heterogeneity of communities for power differences play a role – the oft-used term ‘stakeholders’ somehow mystifies that stakeholders in a process do not hold the same level of power.

In the next section we provide an example of a regulation initiative by the Community Based Fisheries Management Committee. Earlier we saw how these committees have not yet been very successful, with one of the problems being the fact that the institutional framework needed for the committees to function, the bylaws, are difficult to implement. In the case discussed below we get a better understanding of why this is the case in Keta district. Its introduction is in fact a nice example of institutional crafting, which will almost certainly fail if it is not properly embedded in local dynamics.

Case in Keta District
A substantial number of CBFMCs are not able to implement their bylaws, a situation which seriously undermines their functionality, since being able to enforce the bylaws generates revenues necessary for the adequate functioning of the committees. The fisheries officer of Keta District explained this to me, when I ask about the CBFMC in Woe: ‘It is inaugurated, but I think it is not operating as expected. One of the reasons is that the bylaws are not gazetted yet. The DA has ratified them however, but the fact that they are not gazetted yet means they aren’t laws yet’ (interview 65, 16-7-2004). In the ministry document on the CBFMCs it is stated that the role of the DCEs and DA is central to the formation and empowerment of CBFMCs (MoFA 1997: 6). The question is why it takes so long for the DAs to get the bylaws gazetted? That question is a highly sensitive issue in Keta District and I had also posed the same question a couple of times at the District Fisheries Department.

In 2004:

MK: Are the bylaws made official now by the DA?
Fisheries officer: The bylaws are put together of all groups, some laws were added to it. The DA was supposed to ratify them, but that also was a problem. They were submitted in 1998, last year (2003) they were ratified, but now they have to be gazetted. And that is a problem. (interview 65, 16-7-2004)

Later in 2004:

MK: But how about the bylaws then, wouldn’t it be better manageable when the bylaws get gazetted?
Fisheries officer: Yes! But we started in 1998, it took them five years to get them ratified! (interview 76, 27-8-2004)

In 2005:
MK: Have the bylaws been gazetted yet?
Fisheries officer: No I don’t know what is going on but they have not been gazetted yet. (interview 88, 31-10-2005)

Some weeks later in 2005, I returned to Keta district to talk to the DCE. I managed to meet him after having tried to meet Mr Lotsor of the Fisheries Department again and the Presiding Member of the Keta DA. I asked the DCE about the bylaws:

MK: I have understood that they have ratified the bylaws, some years ago but that they have not been gazetted yet. And one of the questions I have is, ‘How come?’ What is delaying the gazetting of the bylaws, do you know or are you not working with fisheries yourself?
DCE: Yes, we have the fisheries laws, which are in force, that one at the national level has been gazetted. At our level, we are now trying to put in place the district assemblies bylaws, which we hope to put in place before this year ends.

After having talked to him for some ten minutes, two men walked in and sat on either side of me. It is only when they were seated that I recognised the district fishery officer. The other man turned out to be the presiding member of the DA – about whom I had been asking before I came to the DCE! What a coincidence! Apparently word had spread that I was there to talk to the DCE about fisheries. Although I did not know whose initiative it had been, I did sense that what I was talking about was important. So I tried again and asked the three men:

MK: One of the main questions I have is the bylaws. Because I understood that they have been ratified some years ago and that they have not been gazetted yet. So I was wondering why is it taking so long?
PM: In fact even this morning [during the interview it is around 10 o’clock in the morning] – I didn’t even inform him [nodding towards the DCE] before. I went to the house of the lawyer, of our solicitor or so, to ask him, because he said that he was not having sufficient time to finish it up for us. I provided him with the necessary documents which would give him the helping hand, and I have been able to provide him a room. So now since people have been started in chambers, we have located a room here, room ten for him to come and hide there and complete it for us. But yet up till now, he has not been able to so, so I want to find out why, but unfortunately he has left for court, he is in a meeting this morning. However in the evening I will go back again and I am sure in space of time it will be in order, it will be in place. I don’t know if I differ from what my DCE says?
MK: No.
PM: Do I differ?
MK: No, your DCE said by this years ending it should be done.
PM: Ok

In earlier conversations the districts fisheries officer had explained to me why he thought it was so difficult to get the bylaws issued:

MK: Why is it a problem to get them gazetted?
Fisheries officer: It is political! The difficulty is enforcing the laws since it will throw the fishermen out of work. You see anchovy is the major species caught here, they depend on it. The nets in Ghana should be above 1 inch mesh size, but nets are 3/8 of an inch. And that is the problem. Without those nets they can’t be caught. They are afraid of enforcing it. (interview 65, 16-7-2004)

And:

MK: Why does it take so long?
Fisheries officer: I don’t know, the government doesn’t want to be made unpopular. They are afraid. We know how to enforce laws. In the law it is said no mesh size under 1 inch. The beach seine even has 3/8!! That is the peculiar nature of this area. If you ban it, there is no more fish caught here. They
all want the anchovy, but the large size is not larger than this [shows his pink to me]. (interview 76, 27-8-2004)

That this is the blocking issue is reflected in the conversation I had with the DCE after he had assured me that the bylaws would be gazetted that same year. He explained to me that because the bylaws were not in place, they could not solve certain issues in court. I asked him to give me an example of the kind of things that the court could not settle because the bylaws had not yet been gazetted:

DCE: For example the use of some mesh size. You know over here June, July, August is the season for the anchovy. The anchovies they are small and any fisherman that uses that net size, that mesh size is naturally going against the fisheries law, do you get it. And such a person how do you prosecute him?
MK: So, but the bylaws, what do they state about that then?
It is not yet out. The bylaw is not yet out. So maybe, what I believe is eh… during the anchovy season, fine maybe you allow them to use the lower mesh size, then soon after the anchovies season, you will have to use the required mesh size.
MK: Ok, so and that will be in the bylaw?
Yes, it will be in the bylaw.
MK: Ok so, apparently within this district you want to make a division between the season in which they can use this net and out of season they cannot?
DCE: Yes.

The Keta bylaws stated the following on this issue:

| Use of prescribed net | The use of beach seines and nets with mesh size less than 25 mm or 1 inch is forbidden. Offenders will be prosecuted at court. |

Interestingly it was not stated in the bylaws what the fine would be, whereas in most other cases this is clearly prescribed (pay 100,000 cedis for example). The idea that I got about this whole exercise is that the DA in Keta District is unwilling to pass these bylaws and wants to change them by adding the possibility of using a smaller mesh size in the anchovy season and a larger one out of season. Only when they have managed to arrange that, will they be willing to pass the laws. It is a highly political issue in a district where most of the fishermen fish with the beach seine, which would be illegal once the bylaw is gazetted.

An evaluation of the Fisheries Sub-Sector Capacity Building Project of the World Bank (2003) states about the committees that: ‘CBFMCs are now empowered and capable of monitoring their fisheries resources, as well as generating funds through imposing fines to maintain their operations’ (World Bank 2003: 10). From the above we can at least doubt the validity of this statement. Overall the evaluation of the Bank is quite negative in terms of expected sustainability of the effects: ‘However sustainability is rated as unlikely under the current circumstances. A lack of political will to enforce regulations and remedial measures, the weak leadership provided by the DoF, and the problems of collaboration, unless resolved, will continue to hamper reforms and limit achievements of future operations’ (World Bank 2003: 12)

In an organisational assessment of two CBFMCs in the beach seine communities of Adina (Volta Region) and Katech (Central Region) it was concluded that the CBFMCs were still functioning but mainly performed well in conflict resolution situations (Bamfo 2003). One might have expected the committees to have strengthened the relationship with GoG structures such as the DA and MoFA – but from this study it became clear that that was not the case: ‘The DA is perceived as far away from the community and the community based organisations’ and ‘The MoFA also failed to
follow up and provide the necessary backstopping to the CBFMC’ (Ibid.: 26). Bamfo advises the strengthening of the capacity of the members of the committees and the institutional linkages (Ibid.: 26-28).

Conclusion
In this chapter, I discussed the governance concept, highlighted some important elements from the fisheries governance debate and presented the structure of the multiple governance framework in Ghana. For our understanding of governance it is important to recognise that the fisheries sector is characterised by diversity, complexity, dynamics and uncertainty leading to incomplete information. The crisis in world fisheries is a complicated problem, with issues spilling over from one realm to another. A governance approach recognises that public and private actors are involved with different legal systems and power differentials. It is important to differentiate between analytic and normative approaches in governance. A normative approach stresses that governance is and should be about making hard choices based on principles. In this chapter we used an analytic governance approach and sketched the complexity, diversity and dynamics of the Ghanaian setting in which fisheries governance takes place.

In a nutshell governance is about who sets what rules, when and how. We also read in this chapter that it is interesting to add one question to this series – namely why was this rule set, and based on which knowledge or worldview. Answering these questions reveals that there are more actors involved in governance. Rules in fishing at local level might even be primarily set by other actors than the Ghanaian government. One of the key institutions in Ghanaian artisanal fisheries is that of the chief fisherman. It originates out of the traditional governance system. This chapter has shown that the traditional governing system and that of the government of Ghana have multiple linkages as well as several hybrid organisations, such as that of the Regional Chief Fisherman, the GNCFC and the Regional and National houses of Chiefs. Their functioning is grounded in Ghana’s constitution and regulations (Chieftaincy act). The multi-actor characteristic of the Ghanaian governance situation fits well with the notion of governance, and the understanding that both systems are based on different value orientations is recognised in the attention given in the interactive governance debate as formulated by Kooiman et al. (2005) that we follow here, to the meta level of guiding principles.

In our discussion of the property rights debate that has had a major influence on natural resource management literature, we realised that in the African context this works differently in practice. The notion of ownership is understood differently – something we will see in the next chapter when we discuss the local knowledge of the Anlo-Ewe beach seine fishermen and when we contextualise the activities they have undertaken to regulate their fisheries. African resource contexts are by definition pluralistic – because of the traditional and colonial influences which have fed the current situation of plurality in norms, ideas and knowledge. We also learned from the institutional bricolage literature (in the African context) that the resource users also have multiple identities and relate to a variety of norms. These are anchored in various governance structures. Finally we learned from the literature on political power that power differentials play a role in deciding the impact of various governance activities as we have seen in the bylaws case in Keta.