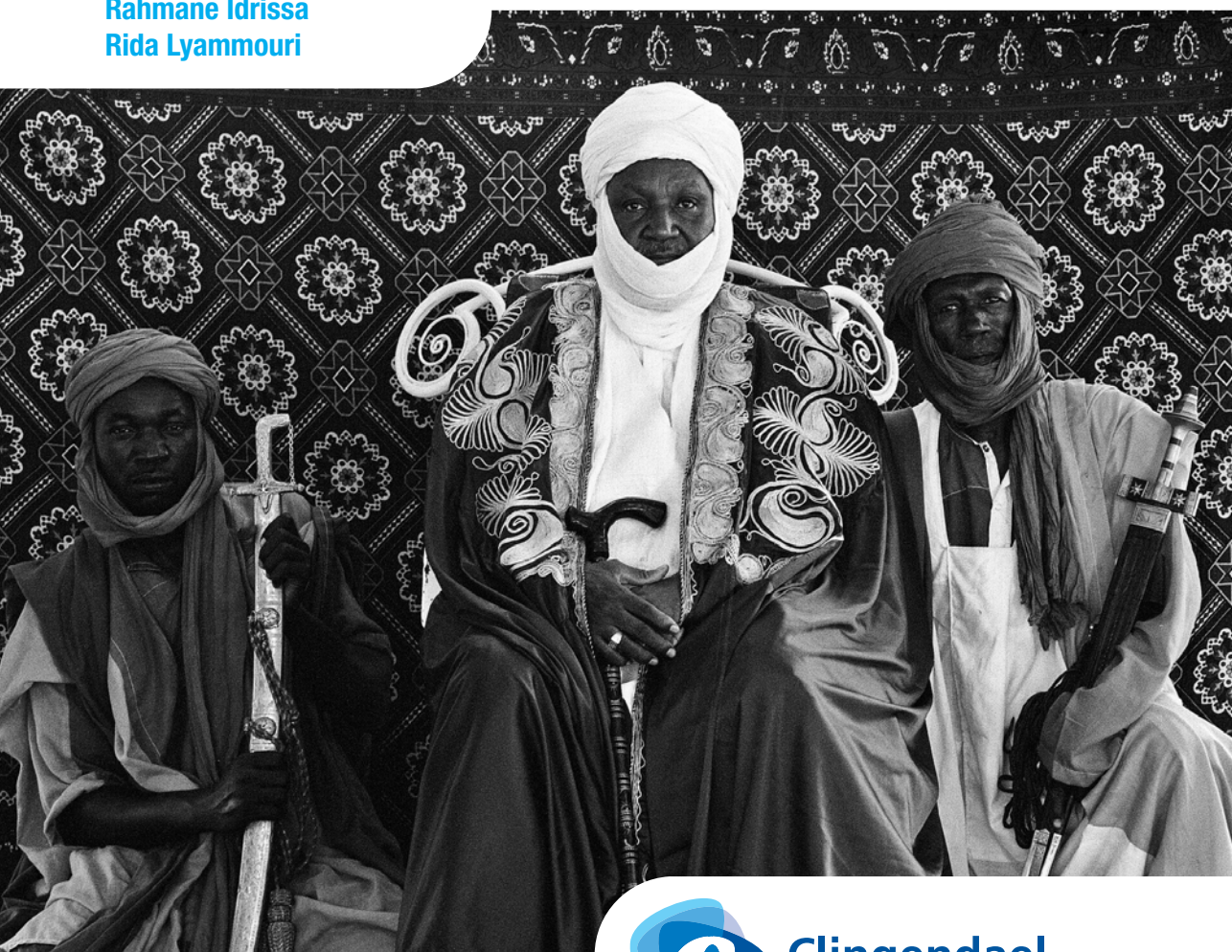


The Status Quo Defied

The legitimacy of traditional authorities
in areas of limited statehood in Mali,
Niger and Libya

Fransje Molenaar
Jonathan Tossell
Anna Schmauder
Rahmane Idrissa
Rida Lyammouri

CRU Report



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Executive summary

In many countries in the Sahel and northern Africa, the state lacks an effective presence in border regions. This has dire consequences for communities that reside there, as the state is generally unable or unwilling to provide them with basic security and services. State absence has become a particularly pressing concern since the 2011 fall of Gaddafi in Libya, which set in motion a chain reaction of armed group formation and the spread of violent extremist organisations that now threaten the stability of the region. By capitalising on both the absence of state security and local populations' grievances about central state neglect, these groups have been able to cement their presence throughout the Sahel, in Mali and Niger for example.

This report explores whether traditional authorities in Mali, Niger and Libya could play a role in addressing these dynamics. Since pre-colonial times, traditional authorities such as tribal chiefs and religious leaders have performed governance tasks, such as the administration of justice and conflict mediation. They also play 'an important symbolic role as representatives of community identity, unity, continuity, and stability'.¹ This has earned them a high degree of legitimacy among the public.² In areas of state absence, traditional authorities could therefore provide pivotal entry points for local dispute resolution and mediation initiatives. Yet, as this report shows, traditional authorities have always been part of the political context, and are thus liable to be drawn into political – and sometimes violent – conflict.

To assess whether traditional authorities can contribute to governance and stability, this report aims to provide a better understanding of how traditional authorities come to power, the extent to which their communities regard them as legitimate authorities, and the extent to which communities feel that traditional leaders are best-placed to address their concerns. The application of this multidimensional perspective to legitimacy, as advanced by Beetham (2013), leads to the following central research questions:

How do the traditional authorities engaged in local governance in fragile settings, such as areas of limited statehood, build and maintain legitimacy? And what consequences does this have for (inter)national interventions that aim to foster (formal) local government and stability?

1 Logan, C. 2013. 'The roots of resilience. Exploring popular support for African traditional authorities', *African Affairs*, 112(448), 353-376.

2 Logan *ibid*; Molenaar, F. et al. 2017. *A Line in the Sand: Roadmap for sustainable migration management in Agadez*. CRU report, The Hague: Clingendael Institute.

To answer this question, the study compares experiences with traditional governance in border regions in Mali, Niger, and Libya. The three countries are home to the Tuareg ethnic group. As such, they present a natural experiment that allows for the tracing of the evolution of traditional authority regimes over time amidst different state structures and different types of regimes, and under the influence of different contextual pressures and challenges.³ In addition, all three countries are theatres of violent conflict. Yet the conflict dynamics present in the countries manifest themselves in many different ways. To account for the different effects these dynamics have on traditional governance structures, the following border regions were selected:

- **Mali:** Since the outbreak of the 2012 Malian rebellion, northern Mali has fallen into the hands of non-state armed groups. While the armed groups that together constitute the pro-autonomy alliance *Coordination des mouvement de l'Azawad* (CMA) control the northern **Kidal** region, the **Ménaka** region is in the hands of armed groups belonging to the pro-central state *Platform* coalition. Selection of these regions allows for a comparison of the traditional governance structures' legitimacy and ability to govern under different types of armed governance.
- **Niger:** The **Tillabéri** region has faced decade-long cross-border cattle raids and revenge violence between Nigerien Fulani and Malian Tuareg. Radical armed groups have been able to capitalise on these conflict lines, resulting in a rapid increase in violence and instability in the region. **Tahoua** is the hotbed of Tuareg rebellions in Niger and is also experiencing an increase in cross-border violence from Mali. Nevertheless, the municipalities selected for this study are located in a more secure area of Tahoua – allowing for a comparison of traditional governance structures' legitimacy and ability to govern under different security conditions.
- **Libya:** The **Fezzan** region in Libya has known a long history of state neglect. Yet its Tuareg population has always been deemed an important ally for central governors from colonial times to the present day.⁴ Today, the two main national conflict actors seek to establish alliances with Tuareg armed groups to put the balance of power in their own favour – albeit in a haphazard manner. Inclusion of the Fezzan in this study therefore allows for an exploration of traditional governance structures' legitimacy and ability to govern under conditions of national armed governance attempts to gain control over the region.

The study relies on data obtained through 323 key informant interviews with traditional authorities and other governance actors. In addition, we organised 1-2 rounds of follow-up workshops and meetings in the three countries to discuss initial findings and

3 See McCauley, J.F. and Posner, D.N. 2015. 'African borders as sources of natural experiments: promise and pitfalls', *Political Science Research and Methods*, 3(2), 409-418.

4 As discussed in Chapter 2, at times this was alternated with periods of exclusion as part of ethnic divide-and-conquer strategies.

recommendations with local research teams, as well as with a wide range of experts, (traditional) authorities, non-governmental organisations (NGOs) and members of the international community. Key data collected on the relationships between traditional authorities and other actors in the municipalities under study here can be found at our project website: <https://www.clingendael.org/publication/legitimacy-traditional-authorities-mali-niger-and-libya>.

Analysis of the collected data led to in the following main findings and recommendations:

Traditional authorities as governance actors

As a main point of departure, it should be recognised that traditional authorities are not necessarily ‘informal’ or ‘non-state’ actors. In many countries, the law allocates to traditional authorities a position in the formal administration. This is particularly the case in Niger, where the creation and nomination of traditional authorities has been formally regulated and where the law ascribes to them tasks such as tax collection and dispute resolution. In our research, we found that Nigerien traditional authorities also take on other administrative tasks such as carrying out local censuses and acting as key points of coordination for humanitarian organisations active in their communities.

Many of our respondents in all three countries also ascribe to traditional authorities the task of representing them before state institutions. In practice, this means that traditional authorities confer requests from the community on to the relevant state institutions. In this manner, traditional authorities form a parallel representative structure to elected officials in countries such as Niger and Mali, which became formal democracies in the early 1990s. In Libya, which decentralised governance to municipal councils after the fall of Gaddafi in 2011, traditional authorities similarly persevered as the main representative bodies for communities in the southern, neglected Fezzan region.

This is not to say that all respondents see traditional authorities as legitimate authorities. In fact, these authorities tend to represent an elite status quo. In pre-colonial and colonial times, traditional leaders stood at the top of tribal hierarchies and ruled over lower-level castes of vassals, menial workers and slaves. In many cases, contemporary traditional authority structures still reflect (pre-)colonial hierarchical relationships that are increasingly rejected by lower status groups, including women and young people. The relatively recent introduction of municipal democratic structures has created novel arenas where competition for power between these groups now plays out.

The resulting tensions have the potential to turn violent and have led many respondents to accuse traditional authorities of being just as corrupt and self-interested as

political parties (a common complaint throughout the world). In Niger, this is further compounded by the fact that national political elites have meddled in the creation and nomination of traditional authorities to further their own political agendas. These dynamics undermine communities' perceptions of traditional authorities as neutral and objective governance actors.

So what does all this mean for (inter)national interventions that aim to foster (formal) local government and stability? Rather than taking a normative stance about whether there is a place for traditional authorities in contemporary African democracies, this study recommends a more pragmatic approach. The presence of traditional authorities is a given, and they are often the sole governance actors in areas of limited statehood. Despite their flaws and oft-exclusionary nature, this makes them crucial allies for those seeking to improve governance and security in Mali, Niger, and Libya.

Working with traditional authorities could thereby contribute to the attainment of Sustainable Development Goal 16, promoting the rule of law, ensuring equal access to justice, and ensuring responsive inclusive and representative decision making. In addition, collaborating with these actors would be in line with the 2015 Advisory Group of Experts on UN Peacebuilding Architecture recommendation that 'new approaches need to be found, which understand peacebuilding, at least in its early phases, as having more to do with strengthening local domains of governance than trying to re-establish strong central authority.'⁵

To achieve these aims, however, efforts should be undertaken to address the exclusive tendencies of traditional authority structures and key dynamics that contribute to this, such as their politicization. From our discussions with high-level political elites in Niger, there emerged a call to organise a national forum to discuss the negative effects that the introduction of democratic governance has had on traditional authorities' perceived neutrality and legitimacy. Given that we find that politicization has similarly affected traditional authorities in Mali, we argue that the time has also come for a broader regional debate on the role of traditional authorities in contemporary governance structures. The dialogues, which should include underrepresented groups, could inform processes such as the current constitutional reform in Mali, which seeks to provide traditional authorities with designated seats in a new second chamber, or the further development of local governance interventions in Libya.

A second recommendation, specifically proposed by the Nigerien Minister of Justice, is to codify traditional authorities' customs in the form of jurisprudence and to standardise their justice provision. This could improve the transparency and objectivity of local

5 United Nations, *The Challenge of Sustaining Peace: Report of the Advisory Group of Experts for the 2015 Review of the United Nations Peacebuilding Architecture*, 29 June 2015, p. 16.

justice provision and allow for a comparison between the traditional (sharia) law implemented in these countries and international human rights norms. In areas presently under the control of armed groups, such as northern Mali, efforts to engage with Qadis (traditional religious figures in reconciliation and justice, administering verdicts on the basis of Islamic law) in this manner would allow for the establishment of a channel of communication between the central state and the justice providers who currently operate under armed governance. A related recommendation is to train and equip all types of traditional authorities – especially those with limited access to resources – to ensure the effectiveness and neutrality of their governance.

Traditional authorities under armed governance

Institutional reforms will be unable to capitalise on the governance potential of traditional authorities, however, if they overlook the fact that insecurity and the presence of (extremist) armed groups in the Sahel and Libya affects the way in which these authorities govern. In our research, the most obvious cases in point are the traditional authorities in the Ménaka and Kidal regions in northern Mali. Here, traditional authorities have allied themselves to armed groups – either as a way to protect their position against new armed contenders (as is the case in Kidal) or as a necessary step to ensure their own security and ability to govern (as is the case in Ménaka).

The fact that the relationship between traditional authorities and armed groups is often formed out of sheer necessity for protection is also visible in the Tillabéri region of Niger. Here, the increase in inter-communal conflict and the presence of armed extremist groups has put traditional authorities between a rock and a hard place. As key representatives of both warring local communities and the state administration, they are often the target of (death) threats and abductions. At the same time, state forces often suspect traditional authorities of collaborating with armed actors – thereby making them potential targets of persecution rather than recipients of state security provision. In the Fezzan in Libya, lastly, the absence of a central state means that tribal armed groups are the sole security actors present – up to the point that traditional authorities perceive them to be a formal part of the country's military structure.

Their alliances with armed groups may allow traditional authorities to continue to govern in the short term. In the case of northern Mali, however, we find that the increased fragmentation of conflict has limited traditional authorities' scope of authority and their legitimacy. As communities become divided along ethnic, resource-based and clan-based fault lines, so do their traditional authority structures. This has weakened traditional authorities' ability to engage in communal conflict mediation. In addition, the population increasingly sees armed groups as more effective governance actors than the traditional authorities themselves – oftentimes sidelining traditional authorities and taking requests directly to the armed groups. In a way, the population thereby mimics

the instrumental relationship of traditional authorities with armed actors, which can protect their safety and interests.

Most importantly, traditional authorities in both regions in northern Mali note that armed groups determine the available scope for their governance efforts – meaning there are certain topics and individuals that traditional authorities cannot, or do not want to, burn their hands on. A similar dynamic is seen in the Fezzan region in southern Libya. There, traditional authorities maintain an open line of communication with tribal armed groups, which allows them to coordinate on local issues. However, strategic discussions about the armed groups' alliances with the two national competing governments are off limits to the traditional leaders.

From the above, it follows that many traditional authorities have been able to adapt to life under armed governance. Given that the use of coercive force is now in the hands of non-state armed groups, however, traditional authorities' ability to govern depends on their relationships with these actors. Armed actors provide them with the force needed to implement their decisions and provide them with much needed security. The case of northern Mali shows that this dynamic has the potential to result in a dangerous spiral of inter-communal conflict that, by extension, implicates the traditional authorities. The question is whether this means that traditional authorities' role in conflict mediation and resolution has been played out completely?

Our findings suggest that this is not necessarily the case. There are interesting examples of traditional authorities contributing to ethnic reconciliation and conflict resolution by engaging in communal talks that sidelined warring armed groups and state authorities in Mali (end of 1996 rebellion). In Libya, traditional authorities similarly played a crucial role in ending the 2014 Ubari war – an achievement that respondents identify as a major factor contributing to these actors' legitimacy today. On a smaller scale, the Niger chapter identified the Fulani *rugga* (peace brokers) and *garso* (scouts) as instrumental in solving conflicts between Fulani herders and other herders and farmers.

This report's third main recommendation is therefore to support mediation efforts at local level to build a foundation of stability that could subsequently be scaled up. Although this will not solve all conflicts in the region, it could prevent the further spread and escalation of local conflicts before they take on an ethnic dimension or become co-opted by radical armed groups. Due to their historical role as conflict mediators and representatives of their communities, traditional authorities are pivotal partners in such inter-communal dialogues. Moreover, the recent experience of the Clingendael Academy – training negotiation skills for communities subject to herder-farmer conflicts in Nigeria – showed that traditional authorities are also key partners because the outcomes of these dialogues will need to be communicated back to the entire community in order to build acceptance and support.

There are already a number of organisations present in the border area between Mali and Niger that arrange meetings between representatives of different communities to invest in trust and dialogue. These efforts should be further supported. Investing in capacity building for traditional authorities, such as negotiation skills and an understanding of important rules and regulations – such as the pastoral code, would likely improve the success rate of such reconciliation efforts. Facilitating dialogue and the exchanges of experiences at regional and national levels could subsequently scale up these efforts. This would also allow for the establishment of a communication channel between local communities and the (inter)national community.

The findings from our country studies also act as a warning signal for the Sahel and West Africa region more generally. Traditional authorities are often the only authority structures present in regions threatened by (radical) armed groups, which have shown the ability to capitalise on local fault lines that are often linked to conflicts over access to natural resources. Therefore, many of the recommendations presented above should also be applied to at-risk regions, to strengthen local resilience against armed governance. Such a proactive approach would entail supporting traditional authorities' ability to engage in effective and transparent governance efforts, including justice provision, combined with support for both preventing and resolving inter- and intra-community conflicts. Although such measures will not defeat (radical) armed groups, they could make it much more difficult for them to anchor themselves in new localities.

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Acronyms

| | | |
|-----------|---|---|
| ADC | <i>Alliance Démocratique du 23 Mai pour le Changement</i> | 23rd of May Democratic Alliance for Change |
| AIN | <i>Association Islamique du Niger</i> | Niger Islamic Association |
| AQMI/AQIM | al-Qaeda au Maghreb Islamique | al-Qaeda in the Islamic Maghreb |
| ARLA | <i>Armée Révolutionnaire pour la Libération de l'Azawad</i> | Revolutionary Army for the Liberation of the Azawad |
| ATNMC | <i>Alliance Touarègue du Nord Mali pour le Changement</i> | North Mali Tuareg Alliance for Change |
| CMA | <i>Coordination des Mouvements de l'Azawad</i> | Coordination of the Azawad Movements |
| CME | <i>Coordination des Mouvements de l'Entente</i> | Coordination of the Agreement Movements |
| CMFPR | <i>Coordination des Mouvements et Fronts Patriotiques de Résistance</i> | Coordination of the Movements and Patriot Resistance Fronts |
| CSMAK | <i>Comité de Sécurité Mixte de l'Azawad à Kidal</i> | Azawad Joint Security Committee in Kidal |
| DDG | | Danish Demining Group |
| DDHP | | MINUSMA Human Rights and Protection Division |
| FGD | | Focus group discussion |
| FIAA | <i>Front Islamique Arabe de l'Azawad</i> | Arab Islamic Front for the Azawad |
| FPLA | <i>Front Populaire pour la Libération de l'Azawad</i> | Popular Front for the Liberation of the Azawad |
| GATIA | <i>Groupe Autodéfense Touareg Imghad et Alliés</i> | Tuareg Imghad and Allies Self-defence Group |
| GNA | | Government of National Accord |
| GSPC | <i>Groupe Salafiste pour la Prédication et le Combat</i> | Salafist Group for Predication and Combat |
| HACP | <i>Haute Autorité à la Consolidation de la Paix</i> | High Authority for Peacebuilding |
| HCUA | <i>Haut Conseil pour l'Unité de l'Azawad</i> | High Council for Azawad Unity |
| HoR | | Tobruk-based House of Representatives |

| | | |
|---------|---|--|
| ISGS | | Islamic State in the Greater Sahara |
| JNIM | <i>Jama't Nusrat al-Islam Wal-Muslimeen</i> | Group to Support Islam and Muslims |
| KII | | Key informant interview |
| LNA | | Libyan National Army |
| LPA | | Libyan Political Agreement |
| MAA | <i>Mouvement Arabe de l'Azawad</i> | Azawad Arab Movement |
| MIA | <i>Mouvement Islamique de l'Azawad</i> | Azawad Islamic Movement |
| MINUSMA | <i>Mission Multidimensionnelle Intégrée Des Nations Unies Pour La Stabilisation Au Mali</i> | United Nations Integrated Multidimensional Mission for Stabilization in Mali |
| MNLA | <i>Mouvement National Pour la Libération de l'Azawad</i> | National Movement for the Liberation of Azawad |
| MOC | <i>Mécanisme Opérationnel de Coordination</i> | Operational Coordination Mechanism |
| MPA | <i>Mouvement Populaire de l'Azawad</i> | Azawad Popular Movement |
| MPLA | <i>Mouvement Populaire pour la Libération de l'Azawad</i> | Popular Movement for the Liberation of Azawad |
| MSA | <i>Mouvement pour le Salut de l'Azawad</i> | Movement for the Salvation of Azawad |
| MSA-C | <i>Mouvement pour le Salut de l'Azawad – Chamanamas</i> | Azawad Salvation Movement Chamana-mas split group |
| MSA-D | <i>Mouvement pour le Salut de l'Azawad – Daoussak</i> | Azawad Salvation Movement Daoussak split group |
| MUJAO | <i>Mouvement pour l'Unité et le Jihad en Afrique de l'Ouest</i> | Movement for Unity and Jihad in West Africa |
| NGO | | Non-governmental organisation |
| SSTC | | Supreme Social Tuareg Council |

Key concepts

| | |
|---------------|---|
| Ag | Son of |
| Amenokal | Leader of the ettabal, executive tribal authority |
| Azawad | The term with which autonomy/independence factions of the 2012 rebellion refer to the northern regions of Mali. Its cultural existence was recognised in the 2015 Algiers Agreement |
| Bella | Tuareg caste of former slaves |
| Canton | Sedentary administrative district at municipal level |
| Commune | Administrative district at municipal level – an umbrella term for <i>cantons</i> (sedentary districts) and <i>groupements</i> (nomadic districts) |
| Confederation | Largest unit of Tuareg political organisation consisting of various ettabal |
| Cyrenaica | The region encompassing the east of modern-day Libya |
| Ettabal | Group of Tuareg clans that form a political unit under the leadership of one clan. Also called a federation |
| Federation | Group of Tuareg clans that form a political unit under the leadership of one clan. Also called an ettabal |
| Fezzan | The region encompassing the south-west of modern-day Libya |
| Fraction | Nomadic administrative district at sub-municipal level |
| Garso | Fulani scouts who chart the way for herders, also leading them away from conflicts with other herders or with farmers |
| Groupement | Nomadic administrative district at municipal level |
| Ifoghas | Noble Kel Adagh clan (Kidal region) |
| Imghad | Low-level Kel Adagh caste historically composed of craftsmen (Kidal region) |
| Kel Adagh | Main Tuareg confederation in the Kidal region |
| Kel Ahaggar | Tuareg confederation predominantly based in Algeria |
| Kel Ajjer | Main Tuareg confederation in southern Libya, with the municipality of Ghat being their historical stronghold |
| Mokhtar | A state-appointed local governance intermediary between local communities and the municipal council in Libyan municipalities |
| Muezzin | A religious authority that typically leads the call to prayer in a mosque |
| Qadi | A highly respected traditional religious figure in reconciliation and justice, administering verdicts on the basis of Islamic law |

| | |
|--------------|--|
| Quartier | Urban administrative district at sub-municipal level |
| Rugga | Fulani peace brokers who travel extensively to solve conflicts among Fulani herders |
| Tribu | Nomadic administrative district at the municipal level, either at sub-municipal level (contemporary Niger) or at municipal level (colonial Mali) |
| Tripolitania | The region encompassing the north-west of modern-day Libya, including the capital Tripoli |
| Village | Rural administrative district at sub-municipal level |

1 Introduction

1.1 Traditional authorities' role in governance and stability

Central governments in countries such as Mali, Niger and Libya have historically lacked authority over and/or an effective presence in their border regions. Instead, governance in these areas is often in the hands of traditional authority figures, such as tribal chiefs or religious leaders.⁶ These authorities have persisted throughout colonial times, post-independence state-building processes, regime ruptures, authoritarian reversals and rebellions, and more recent processes of state decentralisation, armed conflict, and post-conflict stabilisation and state building.⁷ It therefore seems a fair assertion that traditional authorities are around to stay for years to come.

Over the course of the last decade, these border regions have also become theatres of violent conflict. The fall of Gaddafi in 2011 set into motion a range of conflict events in Libya that reverberated throughout the entire region. The increased availability of arms (due to the looting of weapons stockpiles) and the return home of foreign Tuareg fighters trained in Gaddafi's army set in motion the 2012 Tuareg rebellion in northern Mali – ultimately leading to the Malian coup d'état in March that same year, and the establishment of a French military presence as well as the deployment of the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) in July 2013. However, these missions could not prevent the hijacking of the rebellion by a number of violent extremist organisations present in the region – or the spread of conflict dynamics to central Mali and across the border into Niger.

6 Traditional authority is derived from custom, where people obey a certain person or office (monarchs, tribal shamans, etc) because 'it has always been that way'. This notion is derived from Max Weber's work on legitimate domination (*herrschaft*) and charismatic authority, as summarised in Hofmann, D.C. 2015, 'Quantifying and qualifying charisma: a theoretical framework for measuring the presence of charismatic authority in terrorist groups', *Studies in Conflict and Terrorism*, 38(9), 710-733.

Traditional authorities in Libya, Mali and Niger can take the shape of customary figures such as village chiefs, and religious figures such as marabouts (see Chapter 2 for an elaborate discussion). Hereafter, the terms 'traditional authorities', 'customary leaders', and 'traditional leaders' will be used interchangeably.

7 Although, admittedly, much of what is considered traditional in the African context derives from pre-colonial practices that colonial and postcolonial states reinvented to suit their own objectives.

The armed (extremist) groups that roam across the region tend to be located in the same border regions governed by traditional authorities. It is unclear how traditional authorities have been affected by the presence of these armed actors. In principle, and given traditional authorities' historic role in conflict mediation and the promotion of community stability, they could be key partners for (inter)national efforts to promote local dispute resolution and mediation. In addition, their governance might appease local communities, whose resentment of central state neglect might otherwise form a fertile breeding ground for the mobilisation of armed (extremist groups).⁸ But this presupposes that the rise of armed groups has not affected traditional authorities' ability to exercise their historic functions nor local communities' acceptance of traditional authorities as governance actors. Would state-building and stabilisation processes benefit from the inclusion of traditional governance actors as positive entry points for change, or would those actors be empowered as spoilers and obstacles to peace and improved governance?

To provide insights into these dilemmas, this study set out to answer the following research questions:

How do the traditional authorities engaged in local governance in fragile settings, such as areas of limited statehood, build and maintain legitimacy? And what consequences does this have for (inter)national interventions that aim to foster (formal) local government and stability?

Two key concepts require further elaboration. Areas of limited statehood, first, are areas that 'still belong to internationally recognized states ... yet their domestic sovereignty is severely circumscribed. Areas of limited statehood concern those parts of a country in which central authorities (governments) lack the ability to implement and enforce rules and decisions or in which the legitimate monopoly over the means of violence is lacking, at least temporarily.'⁹ As will be described in more detail below, this is the case in all of the border regions under study here.

8 In this sense, collaborating with these actors could be in line with the 2015 Advisory Group of Experts on UN Peacebuilding Architecture recommendation that 'new approaches need to be found, which understand peacebuilding, at least in its early phases, as having more to do with strengthening local domains of governance than trying to re-establish strong central authority'. United Nations, *The Challenge of Sustaining Peace: Report of the Advisory Group of Experts for the 2015 Review of the United Nations Peacebuilding Architecture*, 29 June 2015, p. 16.

9 Risse, T. 2011. 'Governance in areas of limited statehood: introduction and overview', in: Risse, T. (ed.) *Governance Without a State? Policies and politics in areas of limited statehood*, New York, Colombia University Press, 6.

Legitimacy, second, is a notoriously difficult concept to define. This study applies a multidimensional perspective to legitimacy, as advanced by Beetham (2013), which focuses on the extent to which power conforms to *rules*, the extent to which these rules are justifiable in terms of *shared beliefs (values)*, and on the extent to which power is legitimised through expressed consent – meaning that these authorities exercise specific *functions*.¹⁰ The benefit of this multidimensional perspective is that it does not presuppose that everyone who comes to a position of power through commonly established rules and procedures is necessarily perceived as legitimate by his or her subjects. Neither does it presuppose that everyone who is able to provide effective governance, such as armed groups who provide security and enforce a tax in return, are commonly accepted in the communities under their control. Instead, it highlights how these different dimensions interact and may thereby strengthen or undermine traditional authorities' legitimacy.

In line with this multidimensional perspective, the following questions will therefore be addressed in each of the countries under study here:

1. Rules: How do traditional authorities come to power and how is their mandate defined? To what extent have their positions and mandates been incorporated into the formal state framework? Has this changed recently, and if so, why?
2. Shared beliefs (values): To what extent are traditional authorities recognised as a valid source of authority and what are the general agreements on the ends that their authority should serve? Has this changed recently, and if so, why?
3. Functions: To what extent do people, other state actors, and/or the international community turn to traditional authorities for the fulfilment of tasks that correspond to their mandate? Has this changed recently, and if so, why?

The main research objectives of this project are to provide a strong evidence base of:

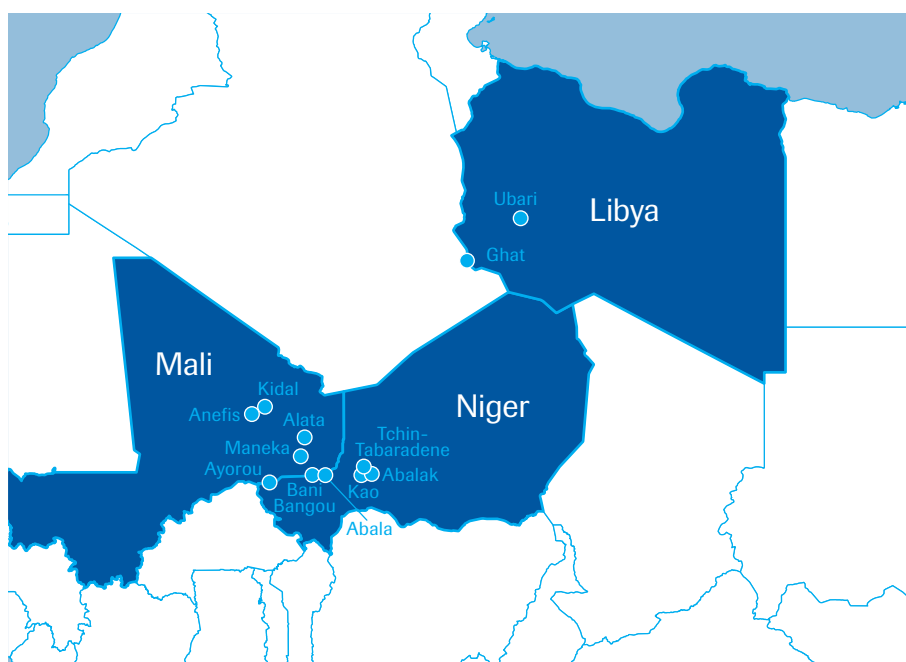
1) how traditional authorities obtain and maintain their legitimacy both before their constituencies and before the central government, especially in conflict-torn spaces as Libya and Mali where authority is heavily fragmented; and 2) how these authorities can be involved in the promotion of governance and stabilisation processes and what that would require in terms of engagement by the international community. In this manner, the study explores whether working with traditional authorities could contribute to the attainment of Sustainable Development Goal 16, promoting the rule of law, ensuring equal access to justice, and ensuring responsive inclusive and representative decision making, as well as stability in the region.

10 Beetham, D. 2013 (2nd edn). *The Legitimation of Power*, London, Macmillan.

1.2 Studying the legitimacy of traditional authorities in Mali, Niger, and Libya

The study focuses on five border regions: Kidal and Ménaka in Mali, Tahoua and Tillabéri in Niger, and the Fezzan in Libya. Mali, Niger and Libya are neighbouring countries located across the Sahel region and Sahara desert that connect west to north Africa. A common feature of these three countries is that their border regions, especially those in the Sahel region and the Sahara desert, are areas of limited statehood. Establishing a central state presence has always been a challenge – either because of a lack of means and/or because of the unwillingness of governing elites to invest in these peripheral regions. The areas are home to semi-nomadic ethnic groups who often feel more connected to kinsmen located across state borders than with the dominant ethnicities governing their countries' capitals. The cross-border ties of these ethnic groups' facilitate (illicit) exchanges and trade relationships that often form the only economic lifelines available to border communities. Grievances tend to abound over state neglect. Past negative experiences with state security forces (particularly in Mali and Niger) have created resentment towards and mistrust of the central state.

Figure 1 Municipalities included in this study



All three countries are home to a large Berber ethnic confederation called the Tuareg. Although the Tuareg are a minority ethnicity in every country, their historical presence on the trans-Saharan trade routes, combined with their key role in formative conflicts in the colonial and postcolonial era alike, has left its marks on governance and stability in the region.¹¹ Their presence in the border regions of different countries creates a unique natural experiment that allows for the tracing of the evolution of traditional authority regimes over time under different state structures, different types of regimes, and the influence of different contextual pressures and challenges (see Chapter 2 for a comparative overview).¹² The three country chapters in this report explore how each country's unique socio-political trajectory continues to influence traditional authority structures today and their relationships with non-state armed groups and state authorities.

As discussed above, a second common denominator in all three countries is that, in recent years, they have become theatres of violent conflict. Yet the conflict dynamics in each country are manifested in many different ways. To account for the different effects this has on traditional governance structures, the border regions selected were those that represent the most common variations in armed governance and instability:

- Mali: Since the outbreak of the 2012 Malian rebellion, northern Mali has fallen into the hands of non-state armed groups. While the armed groups that together constitute the pro-autonomy alliance *Coordination des Mouvements de l'Azawad* (CMA) which controls the northern **Kidal** region, the **Ménaka** region is in hands of armed groups belonging to the pro-central state *Platform* coalition. Selection of these regions allows for a comparison of the traditional governance structures' legitimacy and ability to govern under different types of armed governance.
- Niger: The **Tillabéri** region has seen decades-long cross-border cattle raids and revenge violence between Nigerien Fulani and Malian Tuareg. Radical armed groups have been able to capitalise on these conflict lines, which has resulted in a rapid increase in cross-border violence and instability in the Tillabéri region. **Tahoua** is the hotbed of Tuareg rebellions in Niger and is also experiencing an increase in cross-border violence from Mali. Nevertheless, the municipalities selected for this study are located in a more secure area of Tahoua – allowing for a comparison of traditional governance structures' legitimacy and ability to govern under different security conditions.

11 The Tuareg have proven to be especially hostile towards the Malian and Nigerien central states, as evidenced by the multiple Tuareg rebellions in Mali (1963, 1990, 2006, 2012) and Niger (2007).

12 See McCauley, J.F. and Posner, D.N. 2015. 'African borders as sources of natural experiments: promise and pitfalls', *Political Science Research and Methods*, 3(2), 409-418.

- Libya: The **Fezzan** region in Libya has known a long history of state neglect. Yet its Tuareg population was deemed an important ally for central governors from colonial times to the present day. Today, the two main national conflict actors seek to establish alliances with Tuareg armed groups to shift the balance of power in their own favour – albeit in a haphazard manner as both sides are reluctant to expend the resources needed to establish an effective and sustained presence in the Fezzan. Inclusion of the Fezzan in this study therefore allows for an exploration of traditional governance structures' legitimacy and ability to govern in a context of state neglect and national conflict.

Our selection of municipalities was made with the aim of ensuring we did not include localities with homogeneous populations. The reason for this is that traditional authorities play an important role in conflict mediation – especially in land use conflicts involving different types of land users. Oftentimes, different types of land users belong to different ethnic groups, such as is the case for Fulani herders and Songhai farmers (see Chapter 2 for an introduction to the main ethnicities included in this study). Previous studies have shown that the conflict mediation role of traditional authorities forms an important component of their legitimacy.¹³ As summarised in Table 1, this study therefore includes municipalities with different ethnic compositions – including different heterogeneous Tuareg municipalities composed of different Tuareg tribes and castes – to explore the extent to which traditional governance structures' legitimacy and ability to govern are affected by the ethnic composition of the localities within which they operate.

13 Ursu, A.-E. 2018. *Under the gun*, CRU Report, The Hague, Clingendael; Logan, C. 2013. 'The roots of resilience. Exploring popular support for African traditional authorities', *African Affairs*, 112(448), 353-376.

Table 1 Criteria for region and municipality selection¹⁴

| Country | Mali | | Niger | | Libya |
|---|---|--|---|---|--|
| Type of region | Kidal – separatist armed governance structure | Ménaka – pro-state armed governance structure | Tillabéri – governance under radical extremist threat | Tahoua – governance without radical extremist threat | Fezzan – neglected area under contested statehood |
| Homogeneous municipality | | Alata (Chamanamas Tuareg) | Ayarou (Songhai), Banibangu (Zarma) ¹⁵ | Tchintabara-den (Kel Dinnik Tuareg) | |
| Heterogeneous Tuareg municipality (different tribes/castes) | Kidal (Ifoghas, Idnan, Taghat Malet) | Ménaka (Daoussak, Imghad, Ichid-inharene) | | Kao (high- and low-level castes) ¹⁶ | Ghat (high- and low-level castes) ¹⁷ |
| Heterogeneous municipality (different ethnicities) | Anéfis (Tuareg, Arab) | | Abala (Arab, Tuareg, Hausa) ¹⁸ | Abalak (Tuareg, Hausa, Fulani, Arab) | Ubari (Arab, Tuareg, Tubu) |

The report is based on data collected throughout March and May 2019 (see Annex for the full methodology). In each of the 12 selected municipalities (in bold, Table 1), local research teams conducted 20-25 structured key informant interviews (KIIs) with traditional authorities, religious figures, state authorities if present (such as mayors, security forces, and the judiciary), non-state authorities such as leaders of armed groups and self-defence groups (again, to the extent that these were present), and civil society organisations. In addition, the local research teams conducted 1-4 focus group discussions (FGDs) per municipality, with 5-15 respondents per session. In total, the study relies on data obtained through 323 KIIs and 34 FGDs. The consortium also organised 1-2 rounds of follow-up workshops and meetings in the three countries to discuss the initial findings and recommendations with the local research teams, as well as with a wide range of experts, (traditional) authorities, NGOs and members of the international community (some of whom are also potential end-users for the project's findings).¹⁹ Key data collected on the relationships between traditional authorities and

14 Chapter 2 discusses the different ethnicities in more detail.

15 Also Fulani and Tuareg minorities present.

16 There are also two Fulani settlements in Kao.

17 Interviews were conducted in Al-Barkat (district within Ghat that is dominated by lower-income Tuareg members and families) and Awainat (district within Ghat that is dominated by high-income Tuareg members and families known as the 'nobles'). These families are reportedly among the most influential Tuareg families in the country.

18 Also Tuareg and Fulani communities outside of the rural town.

19 The security situation in Libya did not allow for the organisation of a validation workshop in April 2019. In Mali and Niger, these validation workshops did take place in April. Validation workshops were organised in all three countries in June 2019.

other actors in the municipalities under study here can be found at our project website: <https://www.clingendael.org/publication/legitimacy-traditional-authorities-mali-niger-and-libya>.

1.3 Structure of the report

The report is structured as follows. Chapter 2 introduces the figure of the traditional authority in more detail and traces the historical development of traditional authority structures across the region. It shows how several current conflict lines can be traced back to a continuous process of renegotiating local governance structures within and across different ethnicities, as well as with central state structures, at critical junctures in time. This is not to say that intra- and inter-ethnic tensions are the cause of current conflict dynamics in the region. Rather, the chapter makes the point that these tensions are an ever-present dividing line in society that can be instrumentalised by actors seeking to destabilise the region, and/or that actors intervening in the region risk activating (unintentionally) existing tensions as spoilers of stabilisation processes. Prevailing ethnic governance legacies are a key factor to take into account when intervening in the region.

Chapters 3-5 are country case studies that have been written as stand-alone chapters with specific recommendations tailored to the stabilisation and governance interventions currently being implemented in each country.

Chapter 3 (Niger) shows how traditional or customary chieftaincy in Niger is a powerful asset of local governance. Niger maintained the colonial policy of formalising and integrating the chieftaincy into the territorial administration and the justice system. Since 2015, traditional governance is organised by a law that further integrates chieftaincy into the central government.²⁰ Yet processes of democratisation and decentralisation have led to a sense of institutional crisis in the chieftaincy relative to the position it held under single-party and military regimes. In the regions studied, and especially in Tillabéri, this sense of crisis is compounded by the security threat created by inter-communal conflict and radical extremist armed groups that exert cross-border influence.

Chapter 4 (Mali) shows that high-level traditional elites in northern Mali have become entrenched in armed governance structures – either as founders of non-state armed groups or as close allies of these groups. Rebel movements and armed governance

20 République du Niger. 2015. *Loi n° 2008-42 du 31 juillet 2008, relative à l'organisation et l'administration du territoire de la République du Niger, modifiée et complétée par l'ordonnance n° 2010-53 du 17 septembre 2010.*

are marked by strong fragmentation among tribal and social caste lines – a dynamic that became particularly pronounced from the 1990 rebellion onwards. An increasingly fragmented armed actor landscape has been the result, which has had important consequences for the position of traditional authorities – in terms of their ability both to govern and to present themselves as conflict mediators who can work across vertical and spatial boundaries between the various armed groups. As such, current armed governance dynamics are actually undermining the legitimacy of traditional authorities in the longer term. While they may be able to continue to exercise (some of) their governance functions, many respondents note that armed actors determine the leeway of traditional authorities' work and that community members increasingly turn towards armed groups' representatives who are more able to address their conflict issues.

Chapter 5 (Libya) explores how traditional authorities perceive themselves, and are perceived by the community, in two municipalities that are largely bereft of functioning state institutions, particularly since the revolution in 2011. It argues that Libyan traditional authorities are in an elevated position due to the governance crisis in the south of Libya and the predominant negative impression of state institutions. Yet their lack of resources, combined with the predominance of armed actors in the Fezzan, means that traditional authorities are constantly required to make tactical alliances in order to survive and govern as effectively as possible, further politicizing their standing. The result is an opaque and volatile governance structure that may be able to guarantee security in the short term but not more durable stability in the longer term. As for the future of traditional authorities in Libya, the people of the Fezzan display a strong desire for competent, elected state institutions. Traditional governance structures are perceived as exclusionary or self-interested, particularly by younger generations, and this jeopardises their potential as long-term governance actors in the region. Yet traditional authorities remain fundamental actors in the contemporary context and have proven to be uniquely effective in certain fields, meaning that they must be factored into future discussions about local governance in Libya, ideally in an environment based around functioning institutions and infrastructure.

Chapter 6 gives a comparative overview of the legitimacy of traditional authority structures in Mali, Niger and Libya. Based on a comparative analysis of the interview and focus group data presented in the country chapters, Chapter 6 identifies the main formal and informal rules that direct the way in which someone becomes a traditional authority figure, the beliefs that people hold about traditional authorities, and the extent to which people use traditional authorities and in which situations. It also highlights the four main challenges that traditional authorities currently face in these fragile settings: politicization, armed governance, insecurity, and challengers to the status quo. The chapter ends with some general pointers on how to incorporate traditional authorities into (inter)national interventions that aim to foster (formal) local government and stability.

2 The historical trajectory of traditional authority structures in Mali, Niger and Libya

2.1 Introduction

Areas of limited statehood are not necessarily ungoverned spaces.²¹ Instead, many countries of the global south have formal and informal traditional structures that play an important role in social and political organisation – especially in regions where formal state governance is absent. These traditional structures have persisted across colonial and postcolonial periods and continue to organise the lives of many people at local level. Traditional authorities' activities may range from regulating village life to controlling access to land and settling disputes.²² Given the direct influence of traditional governance efforts over people's daily lives, combined with their deep knowledge of local realities and relatively accessible nature, traditional authorities may often be seen as more legitimate governance actors than formal state actors.²³

Traditional governance actors are sometimes defined as informal or non-state actors,²⁴ but such a denomination overlooks the fact that in a number of African countries these authorities are, in law, recognised as an integral part of the state and justice system.²⁵ For the purposes of this report, the term 'traditional authority' will therefore be used to describe 'an institution that derives full or partial legitimacy from the tribal / ethnic /

21 Risse, T. 2011. 'Governance in areas of limited statehood: introduction and overview', in: Risse, T. (ed.) *Governance without a state? Policies and politics in areas of limited statehood*, New York, Colombia University Press, 1-37; Börzel, T.A., Risse, T. and Draude, A. (eds.) 2018. *The Oxford Handbook of Governance and Limited Statehood*, Oxford University Press.

22 Lutz, G. and Linder, W. 2004. *Traditional authorities and local governance*, University of Berne.

23 Ursu, A.-E. 2018. *Under the gun*, CRU Report, The Hague, Clingendael; Logan, C. 2013. 'The roots of resilience. Exploring popular support for African traditional authorities', *African Affairs*, 112(448), 353-376.

24 Swenson, G. 2018. 'Legal pluralism in theory and practice', *International Studies Review*, 20(3), 438-62; UN Women: Virtual Knowledge Centre to End Violence against Women and Girls, 2013, *Non-state justice systems*, <http://www.endvawnow.org/en/articles/1585-non-state-justice-systems.html> (accessed on 30 October 2018).

25 This is the case in Niger, for example.

cultural values of a group of people (wherever they are) who share them'.²⁶ This is not to say that the figure of the traditional authority is static. As all societies inevitably change over time, so do the values, customs and authorities that govern them.²⁷ Such changes may be driven by dynamics within local communities or by external events that alter the balance of power in a given region.

To understand the ever-changing realities of traditional authorities in contemporary Mali, Niger and Libya, this chapter introduces the ethnicities living within and across these countries. It goes on to trace the historical development of traditional authority structures across the region in more detail to show how they can be traced back in time along a continuous process of renegotiating local governance structures within and across different ethnicities and with central state structures at critical junctures. As later chapters will show, the failure to recognise that traditional authority structures reflect ever-present dividing lines in society means that efforts to work with them risk (unintentionally) activating these prevailing ethnic governance legacies as spoilers of the stabilisation and governance process. The chapter ends with a comparison of the role of traditional authorities in the institutional frameworks on Mali, Niger and Libya.

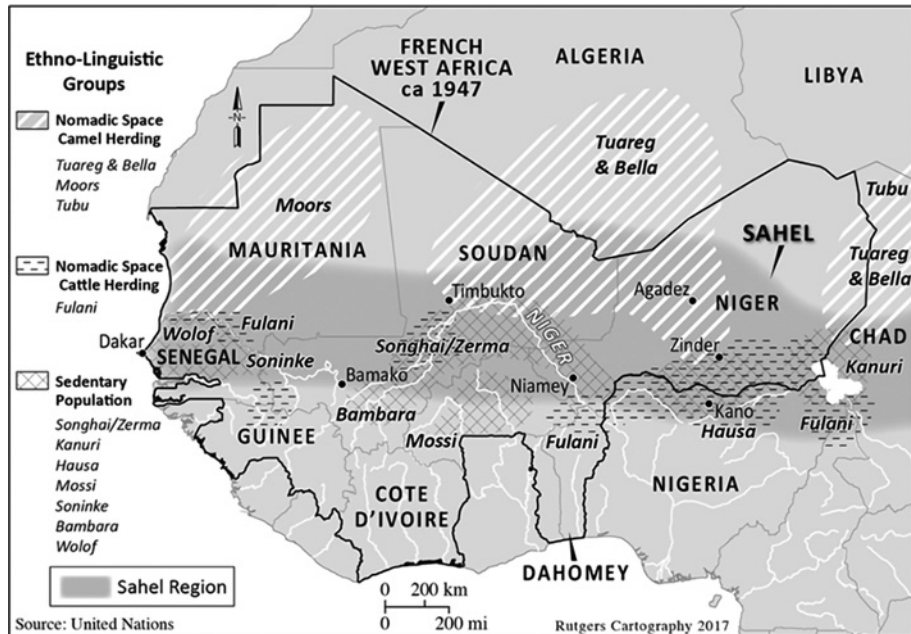
2.2 An introduction to the region's main ethnic groups

This study focuses on the geographic region spanning modern-day Mali, Niger and Libya, and specifically the regions of Ménaka and Kidal in Mali, Tahoua and Tillabéri in Niger, and the Fezzan in Libya. This area, though sparsely populated, is inhabited by a diverse range of ethnic and tribal groups, and has a long history of traditional governance. It is known as the Tuareg homeland, given the majority presence of Tuareg confederations throughout.

26 Cheka, C. 2008. 'Traditional authority at the crossroads of governance in Republican Cameroon', *Africa Development*, 33(2), 72.

27 Lutz, G. and Linder, W. 2004. *Traditional authorities and local governance*, University of Berne.

Figure 2 Geographical spread of different ethnicities across the Sahel in the mid-20th century



The Tuareg are a nomadic ethnic group that has traditionally occupied territory across the Sahara and Sahel regions. Originally derived from Berber lineage, the Tuareg presence in the region dates back as far as the 5th century, with their ancestral homeland being the modern-day Fezzan area of Libya.²⁸ Because of their nomadic practices, the Tuareg were influential in the embrace and spread of Islam throughout the region from the 7th century onwards. The concept of a Tuareg homeland is essentially fluid, and their territorial movements have changed over time. From the 17th century onwards, the continuous invasions of north Africa by Arabic tribes drove the Tuareg to the south towards the Sahel region.²⁹ Today the Tuareg populations span across five states – Algeria, Libya, Mali, Niger and Burkina Faso. Their nomadic traditions have

28 Lhote, H. 1955. *Les Touaregs du Hoggar (Ahaggar)*, Payot.

29 Pereira, L., Černý, V. et al. 2010. 'Linking the sub-Saharan and West Eurasian gene pools: maternal and paternal heritage of the Tuareg nomads from the African Sahel', *European Journal of Human Genetics*, 18(8), 915–923.

been curbed by contemporary border lines, land reforms and trade restrictions, but the two million Tuareg maintain a strong cultural and ethnic identity.³⁰

Box 1 The Tuareg confederations

The Tuareg have never constituted a cohesive, homogenous entity. Their history is replete with cases of infighting and rivalry between different Tuareg confederations (large groups known as 'Kels'). Although the Tuareg homeland spans modern-day border delineations and administrative boundaries, Alesbury (2013) advocates a rough geographic distinction of the northern Tuareg (comprising the Kel Ajjer and Kel Ahaggar in modern-day Libya and Algeria), and the southern Tuareg (comprising the Kel Adrar, Kel Air, Kel Gress, Kel Dinnik, Iwillimidan Kel Ataram and the Kel Tademaket in modern-day Mali, Niger, Burkina Faso and parts of Algeria). Confederations are comprised of several *ettabal* (also known as federations), groups of tribes named after the most dominant entity. The leader of each *ettabal* is known as the *amenokal* who holds executive authority over his tribal group.³¹

The region is also host to a range of sedentary and pastoral communities, as well as minority Arab communities, as described below.³²

Fulani: The Fulani are a widely dispersed, predominantly pastoralist, ethnic group with various subdivisions who inhabit many West African countries including Mali and Niger. They are believed to have first emerged between the 8th and 11th centuries when north African Berbers migrated south towards West Africa and mixed with indigenous populations there to form the Fulani nomadic people. The majority of Fulani converted to Islam in the 18th and 19th centuries.³³ Today the Fulani number 35 million people across 15 West African countries, and their pastoral herding way of life is growing ever more difficult amid modernisation and competition for resources, leading to increased conflict

30 A.V. 2017. 'Who are the Tuareg?' *The Economist*, 21 February, <https://www.economist.com/the-economist-explains/2017/02/21/who-are-the-tuareg> (accessed 6 September 2019).

31 Alesbury, A. 2013. 'A society in motion: the Tuareg from the pre-colonial era to today.' *Nomadic Peoples*, 17(1), 106-125.

32 Malian Arabs are made up of the Kounta, the Barabich, the Gouanin, the Shamba and the Rguiba (Moors). In the Libyan Fezzan, the relevant Arab communities are the Awlad Suleiman, Qadhadfa and Warfalla. In Niger, they are comprised of the Choa (or Baggara), Mahamid and Awlad Suleiman.

33 Database for Indigenous Cultural Evolution (DICE). 2015. *Fulani data sheet*, <http://dice.missouri.edu/docs/niger-congo/Fulani.pdf> (accessed 6 September 2019).

between the Fulani and sedentary populations, most notably in Nigeria, Burkina Faso, Mali and Niger.³⁴

Songhai: The Songhai people are sedentary agriculturalists who inhabit West Africa. They are descendants of the Songhai Empire, a state that spanned the western Sahel during the 15th and 16th centuries until the Moroccans conquered it. The capital of the Songhai Empire was the town of Gao, situated in the region of the same name in modern-day Mali.³⁵ Today the Songhai continue to practise subsistence farming, mainly in Mali, Niger, Benin and Burkina Faso, but communities are also found as far north as Algeria.³⁶

Hausa: The Hausa are considered the largest ethnic group in Africa and are based across the Sahel, with their largest population in Niger and Nigeria. The earliest Hausa states emerged in the 10th century, and Islam is believed to have influenced the group from the 11th century onwards as the dominant religion. The Hausa traditionally were merchants along major trans-Saharan trade routes, playing a significant role in the transmission of goods and Islam in the pre-colonial Sahel.³⁷ The Hausa continue to be influential in the present day, with the Hausa language estimated to be spoken by over 40 million, often functioning as the lingua franca in both Niger and Nigeria.³⁸

Tubu: The Tubu are a nomadic Saharan tribe that originated in northern Chad. They are comprised of the Teda and Daza groups, who speak similar languages and share pastoralist lifestyles.³⁹ The Tubu are predominantly Muslim and their presence in Chad dates back to the 9th century,⁴⁰ yet a series of droughts and conflict in the late 20th century displaced sizable populations across neighbouring countries. Today, Tubu populations can be found in Chad, Niger and southern Libya.

34 Lebur, C., Plaucheur, F. and Tato, L. 2019. 'The Fulani: An AFP Special Investigation', *AFP.com*, 25 June, <https://www.afp.com/en/inside-afp/fulani-afp-special-investigation> (accessed on 6 September 2019).

35 Lange, D. 1994. 'From Mande to Songhay: towards a political and ethnic history of medieval Gao', *The Journal of African History*, 35(2), 275–301.

36 Minority Rights Group International. 2017. 'Minorities and indigenous peoples: Mali', <https://minorityrights.org/country/mali/> (accessed on 6 September 2019).

37 Fage, J.D. 1962. *An Introduction to the History of West Africa*, Cambridge University Press.

38 Comrie, B. 2017. *The World's Major Languages*, Routledge.

39 Tubiana, J. and Gramizzi, C. 2017. *Tubu trouble: state and statelessness in the Chad-Sudan-Libya triangle*, HSBA Working Paper, 43, Geneva, Small Arms Survey.

40 Hrbek, I., Fasi, M.E. 1992. *UNESCO General History of Africa, Vol. III, Abridged Edition: Africa from the seventh to the eleventh century*, University of California Press, 153.

Box 2 The social organisation of the Fulani, Songhai, Hausa and Tubu

Fulani: The Fulani social structure is divided into clans (of between 1,000 and 5,000 members), lineages (smaller groups with closer historical links and relations), families and Rugas (or households, headed by the strongest male member). The most powerful Fulani members compete with each other to become heads of clans and lineages, with other members paying *tribute* to the eventual winner.⁴¹

Songhai: Hierarchical and conflictual, the Songhai are divided into three groups: the Sorko Sonrhai, fishermen who are seen as masters of the seas, the Do or Gabibi, farmers and cattle farmers, considered as masters of the earth, and the Gow, who are hunters.⁴²

Hausa: In the past, the Hausa were the only matriarchal Muslim society, governed by warrior queens. Nowadays, domestic authority lies in the male heads of lineage and households.⁴³

Tubu: Often described as anarchic or highly fluid, Tubu society is divided in two distinct groups, the Teda and the Daza. They form confederations of clans, often patrilineal, that can include non-Tubu people, due to the practice of exogamy (the custom of marrying outside a community, clan or tribe), but allegiance is highly individual and based on kinship such as matrilineal lineage.⁴⁴

Next to their social organisation in confederations, clans and lineages, and in occupational groups, all these ethnic groups have been organised historically along strict social hierarchies (see Table 2).⁴⁵ At the top of each hierarchy stood the ruling

41 Database for Indigenous Cultural Evolution (DICE). 2015. *Fulani data sheet*, <http://dice.missouri.edu/docs/niger-congo/Fulani.pdf> (accessed 6 September 2019).

42 Sidibé, K. 2012. 'Criminal networks and conflict-resolution mechanisms in northern Mali', *IDS Bulletin*, 43(4), 74-88.

43 Smith, M.G. 1959. 'The Hausa system of social status', *Africa: Journal of the International African Institute*, 29(3), pp. 239-52.

44 Scheele, J. 2015, 'The values of "anarchy": moral autonomy among Tubu-speakers in northern Chad', *Journal of the Royal Anthropological Institute*, 21(1), 41-43; Tubiana, J. and Gramizzi, C. 2017. *Tubu trouble: state and statelessness in the Chad-Sudan-Libya triangle*, HSBA Working Paper, 43, Geneva, Small Arms Survey.

45 The one exception is the Tubu, whose strongly individualistic nature of social organisation and the general absence of social hierarchy renders social cohesion fragile and temporary at best, as mentioned in Gondeu, L. 2013. *Notes sur la sociologie politique du Tchad*, Sahel Research Group Working Paper, 006, Gainesville, University of Florida. 24.

nobles and warlords, together with their advisers, officials and wealthy merchants. Their vassals were free people, but required to pay an honorary *tribute* to the nobles. Next in line were the religious figures, such as the Tuareg's Ineslemen composed of Islamic judges (Qadis) and religious leaders (imams) and the Songhai's Marabouts (holders of religious authority). Craftsmen and artisans comprised the lower castes, followed only by slaves and slave descendants.

Table 2 Historical social hierarchies/castes⁴⁶

| | Tuareg | Fulani | Songhai | Hausa |
|----------------------------|--|--|--|--|
| Ruling nobles and warlords | Imajeghen | Duroob | Askia | Sarakuna |
| Nobles/vassals | Imghad (typically herdsmen) | Jaawambe (advisors and assistants) | Zarma (nobility) | Masu-sarauta (officials) |
| Religious figures | Ineslemen (judges – qadis and religious leaders – imams) | Toroobe (Islamic clerics, elite) | Marabouts (holders of religious authority) | Sultan of Sokoto/ <i>Sarkin Musulmi</i> |
| Craftsmen | Inaden (black-smiths, jewellers, woodworkers, leather artisans) | Yneebè (caste-based artisans), Wayilbe Baylo (blacksmiths), Lawbe, Labbo (carpenters), Sakkebe, Sakke (cobblers), Mabube, Mabo (griots), ⁴⁷ Wambabe, Banbado (adulators, musicians, guardians of tradition) | Sorko Fono and Sorko Faran (fishermen) | Talakawa (commoners) |
| Slaves/domestic servants | Irawellan (former Tuareg prisoners), Iklan (freed slaves) and slaves | Maccube, Maccudo or Kordo | Tyindikata and Gabibi (farming slaves) and Arbi and Aanji, (descendants of slaves) | Talakawa (slave-born) |

46 Alesbury, A. 2013. 'A society in motion: the Tuareg from the pre-colonial era to today', *Nomadic Peoples*, 17(1), 106-125; Sidibé, K. 2012. 'Criminal networks and conflict-resolution mechanisms in northern Mali', *IDS Bulletin*, 43(4), 74-88; Durand, B. 1982. *Histoire Comparative des Institutions*, Nouvelles Éditions Africaines, Dakar; Smith, M.G. 1959. 'The Hausa system of social status', *Africa: Journal of the International African Institute*, 29(3), 239-252.

47 A griot is a repository of oral tradition.

Power in pre-colonial times was hence structured through horizontal relations between different confederations and vertical relations between different castes within a tribal group. Today, many of these hierarchical relationships still manifest as inequalities in relationships within ethnic groups – with minority groups’ quest for emancipation resulting in attempts to gain control over formal and informal governance structures.

2.3 Historical development of traditional authority structures

Peaceful coexistence between these different ethnicities has not always been a given, which has resulted in persevering legacies of inter- and intra-ethnic strife. Before colonial times, the region saw the rise and fall of various empires under the pressure of foreign invaders (see Box 3).

Box 3 Pre-colonial empires

In the early 15th century, led by Sunni Ali, the Songhai sought to expand west from their prosperous capital, Gao, to incorporate further regions of the Niger Delta. In Timbuktu they clashed with Tuareg confederations who had previously captured the town from the Mali empire in the early 15th century, and they also engaged in a bloody conflict with the Fulani in their conquest of Jeune. The Songhai dominated these confrontations and ultimately wrested control of a vast expanse of territory that they maintained for more than a century. The empire was defeated in 1591 as a result of the Moroccan invasion of West Africa.⁴⁸

The fall of the Songhai empire created space for the Hausa Kingdom – a collection of Hausa city-states – to come into full bloom. Relying on their merchant background, the Hausa penetrated new commercial zones and created complex socio-economic structures within their city-states. Their rule was comparatively stable and peaceful thanks in part to the consolidation of a pyramidal system of allegiances cascading from the Hausa king, the chiefs and heads of allied Tuareg clans, and leaders of Hausa communities.⁴⁹

48 Ki-Zerbo, J. and Niane, D.T. (eds) 1997. *Africa from The Twelfth to the Sixteenth Century*, UNESCO General History of Africa, Vol. IV, Abridged Edition, James Currey Publishers.

49 Rossi, B. 2002. *The Keita Project: An anthropological study of international development discourses and practices in Niger*, PhD thesis, London School of Economics and Political Science.

This great age of city-state dominance ended abruptly during the years 1804–12 when the Fulani, a distinguishably foreign people who had entered Hausaland from the far West African grasslands as cattle herdsmen over the previous four to six centuries, organised and successfully carried out a revolution based on Islamic reformism (*jihad*) which finally and definitively swept away the cherished local sovereignty of the most important Hausa states.⁵⁰ In some regions, the Fulani successfully mobilised lower-caste and slave-caste Tuareg for this jihad.⁵¹

Heavy resistance from the Tuareg in particular could not prevent the arrival of the French in the late 19th century in the area now known as Mali and Niger. French colonialism largely destabilised and reconfigured local governance structures that were built upon military hegemony, a transitory populace, and societal hierarchy (see Box 4). The French were determined to weaken and dismantle any conceivable threat to their authority, and therefore indigenous rulers were targeted and traditional norms were deliberately subverted. Towards this end, colonial administrators enhanced the internal process of creating and dissolving Tuareg federations.⁵² Loyal collaborating clans were promoted to the rank of a federation and put in charge of French-recognised confederations. Federations that posed a threat to French rule were broken down into smaller chieftaincies that would be more susceptible to colonial rule – French-appointed chiefs of lower social status were considered to be more compliant with the colonial regime.⁵³

50 Griffith, R. 2002. 'The Hausa City-States from 1450 to 1804', in: Hansen, M.H. *A comparative study of six city-state cultures*. Copenhagen, Reitzel, 483–506.

51 Loftsdottir, K. 2002. 'The place of birth: Wodaabe changing histories of origin', in: *Africa in History*, 29, 283–307

52 At the same time, it should be noted that the Tuareg generally obtained a privileged position within French colonial relations vis-à-vis other ethnicities. Lecocq, B. and Klute, G. 2019. 'Tuareg Separatism in Mali and Niger', in: de Vries, L., Englebert, P. and Schomerus, M (eds.). 2018. *Secessionism in African Politics: aspiration, grievance, performance, disenchantment*, Springer International Publishing, 23–57.

53 Lecocq, B. 2010. *Disputed Desert: decolonization, competing nationalisms and Tuareg rebellions in Mali*, Afrika-Studiecentrum Series, 19, Brill; Olivier de Sardan, J.-P. 2013. 'The "Tuareg question" in Mali today', *Cahiers du Mapinduzi*, 3. A deliberate policy throughout French colonial rule across west Africa, referred to as 'direct rule', consisted of hand-picking indigenous administrators, or chiefs, as 'a mere agent of the central colonial government with clearly defined duties and powers' as explained by Miles, W.F.S. 1987. 'Partitioned royalty: the evolution of Hausa chiefs in Nigeria and Niger', *The Journal of Modern African Studies*, vol. 25, no. 2, pp. 233–258.

Box 4 Social disruption under colonial order

Colonial rule severely disrupted the social structure of Tuareg society. The noble Imajeghen were no longer perceived as warriors and guardians of their confederations, as the French military performed that function. The hierarchical relationship between nobles and their dependants began to weaken, as the elite had fewer opportunities to exert their dominance – undermined as they were by the colonial administration.⁵⁴ The Imajeghen saw the French as rivals in the domination of the country. The French, on the other hand, wanted to make colonial occupation viable by creating a productive economy, a project that relied on the labouring classes of local communities, including, among the Tuareg, the artisan and servile classes, who were despised by the Imajeghen. The Imajeghen were therefore doubly a problem in the eyes of the French, i.e., both militarily and in relation to the economy.⁵⁵ The Ineslemen – the caste of religious leaders – were the strata of Tuareg society that benefited most from this power shift. The French championed this particular class, granting them previously unattainable chieftaincies, in an effort to destabilise the previously ruling elite and weaken the standing of the most prominent Tuareg rulers.⁵⁶

French rule in Niger and Mali was detrimental not only to the traditional power structures of the Tuareg. The internal structure and fortunes of many other tribal groups were also fundamentally transformed throughout this period, and the repercussions are still evident. For example, during the colonial redistribution of power, the Fulani were heavily marginalised. In Niger, for example, they were victims of the expansion of cultivation and were forced to relocate from fertile Ader (modern-day Tahoua) to the more austere region around Tchintabaraden. Even today, they are less represented than the Tuareg and the Hausa in the chieftaincy system, and thus have less access to remedies for their grievances.

Although all federations surrendered to the French at the start of the 20th century, resistance and revolts continued until 1934.⁵⁷ Yet Tuareg resistance ultimately proved ineffective due to historically founded inter- and intra-ethnic rivalries. In the Ader region

54 Bernus, E. 1990. 'Dates, dromedaries, and drought: diversification in Tuareg pastoral systems', in: Galaty, J.G. and Johnson D.L. (eds.) *The World of Pastoralism: Herding systems in comparative perspective*, The Guilford Press, New York, 149–176.

55 Loftsdottir, K. 2002. 'The place of birth: Wodaabe changing histories of origin', in: *Africa in History*, 29, 283–307.

56 Bernus, E. 1966. 'Les Touareg du Sahél nigérien', *Les Cahiers d'Outre-Mer*, 19(73), 13.

57 Lecocq, B. and Klute, G. *op. cit.*: 25.

in Niger, for example, the French encountered the resistance of the noble Imajeghen caste from both the Kel Dinnik and the Kel Gress confederations. Yet the Imajeghen were never able to present a united front against the colonisers. The two confederations had often been in conflict with one another throughout the centuries and never formed a cohesive entity. In the end, the French managed to secure the alliance of the Hausaized Lissawan (a Kel Air Tuareg tribe that had moved in the 17th century), the religious Tuareg Ineslemen caste, and the Hausa Azna chiefs. Tuareg confederations such as the Kel Dinnik and the Kel Gress were defeated soon after. By 1920, Ader was under French control, and the local beneficiaries of colonial struggles were the groups who had sided with the occupiers.⁵⁸

The case of Ader is an example of how colonial governance was not completely detrimental to all ethnicities and tribes. Indeed, some Tuareg tribes benefited from the 'divide and conquer' approach that the French applied to pacify the most preeminent Tuareg confederations. This was the case as well for the Kel Adagh Tuareg in the modern-day Kidal region. The Kel Adagh gained the status of an independent federation through a series of treaties signed between the French and the Iwillimidan – the then biggest and most powerful Tuareg confederation.⁵⁹ French colonial rule subsequently offered the Kel Adagh a relative degree of autonomy, as the colonial governance system was formalised as a double system of administration in which French commanders ruled in parallel with chieftaincies at local level (see Table 3).⁶⁰

Table 3 French colonial governance system⁶¹

| Governance level | French authorities | Traditional authorities | |
|--------------------------------------|--------------------|-------------------------|----------------|
| | | Sedentary | Nomadic |
| Cercle (largest administrative unit) | Commander | | |
| Subdivision | Commander | | |
| Canton/Tribu | | Canton chief | Tribu chief |
| Village/Fraction | | Village chief | Fraction chief |

58 When the French reorganised the chieftaincies, they favoured certain groups and deliberately undermined Imajeghen authority by abolishing the system of rule they had established, and appointing new chiefs in different areas. This process created lasting resentment among the Imajeghen, which was further exacerbated by the disruption of social order that took place under French colonialism. K. Loftsdottir, K. 2002. *op. cit.*: 296.

59 Lecocq, B. 2010, *op. cit.*: 87; also see Lecocq, B. 2003. 'This country is your country: territory, borders, and decentralization in Tuareg politics', *Itinerario: European Journal of Overseas History*, 27(1): 61.

60 In practice, this system only structured the Tuareg's dealings with the French administration – meaning that they continued to make use of their own political structures (defined by kinship ties and clan structures) for internal matters. Lecocq, B. 2010, *op. cit.*: 12-13; Lecocq, B. 2003, *op. cit.*: 61.

61 Lecocq, B. 2010, *op. cit.*: 12.

In Libya, the experience differed considerably, given that it was the Ottomans (1551–1912) who ruled for much of the colonial era and introduced and formalised the foundations of modern tribe-state relations in the country. Unlike in Mali and Niger where the French forces sought to install compliant and weak tribal leaderships to impose their authority, Ottoman rulers depended on influential tribal leaders, particularly in peripheral and rural areas such as the Fezzan, in order to collect taxes, enlist troops, and maintain trade routes.⁶² For the Tuareg rulers of Libya this meant an opportunity to both consolidate and expand their area of influence. Ottoman administrators tolerated Tuareg local governance systems and their growing power as long as the tribal elites displayed loyalty to the Sultan in Istanbul and paid regular *tribute*.⁶³

Thus, traditional Tuareg structures continued relatively unaffected in Libya until the latter half of the 19th century, when the Ottomans attempted to modernise structures and centralise governance. A new generation of Ottoman administrators and politicians began to consider local and tribal actors in Libya to be a threat. They sought to weaken not only the tribal structures themselves but also the tribal identities of their members, providing lucrative incentives for Libyans to relocate to urban administrative centres in northern Libya, and commencing a policy of neglect towards the Fezzan and rural communities that would continue for much of the country's modern history.⁶⁴

When the Italians colonised Libya in 1911, they afforded once again a large degree of tribal autonomy in an effort to undermine Ottoman infrastructure and practices. The Tuareg noble-vassal leadership dynamic, systematically eroded by the French in Mali and Niger, therefore continued in southern Libya throughout the early 20th century. Buoyed by this autonomy, the Kel Ajjer used their relative economic and military weight, as well as their strong relations with the Sanusis, a Sufi brotherhood that had made significant gains in Cyrenaica, to launch attacks on French and Italian colonial stations in modern-day Algeria and Libya respectively. In December 1914 the Italian authorities

62 Ottoman leaders established the Sultanate of Fezzan as a formal governance structure, with the sultan tasked with administering local services and security from Murzuq. However, tribal and traditional authorities maintained a strong influence during this era of formalised local governance. In the mid-19th century, a group of nomadic Arab tribes – the Awlad Suleiman, Qadhadfa and Warfalla – formed an alliance stationed in the region's modern-day capital, Sabha. This alliance, known as al-Suff al-Fuqhi, imposed itself upon the Sultanate of Fezzan and claimed significant ground in terms of local taxation rights and control over Saharan trade routes.

63 Al-Shadeedi, A.-H. and Ezzeddine, N. 2019, *Libyan tribes in the shadows of war and peace*, CRU Policy Brief. The Hague: Clingendael Institute.

64 *Ibid.*

abandoned Ghat and left it in the control of Sidi Mohammed el-Abed (the Sanussi representative for the Fezzan) and the Kel Ajjer chiefs.⁶⁵

Nevertheless, through a combination of military force and the co-option of rival Tuareg confederations such as the Kel Ahaggar, colonial forces ultimately overpowered the Kel Ajjer.⁶⁶ In Libya, although the Italians had initially left tribal councils relatively self-sufficient as the primary vehicle through which to manage and govern, by 1935 the country had been brought under direct Italian rule in accordance with its three modern-day regions – Tripolitania, the Fezzan, and Cyrenaica. From this point onwards the governance structure was highly rigid and closed, dominated by colonial officials to an even greater extent than that of Mali and Niger, and local political participation was actively discouraged. Although Tuareg structures continued to exist, given that the Fezzan remained largely neglected, they were excluded from all aspects of formal governance.⁶⁷

2.4 Modern-day institutional structures

The historical experiences of Mali, Niger and Libya, up to and including colonialism, laid the foundations for the structure and relations of modern-day traditional authorities. In Mali and Niger, colonial rulers' selective co-optation of traditional authority structures empowered some ethnicities and castes at the expense of others – thereby creating lasting grievances. In Libya, successive colonial emphasis on northern urban populations and centralised rule set the foundations for decades of neglect of the Fezzan and its ethnic groups. Finally, the fragmentation of traditional authorities, particularly Tuareg confederations, and their history of confrontation, made it easier for external forces to impose control and administrative structures on them, without threat of a united backlash. The strategy of identifying compliant traditional authorities and empowering them at the expense of more influential and insubordinate entities is an enduring one that has been replicated in all contexts in the modern era.

2.4.1 Mali

After the Malian confederation gained independence from France in 1960, the Tuareg increasingly resented their integration into a new Malian state dominated by the southern Bambara ethnic group. This was the case in particular for the Kidal-based

65 Keenan, J. 2005. 'Waging war on terror: the implications of America's 'New Imperialism' for Saharan peoples', *The Journal of North African Studies*, 10(3–4), 619–47.

66 Keenan, J. 2005. *Ibid.*

67 Al-Shadeedi, H. and Ezzeddine, N. 2019. *op. cit.*

Kel Adagh,⁶⁸ who (as described above) had offered minimal resistance to French colonial rule and had received a relative degree of autonomy in return. At the time of independence, the southern political elite had assured them that their autonomy in the new Malian state was guaranteed. But this promise was not kept. Instead, the new Malian administration, inspired by Marxist ideology, judged the previous tribal socio-political order as outdated and feudal. It set out to free the northern Tuareg population from what was considered to be a servile relationship dominated by traditional chiefs.⁶⁹ The resultant Tuareg rebellions that took place in 1963, 1990, 2006 and 2012 will be discussed at length in Chapter 4.

One step that the Malian administration took towards the reconfiguration of the Tuareg socio-political order was the abolishment of the *tribu* as an administrative layer of governance. The *village* was established as the basic unit of political and administrative organisation. For nomadic populations, the *fraction*, the lowest nomad administrative unit under colonial governance, became the administrative equivalent to the village (see Table 4). In practice, this meant a decentralisation of the relationship between the Malian administration and traditional authority structures.⁷⁰ In addition, the Malian administration set out to liberate the slave (Bella) and vassal (Imghad) castes from their ruling elites and nobles. It advanced this objective by creating new Bella and Imghad fractions – thereby reinforcing their position vis-à-vis their former overlords.⁷¹ Both developments resulted in the establishment of the formal state structure as an arena where internal tribal conflict over caste hierarchies and clan structures could be fought out.

68 The main Tuareg confederation in the Kidal region, grouping together tribes such as the Ifoghas and Imghad.

69 Lecocq, B. 2010. *op. cit.*: 13-14, 89-91.

70 Lecocq, B. 2010. *op. cit.*: 13-14.

71 Lecocq, B. 2003. *op. cit.*: 68.

Table 4 Malian governance system⁷²

| | Colonial era | Post-independence | Post-democratic era | | |
|---|----------------------------|----------------------------|---|--|---|
| | <i>Centrally appointed</i> | <i>Centrally appointed</i> | <i>(Centrally) appointed⁷³</i> | <i>Elected</i> | <i>Customary</i> |
| Regional level | | Governor | Governor ⁷⁴ | Regional Council ⁷⁵ | |
| Cercle level | Commander | Prefect | Prefect | Cercle Council ⁷⁶ | |
| Sub-division | Commander | | Sub-prefects | | |
| Canton/ Tribu | Chief | | | | |
| Commune ⁷⁷ | | | | Communal Council and Mayor ⁷⁸ | |
| Village/ Fraction/ Quartier ⁷⁹ | Chief | Sub-prefect | | | Village chief; Fraction chief; Quartier chief |

72 These organisational levels were formalised with the 1993 law on Conditions of the Administrative Freedom of Local Authorities. See: République du Mali. 1993. *Loi n°93-008 du 11 février 1993 modifiée, déterminant les conditions de la libre administration des Collectivités territoriales*.

73 The central government, through the Ministry of Territorial Administration, appoints officials at every territorial level. At regional level there is a governor, at *cercle* level a prefect, and at commune level a sub-prefect. See: République du Mali. 2017. *Loi n°2017-051 du 02 octobre 2017 portant code des collectivités territoriales*. Since 2018, regional interim authorities in Kidal and Ménaka have been selected through a consensus between government officials and the signatories of the area.

74 In Kidal the current posts are held by Sidi Mohamed Ag Ichrach (governor) and Haminy Belco Maiga (regional council president). In Ménaka the officials are Daouda Maiga (governor) and Sidi Alassane Toure (regional council president).

75 The Regional Council is composed of a president and 33 to 45 advisers.

76 The Cercle Council is composed of a president and 27 to 41 advisers.

77 Created in 1993. See: République du Mali. 1993. *Loi n°93-008 du 11 février 1993 modifiée, déterminant les conditions de la libre administration des Collectivités territoriales*, which decentralised governance to communal level.

78 Their tasks are to provide basic governance for economic, cultural and social development of the municipality, including fundamental education, health, public transport and resources management. The communal council is elected for five years. République du Mali. 2017 *Loi n°2017-051 du 02 octobre 2017 portant code des collectivités territoriales*.

79 A village is a rural settlement, a fraction is a nomadic settlement and a quartier is an urban settlement. See: République du Mali. 2006. *Loi n°06023 du 28 Juin 2006 relative à la création et à l'administration des villages, fractions et quartiers*.

The fusion between formal governance and tribal domains was further compounded by the redefinition of the notion of natural resource governance. As Lecocq (2003) describes at length, the nomadic Tuareg conception of territory had historically been defined by ideas of mobility and shared, yet strictly governed, access to natural resources among different ethnicities, clans and castes. Yet colonial and postcolonial administrations had introduced governance structures that were linked to territorially delineated administrative zones. With the creation of the village and fraction as the main local administrative units, the management of territory became intrinsically linked to the tribal structures in those localities. Given the scarce availability of permanent water wells and other natural resources – access to which differed from year to year due to climatic variations – competition over territorial control therefore increased. These conflicts were fought out in a violent manner (including during the various Tuareg rebellions), but also reproduced themselves as struggles over boundary allocation and control of administrative offices.⁸⁰

The democratisation of decentralisation in 1991 resulted in the formalising of procedures for the creation and dissolution of fractions (nomadic communes). This further reaffirmed tribal organisation around caste and clan identities. In the Kidal Cercle alone, the number of fractions quickly rose from 65 in 1974 to 114 in 1996.⁸¹ In addition, democratisation and decentralisation resulted in the introduction of local elected office in the form of *communes* (districts). The first *commune* elections were held in June 1999. Control over the *communes* represented an opportunity to gain the upper hand in competition over resources within the districts, such as pasture and wells. In addition, it provided access to tax revenue, as 40% of taxes collected was now allocated to the commune.⁸² Local elections have thereby become key arenas where the dominance of local (tribal) notabilities is strengthened or contested – leading tribal elites to become invested in capturing political office.⁸³

80 Lecocq, B. 2003. *op. cit.*: Also see Lecocq, B. 2010. *op. cit.*

81 Lecocq, B. 2010. *op. cit.*: 13–14.

82 Lecocq, B. 2003. *op. cit.*: 75.

83 Tobie, A., Chauzal, G., Mariam, M. and Mahamadou, D. 2016. 'Lessons from Mali's local elections', *SIPRI*, <https://www.sipri.org/commentary/topical-background/2016/lessons-malis-local-elections> (accessed on 9 September 2019); Also see Lecocq, B. 2010. *op. cit.*, and International Crisis Group. 2018. *Drug trafficking, violence and politics in northern Mali*, Report No. 267/Africa, Dakar/Brussels.

At national level, the legislature similarly became an arena where individual MPs (including traditional elites) were able to advance the particular interests of their personal support networks and electoral constituencies. See: van Vliet, M. 2014. 'Weak legislatures, failing MPs, and the collapse of democracy in Mali', *African Affairs*, 113/450, 45–66.

Box 5 Rebellions and the creation of regions

Control over administrative structures was a key element in the Tuareg rebellions. There are currently ten regions in the country: Kayes, Koulikoro, Sikasso, Segou, Mopti, Timbuktu, Gao, Kidal, Ménaka and Taoudeni.⁸⁴ The region of Kidal was created in the aftermath of the 1991-92 peace talks. Ménaka and Taoudeni were created in the wake of the post-2015 territorial restructuring following the Algiers Agreement ending the 2012 rebellion. These regions have formally existed since January 2016.⁸⁵

Next to the influence of traditional elites in elected office, traditional authority structures also remained relevant in other ways. From early independence onwards, the Malian administration quickly came to the realisation that customary chiefs had to be (informally) preserved in order to effectively administer the region.⁸⁶ The decentralisation process formalised this relationship, such as by officially recognising tribal chiefs as governance actors – under the authority of the local mayor, and providing them with a legal mandate for civil and commercial reconciliation. Chiefs were appointed to the state apparatus in accordance with tribal traditions, but the nomination had to be certified by a local state representative.⁸⁷ In 2006, this position was formalised by law (see Box 6).

Box 6 Formal recognition of traditional authorities in Mali

In 2006, the Establishment and Administration of Villages, Fractions and Neighborhoods Law outlined specific roles for traditional authorities, describing them as the representative of their community vis-à-vis the state administration. Appointed chiefs were ostensibly tasked with administering villages, fractions and neighbourhoods with the assistance of a local council, and were responsible for basic service provision, mediation, tax collection, a variety of ceremonial roles,

84 The proposed law to push forward decentralisation by creating a further ten new regions in the near future, for a total of 19 regions, has further complicated the local governance structure. See: Gouvernement du Mali. 2011. *Conseil des Ministres du 14 décembre 2011*.

85 République du Mali. 2012. *Loi N°2012-018 portant création des Cercles et Arrondissements des Régions de Tombouctou, Taoudénit, Gao, Ménaka et Kidal*.

86 Lecocq, B. 2010. *op. cit.*: 13-14, 89-91.

87 Many tribal chiefs felt marginalised by such decentralisation, however, believing they were only performing a consultative role within the official governance hierarchy. The jurisdiction of chiefs was curbed at village level, and decisions could only be implemented with the approval of the mayor. See: Ursu, A.-E. 2018. *op. cit.*

and customary reconciliation.⁸⁸ In reality, this law has been selectively applied and up to 70% of village chiefs have not received formal state recognition, disqualifying them from official representation and compensation.⁸⁹

In recent years, traditional authorities in Mali have taken on additional responsibilities as a result of a declining state presence, particularly in the north of the country. The 2012 crisis prompted government officials to flee conflict areas, leaving village leaders to become primary service providers in northern Mali.⁹⁰ These events proved particularly empowering for the customary 'qadi', a highly respected traditional religious figure in reconciliation and justice, administering verdicts on the basis of Islamic sharia law (discussed in further detail in Chapter 4). During the 2012 crisis, qadis and other traditional figures replaced local electives who had abandoned their positions and helped to mediate with extremist groups. As a consequence, the 2015 Peace Accord envisages the 'reassessment of the role of Qadis' in administering justice, taking into account 'cultural, religious and traditional characteristics'.⁹¹

2.4.2 Niger

In Niger, the immediate postcolonial atmosphere was initially promising for traditional authorities. The early governments of Niger (Sawaba Party, 1957-58, Rassemblement Démocratique Africain (RDA), 1958-74) saw the chieftaincy system as a remnant of the colonial past that would dwindle as Niger modernised, yet this never happened. For pragmatic reasons, the RDA regime maintained positive relations with chiefs. The newly independent government created the Ministry of Saharan and Nomadic Affairs in 1960, led by a Tuareg, which enabled the Tuareg to secure financial and administrative status in the newly independent state.⁹² The government also installed

88 République du Mali. 2006. *Loi n°06023 du 28 Juin 2006 relative à la création et à l'administration des villages, fractions et quartiers*.

89 Ursu, A.-E. 2018. *op. cit.*; Doumbia, Y. 2018. 'Autorités traditionnelles: 70% des chefs de village sans décision de nomination', *Niarella.net*, <https://niarella.net/societe/culture/autorites-traditionnelles-70-des-chefs-de-village-sans-decision-de-nomination> (accessed 9 September 2019).

90 Bertelsmann Stiftung. 2018. *BTI 2018 Country Report – Mali*, Gütersloh, Bertelsmann Stiftung, <https://www.bti-project.org/en/reports/country-reports/detail/itc/mli/itr/wca/> (accessed 9 September 2019).

91 République du Mali. 2015. *Accord pour la paix et la réconciliation au Mali issu du processus d'Alger*. <https://base.afrique-gouvernance.net/docs/accord-pour-la-paix-et-de-reconciliation-au-mali.pdf.pdf> (accessed 9 September 2019).

92 Guichaoua, Y. and Pellerin, M. 2018, 'Making peace, building the state. Relations between central government and the Sahelian peripheries in Niger and Mali', *Études de l'IRSEM*, 51.

new water sources in Tuareg territory and granted the community greater access to schools and health centres.⁹³

However, when the military regime of General Seyni Kountché took power in 1974, Niger witnessed a new era of fragmenting, politicizing, and selectively empowering traditional authorities. General Kountché initially purged the government of Tuareg representatives following Tuareg involvement in an attempted coup in 1976 and sent many into exile in Libya, and abolished the Ministry for Saharan and Nomadic Affairs.⁹⁴ With political parties outlawed, Niger society was structured hierarchically in accordance with socioeconomic groupings, known collectively as the 'Société de Développement', from local to state level. Traditional rulers were categorised in the Council of Traditional Chiefs, which had little autonomy but served as a key link between the centralised military regime and rural Niger communities.⁹⁵

In order to maintain control and prevent any given tribal faction from becoming too influential at local level, the military regime also pursued a policy of favouritism. In Tahoua, for example, the regime favoured Imajeghen of the Kel Dinnik confederation. This favouritism was further strengthened by developments in the 1980s, when Gaddafi of Libya called on the Tuareg of Niger and Mali to take up arms and join him in his Islamic Legion – which included plans for annexing sections of Nigerien territory. Many Tuareg men from Abalak left for Libya – a decision that only strengthened the government's favouritism of certain Tuareg at the expense of other confederations. Years later, the Tuareg rebellion of the 1990s started in Abalak, with many grievances stemming from the fact that the region had been spurned by central government since 1981.⁹⁶

The decline of General Kountché's military rule in the late 1980s ushered in a National Conference in 1991 resulting in the introduction of a democratic constitution and political parties. In the final years of Kountché's reign, many tribal chiefs had been co-opted and were now prominent allies of the regime, a power balance that was disrupted by the National Conference and democratic transition that followed.

93 Slavin, K. and Slavin, J. 1973. *The Tuareg*. Gentry Books, London.

94 Guichaoua, Y. and Pellerin, M. 2018. *op. cit.*

95 Miles, W.F.S. 1993. 'Traditional rulers and development administration: chieftaincy in Niger, Nigeria, and Vanuatu', *Studies In Comparative International Development*, 28(3), 31–50.

96 Mohamadou, A. 2005. 'Les pouvoirs locaux dans la commune d'Abalak', *LASDEL | Etudes et Travaux*, 34.

In 1993, tribal chiefs were officially recognised as local-level government officials.⁹⁷ They maintain this position to the present day. This means that for every major governance level in Niger there are centrally appointed state officials, elected state officials and traditional state officials (see Table 5).

Table 5 Nigerien governance system

| | Appointed | Elected | Customary | |
|---|---|---------------------|------------------|--------------------|
| | | | <i>Sedentary</i> | <i>Nomadic</i> |
| Province | Governor | President of Region | Chef de Province | |
| Commune (Canton/ Groupement) | Prefect | Mayor | Chef de Canton | Chef de Groupement |
| Village/Tribu | Security forces (Gendarmerie, National Guard) | | Chef de Village | Chef de Tribu |
| | | | Chef de Quartier | Chef de Fraction |

Niger's traditional chieftaincy system was last updated in January 2015.⁹⁸ The larger chieftaincies generally correspond to entities that existed before colonialism, but many of the smaller ones were established by the colonial administration. It is now a hierarchical organisation of 'customary communities', the characteristics of which differ depending on whether the inhabitants are pastoral or semi-nomadic (the Tuareg, Fulani, and Tubu) or sedentary (the Songhay-Zarma, Hausa, Kanuri and so on, in addition to sedentary Fulani and Tuareg populations). The bottom layer is made up of fractions and quartiers; above the fractions are the *tribus*, and above the quartier, a village or a town. The *groupement* encompasses *tribus*, while the *canton* includes villages. Finally, above the *canton* is the *province*, headed by a sultan – hence it is also called a sultanate.⁹⁹

97 Aboubacar, Z. 2013. 'Traditional chiefs and decentralization in the region of Tahoua in Niger', *Global Journal of Human-Social Science Research*, 13(4– C);

In reality, certain chiefs had been afforded far greater influence prior to democracy. Indeed, some traditional authorities welcomed a return to military rule with the coup of Lieutenant Colonel Baré in 1996, believing this would reinstate the productive partnership between certain tribal elites and policy makers, but this reign ended with Baré's assassination and a return to democracy in 1999. In Lund, C. 2001. 'Precarious democratization and local dynamics in Niger: micro-politics in Zinder', *Development and Change*, 32(5), 845–69.

98 For that law, see: République du Niger. 2015. *Loi n° 2008-42 du 31 juillet 2008, relative à l'organisation et l'administration du territoire de la République du Niger, modifiée et complétée par l'ordonnance n° 2010-53 du 17 septembre 2010*; Many works discuss the evolution of Niger's customary chieftaincy system, including a 2009 study by Tidjani Alou, M. 2009. 'La chefferie au Niger et ses transformations', *LASDEL | Etudes et Travaux*, 76.

99 In Niger five sultanates have their seat and enjoy formal state authority, Damagaram (Zinder); Aïr (Agadez); Dosso; Maradi; and Diffa.

The jurisdictions of traditional authorities are part of the general administration and do not constitute a parallel, separate or informal administration. As such, they can be created or abrogated at will by central government.¹⁰⁰ The procedures for selecting traditional leaders have been standardised by the state. In theory, chiefs can be elected only from the ruling family or clan. The selection is made through a process of nomination and election by an electoral college that comprises various notables and local authorities. The composition of such colleges has been standardised by law and now includes women, who were often excluded from this process in the past. Chiefs take office only after their nomination and election have been validated by the state – the nomination following a morality inquest and the election following a decision from different levels of state authority depending on the position. Elections to positions of sultan and chiefs of canton and groupement are ratified by the minister for territorial administration, while those below are endorsed by the governor (region) and the prefect (département).

Chiefs receive an annual allowance from the national budget, which varies in accordance with the level of the position. They also receive a dividend on taxes levied in their area of jurisdiction. They benefit from free healthcare and family allowances, and their status as an administrative authority entitles them to legal and physical protection from the state. They are also members *de jure*, albeit with a consultative voice only, of the (elected) regional and municipal councils. In effect, this status means that in the eye of the state, the chiefs are a category of administrators, and although their legitimacy is drawn from a given community, their jurisdiction is not communal, but territorial. This creates an inherent contradiction in the status of the chiefs. Since they are selected from a certain community, their claim for authority derives from that community; yet, the power and mandate they receive from the state cover a territorial district, which generally includes different communities. The contradiction comes from the fact that, like all modern states, Niger seeks to administer populations based on territory, not separate communities with distinct identities and interests.

From the above, it follows that, since independence, Niger has fluctuated between periods of democratic and military rule, with a relatively enduring political elite.¹⁰¹ Throughout this process traditional authorities have been selectively co-opted, with successive rulers recognising the importance of these entities as a means of connecting with and administering rural Niger. Thus certain traditional authorities have enjoyed protracted periods of influence, bolstered by the fact that much of the country's

100 While a simple ministerial order (arrêté) can revoke the chieftaincy of a village, a *tribu*, or a quartier, higher levels – groupements, cantons and provinces – can be abrogated only by a law, leaving final decision to the National Assembly in such cases.

101 Lund, C. 2001. *op. cit.*

influential political class hails from chiefly families.¹⁰² Yet this empowerment of select authorities has come at the expense of other tribal groups that have been actively marginalised or persecuted in the post-independence era, as has been evidenced in many Tuareg rebellions in recent years.

2.4.3 Libya

In Libya, the Tuareg governance structure enjoyed little interference in the early years of independence as the newly installed Sanusi monarchy¹⁰³ did not have the administrative infrastructure to centrally govern the country. As a result, tribes and clans would support and implement the king's policies on the ground in exchange for privileges. Alliances were formed with prominent tribal groups in the Fezzan, and this cooperative relationship stayed in place until King Sanusi's overthrow in 1969.¹⁰⁴

Once Libya was under the rule of Gaddafi, the Tuareg grew in prominence while the Fezzan in general suffered from a growing lack of service provision. Gaddafi incorporated the Tuareg from neighbouring Mali and Niger into the Libyan army in the 1970s as part of his 'Islamic Legion'. The Tuareg were paid to fight in Libya's incursions into neighbouring states, with Gaddafi promising them salaries and citizenship in return, until the Legion was disbanded in the 1980s. Even though Gaddafi ultimately left many of the promises he made to the Tuareg unfulfilled, such as genuine support for greater autonomy, the Tuareg maintained a positive attitude towards the Libyan leader throughout most of his reign. Gaddafi provided the Tuareg of southern Libya with the closest example of state service provision and governance to date – economic reforms, job opportunities, food, free housing, free education and medical care.¹⁰⁵

102 Lund, C. 2001. *op. cit.*

103 Following independence in 1951, post-war Europe's Great Powers installed Idris Sanusi as king – the country's first monarch – of the short-lived United Kingdom of Libya. The Sanusi family had been powerful Libyan allies to the Ottomans in the early 20th century, then influential opponents of Italian colonialism, and finally supporters of the Allies during World War II.

104 Al-Shadeedi, H. and Ezzeddine, N. 2019. *op. cit.*

105 Kohl, I. 2014, 'Libya's 'major minorities'. Berber, Tuareg and Tebu: Multiple narratives of citizenship, language and border control', *Middle East Critique*, vol. 23, pp. 423–438.

Box 7 The postcolonial experiences of the Tubu

Tubu traditional authorities suffered in the immediate aftermath of colonialism as many were denied citizenship in the newly independent state due to not being able to prove their heritage.¹⁰⁶ Years later, life under the Gaddafi regime was extremely turbulent. In 2007 the government withdrew citizenship from the Tubu, referring to them as 'migrants from Chad'. Moreover, a 2010 UN report accused the Gaddafi regime of ethnic cleansing in the town of Kufra, after the regime had destroyed Tubu homes and forcibly evicted them without providing alternative accommodation.¹⁰⁷

However, Gaddafi's courtship of the Tuareg was not so much the provision of services and opportunities in exchange for military allegiance as it was a deliberate strategy to destabilise traditional leadership structures and undermine Tuareg rule. Gaddafi approached the Tuareg of Libya from the 1980s onwards with subversion in mind – carefully targeting Tuareg leaders and groups that would be particularly susceptible to financial rewards and military equipment. The relationship was asymmetrical – Gaddafi was in control of which Tuareg leaders to empower and reward, and the exchange of money in return for Tuareg recruitment in the Islamic Legion made the Tuareg appear to be mercenaries. This had a degrading effect on Tuareg relations with other groups in Libya, as well as within internal Tuareg hierarchies.

During the 2011 revolution, most Tuareg remained loyal to Gaddafi, apart from a minority that sided with the revolutionaries. As a result, they became isolated in the new political landscape that emerged, shunned from various aspects of public life by the revolutionaries. The promise of Libyan citizenship, which had been used extensively by Gaddafi to secure the allegiance of Tuareg fighters, was nullified after the fall of his regime. Furthermore, many fighters who fought on the side of the regime during the revolution were forced to flee to Mali and Niger in the aftermath, in order to avoid reprisals.¹⁰⁸

After the fall of Gaddafi, Libya witnessed the emergence of institutionalised local governance through the adoption of Law 59, the Law of Local Government. The law largely formed a response to decades of centralised rule under the Gaddafi regime, and greater calls for representation from many groups who were marginalised under such

¹⁰⁶ *Ibid.*

¹⁰⁷ *Ibid.*

¹⁰⁸ Murray, R. 2017. *Southern Libya Destabilized: The case of Ubari*, SANA Briefing Paper, Small Arms Survey and Security Assessment in North Africa.

a system. Libya's division into three separate regions – amplified by colonial rule – has also fostered growing calls for greater local autonomy, or even federalism. The 2012 law enshrines a policy that local governance in Libya will consist of three layers: provinces, municipalities and localities. In reality, as observed by Constantini (2018), this structure is completely reliant on the municipal level, which bears the expectations of and responsibility for local populations and the international community alike.¹⁰⁹

Box 8 Municipal governance in the Fezzan

Following a restructuring in 2013, there are 14 municipalities in the Fezzan region, and both Ghat and Ubari constitute separate entities.¹¹⁰ Every municipality in Libya consists of a municipal council of seven to nine members, responsible for decision making, and a municipal administration responsible for implementation. Mayors and deputy mayors are elected from among the council members, while 'mokhtars' are then appointed by the mayor and the Ministry of Local Governance (MoLG). The mokhtars operate at neighbourhood level, acting as a facilitating link between the community and the council.¹¹¹ Additionally, municipal councils traditionally employ a Shura Council in an advisory role, made up of local experts and notable personalities.

Municipalities are tasked with service delivery but the local governance system in Libya suffers from a highly centralised model, which has been a mainstay of Libyan governance since Italian rule and was further intensified by Gaddafi. State ministries are still responsible for overall policy making, support, and financial management – in a country where an effective central government is largely non-existent. Municipalities are often wholly dependent on funding transfers from central government, but these are only released to cover expenses, and therefore local councillors lack the resources to respond in a timely manner to emergencies or unfolding crises, or to invest in more long-term development and infrastructure projects. As a result, municipal systems typically lack the capacity to meet the needs of their communities, whether in terms of security, the rule of law, or essential services.¹¹²

109 Costantini, I. 2018, *Statebuilding in the Middle East and North Africa: The aftermath of regime change*, Routledge, London.

110 Stocker, V. 2014, *Inside Libya's Wild West*, Issue in Focus, Atlantic Council and Rafik Hariri Center for the Middle East.

111 Elmagbri, M. and Cohen, J. 2017, 'Op-Ed: an uncertain future for Libyan local governance', *Libya Herald*, August, <https://www.libyaherald.com/2017/09/01/op-ed-an-uncertain-future-for-libyan-local-governance/> (viewed 9 September 2019).

112 UNDP 2015, *Rapid diagnostic on the situation of local governance and local development in Libya*, Synthesis Report.

Unlike Niger and Mali to an extent, Libya has not attempted to formally acknowledge traditional governance structures or incorporate them into the state apparatus. However, since the institutionalisation of local governance in 2012, traditional governance structures have also attempted to modernise. The most pertinent example of this is the 2017 establishment of the Supreme Social Tuareg Council (see Box 9 for a detailed explanation) as an attempt to organise all Tuareg entities in Libya under one hierarchical institution. Traditional authorities in Libya have sought to institutionalise for two reasons: first, because the introduction of democratically elected local governance affords them an opportunity to gain representation for their tribes and communities at an official level; and second, because the widespread absence of state services and security in recent years has necessitated more formalised traditional structures to fill the governance gap.

Box 9 The Tuareg governance structure

In Ghat and Ubari, towns with sizable Tuareg populations, the local tribal structure constitutes the main governance and security actor.¹¹³ The Supreme Social Tuareg Council (SSTC), rebranded in 2017, is the most senior representation of the Tuareg people at national level in Libya. The SSTC was formed after a series of meetings in Ubari to unite the Supreme Council, the Social Council, and the Advisory Council of the Tuareg, all three of which had been created and operating independently in various capacities in the years following the 2011 revolution. The streamlined SSTC consists of 30 representatives, nominated from among the Tuareg community and voted in by an electorate of around 80 tribal sheikhs.

While the SSTC is mainly active at national level, Tuareg local governance in Ghat and Ubari is provided by two regional divisions: the Majlis El Hukuma (council of elders) and the Majlis El-Ayaan Wal Shouyoukh (council of dignitaries). Both these entities are responsible for addressing local issues and resolving disputes, acting as the implementing bodies of the SSTC. Additionally there is an informal Tuareg 'youth council' at local level, which seeks to convey the views of younger tribal members to the elite who dominate senior positions in the council structure.¹¹⁴

113 El Kamouni-Janssen, F., Shadeedi, H. and Ezzeddine, N. 2018. *Local security governance in Libya*, CRU Report, Clingendael, The Hague.

114 Telephone interview with SSTC member, 24 March 2019

The legacy and stigma of the Tuareg's relationship with Gaddafi is still apparent today, and is a root cause of divisions not only within the community itself, but also at local and national levels. In 2015, a Small Arms Survey interview with a Tuareg military commander revealed an estimated 7,000 unemployed Tuareg in Ghat and Ubari¹¹⁵. Many had been denied employment on the basis of having no national identity paperwork, in particular those who belong to tribal groups that had migrated to Libya in recent years¹¹⁶. Researchers have observed a local division between Tuareg residents who have lived in Ghat municipality for decades and possess national identification documents, and nomadic Tuareg groups who have repeatedly moved across the Algerian border and lack official documentation. The latter group, known as 'returnee' Tuareg, feel that their rights and employment opportunities are being actively hindered not only by the state, but also by established Tuareg residents in the municipality.¹¹⁷ Furthermore, the growing number of idle and ostracised Tuareg in recent years have become susceptible to illicit activities or militarisation. Indeed, when war broke out in Ubari between 2014 and 2016, young Tuareg activists who had opted to remain in Libya took advantage of the large weapons caches they had stockpiled from the Gaddafi era, causing the conflict to escalate rapidly.¹¹⁸

2.5 Historical legacies summarised

In summary, the historical legacies of Niger, Mali and Libya have had a profound impact on the ethnic groups living in these territories, and the local governance structures that are now in operation. In all cases, traditional authorities have served as vital conduits throughout history to effectively administer central governance in rural and tribal areas. As a result, these authorities have been held in high regard by colonial and postcolonial rulers, but this does not imply that they have been treated commensurately. Common themes of divide-and-rule and selective co-option of traditional authorities are repeated throughout history, as is the recurring failure of tribal and ethnic groups to unify in defence of their collective interests.

It is also necessary to highlight context-specific differences in contemporary local governance, based on historical experience (see Table 6 for an overview). The post-revolution Libyan model of institutionalised local governance represents a response to

115 Murray, R. 2017, *Southern Libya destabilized: the case of Ubari*, SANA Briefing Paper, Small Arms Survey, Security Assessment in North Africa.

116 'Libyan minority rights at a crossroads' 2012. *The New Humanitarian*, 24 May, <http://www.thenewhumanitarian.org/report/95524/analysis-libyan-minority-rights-crossroads> (accessed 9 September 2019).

117 UNDP. 2018. *Local economies and migrant registration: Southern Libya – Murzuq and Obari*, July.

118 Murray, R. 2017. *op. cit.*

decades of centralised rule under colonial rule and Gaddafi, amid the rising discontent of marginalised peripheries and minority groups. Mali's model of local governance resulted in the fragmentation of tribal authority structures and opened up the state as an arena where inter- and intra-tribal conflicts over access to resources and emancipation of lower-level castes could be played out. Niger's contemporary model of state-authorised traditional authorities reflects a longstanding cooperative relationship between government leaders and certain customary chiefs, who often share similar tribal heritage.

Table 6 Summary table of different institutional governance dynamics

| | Mali | Niger | Libya |
|-----------------------------------|--|---|---|
| Pre-colonial legacy | Power structured through horizontal relations/competition between and within ethnicities and tribes, and through vertical relations/competition between different castes within a tribal group | | |
| Colonial legacy | French colonial management of tribal federations (divide and conquer) altered horizontal and vertical tribal hierarchies; double system of administration that incorporated chieftaincies at local level | | Ottoman and Italian colonial rulers relied on tribal governance in Fezzan; policy of neglect; maintenance of tribal hierarchies |
| Postcolonial institutionalisation | Decentralisation of relationship between Malian administration and traditional authority structures resulted in the increased importance of territorial control and tribal competition over local elected office; formalisation of traditional authorities as local administrators (selectively implemented) | Tuareg achieved financial and administrative status in the newly independent state; positive relationship between state and traditional authorities but policy of favouritism; formal recognition (and implementation) of traditional authorities as local administrators | Continued governance relationships with central state (Tuareg) but Gaddafi applied a 'divide and conquer' policy to Tuareg chieftaincies. Loyalty towards Gaddafi resulted in the Tuareg's isolation post-2011. New municipal governance structures reproduce Tuareg power relations. |

3 Traditional authorities in Niger: Politicization and under-representation

3.1 Introduction

In remote, rural parts of Niger such as the northern sections of the region of Tillabéri, Tahoua, Maradi, Zinder, much of the region of Diffa, and the entire region of Agadez, the state has a very limited presence, which leaves traditional practices of governance as the only existing 'rule-of-law' public services that are available. The traditional chiefs, a cadre of executives who draw their legitimacy from tradition (invented or otherwise),¹¹⁹ and their decision-making resources from customs (unwritten and uncoded), oversee these services. In northern Tillabéri, northern Tahoua, and southern Diffa the systems they oversee have come under considerable stress from violent conflicts in neighbouring countries (Mali, Nigeria and Libya) and which have spread across the borders into these parts of Niger. These regions have thus become laboratories for studying the resilience of this form of local administration and the supports that build resilience, given the backdrop of violence. Violent conflicts bring into sharp relief contradictions that had been dormant or manageable in quieter times, and this chapter will take advantage of their impact to assess the position of traditional authorities in the context of Niger's local governance dilemma.

To understand the nature of these dilemmas, it is necessary to look at the political economy of Niger. In this non-industrialised economy, most activities and livelihoods directly depend on natural resources (e.g., trees and water) and seasonal cycles, particularly because the rural economy is large.¹²⁰ The negative impact of this dependence on tree cover and aquifers is serious, particularly since there is very little transformative public or private investment in agriculture and herding. Most rural

119 Much of what is considered traditional in the Nigerien context derives from pre-colonial practices that colonial and postcolonial states reinvented to suit their own objectives.

120 According to the World Bank (2016), 80.5% of Nigeriens live in rural areas. Indicators of access to infrastructure that reduces dependence and the impact on natural resources are especially negative for rural areas. For instance, only 4.8% of the rural population has access to electricity (compared to 65.3% in urban areas), and only about 2% of Nigeriens (both urban and rural) have access to clean fuel and appliances for cooking. See: World Bank Dataset. 2016. 'Niger', <https://data.worldbank.org/country/niger> (accessed on 6 September 2019).

Nigeriens are struggling to preserve plummeting household incomes as natural resources deteriorate. This situation creates a number of problems, including the growth of a large unoccupied or under-occupied youth population in the countryside, and the weakening or collapse of collective rules for the sharing of natural resources and the settlement of disputes over them.

In this context, the government encourages traditional chiefs to support the distribution of development aid, while they also help communities manage and resolve conflicts caused by competition over natural resources.¹²¹ This puts chiefs on the frontline in rural areas beset by many of these difficult issues. These political-economy issues are often more acute in the Sahel-Sahara than elsewhere. Different livelihoods – occupational (farmers versus herders) or communal (with an ethnic dimension often defined as Fulani versus Tuareg) determine the need for natural resources, as well as access to – and competition over – those resources. As resources become more and more scarce, this competition tends more frequently to lead to open conflict. The brittle context that thus emerges is more easily exploited by corrupt or criminal agents, such as illicit traffickers and violent extremists.

Moreover, and importantly, this is happening in a changing context for traditional chieftaincies. After Niger's early decades of authoritarian governance, when chiefs were accountable to a stable regime of power, democratisation and political liberalisation – starting in 1991 – has brought with it a politization of their position, which is both seriously challenging and also an opportunity for reform and improvement. This chapter outlines these challenges. The first of the four main sections discusses empirical findings that reveal the roles of traditional, or customary, authorities in Niger. It builds on the insights from Chapter 2 that outlined how these roles are well defined within the framework of the country's territorial (and judicial) administration. The two following sections present the challenges that could affect the work of customary authorities: first, general challenges to their legitimacy; and second, the specific challenges that arise from the security crisis in the areas surveyed. The chapter ends with conclusions and recommendations for (inter)national interventions that aim to foster (formal) local government and stability.

121 Chiefs are incentivised to support programmes that donors are interested in because they want development projects in their districts. Programmes pertinent here include the stemming of population growth through, e.g., the 'empowering' of women and the fight against early marriage. For a general analysis, see: Olivier de Sardan, J.-P. 1998. 'Chefs et Projets au Village (Niger)', *Bulletin de l'APAD*, (15).

3.2 The roles of traditional authorities in Niger

As discussed in Chapter 2, traditional authorities in Niger are part of the formal state apparatus. Since the adoption of a law in 2010, and its further expansion in 2015,¹²² traditional chiefs constitute a special corps in the formal administration system of the state and can be said to be participants in efforts to centralise administration. They enjoy background support from the central administration, they are in theory entitled to physical protection from the state, and they receive financial compensation and other perquisites of office in accordance with their rank in what one might call 'traditional administration'.¹²³ In return, they play an active role in justice provision, administrative governance, surveillance, and conflict mediation.

3.2.1 Justice provision

Although their tutelary ministry is the Ministry of the Interior, chiefs are essentially agents of the justice administration in their routine work. Their court is the entry point into the justice system for Nigeriens living in rural areas – i.e., the majority of Nigeriens – for all civil matters. Many respondents note that when a party to a conflict skips the chief's court and brings his or her case to a modern court, or to the gendarmerie, he or she is generally told to go to the relevant traditional authority first. Most cases, unsurprisingly, relate to struggles around rural resources (farmland and pastures, water points) and family (divorce and inheritance), with the occasional problem of social disorder (indebtedness, brawl, neighbour conflicts, false rumours, or violent rivalry between suitors).¹²⁴

122 The law officialised and organised a situation that has existed *de facto* since the early colonial era and that the French had begun to formalise in the late 1940s. For the situation before 2009, see Tidjani Alou, M. 2009. 'La chefferie au Niger et ses transformations', *LASDEL | Etudes et Travaux*, 76; Soulas de Russel, D. 1998. 'Niveaux et degrés d'intégration des "modernités" chez les chefs traditionnels: l'exemple du Niger', *Africa Spectrum*, 33(1), 99–116; Abba, S. 1990 'La chefferie traditionnelle en question', *Politique africaine*, (38), 51–60.

123 This creates a peculiar tension between chiefs and elected officials in the politics of decentralisation. As participants in territorial administration, chiefs are in fact representatives of the central administration whose influence thus challenges the mandate of elected officials of local administrations. Although this issue is not central to this study, it must be kept in mind in terms of understanding the parameters of the performance of chiefs – as is alluded to later in the chapter. For a topical analysis, see Olivier de Sardan, J.-P. 2004. 'Des pouvoirs locaux dans l'attente de la décentralisation (Niger)', *LASDEL, Etudes et travaux*, (27).

124 Violent rivalry between suitors is a recurring cause of conflict among the Woodaabe Fulani in particular, due to instances of abduction of the spouse or the fiancée by the losing suitor.

The justice applied by chiefs is informal and relies on a range of techniques, depending on the case; arbitration and conciliation seem to be the most frequently used.¹²⁵

The first technique is easier for minor cases – a fight between neighbours, an act of thievery – while more complicated cases require conciliation. When either of those fails, parties must pursue litigation in a (modern) court, a costlier and slow-moving process which many are keen to avoid. Conciliation requires a variety of resources from the chief's court: not only a good understanding of the social and family connections and background of involved parties – as these might be invoked to assuage and prod them – but also assistance from other 'customary' personalities, typically a chief cleric, and, as has been noted surprisingly often in the districts of Tillabéri region in particular, a leading shaman.

As there is no customary law representing an established body of rules and regulations, decisions follow precedents and jurisprudence, and rely on the sociological and cultural tact that chiefs must cultivate as part of their obligations or 'virtues'. In the administrative language of the 2015 law, this is described as an obligation of 'neutrality, reserve, impartiality' and a behaviour that signals a 'dignified and loyal official'. And in the common language of local communities, this translates as being 'trustworthy', 'kind', and 'sharp'. These latter words, from respondents in the Tahoua region, sum up the normal expectations of people in the communities – expectations on the basis of which chiefs might be taken to task if they fail to live up to them.¹²⁶

3.2.2 Administrative governance and social support

The chieftaincy system was created by the French in the colonial era essentially so that chiefs could serve as governance middlemen – i.e., as both informants for central administration and as policy channels to the local population – and as tax collectors. In the postcolonial context, those functions have been retained. The latter duty – of a tax collector – is, however, mainly the preserve of lower-level chiefs (quartier, village and *tribu*), with higher-level ones (canton and groupement) only pooling the levies for transfer to the state tax agency. Chiefs are also – as mentioned before – important local agents for development and humanitarian aid, providing in this way a source of social support. But these roles are all closely linked. Thus, in the district of Abalak, we learned that a village chief was formally relieved of his duties by the groupement chief – his hierarchical superior in the formal customary order – for political reasons (he supported a political party opposed by the groupement chief). The villagers, however, remained

125 Chiefs also used to adjudicate in cases of homicide by imposing the *díya*, or 'price of the blood', on culprits. But respondents say this practice belongs in the past. It seems to survive in remoter parts of the national territory, for instance among the Tubu of the far eastern regions. In the district surveyed, the state's penal law system has superseded this custom.

126 Focus group, Tchintabaraden, Tahoua Region, 20 March 2019.

loyal to their chief and continued to pay their taxes to him. But neither the groupement chief, nor the prefect, would accept taking the tax, and, in connection to this, the village, now considered formally chief-less, is starved of state support and 'project' (i.e., donor) funding.¹²⁷ This incident demonstrates that the administrative duties of chiefs and their ability to provide social support are two faces of the same coin.

3.2.3 Surveillance (including religious affairs)

Aside from their functions as justice of the peace, judge in small claim courts, and first echelon of authority in the state justice system – as well as the roles described in the previous subsection – chiefs also act as monitors for the surveillance of the territory,¹²⁸ in tandem with chief clerics regarding religious issues. This partnership between chiefs and clerics is – as far as the data shows – always along the lines of the old religious orthodoxy which Nigeriens call 'traditional Islam', i.e., a mixture of generic Sunni Islam and Sufi affiliations. This old orthodoxy is challenged by the emerging Salafi orientation, as was often noted in the interviews.

The responses of chiefs in religious issues tend to be cautious. They are characterised by a form of patient reticence in contrast to the direct intervention of the state. Both of these attitudes are well illustrated by interview data from Ayarou, where we were told that followers of Tijaniyya – a Sufi orientation – are more numerous and the chief – himself a Tijan – had advised people to attend the preaching session of Salafi clerics, but to refrain from listening to their 'provocations'. At the same time, to quell the conflicts between Sufi and Salafi that had erupted in the past, when the latter first arrived in the district, the prefecture had given some structure to the local preaching scene through the practice of issuing formal authorisations, and therefore putting the stamp of state supervision on religious activities.^{129, 130}

In sum, there are Salafi groups – generally known as 'Izala' or 'Sunnance' in the surveyed districts – and interview respondents and focus group participants pointed out that while relationships with their leaders are often tense due to the radical narrative of

127 Interview with Respondent #38, Demoted tribe chief, Abalak, Tahoua Region, 7 March 2019.

128 Traditional authorities in communities hosting refugees, for example, noted that they monitor and investigate displaced populations to identify anyone who might potentially be a problem, for example someone who might pretend to be a refugee in order to gather information that would allow them to attack the security forces.

129 In response to these types of issues, the government eventually adopted, in summer 2019, a law formally allowing the territorial administration to oversee religious activities for the sake of public order. As seen here, the law is only giving official cover to a practice that already existed in some places, such as Ayarou.

The law also means that this oversight is going to be more systematic and more uniform across the territory.

130 Interview Respondent #52, Groupement chief, Ayarou, Tillabéri Region, 9 March 2019.

their preaching, some appeasement is generally brokered (mainly by chiefs) and lines are drawn which ought not to be crossed. In some contexts, appeasement leads to a modicum of *entente cordiale*. Thus, in Abalak, the incoming Izala applied to the chief for authorisation to build their mosque. When outside clerics come to preach, they must submit the theme of their preaching to the imam of the grand mosque – who is a notable close to the chief, and also to the state.^{131, 132}

Box 10 The history of Salafism in Niger

In Niger, the history of Salafism dates back to the early 1980s, when it was first introduced into southern parts of the country from northern Nigeria, as an extension of a group known as Izalatul Bidi'a wa Maqamatul Sunna (Izala for short). In the 1990s, Salafism grew and diversified, notably expanding into the western parts of the country (where the Tillabéri region is) and challenging state secularism in a bid to 'Islamize' state and society. This project, though radical, was nonviolent – although it stoked the religious fury that at times led to riots in the southern cities of Zinder and Maradi, and in Niamey. Salafism tends to be stronger in urban areas and to appeal more to the young. Although its doctrines are basically indistinguishable from those of extremist groups in the area, their mode of operation is preaching (persuasion), not coercion. The connection between this local Salafism and extremism is not straightforward. In one way, their preaching might prepare local populations to be more accepting of extremist attempts at governing; but in another way, the rivalry from Sufi groups – dominant in most rural areas – might also make the extremist onslaught even less palatable than it could have been.

However, not all our respondents embrace this surveillance function. Compared to the other municipalities we studied, respondents in the municipality of Ayarou feel particularly neglected and ignored by the state. Next to infrastructure and socioeconomic problems, respondents noted that lack of security is one of their key concerns,¹³³ and they are resentful of a state that asks for information and intelligence but comes to their rescue only after an attack.

131 Imams of grand mosques in Nigerien areas are always members of the state-sponsored Association Islamique du Niger (AIN), a national organisation which has been in existence since independence (it had a different name before 1974).

132 Interview with Respondent #28, Abalak, Tahoua Region, 5 March 2019.

133 As will be discussed in more detail in the section on security challenges below, armed groups have filled this vacuum – now collecting taxes (*Zakka*) in return for their 'service provision'.

3.2.4 Conflict mediation

Routine conflicts – as opposed to those that involve radical extremism and which are examined in the section on security challenges – generally involve dissension around natural resources (field boundaries, pastureland boundaries, aquifers) across all municipalities. In sedentary areas, field limits are not problematic because everyone knows the limit of each family's plot, and even when there is a misunderstanding, it is quickly resolved through traditional authority conciliation. However, in pastoral areas, the status of the land is unclear to many of the nomads. And, given that boundaries are not definitively delineated, each year the patch of land dedicated to agriculture expands and pushes cattle further into areas lacking pastureland. Typically, conflicts around natural resources tend to be inter-community – i.e., cultivators versus herders, Fulani herders versus Tuareg herders – although that is not necessarily always the case. Thus, there are also conflicts between farmers or herders of the same community, even of the same family, over access to and ownership of land.¹³⁴

In most conflicts related to natural resources, chiefs have a central role as mediators. Yet as was noted by one groupement chief in Abalak, their decisions in such matters are sometimes respected only when they are underwritten by modern courts, which leads chiefs to sometimes bring the matter to such courts themselves, to help the quarrelling parties.¹³⁵ Regarding conflict mediation, chiefs might need the help of clerics, shamans and other 'traditional' authorities such as the rugga and garso, who help manage and coordinate nomadic herding among the Fulani. They also rely on their routine, one might say intimate, knowledge of what goes on in the community. Conflicts for which rugga and garso intervene always involve the boundaries of pasturelands and fields. Often, rugga and garso work to resolve conflicts around natural resources within the Fulani herding community.

134 Other conflicts for which chiefs are often approached involve marital issues, debt, fights between neighbours, theft and rape, heritage, unsatisfactory conciliation decisions, and election grudges.

135 Interview with Respondent #35, Groupement chief, Abalak, Tahoua Region, 5 March 2019.

Box 11 Rugga and garso peace brokers

The rugga are peace brokers who travel extensively, at times across borders, often deep in the bush, to help resolve conflicts among Fulani herders, including even those which may have resulted in a fatality. The garso act as scouts who chart the way for herders in search of pastureland and aquifers, also leading them away from conflicts with other herders or with farmers. Although these officials have no legal status, they are confirmed by the canton or groupement chief (after being chosen by nomad leaders) and are enthroned in the presence of a representative of the central administration. The functions of rugga and garso are essential, given the movements of nomads. Groupement chiefs rarely move and *tribu* chiefs may move only with their *tribu*. The institution of rugga is said to be recent and the Fulani are attempting to persuade Tuareg herders to adopt it.¹³⁶

As customs derive from both Islamic legality and local traditions – which hinge on relationships with local spirits – certain issues can be resolved by chiefs only with the assistance of clerics or shamans. Typically, issues of marriage or inheritance need the assistance of clerics, while land issues may require the involvement of shamans. Chief clerics (imams) are generally nominated or appointed by chiefs. Chiefs need to maintain good relations with elected officials and local administration as a way to uphold their role as contact persons for development and security policies in their jurisdiction, but this is not always easy – especially with elected officials.

As described above in the section on justice provision, the juridical methods used by chiefs are those of conciliation and mediation, which might have counterintuitive effects. According to a chief in Tchintabaraden, people may prefer modern court proceedings to mediation at the chief's court when they know that they are in the wrong.¹³⁷ In this instance, the knowledge chiefs have of the community makes lying and other manipulations harder to sustain than in a modern court. This example points to the fact that the judicial pluralism denoted by the chieftaincy system gives potential litigants a range of options for adjudicating their cases.

Mediation is not necessarily the preferred option in all cases. In theory, mediation should be a popular option for certain types of conflict, particularly those with a more collective dimension (i.e., conflicts over the use of natural resources). The process of mediation, in such cases, would start with the low-level chief. If it does not succeed

136 Several respondents in focus group, Niamey, Niamey Urban Community, 24 June 2019.

137 Interview with Respondent #111, Groupement chief, Tchintabaraden, Tahoua Region, 18 March 2019.

there, the case is escalated to the higher-level chief (groupement or canton). But the data suggests that people increasingly prefer either litigation in modern courts or administrative processes at the town hall to the chief's court. Interview data from all the districts indicates that one key reason for this is the greater 'cosmopolitanism' of most chiefly districts – especially at groupement and canton levels – where people from many different communities might live, nurturing different expectations of the local chief, and sometimes having no feeling of allegiance towards him.¹³⁸ This means that chiefly mediation might work better at village or *tribu* levels than at groupement and canton levels.

3.2.5 An evaluation of the traditional authorities' governance abilities

Expectations and drivers of allegiance among 'subject' populations – the revealing French term applied to them is *les administrés* – are complex and appear to reflect changed circumstances. These expectations shape the governance abilities of chiefs.

On the one hand, *administrés* attribute great powers both of doing good and of doing harm to chiefs, which creates pressures on them. In many ways, the central state has offloaded on to them the responsibility of making the first decision on some very rural thorny issues – especially those related to land and the sharing of natural resources. On such questions, chiefs can be accused by losing parties of being unfair or corrupt. Cases are then moved up to modern courts, an outcome which – depending on the context – is often perceived as a failure on the part of the chief. Expectations differ also in accordance with the rank of the chief. Village and *tribu* chiefs are 'proximity' chiefs who are expected to provide a greater range of services, including, for instance, chaperoning *administrés* in trips during which they will interact with modern officials; canton and groupement chiefs are expected to provide more services of the type that rest on influence and reach.

But in all cases, the performance of chiefs depends on their own persona, as defined by training, experience and – increasingly – financial resources and social capital. Chiefs with little or no formal training are less well equipped to deal with certain situations of crisis, communicate with modern authorities, and understand the objectives and work of non-governmental organisations – which have often been criticised in our

138 Although the example might seem mundane, it is interesting to note that Hausa residents of Abalak, a Tuareg chiefly district, often have a hard time taking the Tuareg chief seriously because of the lack of decorum in his court. Many Hausa residents in the district hail from Konni, an important Hausa market town with a canton chief who conforms to the trappings of the Hausa *sarauta* (royalty) decorum. Konni Hausa are thus surprised to see that one could approach the chief in Abalak without removing one's shoes, or one could sit cross-legged in front of him, something which they see as highly disrespectful. Interview with Respondent #32, Religious association president, Abalak, Tahoua Region, 3 March 2019.

data by chiefs interpreting their actions as subversive and disrespectful. Less experience also means less understanding of the webs of relationships and power relations that shape conflicts, both potential and open, in their jurisdiction. Further, the issue of money and social capital has become salient with democratisation. Decisions by poor chiefs¹³⁹ are more easily challenged, as chiefs need a 'full purse' and other resources to monitor their jurisdiction and maintain a client base across the community; chiefs without social capital in the community and, importantly, in regional capitals or in Niamey may find themselves destabilised by politicians seeking to mobilise constituents in their jurisdiction or even to challenge their tenure.¹⁴⁰

3.3 Challenges to legitimacy – rules of creation and accession

3.3.1 Accession

Under previous authoritarian political systems in Niger (the French colony, the single party regime and the military regime that succeeded each other from 1922 to 1991), chieftaincies were conservative institutions that operated in accordance with invented traditions that buttressed the position of ruling lineages and guaranteed stable cooperation with the central administration. Accession, though always subject to gendarmerie investigation, was mainly determined by rules derived from these invented traditions (i.e., invented during the changeover that integrated customary authority with modern administration in the early years of colonial occupation). This means that elite groups in the chieftaincy's jurisdiction and in the state controlled the process.

In the current arrangement of traditional authority structures in Niger, where chiefs are ultimately members of the administration, legality determines their position. There cannot be chiefs without the legal sanction of the administration – in particular the Ministry of the Interior, which is their tutelary ministry, the Ministry of Finance, which pays their emoluments and other expenditures and which relies on them for tax collection, and the Ministry of Justice, which is another tutelary ministry. Yet the legal process depends on more informal rules for selecting people eligible for the position of chief, or groups eligible for having a chieftaincy, and those are subject to interpretation and contestation.

139 The issue of financial deprivation is greatest among lower-level chiefs who do not receive a salary but receive a percentage of the tax money they collect – which can be a very small amount, or even nothing, when impoverished populations are unable to pay the tax. This then opens the way to corruption, an egregious harm to the position of a chief.

140 See interviews with Respondent #34, High-ranking civil servant, Abalak, Tahoua Region, 4 March 2019; Respondent #68, Village chief, Banibangou, Tillabéri Region, 24 March 2019; Focus group, Niamey, Niamey Urban Community, 24 June 2019.

The general rule is that, unlike any other position in the administration, the position of chief is inherited, even when the chieftaincy is, in fact, a creation of the administration, which is the case for most chieftaincies today.¹⁴¹ But this rule is interpreted differently by incumbents and by potential claimants. Incumbents tend to interpret it narrowly by asserting that the position is passed on exclusively from father to son, while other members of the larger family (i.e., potential claimants) may claim that it can be assumed by any member of the family. When a new chieftaincy is created – as happened often in the 2000s – the first incumbent is appointed either by agreement of state authorities and higher chiefs, or straightforwardly by a decision of the Council of Ministers. From then on, successors inherit the position, and first incumbents support the doctrine that a successor must be their son. The law of 2015 does not clarify the matter, stipulating vaguely that ‘any Nigerien from a given traditional or customary community can apply to the chiefship of said community if custom gives him the right to do so.’ But custom is interpreted and contested depending on the interests of claimants.

With democratisation, forces from ‘subject’ populations were channelled, via electoral politics, lobbying and community organisation, to challenge established practices (see Figure 3). This has generally affected ways of creating traditional authority structures (see below) rather than of accession – but these, too, have not been left untouched. Thus, for instance, in Ader, the 3rd groupement chief was previously nominated by a college in which the deciding vote was held by two clerics, the imam of Tchintabaraden and the imam of Abalak. But that rule was not applied for the nomination of the first chief of the democratic era (1999), which was decided via election by village and *tribu* chiefs.¹⁴² The new procedure is, in this way, more formal than the earlier one – and is meant to improve the criteria of transparency and participation defining a democratic process. Thus, villages and *tribus* that have a right to the nomination vote are the *décisionnaires* ones (this term means they hold a *décision*, i.e., a recognition title from the central administration¹⁴³) and the voting is supervised by the governor. For a religious notable in Tchintabaraden, a casualty of the new era, this new mode of accession spells the doom of the chieftaincy. ‘Democracy,’ he explained, ‘gives more freedom to the *administrés* and strips the chiefs of all the deference due to their rank.’¹⁴⁴

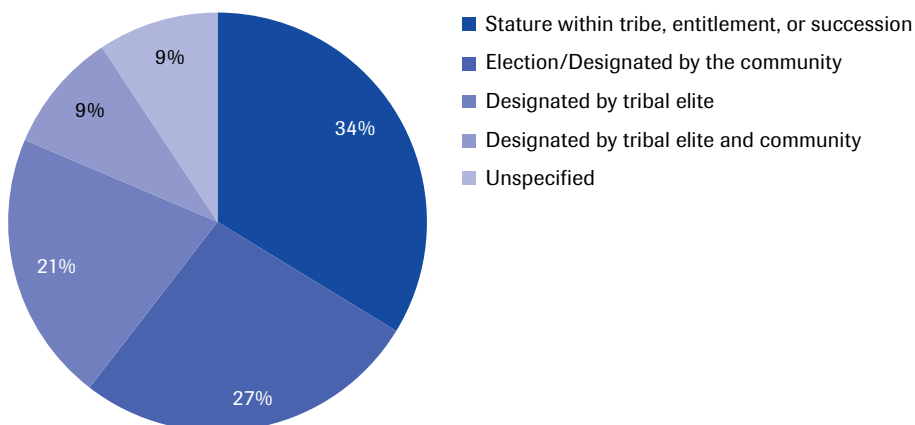
141 The exceptions are those chieftaincies that trace their origins back to pre-colonial times. But even these have, in fact, been reinvented by the administration and keep only the trappings and pedigree of their ancient origins.

142 Interview with Respondent #123, Religious leader, Tchintabaraden, Tahoua Region, 19 March 2019.

143 The implication also is that, in the past, the status of voting groups was not formally established.

144 Interview with Respondent #123, Religious leader, Tchintabaraden, Tahoua region, 19 March 2019.

Figure 3 Mode of accession of the Nigerien respondents in the six municipalities studied



Number of respondents: 86

Things have also changed at village and *tribu* levels. An outcome of the new rules, which is deplored by established chiefs at this lower level, is the increased role of money and politics in the accession of chiefs. According to the village chief of Bassikouana (Banibangou district), the position of village chief was by inheritance in the past (i.e., since the creation of the chieftaincy in the colonial era). Today, it is a formal process that involves household heads as electors and the canton chief as supervisor. As a result, people with money and influence can accede to the position, trumping the 'rights' of inheritance. 'Everything,' he concluded, 'takes places between those with power and the big [i.e., canton] chieftaincies.' The village chief of Banibangou agrees on the influence of politics now. In the past, he explained, one became a village chief in Banibangou by inheritance, but today, the village has six chiefs 'who have inherited nothing'. This refers to the fact that the jurisdiction of the village chieftaincy of Banibangou has been divided by the creation of new villages out of quartiers.¹⁴⁵ The quartier chiefs were appointed by the village chief, but thanks to 'politics' (i.e., lobbying), now, 'as soon as they have enough people [in their quartier], they get the support of the administration to become chiefs', even though, in his view, their families have no right to such a position.

¹⁴⁵ The quartiers, or neighbourhoods, of a village are in fact separate settlements, which are created close to the main/earliest village and can grow to be as big as it is.

The influence of money is made clear by the fact that the process of accession may be quite costly to the candidate. Thus, although the procedures leading to accession are normally a public service (defrayed by the state), they are actually funded by the candidate, who may expect – according to an official interviewed in Abala – to pay the equivalent of anywhere between 765 and 920 euros to cover them. Among other things, the funds pay for fuel for the canton chief, the gendarmerie (which must travel for the administrative inquest) and the prefect, and the defence and security forces, who will have to attend and protect enthronement ceremonies.¹⁴⁶ Although these expenditures are in fact illegal, supervising authorities in a district – such as the mayor – cannot act without risking derailing the process. According to the official of Abala, interference has led to vacancies in some chieftaincies that has lasted for over three years.¹⁴⁷ The incident previously reported (in the section on administrative governance) of a village chief in the district of Abalak removed by his groupement chief for partisan reasons also highlights the influence of politics (in particular, electoral politics) on the position of chiefs, who often appear in that light as pawns in a rigged chessboard.

The general view – and this is paramount among old-style chiefs, i.e., chiefs who have secured their position under the pre-democratic system – is that these changes are subverting the chieftaincy system as it has been established from time immemorial (actually, from the colonial era). From the contender's point of view, however, it is the legitimacy of an exclusionary and unrepresentative status quo that is under threat. On a broader level, chiefly positions appear to be vulnerable to money and politics. This affects the legitimacy of the traditional chieftaincy more generally, as it may make them less credible and only able to hold on to derivative power.¹⁴⁸

3.3.2 Rules of creation

The creation of new chieftaincies often undermines the legitimacy of the ones they are breaking away from, creating tension between legitimacy and legality.

In recent regulations, the creation of a new chieftaincy has been streamlined into a semi-formal process whereby a critical number of household heads (for quartier and village/*tribu* chieftaincies) or of village or *tribu* chiefs (for canton/groupement chieftaincies) petition for this. In the case of new village or *tribu* chieftaincies, the

146 Interview with Respondent #16, High-ranking municipal civil servant, Abala, Tillabéri Region, 13 March 2019.

147 Interview with Respondent #16, High-ranking municipal civil servant, Abala, Tillabéri Region, 13 March 2019.

148 Objectively, the power of old-style chieftaincy was also derivative. But the claim is that it now derives from multiple and unstable sources – politicians, the wealthy, ordinary residents, including sometimes those of low-status groups – which all take something away from its powers.

application of the petitioners must be recommended by the canton or groupement chief, signed by the mayor, the prefect and the governor, and submitted to the Minister of the Interior. In the case of new canton or groupement chieftaincies, the first incumbent of a new groupement explained that the application must be supported by ten recognised village or *tribu* chiefs, or alternately by 20 chiefs of villages/*tribus* that are in the process of being recognised (by the Ministry of the Interior).¹⁴⁹ These particular stipulations perhaps reflect general experience rather than a written, formal regulation.

Once the application has been accepted by the Ministry of the Interior, the creation of the chieftaincy becomes a legal, more formal process. In theory, this process includes two investigations, or enquiries. A socioeconomic investigation is conducted by the planning office of the central administration, and which aims at understanding certain factors such as the real reasons behind the demand for creating a new chieftaincy, the actual number of supporters involved, and the length of time the applicant population has occupied an area. It also studies the question of the naming of the new entity (which will it be, with what meaning). The administrative investigation is conducted by the gendarmerie and verifies and validates the data collected in the first enquiry. The decision about the proposed chieftaincies follows the submission of the reports for these investigations.

The whole process as it exists today is favourable to the creation of new chieftaincies and results from the changed political context brought about by democratisation (the process was more tightly controlled before 1991). It implies that local populations have a much greater say in the creation of chieftaincies than before. And this is where new authorities appear to be challenging the legitimacy of older ones. Indeed, in Ader, the chiefs of groupements that view themselves as long established are critical of the creation of new groupements, blaming the government of President Mamadou Tandja (2000-2010) for its policy of easing this process and praising President Mahamadou Issoufou for the current tightening of conditions for the creation new chieftaincies.¹⁵⁰ Related misgivings are also observed in the districts surveyed in Tillabéri. The 'proliferation' of chieftaincies is said to devalue and trivialise the position of a chief.¹⁵¹

To protect their position (or their perception of it), some chiefs resort to the law, thus stoking a tension between the question of legality and the problem of legitimacy. Thus, the chief of the long-established 3rd groupement in Tchintabaraden questioned the legitimacy of breakaway groupements, which he described as mere 'creations in a council of ministers', while, in his view, 'the laws regulating traditional chieftaincy in

149 Interview with Respondent #122, Village chief, Tchintabaraden, Tahoua Region, 17 March 2019.

150 Interview with Respondent #120, Groupement chief representative, Tchintabaraden, Tahoua Region, 20 March 2019.

151 Interview with Respondent #74, Village chief, Banibangou, Tillabéri Region, 27 March 2019.

Niger did not provide for the creation of new groupements or cantons'.¹⁵² One reason behind his criticism, however, was that some of the breakaway groupements were created following applications from Black Tuareg *tribu*, whose members felt they were excluded from consultation, decision making and benefits under groupements headed by light-skinned noble Tuareg, such as the 3rd groupement. The 3rd groupement chief mounted a legal challenge against the new groupements, claiming that in their founding application they had claimed support from groups that did not in fact support them. This challenge led to an administrative census implemented by the prefect and mayor of Tchintabaraden with a view of establishing that some Black Tuareg *tribu* chiefs still paid allegiance to him.

Another issue for the 3rd groupement is its viability. Since the Tuareg nobility is a minority social status group, if other social status groups are allowed to form their own chieftaincies, they risk moving below the demographic bar for the existence of a groupement (i.e., there is a risk that, with time, the groupement may be liable to be dissolved). Supporters of the creation of new chieftaincies, on the other hand, point out that the process is conducive to peace and stability.¹⁵³ One village chief under a recently created groupement stressed that new creations were a good way to assuage the frustration of being governed by remote chiefs born in communities that did not have the same cares and concerns as one's own, thereby preventing possible destabilising actions.¹⁵⁴

In sum, the issue of legitimacy is not a straightforward one, mainly because legitimacy derives from a dynamic context, largely prompted by the politics of democratisation. This may mean that what we have observed is very much a situation in flux or a moment of transition, one that is moving people from old-style chieftaincy towards a new (though not totally different) chieftaincy system. In such a moment, the parameters of legitimacy themselves are unstable, with old ones weakening and new ones not yet fully established.

3.3.3 Implications for traditional authorities

As much of the response data mentioned above suggests, the position of chief in local arenas is challenged or, in the reading of some, even undermined, by democratisation.

The challenge comes from decentralisation and the rise of elected officials, the interventions of vote-seeking politicians, the influence of money, and the ability of groups or individuals to use democratic rules to gain autonomy. This institutional

152 Interview with Respondent #111, Groupement chief, Tchintabaraden, Tahoua Region, 18 March 2019.

153 Interview with Respondent #89, Groupement chief, Kao, Tahoua Region, 25 March 2019.

154 *Ibid.*

menace appears so grave that some respondents in a focus group in Tchintabaraden claimed that the chieftaincy – with some of its key powers taken away by judges and gendarmes, and with the *coup de grace* coming from elected local governments, freedom and human rights justice that see some elements of customary justice as violations of human rights that may incur punishment¹⁵⁵ – has become so irrelevant that it could (or should) be abrogated.¹⁵⁶ It bears noting that this was a frustrated response to a question on the capacities of customary chiefs of assisting the *administrés*: nevertheless it echoes many other negative – if less radical – assessments of the kind heard during fieldwork.

However, and as mentioned before, any evaluation should take into account the fact that the chieftaincy in Niger is not an isolated institution. It is both deeply connected to state administration and embedded in local politics, so that major shifts in these two fields must affect it in ways that could feel more threatening than they actually are. First, negative assessments are made against the background of nostalgic beliefs that in the past things were stable and orderly – which is far from true. Indeed, similar statements are made about the state of Niger itself, which would have been a more functional and stable entity under military rule and is now going to the dogs owing to democracy and its corruptions. Second, the assessment is often contradicted by examples of the usefulness of chiefs, especially when their role is understood not in isolation but in collaboration with other authorities. For instance, in the same Tchintabaraden focus group, respondents concurred that other institutions, either ‘traditional’ – such as religious authorities operating in matters of marriage, inheritance, divorce, death – or ‘modern’ – such as the municipality, the gendarmerie – all need chiefs as a validating or mediating authority.¹⁵⁷

The key concepts here are proximity and formality. The strengths that make chiefs indispensable despite the apparent crisis documented above are that they are much closer to the people than other governing authorities, and yet at the same time they have a formal status which makes them relevant to the population as an easy entry point into the world of government. Thus, in a post-fieldwork focus group held in Niamey with representatives of community organisations in northern Tillabéri and Tahoua, the crisis was acknowledged but the key recommendation was not to throw the baby out with the bath water, but to convene ‘estates general of the chieftaincy’ (discussed in more

155 Elements of customary justice are perceived as violations of human rights that may incur punishment.

For instance, the treatment meted out to ‘witches’ in accordance with customary rules would be considered battery under Niger’s penal code.

156 This was not a general opinion, but it expressed a general sense, in the focus group, that the chieftaincy is in crisis today. In: Interview focus group (Resource persons), Niamey, Niamey Urban Community, 24 June 2019.

157 Focus group, Tchintabaraden, Tahoua Region, 20 March 2019.

detail in this chapter's conclusion) that would debate all the crisis issues and propose a reform agenda at national level.¹⁵⁸ In sum, the idea was that the chieftaincy needs to be updated.

3.4 Security challenges to traditional authorities' legitimacy

3.4.1 Cross-border conflict in the Tillabéri region¹⁵⁹

The governance challenges outlined above pale in comparison to the challenges that have hit the chieftaincy in the region of Tillabéri, with the spill-overs from the conflicts in northern Mali. The historical roots of the present crisis date back to the 1970s, when elements of the Malian army stationed in the areas of Gao, Ménaka and Kidal – that is, in what was, for them, a remote, neglected outpost of the national territory – got into the habit of pillaging Nigerien Fulani herders whose paths of transhumance crossed into Mali.¹⁶⁰ These were, in particular, subsets of Nigerien Fulani known as Tollebe and Minikaabe (the latter noun meaning 'those of Ménaka', because their transhumance path led them to the area of 'Minika', a Fulani rendition of Ménaka).

This unlawful violence perpetrated by the Malian military was, at the time, occasional and never crossed into Nigerien territory. However, over the last two decades violence has worsened on the Mali and Niger borders due to increased rivalries between communities for control of land. Simultaneously, Malian and Nigerien states have struggled to regulate these conflicts over natural resources. Additionally, following the rebellions of the 1990s and 2000s, access to weapons made violence much more deadly. As a result, young Fulani and Tuareg Daoussak became increasingly involved in the conflict to protect their respective communities.

Reportedly, political entrepreneurs relied on these young men to establish community-based militias, mainly in Mali but also in Niger, with Fulani militia mainly in northern Tillabéri, the area affected by violence. While these militias claimed to serve the interests of their nomadic populations, they also relied on violence to pressure the state and generate economic incentives. Tuareg Daoussak were also accused of infiltrating the Tillabéri region and seizing livestock belonging to Fulani herders. The Nigerien government failed to address this security issue while battling Tuareg rebellion

158 Interview focus group (Resource persons), Niamey, Niamey Urban Community, 24 June 2019.

159 This entire section is based on interviews conducted in Niamey in April 2019 with leading members of associations representative of the communities in northern Tillabéri, including a former leader of the Fulani militia of the late 1990s-early 2000s.

160 International Crisis Group. 2018. *The Niger-Mali Border: Subordinating Military Action to a Political Strategy*. Africa Report, no. 261, Dakar/Brussels.

in northern Tahoua and Agadez regions. As a result the Tollebe and Minikaabe eventually formed a militia to resist the Daoussak and carry out revenge razzia (attacks). The following months and years in the 1990s were characterised by a series of retaliation attacks from both sides and across the borders. The situation continued to worsen, despite efforts by the Nigerien government in 1999, which were in fact inadequate.

In 2007, the Nigerien Haut Commissariat à la Restauration de la Paix (HCRP, the precursor organisation to the current Haute Autorité à la Consolidation de la Paix, HACP), under Mohammed Anako, organised a peace-brokering convention in Gao, attended by the governors of Tillabéri, Tahoua and Gao regions as well as representatives of the armed groups. Anako secured a truce and a monitoring committee was created to observe the 'restoration of peace' between the Fulani and the Tuareg in the area. Unfortunately, attention soon turned on to the new Tuareg rebellion in Agadez region; the committee never saw the light and fighting continued.

In 2011, with peace restored in northern Niger and a new government of Niger in place, Prime Minister Brigi Rafini convened a forum in Ménaka, Mali in August, during which Tuareg Daoussak and Nigerien Fulani combatants were persuaded to disarm. It was then that the Fulani militia disbanded and promised recruitment into Niger's armed forces. While disarming combatants might have been successful in Niger, this was not the case on the Mali side due to the new rebellion of January 2012, which was a major setback to bringing an end to the conflict in Tillabéri region. Under these conditions, the Tuareg Daoussak did not disarm, much to the contrary, and the Fulani, who had abided by the terms of the agreement of Ménaka, were left at their mercy. Additionally, the Nigerien government failed to deliver on its promises and to reintegrate Fulani combatants into Niger's med forces.

Tuareg Daoussak seized the opportunity of a chaotic northern Mali to continue its acts of banditry against Fulani communities. With state absence and lack of protection, the Fulani gained support from the Movement for Unity and Jihad in West Africa (MUJAO), a jihadist group that was occupying most of the Ménaka and Gao regions in 2012. In exchange for weapons, military training and protection, members of Fulani communities agreed to support or join the group. Fulani militiamen might not have agreed with the religious ideology of MUJAO, but both actors shared the same enemy, Tuareg Daoussak.

In 2013, after the French Operation Serval had chased extremist groups from key cities in northern Mali, many of the Nigerien Fulani who had previously joined extremist groups chose to return to Niger, saying they had no issues with the Nigerien state¹⁶¹ but

161 Also see: Cocks, T. and Lewis, D. 2017. 'Why Niger and Mali's cattle herders turned to jihad', *Reuters*, <https://www.reuters.com/article/us-niger-mali-security-insight-idUSKBN1DC06A> (accessed 12 September 2019).

needed protection against the Tuareg. Such protection, however, was not forthcoming. In autumn 2013, attacks on transhumant Nigerien Fulani resurfaced. For instance, an attack near Ansongo, Mali caused 55 casualties. The Fulani community requested a judicial resolution of the case but no judicial action took place to hold those responsible accountable. In response, the Fulani carried out a retaliation attack against Tuareg Imghad in February 2014, starting a new cycle of inter-communal violence. As a result of this attack, the Fulani were labelled 'terrorists of MUJAO' by Mali's then minister of public security.¹⁶²

Retaliation and revenge attacks from both sides did not stop. Tuareg Imghad struck back at a Fulani camp in Nigerien territory, killing eight Fulanis and seizing livestock. However, Fulani gunmen responded with an armed assault and recaptured the stolen livestock in addition to killing a number of Tuareg Imghad. Despite evidence, Nigerien authorities were accused of mishandling the situation by arresting Fulanis involved in the violence.¹⁶³ This reaction outraged the Fulani, many of whom felt betrayed. For protection and defence, they felt they had no other choice but to turn to the extremist groups who already had been trying to lure them in. The situation continued to deteriorate afterwards, especially after French forces of Barkhane aligned themselves with Groupe Autodéfense Touareg Imghad et Alliés (GATIA) and Mouvement pour le Salut de l'Azawad (MSA) armed groups in a counterterrorism campaign from 2017 to early 2019.

What role could chiefs play in this difficult configuration of conflicts? What is its impact on their position?

3.4.2 Impact on the position of chiefs

The worsened security situation in northern Tillabéri has affected chiefs in several ways, including: (1) chiefs fleeing their position, (2) chiefs being killed or abducted, (3) chiefs joining the militants, or (4) chiefs staying put and incurring either the suspicions of the state, or threats from militants.

Moving beyond the municipalities under study here, there have been several systematic assassinations of community leaders in the Inatès' area of Tillabéri. Since May 2018, no less than eight customary chiefs were killed by jihadis assumed to be from Islamic State

162 Flynn, D. and Lefief, J.-P. 2014. 'La mort de 31 Touaregs dans le nord du Mali imputée au Mujao', *L'Obs*, <https://www.nouvelobs.com/monde/20140210.REU0950/la-mort-de-31-touaregs-dans-le-nord-du-mali-imputee-au-mujao.html> (accessed 12 September 2019).

163 There was also a crackdown on former Fulani militiamen in Niamey, including one person who was working as adviser to Prime Minister Rafini. Eventually, most of those arrested were cleared after a trial in Niamey, but a few remained in the high-security prison of Koutoukalé, a short distance from Niamey. The prison was attacked in May 2019 in what a government communication called a 'terrorist attack.'

in the Greater Sahara (ISGS).¹⁶⁴ The impact tends to be greater among lower-ranking chiefs, although the assassination of the Inatès groupement chief,¹⁶⁵ and two months later his son, who had inherited the title,¹⁶⁶ shows that higher-ranking chiefs are also targeted. The threats on chiefs' lives come from different sides: Fulani fighters, extremist groups, and perhaps also Tuareg armed groups operating in the transborder area. Fulani fighters seemingly only put pressure on Fulani chiefs – and may be behind the abduction of the groupement chief in Abala. Extremists target chiefs of any communal origin, asking them, under threat, to levy and pay the 'Islamic' impost of the *Zakkat*. Further proof of their indiscriminate targeting of chiefs is the ethnic origin of the tribal chiefs killed: Fulani, Arabic, Gornika, Tuareg and even Galashi.¹⁶⁷

This trend is not exclusive to the departments of the Tillabéri region bordering Mali, as other cases of abduction and assassination of traditional leaders have been observed in three other departments bordering Burkina Faso, in the more central Tahoua region¹⁶⁸ and even in the Diffa with Boko Haram.¹⁶⁹ As a strategy, intimidating traditional leaders, seen as auxiliaries of the state, aims at weakening the hold of the Nigerien state on those already inaccessible areas, thus consolidating the grip of non-state armed actors on local communities, the former sometimes going as far as setting up their own governance system to fill this power vacuum.

What this means is that chiefs are between the rock of the armed groups and the hard place of the state, a situation similar to what has been happening to them in the Lake Chad area, with the Boko Haram crisis. Because their legitimacy is drawn from the community while their legal position is derived from the state, chiefs can be suspected by both antagonists to be the agent of the other. The state may want to rely on them for surveillance and monitoring, which would make them spies in the eyes of the armed

164 Danish Refugee Council, UN High Commissioner for Refugees and Protection Cluster. 2018. *Rapport d'analyse mensuelle des données du monitoring de protection, juillet 2018 Tillabéri, Niger*, <https://reliefweb.int/report/niger/rapport-d-analyse-mensuelle-des-donn-es-du-monitoring-de-protection-juillet-2018-tillab> (accessed 12 September 2019).

165 'Niger: un chef touareg tué par des hommes armés près du Mali'. 2019. *RFI Afrique*, <http://www.rfi.fr/afrique/20190427-niger-chef-touareg-tue-hommes-armes-pres-mali> (accessed 12 September 2019).

166 'Niger: un chef traditionnel touareg assassiné près de la frontière malienne'. 2019. *RFI Afrique*, <http://www.rfi.fr/afrique/20190716-niger-chef-traditionnel-touareg-assassine-pres-frontiere-malienne-inates>

167 EUCAP Sahel Niger. 2019. *Rapport d'analyse/ANREP 6/19: Assassinat d'un chef de tribu à Inatès, Tillabéri, Niger*.

168 UNOCHA. 2018. *Niger: Plan de réponse humanitaire 2019*, December, https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ner_hrp_2019_3.pdf (accessed 12 September 2019).

169 Chahed, N. 2019. 'Niger: Un chef coutumier tué et deux personnes enlevées par Boko Haram à Diffa', *Anadolu Agency*, <https://www.aa.com.tr/fr/afrique/niger-un-chef-coutumier-tue-et-deux-personnes-enlevees-par-boko-haram-a-diffa-1448317> (accessed 12 September 2019).

groups; on the other hand, armed groups may want chiefs to warn them about state (and allied) operations, meaning that they would then be accused of 'terrorism' by the state.

In such conditions, most chiefs prefer to lie low and remain 'neutral' in the conflict. Chiefs will be indispensable and useful in the process of peace *restoration* and *consolidation*, but in their current position, there is not much they can do in the securing of peace. However, if the state decides to talk with the Fulani fighters – including those who joined MUJAO – chiefs will play a key role as channels of communication and participants in a deradicalisation and reinsertion scheme. To understand this conclusion, it is necessary to grasp the nature of the role of chiefs in a peaceful society. Their roles are essentially to prevent, defuse or consolidate. It is difficult to document exactly the first role, since the evidence of success here is that nothing has happened.

In an interview, Abou Tarka, the current president of HACP, put forward the perspective of a territorial administrator, such as a prefect. This official, he said, is quite isolated in a small town where he is an outsider, sometimes even with little mastery of the local language, and far from the bases and resources of the state. Without the chiefs, there is not much he can do, including in terms of preventing a conflict from getting out of hand. But if this does happen, if a conflict gets out of hand and turns into an armed conflict, chiefs are generally powerless, since resolution will imply the armed intervention of the state. Chiefs can still play a role in resolving armed inter-community conflicts, but typically only as handmaidens to the state. Thus, for instance, chiefs were not present in the peace restoration meetings organised by Mohammed Anako in 2007 and Brigi Rafini in 2011, but in each case it was expected that chiefs would play a role in the social or community reintegration of fighters (as we have seen, this did not happen due to other crises that erupted right after those meetings), including by organising dialogue at local levels.

Regarding the current conflict, the context is more complex than any that Niger has known, as it involves on the one hand armed inter-community conflict, and on the other hand, the involvement of radical extremists. Chiefs can play the expected role – of helping to organise dialogue at local levels – in the resolution of armed inter-community conflicts, but the radical extremist threat is another matter, because it is a war against the state and chiefs are pressured (by both state and militants) to take sides. Our analysis is, that as long as the radical extremist war is not won (by the state) and over, resolving inter-community conflicts will not end the violence, meaning that chiefs cannot work in optimum conditions.

Finally, it is important to note that this security crisis has one particular impact that complicates the work of chief, namely the displacement of large groups of people, many times of entire villages, who relocate into refugee camps or disperse in other villages or towns. The impact can be assessed in at least three ways. First, in the case of the

sudden arrival of large groups of refugees, the strain on the host community makes it 'suffer',¹⁷⁰ causing a rapid rise in conflicts over primary resources such as food and water. This increases the workload of chiefs. 'The chief who is managing the displaced has a lot more on his plate, he must be much more responsible and serious in his work,' said a chief in an area with refugees.¹⁷¹ Traditional authorities (higher-ranking ones such as the *chef de canton*) are the first involved in the procurement of property for refugees to live in. Then they need to contact the administration to organise visits and conduct a census for emergency assistance programmes. The counting of refugees is done by lower-ranking authorities such as the *chef de quartier*, who forwards the information to the *chef de village*, then to the mayor, who will coordinate with NGOs.

Second, displacement may suspend a chieftaincy since, in some cases, the *administrés* leave and scatter, and the chief himself becomes an internally displaced person (IDP). The refugees look forward to returning to their place of origin but have no control over when that might happen. Third, refugee populations might have positive effects on chiefs and their communities. In some cases, displaced populations bring in income, aid funds and services, and even a level of social and economic integration that may increase the resources of the local community. The work of the chief, in this case, is to help ensure that such benefits offset the trouble that a sudden influx of strangers might create.¹⁷² We do not make clear recommendations on this issue in the next section, mainly because it is so largely circumstantial and any improvements would need to be envisioned on a case-by-case basis.¹⁷³

3.5 Conclusions and recommendations

Traditional or customary chieftaincy in Niger is a powerful asset for local governance, given the political-economic structures/conditions in the country. Contrary to Mali, Niger did not break with the colonial policy of formalising and integrating the chieftaincy into the territorial administration and the justice system. The chieftaincy system has therefore grown into what it is today, through the watershed moments of independence

170 The word characteristically used by Respondent #6, Tribu chief, Abala, Tillabéri Region, 15 March 2019.

171 Respondent #6, Tribu chief, Abala, Tillabéri Region, 15 March 2019.

172 See interview with Respondent #15, Village chief, Abala, Tillabéri Region, 23 March 2019.

173 For instance, the refugee camp at Moulléla, near Abala, is a good example of how circumstances can shape 'refugee governance'. The refugees were apparently installed on a site in the vicinity of Moulléla through the ministration of the NGO Care. The site belonged in part to people in Moulléla and in Abala. Moulléla residents cultivated the site, whereas those in Abala did not. The latter saw in the refugee installation a money-making opportunity, and demanded and received a kind of 'rental' money for the occupation of their land. Those in Moulléla did not want to go that way but eventually felt obliged to do so, as their Abala counterparts had already created the dynamic. See interview with Respondent #15, *ibid*.

(1960), democratisation (1991) and decentralisation (1998). Since 2015, chieftaincy has been organised by a law that further integrates it into central government.

In this chapter, we have reviewed and analysed some of the roles chieftaincy currently plays in Niger, and under what conditions. The challenges presented by, in particular, the processes of democratisation and decentralisation have often led to a sense of an institutional crisis of the chieftaincy relative to the position it held under the single-party and military regimes. That sense of crisis might be about a process of change in the chieftaincy system, which is not accompanied by any regulatory effort from the state. But in the regions studied, and especially in Tillabéri, that is compounded by the pressures that are bearing down on the system – almost crushingly – from the entangled forces of community and radical extremist armed groups, Nigerien defences forces, and Western military interveners.

Although both northern Tillabéri and northern Tahoua are Sahel-Sahara areas where state governance is limited and fragile, a key difference between them is that the security crisis pertaining to what one might broadly call the radical extremist threat from northern Mali (though we have seen it is a bit more than that), which directly affects northern Tillabéri more than northern Tahoua. Thus the benefit of studying the two regions is that one can compare problems related to the chieftaincy system in districts with roughly the same background, and assess the effect of the radical extremist threat, i.e., high insecurity, versus the effects of the other issues identified in the study. Our conclusion thus has two subsections: general issues and recommendations, and security issues and recommendations.

3.5.1 General issues and recommendations

The chieftaincy in Niger is not directly politicized. It is normally secluded from politics by the fact that chiefs are, to all intents and purposes, administrators – therefore enjoying (in theory) the autonomy that administration normally has with respect to the political class. Yet, if one could sum up the many issues that beset Niger's chieftaincy today into one word, it would be politicization – together with lack of resources in the case of lower-level chiefs. This problem is far from restricted to the chieftaincy. Niger's entire administration suffers from politicization, today even more so than in the past. The problem extends even to local government, especially as the country has not organised local elections since 2011. In effect, Niger's Seventh Republic is based on shaky constitutional foundations; it is meant to be run by a government elected at national and local levels, which is not the case today. The general issues for the chieftaincy should be considered with this in mind.

In large part, politicization is consequent to democratisation. Although elections in Niger are not of the highest quality in terms of freedom and fairness, they are still relatively well run, meaning there is always a risk that the incumbent will lose power

and opponents gain ground. To limit those risks, politicians from both the majority and the opposition parties make extensive use of their powers of manipulation. If state administration has, in this way, been turned into a bastion of the ruling party and its allies, the chieftaincy, which is 'soft' administration and close to constituencies, is a battleground for the political class. Thus, as mentioned in the subsection on administrative governance and social support, there was the case of a village chief removed from his post for political reasons. However, the reverse situation can also occur, where chiefs are put into post by the government because they are expected to toe its line.

All the functions of chiefs are liable to be politicized. For instance, their administrative work relies on good relationships with mayors, prefects, judges and civil servants in ministries in Niamey. The very diversity of these authorities can help chiefs withstand against undue pressures. Well-established chiefs – at groupement and canton levels particularly – might be well protected by their personal prestige and status, but they could still lose their positions if those in power deem it necessary. A chief's prestige and status often rests on their ability to provide for their *administrés*, notably by being seen as prime movers in securing development projects and the building of social services infrastructure (e.g., school, infirmary). That ability is easily dependent on political connections shaped by partisanship. Many more examples could be given, but the upshot is that the legal autonomy of chiefs as arms of the territorial and justice administration, and particularly their invaluable roles in preventing conflicts and in post-conflict peace consolidation efforts, must be protected if their usefulness to the state and society is to be preserved or salvaged. Three key recommendations may be advanced to ensure such protection.

Uphold the law: While the law governing the chieftaincy system is generally perceived to be solid, the underlying problems (mostly related to politics) uncovered in this study impair it to some extent. To ensure that the chieftaincy does not lose its positive governance function, an 'estates general convention' could be organised. Such a convention' (from the historical French process of the *états généraux*, of revolutionary fame) would convene delegates from all branches of a particular sector across the country to debate problems and recommend solutions.¹⁷⁴ 'Estates general' should propose solutions and then build consensus around them. Bringing the Ministry of the Interior on board (i.e., a body headed by a member of the political class) would be a key step to push such a convention forwards.

174 Such conventions typically start and end with plenary sessions, and they organise committees to discuss each major issue area identified as a source of problems.

Provide resources: Such resources would be both material and non-material. This recommendation should be nuanced: higher-level (canton and groupement) chiefs generally receive material resources (payments and equipment) but lower-level chiefs do not. If it is a difficult proposition, that such chiefs, who are much the more numerous, be on the payroll of the state, they should at least receive indemnities and compensation in specific cases, and especially when taxes are low. They also must receive training and assistance (non-material resources) for some of their other roles. Such support could markedly improve chiefs' performance and the faith that *administrés* have in them, increase chiefs' confidence in administrative personnel, and possibly improve chiefs' understanding of the risks and benefits of democratic governance. With decentralisation, local authorities have been given many additional responsibilities, but these have not been matched with an equal ability to raise taxes locally or receive fiscal transfers from the central government.

Codify customs: The codification of customs – even only on the basis of jurisprudence – and the standardisation of procedure, although delicate processes, could result in significant benefits in the stabilisation of chiefly authority and insulate their position from undue influences, thereby countering politicization. Aside from the transparency and objectivity that could give customary justice the same appeal as modern justice, such reforms might reduce or eliminate the problem of justice by allegiance (to the chief) and the fact that, in a changing world customary justice is becoming increasingly irrelevant or inadequate, while its legitimacy hints it may have an important role to play in Niger today.¹⁷⁵ In order for chiefly authority to retain legitimacy vis-à-vis the outside world, it will be important to understand the extent to which different forms of traditional justice are in line with international human rights principles.

3.5.2 Security issues and recommendations

The security threat is specific to the region of Tillabéri – even if Tahoua has not been completely immune to some of its effects. But the recommendations below include some elements that are generalisable even to areas not in the throes of armed conflict.

These recommendations are grouped into four categories: institutional, political, regulatory and de-escalating. The institutional and political recommendations seek to address the issue of the marginalisation of the Fulani who, although they are a sizeable minority in northern Tillabéri, lack the power and influence of the Zarma/Songhay, Hausa (Kurfey), and Tuareg – which largely explains the longstanding state indifference to their plight. The regulatory and de-escalating recommendations seek to address

¹⁷⁵ There is political will at the Ministry of Justice for such a process, although the Finance Ministry has not as yet allocated the resources for it to be undertaken.

potential sources of conflict that lie beyond the power of chiefs, and which, if developed, could lighten the burden for them.

There are two key **institutional recommendations**. One is to create more Fulani groupement chieftaincies. In the present context, there is only one Fulani groupement chief in northern Tillabéri, and it lacks legitimacy because it is based on the small Woodaabe segment of the Fulani community. Not coincidentally, the chief of this groupement was abducted shortly after we interviewed him. Groupement chieftaincies are important because their leader communicates directly with state authorities and has a voice on the public stage, unlike *tribu* chiefs who have to go through higher-ranking chiefs and often lack the financial and material resources to tackle problems before they grow too big. Another institutional recommendation is to hold a forum on the role of the chieftaincy. While this harkens back to the 'estates general' notion that was mentioned in the previous section, it will also offer a forum to discuss institutional changes that are specifically geared toward strengthening the physical security of the office of chief.

The **political recommendations** boil down to securing a fairer representation for the Fulani in the political institutions, especially in parliament and perhaps in organisations such as the Haute Autorité à la Consolidation de la Paix (HACP). In the present context, the composition of electoral districts in northern Tillabéri means that while no candidate can hope to win a seat at the national assembly without the vote of nomadic minorities (Fulani, Tuareg, and Arabs), deputies regularly hail from the sedentary groups. Special limitations – reserved for minority voters – have been instituted in Banibangou and Bankillaré, but anyone (i.e., not just a person from a minority group) can run for deputyship in those areas. Our recommendation is that in those areas, an ordinary circumscription (open to candidates from majority groups) be created alongside the special circumscription (reserved for candidates from minority groups). This will effectively create a minority quota that will allow minority representatives from those areas to be elected for the national assembly and will advance the interests of their constituents against state indifference or unresponsiveness.

The HACP was created in the late 1990s – then under the name Haut Commissariat à la Restauration de la Paix – to address the grievances of Tuareg rebels. It has since remained a de facto Tuareg-controlled and Tuareg-focused institution, although its mission is to protect the peace, especially in the Sahel-Sahara where Tuareg coexist with Fulani and sedentary farmers. A solution must be found whereby the institution becomes more open, particularly at decision-making level, to non-Tuareg groups, perhaps via a permanent board.

The **regulatory recommendation** concerns the regulation of small arms and light weapons. The region is awash with such weapons, which makes deadly conflict more probable – i.e., the kind of conflict that lies beyond the remit of customary chiefs, and which can easily escalate into some sort of war. In the early 2000s, customary chiefs

played an important role in the campaign against small arms in the region of Diffa, mainly as ‘agents of sensitisation’ who facilitated state communication with local populations on a sensitive matter.¹⁷⁶

Finally, what we call here **de-escalating recommendations** relate to measures that should be taken (1) to end the conflict in northern Tillabéri, and (2) to strengthen inter-community ties via mechanisms of traditional and customary authority. The proposed measures to end conflict are not, in themselves, original, but might be seen as innovative in the context of northern Tillabéri, where they have not been tried previously. In the region of Diffa, a deradicalisation centre has been set up (in the town of Goudoumaria) and a ‘disarmament, demobilisation, and reintegration’ process has been set under way, even though militants there have been, on average, much more violent – and seemingly, much less open to dialogue – than those in northern Tillabéri.¹⁷⁷ In fact, when the Fulani militia disbanded in 2011, one of the promises made was that the fighters would be integrated into Niger’s defence and security forces – as had happened with Tuareg and Tubu rebels in the past. That promise was not kept, a fact that helps to explain the Fulani sense of betrayal. Such a process must be promoted in the region, even though the role of chiefs will be limited, in part due to the transborder nature of the issue.

Regarding the strengthening of inter-community ties, it would require further research on the nature of those ties and the mechanisms that could be further developed to aid the process. One example that could be mentioned here is that of the Fulani offices of rugga and garso mentioned in this report, which play key roles as itinerant justices of peace, sometimes involved even in defusing conflicts that have led to violent deaths. At the moment, these offices are mostly (though not exclusively) restricted to Fulani communities but could be extended to Tuareg ones and, indeed, play a defusing role in relationships between Fulani and Tuareg groups. In addition, traditional authorities could play a key role in setting up inclusive inter-community dialogues for different communities to get to know and trust each other, learn from each other, and even work together.

176 See: Col. Kassouma, M.M. 2008. *Rapport national sur l’application du programme d’action des Nations Unies en vue de prévenir, combattre et éliminer le commerce illicite des armes légères sous tous ses aspects*, Commission Nationale pour la Collecte et le Contrôle des Armes Illicites (CNCCAI), May.

177 In the early 2000s, customary chiefs also played an important role in the campaign against small arms in the region of Diffa, mainly as agents of sensitisation who allowed the state to communicate with communities on a sensitive matter.

4 Traditional authorities in Mali: armed alliances and insecurity

4.1 Introduction

In January 2012, armed insurgencies in northern Mali plunged the country into a spiral of conflict and instability. More than four years after the signing of the 2015 Peace Agreement, the northern regions of Ménaka¹⁷⁸ and Kidal remain controlled by non-state armed actors. While the region of Kidal is controlled by the pro-autonomy coalition Coordination des Mouvements de l'Azawad (CMA – Coordination of the Azawad Movements), the dominant forces in the region of Ménaka are the pro-state militias that have grouped under the Platform coalition. Both regions, especially Ménaka, are caught in a dynamic of protracted inter- and intra-communal conflict against a backdrop of the menacing presence of radical armed groups. Basic service provision, such as education, healthcare and formal justice provision, has deteriorated in the face of continued insecurity and the retreat of state actors from the regions following their occupation by radical armed groups in 2012. Against this backdrop, communities are dependent on traditional authorities and non-state armed actors for basic governance provision.

As discussed at length in Chapter 2, the presence of traditional authorities as both governance providers and intermediaries between society and the state is nothing new. Nonetheless, their role has only been formalised in the process of decentralisation that began with democratisation in the 1990s. Despite its formalisation, the designation of traditional leaders remains determined by local customs and traditions, different in each village, fraction or district.¹⁷⁹ As representatives of these localities, traditional authorities perform the services of public management, for example collecting tax and assembling information on the security context,¹⁸⁰ while similarly conducting dispute resolution

178 State authorities, however, have been allowed to return. This is not the case in Kidal, where the state remains largely absent.

179 *Loi N°06-023 Relative à la Création et à l'administration Des Villages, Fractions et Quartiers*. 20 June 2006. Article 8.

180 For more details on this, see Chapter 3.4

and conflict mediation for social reconciliation.¹⁸¹ In the northern regions of Mali, these latter activities are examples of the primary role that customary justice provision has historically played. Against the absence of formal justice provision in large parts of the country, customary justice systems revolving around the authority of a Qadi, have often acted as the main provider of justice.¹⁸²

These extensive roles and responsibilities of traditional authorities in the pre-2012 era led to the issue of their revaluation (i.e., the strengthening of their position as governance actors in the state) becoming a prominent claim in a 2013 national forum on decentralisation, and was particularly highlighted by CMA representatives throughout the peace negotiations. Article 46 of the 2015 Algiers (Peace) Agreement formalises this through the provision of a roadmap for the reform of the justice system with regard to traditional authorities. In addition, Article 6 calls for the creation of a senate to institute representation of territories – next to traditional authorities, and also representative of women and young people – in a second chamber. As a prerequisite, a revision plan for the constitution is currently being developed.

Yet little is known about how the functioning and legitimacy of traditional authorities has been affected by the shift to armed governance that has taken place in northern Mali since the beginning of the 2012 crisis. This chapter shows that high-level traditional elites in northern Mali have become entrenched in armed governance structures, either as founders of non-state armed groups or as allies of these groups.¹⁸³ At the lower level of village and fraction chiefs, the study finds that, while still seeking to exercise their traditional governance functions, traditional authorities are in many cases hampered, sidelined and even threatened against the backdrop of a volatile security situation, their lack of enforcement power and the impact of armed governance on their legitimacy.

181 For previous studies on their roles in Mali, refer to Ursu, A.-E. 2018. *Under the Gun*, op. cit.; Goff, D. Diallo, M. and Ursu, A.-E. 2017. *Under the Microscope: Customary justice systems in northern Mali*, CRU Report, The Hague, Clingendael; and van Veen, E., Goff, D. and van Damme, T. 2015. *Beyond dichotomy: recognizing and reconciling legal pluralism in Mali*. CRU Report, The Hague, Clingendael.

182 Ursu, A.-E. 2018. *Between ideals and needs: Is Malian customary justice incompatible with international human rights standards?*, CRU Policy Brief, The Hague, Clingendael.

183 In this chapter, we use the term 'armed groups' when we refer to non-extremist groups and 'radical groups' when we refer to groups with a jihadist ideology.

The chapter's final section discusses the implications of these findings for the revaluation strategies currently being developed. It argues that attempts to re-evaluate the position of traditional authorities should:

- depart from a clear, almost individualised, understanding of the dynamics in which traditional authorities are embedded
- provide measures to protect the physical safety of the civilian population of which they are a part
- facilitate exchanges between traditional authorities to enable their mobilisation as local actors for reconciliation
- provide training and capacity building, including for Qadis as customary justice actors
- establish communication channels to those Qadis in order to support their re-valuation vis-à-vis non-state armed groups as envisioned in the 2015 Algiers Agreement
- implement existing legal frameworks that would support the work of traditional authorities while addressing the issue of their declining legitimacy.

The conclusion provides tangible suggestions that would allow each of these recommendations to be put into practice to enable traditional authorities to re-claim their legitimacy as (one of the) representatives of territories.

4.2 Traditional authorities between rebellion and the state

The contemporary role of traditional authorities in northern Mali cannot be understood without reference to the various Tuareg rebellions (1963, 1990, 2006 and 2012). As described in Chapter 2, the Kidal-based Kel Adagh¹⁸⁴ resented their integration into a new Malian state that gained independence from France in 1960. They quickly found themselves at odds with the new Malian government that sought to curb their freedom.¹⁸⁵ Next to complaints about the central government, however, the Tuareg rebellions and their aftermaths also reflected internal power dynamics dating back to colonial alliances and hostilities,¹⁸⁶ as well as internal political conflicts pitting tribal traditionalists against the leaders of lower social strata and politically subordinate tribes

184 The main Tuareg confederation in the Kidal region, grouping together tribes such as the Ifoghas and Imghad.

185 By contrast the Ménaka-based Iwllimidan Kel Ataram were far better integrated into the newly independent state, having initially made less demands of the central government. See: Pringle, R. 2006, 'Democratization in Mali: putting history to work', USIP.

186 As discussed in Chapter 2, colonial administrators made good use of tribal alliances to cement their rule on the ground – leaving some tribes and clans better off than others.

in favour of more progressive egalitarian society. These conflict lines explain the Tuareg's continuous inability to present a united front against the Malian state. Rebel movements and armed governance are marked by strong fragmentation among tribal and social caste lines.¹⁸⁷ These dynamics became particularly pronounced from the 1990 rebellion onwards.¹⁸⁸

4.2.1 The 1990 rebellion

The dynamics of the 1990-1996 rebellion were very much characterised by power struggles within Tuareg confederations and across ethnic lines. One main cleavage was the one between the noble Ifoghas caste of the Kel Adagh and the lower-tier Imghad caste. The Ifoghas-dominated MPLA engaged in peace negotiations and reached a peace agreement with the Malian government in 1991. A key outcome of this accord was the creation of the Kidal region as an administrative entity of the Malian state (as well as economic concessions for the north). Other rebel representatives, particularly the Imghad and those outside of the Kidal region, felt excluded and resented the Ifoghas rebel leaders and notables for abandoning their demands for independence in favour of their own interests. This resulted in the fragmentation of the rebel movement (see Table 7) and the continuation of the insurgency.¹⁸⁹

187 See Chapter 2 for an overview of the different Tuareg castes.

188 Thurston, A. 2018. 'Mali's tragic but persistent status quo', *RLS Research Papers on Peace and Conflict Studies in West and Central Africa*, 1; Lecocq, B. and Klute, G. 2019 *Tuareg Separatism in Mali and Niger: Aspiration, grievance, performance, disenchantment*, pp. 23–57; Desgrais, N., Y. Guichaoua and A. Lebovich. 2018. 'Unity is the exception. Alliance formation and de-formation among armed actors in Northern Mali', *Small Wars & Insurgencies*, 29:4, 654–679.

189 The conflict was further compounded by the 1994 formation of the Ganda Koy – a Songhai self-defence militia backed by the Malian army that was formed in response to armed bands of former (Tuareg rebels) operating in the region but which went on to carry out pogroms against Tuaregs and Arabs in the northern Malian cities.

Table 7 Main actors active in the 1990–1996 rebellion¹⁹⁰

| Year of formation | Name | Main organisational principal ¹⁹¹ |
|-------------------|---|---|
| 1990 | Mouvement Populaire pour la Libération de l'Azawad (MPLA) ¹⁹² | Initially Tuareg autonomy, later Ifoghas that strove for (and gained) political supremacy within the tribal hierarchy |
| 1990 | Front Islamique Arabe de l'Azawad (FIAA) | Arabic nomadic groups |
| 1990 (1991) | Front Populaire pour la Libération de l'Azawad (FPLA) – split from MPLA | Those who had suffered most at the hands of the army + lower social strata and politically subordinate tribes |
| 1990 (1991) | Armée Révolutionnaire pour la Libération de l'Azawad (ARLA) – split from MPLA | Lower social strata and politically subordinate tribes (Imghad and Idnan) |
| 1994 | Ganda Koy | Songhai population – in response to uncontrolled raids by former Tuareg rebels (backed by the state) |

It was not until 1996 that a peace initiative led by traditional leaders of Songhai communities and Tuareg tribal and religious leaders resulted in reconciliatory meetings between all ethnic groups of northern Mali and, eventually, the Bourem (Peace) Pact.¹⁹³ Yet the primary leadership of the various armed groups would remain in the fore in later rebellions.¹⁹⁴

4.2.2 The 2006 rebellion and its aftermath

A process of democratisation, administrative decentralisation, implementation of local democracy, and the integration of former rebels into the Malian armed forces marked the years between the 1990 and the 2006 rebellion. These developments created new arenas where conflicts over pastures and tribal hierarchy were played out. As had been the case during the 1990–1996 rebellion, such local fault lines also defined the shape of

190 This table summarises the analysis of Lecocq, B. and Klute, G. 2019. *op. cit.*

191 This column seeks to list the dominant social and ethnic make-up of the respective movements.

192 After its fragmentation, the MPLA was renamed the Mouvement Populaire de l'Azawad (MPA) under command of Iyad Ag Ghali.

193 Lecocq, B. and Klute, G. *op. cit.*: 34.

194 Lecocq, B. and Klute, G. 2019. 'Tuareg separatism in Mali and Niger', in: de Vries L. et al. (eds.), *Secessionism in African Politics: Aspiration, grievance, performance, disenchantment*, 23–57; Lecocq, B. 2010. *op. cit.*; Klute, G. and von Trotha, T. 2004. 'Roads to peace: from small war to parasovereign peace in the North of Mali', in: Foblets, M. and von Trotha, T. (eds.) *Healing the Wounds. Essays on the Reconstruction of Societies after War*, Oxford, Hart Publishing, 109–143.

the 2006 rebel movement. Indeed, while the 2006 rebels' demands vaguely resembled those of the 1990s, it is noteworthy that all of the main protagonists of the rebel movement (see Table 8) had been overtly or less overtly engaged in struggles to (re)gain independence and political power.¹⁹⁵ Its main leadership belonged to the Irayahan tribe – who had long contested for the position of leading Ifoghas tribe in the Kidal region – and to the Iforgoumousen clan/tribe, who had begun to move from an Ifoghas clan to an independent tribe from the colonial period onwards. Absent among the rebels were the Kel Effele – the ruling Ifoghas clan in the Kidal region.¹⁹⁶

The rebellion also rekindled violence between the Ifoghas and the lower-tier Imghad caste. Lieutenant-Colonel Elhajji Ag Gamou, an Imghad ex-rebel who had been integrated into the Malian armed forces, was co-opted by the Malian state to quash the rebels on the battlefield.¹⁹⁷ Ag Gamou recruited other Imghad to fight the rebels, thereby 'injecting in [the conflict] local rivalries, typically rooted in disputed access to grazing land, cattle theft or competition over trafficking routes'.¹⁹⁸ The trafficking dimension would continue to remain relevant in understanding local conflict lines in northern Mali, as this era was also characterised by the increased competition over licit and illicit trafficking (that first appeared in the early 1990s), which intensified tensions over control of smuggling routes between different tribes and clans.¹⁹⁹ For example, the Ifoghas Tuareg aligned themselves with the Arabs of Kounta tribe, while Imghad Tuareg joined forces with the Arabs of Lemhar tribe to expand areas of control and influence.²⁰⁰ Local rivalries were thus not limited to a political agenda but also involved economic interests, as different tribes repeatedly clashed over drug trafficking routes.²⁰¹

195 For example, after the promotion of Elhajji Ag Gamou from the Imghad Tuareg clan ahead of Ibrahim Ag Fagaga, from the noble Ifoghas Tuareg (Iforgoumousen clan), in the Malian armed forces, the latter defected and was among the instigators of the 2006 rebellion. Also, Iyad Ag Ghali, former rebel leader and leader of the Irayakan clan, held no formal power position within the tribal structure or the new democratic institutions.

196 Lecocq, B. and Klute, G. 2019. *op. cit.*; Lecocq, B. 2010. *op. cit.*; Thurston, A. 2018. *op. cit.*

197 *Ibid.*

198 Desgrais, N. et al. 2018. *op. cit.*: 659.

199 The competition between members of signatory movements involved in criminal networks organising the transport of drugs remains one of the threats to the implementation of the peace agreement. See: UN Security Council. 2019. *Letter dated 6 August 2019 from the Panel of Experts established pursuant to resolution 2374 (2017) on Mali addressed to the President of the Security Council, S/2019/636*, <https://undocs.org/en/S/2019/636> (accessed 9 September 2019)

200 Just as Ifoghas-Imghad relations are characterised by the struggle for empowerment of the latter from their former nobles, the Lemhar Arabs 'used to occupy a subaltern hierarchical rank among the Malian Arabs, as vassals of the most prominent tribe, the Kuntas'. In: Desgrais et al. 2018. *op. cit.*: 672.

201 Lacher, W. 2012. *Organized crime and conflict in the Sahel-Sahara region*, 1, Washington DC, Carnegie Endowment for International Peace.

Table 8 Main actors in the 2006–2009 rebellion²⁰²

| Year of formation | Group | Main organisational principal ²⁰³ |
|-------------------|---|--|
| 2006 | Alliance Démocratique du 23 Mai pour le Changement (ADC) ²⁰⁴ | Ifoghas (Irayakan and Iforgoumousen tribe) –contenders for political supremacy within the tribal hierarchy |
| 2007 | Delta Force (Tuareg army unit fighting the new movements) | Pro-central state Imghad |

4.2.3 The 2012 rebellion and its aftermath

Young Tuareg revolutionaries – together with Tuareg fighters who had returned from Libya after the fall of Gaddafi in 2011 – laid the foundations for the 2012 rebellion. Initially part of the National Movement for the Liberation of the Azawad (MNLA), a ‘Tuareg-led but multi-caste and even (aspirationally, at least) multi-ethnic organization’ fighting for an independent state,²⁰⁵ the Tuareg rebel movement quickly fell prey to fragmentation along ethnic, caste, tribal and generational lines (see Table 9). In addition, although the MNLA’s initial military success was based on a murky alliance with radical armed groups, the latter quickly turned on their allies and took over key northern cities such as Kidal, Gao and Ménaka in mid-2012. This sparked the French intervention ‘Operation Serval’,²⁰⁶ which conquered the major northern cities with the support of Malian army units under the command of the Imghad Lieutenant-Colonel Elhajji Ag Gamou – thereby strengthening the Imghad’s position vis-à-vis the Ifoghas and Idnan tribe allied with separatist and radical extremist groups.²⁰⁷

202 This table summarises the analysis of Lecoqc, B. And G. Klute. 2019. *op. cit.*

203 This column seeks to list the dominant social and ethnic make-up of the respective movements.

204 In 2007, Tuareg renegades that did not agree with the settlement founded the Alliance Touarèque du Nord Mali pour le Changement (ATNMC) under the leadership of Ibrahim Ag Bahanga.

205 For example, Mohamed Ag Najem was appointed the MNLA’s military leader despite heralding from the historically less powerful Imghad caste, while Moussa Ag Acharatoumane, was appointed MNLA spokesman, despite his roots in the Daoussak Tuareg (Iwillimidan Kel Ataram). Thurston, A. 2018. *op. cit.*: 22.

206 Backed by Chadian troops in the Kidal region.

207 Lecoqc, B. and Klute, G. 2019. *op. cit.*; Thurston, A. 2018. *op. cit.*

Table 9 Main actors in the 2012 rebellion²⁰⁸

| Year of formation | Movement | Main organisational principal ²⁰⁹ |
|-------------------|--|---|
| 2000s | Groupe Salafiste pour la Prédication et le Combat (GSPC) (1998), ²¹⁰ then al-Qaeda in the Islamic Maghreb (AQIM) (2007) | Al-Qaeda brigades consisted of local brigades led by local militants, in Kidal e.g., by a Tuareg militant. |
| 2011 | Mouvement National Pour la Libération de l'Azawad (MNLA) ²¹¹ | Initially multi-caste, multi-ethnic, later on secular Ifoghas |
| 2011 | Mouvement pour l'Unité et le Jihad en Afrique de l'Ouest (MUJAO) – split from AQIM | MUJAO was distinct from AQIM, which was accused of being too influenced by Arab commanders; allied itself with members of Songhai, Fulani, Arab communities. Fulani communities |
| 2012 | Ansar Dine | Ighoas Tuareg close to Iyad Ag Ghali |
| 2013 | Malian army units assisting the French/Chadian 'Operation Serval' against AQIM, MUJAO and Ansar Dine | Pro-central state Imghad |
| 2013 | Haut Conseil pour l'Unité de l'Azawad (HCUA) ²¹² | Ethno-religious Ifoghas |
| 2014 | Groupe Autodéfense Touareg Imghad et Alliés (GATIA) ²¹³ | Pro-central state Imghad (backed by the state) |
| 2016 | Mouvement pour le Salut de l'Azawad (MSA) – split from MNLA/HCUA/MAA | Daoussak and Chamanamas before the split between MSA-C (Chamanamas) and MSA-D). |
| 2017 | Jama't Nusrat al-Islam Wal-Muslimeen (JNIM) – merger of AQIM, al-Mourabitoun, Ansar Dine and Macina Liberation Front (MLF) | Radical groups |

208 This table adds to the analysis of Lecoqc, B. And G. Klute. 2019. *op. cit.*; Lebovich, A. 2019. *Mapping armed groups in Mali and the Sahel*, https://www.ecfr.eu/mena/sahel_mapping. (accessed 9 September 2019).

209 This column seeks to list the dominant social and ethnic make-up of the respective movements.

210 Rehamed as al-Qaeda in the Lands of the Islamic West (al-Qaeda in the Islamic Maghreb – AQIM) in September 2007.

211 The MNLA forms the Coordination des Mouvements de l'Azawad (CMA) together with the HCUA and the Mouvement Arabe de l'Azawad (MAA – CMA branch).

212 After the 2013 retreat of foreign fighters from Mali, extremist Tuareg fighters regrouped in the Mouvement Islamique de l'Azawad (MIA) and later the HCUA.

213 GATIA forms the pro-state Platform coalition together with the Coordination des Mouvements et Fronts Patriotiques de Résistance (CMFPR) – representing Sonhai Ganda Koy and Ganda Izo militias joined by some Tuareg of slave descent; the Mouvement Arabe de l'Azawad (MAA – Platform branch) – representing Malian Bidan Arabs; the Dan na Ambassagou – representing the Dogon self-defence militias; and the Coordination des Mouvements de l'Entente (CME) – a loose coalition of armed groups that are not formally part of the peace process but advocate their own inclusion. The MSA joined the Platform in 2019.

A number of clashes that have taken place between these groups – as well as some fragmentation of groups – are the result of political, ideological and religious differences. Nevertheless, the actor landscape in northern Mali is also determined to a substantial extent by ‘macro-incentives’ (offers to join counter-terrorism efforts along with foreign power, ‘dividends of peace’ accessible through participation in formal peace processes backed by the UN) as well as micro-socially embedded incentives (local business interests, personal or communal rivalries, pressure from tribal constituency).²¹⁴ Armed groups dissolve and recompose themselves to capture these incentives and end up mobilising their communities along ethnic and kinship lines – thereby standing in the way of a unified vision for a stable northern Mali. As the following section will show, these developments have had important consequences for the position of traditional authorities – in terms of their ability both to govern and to present themselves as conflict mediators who can work across vertical and spatial boundaries between armed groups.

4.3 Armed governance as an adaptation mechanism

In the repeated cycle of rebellions since Mali’s independence, the taking up of arms has developed into a local political activity, and hence has increasingly linked traditional authority structures to armed forces. In the context of the 2012-crisis, a logic of armed politics has captured the regions of Kidal and Ménaka, in which non-state armed actors of both the pro-autonomy alliance *Coordination des mouvement de l’Azawad* (CMA) in Kidal and the pro-central state *Platform* coalition in Ménaka have successfully extended their leverage vis-à-vis modern state authorities and traditional authorities. Actors engaged in armed governance have become increasingly inseparable from traditional authorities in both the Kidal and Ménaka regions. This is particularly the case in the Kidal region, where the majority of rebellions originated²¹⁵ and where traditional authority has become increasingly inseparable from armed governance. The following sections discuss the role of traditional authorities in armed governance structures in both regions.

4.3.1 Kidal: HCUA creation as an attempt to monopolise force

Over the course of the last decades, the Kel Efele – the ruling Ifoghas clan in the Kidal region – saw their supremacy within the tribal hierarchy threatened in both political and rebel arenas. Although the Kel Efele firmly controlled the new democratic institutions, the much more numerous Idnan and Imghad castes had begun to form

214 Desgrais et al. 2018. *op cit.*: 674.

215 Olivier de Sardan, J.-P. 2013. *op. cit.*

an electoral challenge at local level.²¹⁶ Throughout the 2006 and 2012 rebellions, the Imghad Lieutenant-Colonel Elhajji Ag Gamou had similarly solidified his position in the region, as well as his relationship with the Malian state, by organising a band of Imghad armed fighters to counter the Ifoghas' rebel forces. The National Movement for the Liberation of the Azawad (MNLA) similarly posed a threat to the Kel Efele's position, as they did not control the leadership of this armed group responsible for starting the 2012 revolution. The MNLA was led by the young Idnan politician Bilal Ag Acherif, who represented a younger and more cosmopolitan generation threatening the established traditional order.²¹⁷

As opposed to the 2006 rebellion, however, which was similarly kick-started by forces outside of their sphere of influence, the Kel Efele nobles did not remain on the sidelines of the new rebellion. Intallah Ag Attaher, the amenokal (tribal chief/executive authority) of the Ifoghas declared his open support for the MNLA.²¹⁸ His son Alghabass Ag Intalla became the number two figure in Ansar Dine – an extremist group that received financial and military backing from al-Qaeda in the Islamic Maghreb (AQIM), whose military success initially supported (directly or indirectly) the MNLA's take-over of the north. Yet these alliances lasted only as long as no other opportunity to gain control over the rebel effort presented itself. As discussed above, Ansar Dine and its hard-line radical allies quickly turned on the MNLA in April 2012 and gradually took over control of the northern cities.²¹⁹

In 2013, when the French Operation Serval overturned jihadist control of these cities, sometimes with the help of MNLA units, which now presented themselves as counterterrorist forces, the Ag Intalla wing of Ansar Dine distanced itself from the militant group and rebranded itself as Islamic Movement of Azawad (MIA) in February 2013 then as the High Council for the Unity of Azawad (HCUA) in April 2013.²²⁰ Several interlocutors argue that the creation of the HCUA was a strategic move to prevent the sidelining of Ifoghas traditional elites vis-à-vis the youth-led and more secular MNLA – which had regained control over Kidal – as well as Imghad forces led by Elhajji Ag Gamou.²²¹ In this sense, the creation of a non-state armed group linked to the amenokal family in Kidal formed a continued adaptation of traditional governance structures in the context of armed politics and in the face of societal challenges to their dominant hold over governance. It would turn out to be a successful move.

216 Lecocq, B. 2010. *op cit*.

217 Thurston, A. 2018. *op cit*.

218 Lecocq, B. and Klute, G. 2019. *op. cit*.

219 Throughout this period, Alghabass Ag Intalla engaged in unsuccessful negotiations with the MNLA and the Malian government.

220 Thurston, A. 2018. *op. cit.*; Lecocq, B. and Klute, G. 2019. *op. cit*.

221 see also: Lecocq and Klute *op. cit.*: 45

In 2014, the HCUA reached a political agreement with the MNLA and MAA to form the Coordination of Movements of Azawad (CMA). As noted by Thurston (2018), ‘The CMA represented something of an Ifoghas-Arab front that could face down challenges from Ag Gamou and the Imghad while negotiating with the Malian government.’²²² Further divisions within the MNLA allowed the HCUA to become the CMA’s dominant military force – thereby reinforcing the Kel Effele’s dominant position, at least within the city of Kidal.²²³ Armed governance in Kidal has therefore become characterised by a tightly knit and highly structured relationship between high-level traditional authorities and the HCUA (CMA) that upholds the local status quo.²²⁴

As a consequence, respondents from the Kidal region (both Kidal municipality and Anéfis) describe the relationship between traditional authorities and armed groups as one of mutual respect. One respondent compares the relationship to the one existing between family members: ‘*Relations between these two groups of actors are good and they maintain the relationship as a father and son would*’,²²⁵ and ‘*As for the signatory groups, it should be recalled that they come from the same authorities of which they are the sons*.’²²⁶ Another stated that ‘*The signatory groups relied heavily on us to govern the area*.’²²⁷ At the same time, armed group representatives have been described as key leaders of the community, to which certain traditional authorities will act as advisers.²²⁸

222 Thurston, A. 2018. *op. cit.*: 27.

223 Thurston, A. 2018. *op. cit.*

224 It is commonly suggested that the CMA also uses its ties to the radical groups present in the region to maintain their position. Bencherif, A. 2018. ‘Le Mali post “Accord d’Alger” : Une période intérimaire entre conflits et négociations’. *Politique africaine*, 2:150, 179-201; Thurston 2018. In contrast, representatives of CMA argue that members of their military unit have been assassinated by extremist groups in addition to multiple assassination attempts against Inkinane Ag Attaher, the leader of the MNLA Counter Terror Unit.

225 Interview Respondent #11, District chief, Kidal, Kidal Region, March 2019. Translated from French: ‘*Les relations sont bonnes entre ces deux groupes d’acteurs qui entretiennent les relations comme le ferai un père et un fils.*’

226 Interview Respondent #9, District chief, Kidal, Kidal Region, March 2019. ‘*Pour ce qui est des groupes signataires, il faut rappeler qu’ils sont issus de ces mêmes autorités dont ils sont les fils.*’

227 Interview Respondent #34, CMA representative, Anéfis, Kidal Region, March 2019. Translated from French: ‘*Les groupes signataires se sont beaucoup appuyés sur nous pour administrer la zone.*’ Another traditional authority from Anéfis noted that ‘*Je suis l’autorité suprême ici. Je suis le garant de la charia dans ce village. (...) Chaque groupe armé qui vient occuper ce village, s’adresse à moi en premier. Souvent ils (les groupes armés) me concertent avant de prendre certaines décisions qui concernent le village et ces habitants.*’

Interview Respondent #28, Qadi, Anéfis, Kidal Region, March 2019.

228 For example: Interview Respondent #40, Fraction chief, Kidal, Kidal Region, March 2019. A Kidal-based traditional authority similarly notes that ‘*(...) j’ai évoqué qu’on travaille en collaboration avec les groupes armés afin de faire régner un ordre social normal*’, Interview Respondent #16, *Leader communautaire*, Kidal, Kidal Region, March 2019.

4.3.2 Ménaka: military alliances as a counter-balance

Whereas the relationship between traditional elites and armed groups in the HCUA (CMA) is very much characterised by attempts of Ifoghas traditional elites to maintain their power base, the dynamic between traditional authorities and armed groups in Ménaka is less intertwined. It is best explained as different armed leaders (and their tribal constituencies) trying to achieve representation in the peace process by countering the dominant hold over armed groups of those higher up the tribal hierarchies. As opposed to the situation in Kidal, the fusion of traditional authority figures and armed group leaders is therefore less clear-cut in Ménaka – with the fragmentation of armed groups being more the result of those wielding arms seeking to stake a claim in the peace process than of traditional leaders trying to control armed group leaderships.

Indeed, the case of the Movement for the Salvation of Azawad (MSA) shows how the interests of armed group leaders and local security concerns are often a driving force of armed group formation. The MSA was formed in September 2016 to represent the Tuareg populations from Gao and Ménaka, with a leadership tightly linked to the Daoussak and Chamanamas Tuareg confederations in the region. The MSA's main leaders – Moussa Ag Acharatoumane and Col. Assalat Ag Habi – were founding members of the MNLA, but they 'increasingly came to resent the predominance of Kidal and Ifoghas Tuareg within the CMA'.²²⁹ In addition, and amidst (unfounded) speculations about renewed peace negotiations, this move could also be read as a pre-emptive strike by Daoussak and Chamanamas fighters and communities to capture the (material) benefits of a new peace process.²³⁰

The Douassak-Chamanamas coalition would only last for two months, as in November 2016 conflict over the movement's leadership subsequently resulted in a split between the Chamanamas MSA (MSA-C) and Douassak MSA (MSA-D).²³¹ In the face of continued violent attacks at the hands of extremist groups, as well as violent conflict between the Douassak and Fulani herders in Mali-Niger borderlands (see Box 12), the MSA-D allied itself with the pro-state GATIA (see Box 12), the Malian Armed Forces and French counterterrorist forces, and organised joint patrols.²³² In 2019, this resulted

229 Desgrais et al. 2018. *op. cit.*: 670. The imposition of political and military personnel from Kidal on Ménaka and Gao during the interim period in which the north was supposed to transition to democratic governance (see Chapter 2) formed a main bone of contention; Bencherif, A. 2018. 'Le Mali post "Accord d'Alger": une période intérimaire entre conflits et négociations', *Politique africaine*, 2, 150.

230 Desgrais et al. 2018. *op. cit.*

231 Desgrais et al. 2018. *op. cit.*; Bencherif, A. 2018. *op. cit.*

232 'These relationships have drawn French forces into uncomfortable terrain as both MSA and GATIA face allegations of ethnic-based violence in the Mali-Niger borderlands.' Thurston, A. 2018. *op cit*: 44.

in the MSA-D formally joining the Platform coalition – thereby reconfiguring itself into a participant of the peace process.²³³

Box 12 Role of ethnic-based armed groups in the Tuareg-Fulani conflict in the Mali-Niger borderland²³⁴

As ethnic-based non-state armed actors/militias, GATIA and MSA have played a key role in spiralling the inter-communal conflict dynamic that has been shaping the Mali-Niger borderland. Fulani civilians have not only been repeatedly targeted following allegations of cooperation with jihadist groups,²³⁵ but also been repeatedly attacked by GATIA and MSA. Since the start of the operation led by the MSA-GATIA coalition in early February 2018, MINUSMA²³⁶ and local organisations have accused the armed groups of executing at least 95 alleged terrorists and bandits in the border region, mostly of Fulani origin.²³⁷ As such, the reliance of traditional authorities on the policing role of the MSA-GATIA alliance in the absence of reliable state structures in the region reinforces a dangerous spiral of inter-communal conflict.

The MSA leadership's decision to mobilise a new armed group – although informed by consultations with, and pressure from, local notables²³⁸ – was hence more independent from the traditional authority structure than was the case in Kidal. This is not to say that the traditional authorities and armed groups work independently from one another. The political bureau of the MSA regularly exchanges with a consultative board composed of around 20-30 traditional authorities and other notables. These are consulted to advise the MSA elite on decisions concerning the population.²³⁹ In a similar vein, in the community of Alata, quarterly meetings between armed group representatives and traditional authorities act as a framework to organise protection

233 'Mali: le MSA intègre la plateforme des mouvements armés du Nord', 2019. *RFI Afrique*, 14 July, <http://www.rfi.fr/afrique/20190714-mali-msa-mouvement-azawad-plateforme-mouvements-armes-nord> (accessed 9 September 2019).

234 See Chapter 5 for an elaborate discussion of this conflict.

235 Ibrahim, I.Y. and Zapata, M. 2018, 'Regions at risk: preventing mass atrocities in Mali', *Early Warning Project* and *Simon-Skjoldt Center for the Prevention of Genocide*, 21.

236 'Point de presse de la MINUSMA du 12 avril 2018', 12 April, <https://minusma.unmissions.org/point-de-presse-de-la-minusma-du-12-avril-2018> (accessed 31 July 2019).

237 'Niger: des Peuls dénoncent les incursions et exactions d'ex-rebelles maliens', 2018. *RFI Afrique*, <http://www.rfi.fr/afrique/20180507-niger-peuls-denoncent-incursions-exactions-milices-maliennes> (accessed 31 July 2019)

238 Desgrais et al. 2018. *op cit*.

239 Interview MSA representative, June 2019, Bamako.

in the community and to accommodate the exchange of information,²⁴⁰ resulting, for example, in the organisation of escorts for traditional authorities.²⁴¹ Consequently, several traditional authorities express a feeling of being taken seriously by armed representatives, some of them contrasting it with their relation vis-à-vis state authorities: *'the customary chiefs are advisers to key figures in the movements, they also help their leaders to make the right decisions'*.²⁴²

The second pro-state armed group in Ménaka, the Self-Defense Group for Imghad Tuareg and Allies (GATIA), exemplifies a similar dynamic. Formed in 2014 by the Imghad Lieutenant-Colonel Elhajji Ag Gamou, GATIA would become the main face of loyalist militias in opposition to northern secessionism.²⁴³ It is part of the pro-state Platform coalition, in which Ag Gamou is a dominant figure. As noted by Thurston (2018), 'amid Ifoghas-Imghad rivalries, the CMA and Ag Gamou [thereby] remain major poles of political power amid a fragmented north'.²⁴⁴ Ag Gamou's powerful position resulted in his nomination as a traditional leader of the Imghad in 2014/15.²⁴⁵ This allowed him to unify his official position as Lieutenant-Colonel of the Malian army, leader of a pro-unity militia and traditional tribal leader in one person. Yet ties between GATIA and the main traditional leadership in the Ménaka region have not been formalised. Although the amenokal of the Iwillimidan – the main Tuareg confederation in the region – has allied himself with GATIA, he has not become a formal member of the group.²⁴⁶

In contrast to the situation in Kidal, in the region of Ménaka the relationship between armed governance and high-level traditional authorities is more that of an alliance than of overlap – and perhaps one more of pragmatism than proactive protection of the status quo. Amid protracted insecurity and state absence, traditional authorities strategically allied themselves with armed actors. As noted by a 2018 UN Panel of Experts report,

240 Interview Respondent #97, Fraction chief, Alata, Ménaka Region, April 2019. Traditional leaders are considered as intermediary actors who are best positioned to sensitise community members and act as a broker of peace, Interview MSA representative, Bamako, June 2019. Another respondent from Alata asserted that only some traditional chiefs are collaborating and actively working with the movement in the described way, Interview Respondent #81, Fraction chief, Alata, Ménaka Region, April 2019.

241 See for example Interview Respondent #99, Fraction chief adviser, Alata, Ménaka Region, April 2019.

242 Interview Respondent #81, Fraction chief, Alata, Ménaka Region, April 2019; see similar, Interview Respondent #78, Communal leader, Alata, Ménaka Region, April 2019.

243 Ag Gamou continues to maintain his position in the Malian armed forces.

244 Thurston, A. 2018. *op. cit.*: 29.

245 Cayarol, R. 2016. 'Mali: le vrai-faux coming out du général Gamou', *JeuneAfrique.com*, 23 September, <https://www.jeuneafrique.com/359930/politique/mali-vrai-faux-coming-out-general-gamou/> (accessed 9 September 2019).

246 Interview traditional authority leader Iwillimidan, Bamako, June 2019. At the more local level, however, Imghad fraction chiefs and village chiefs either are formal members of GATIA or provide the informal support base to its leadership. This also extends to allied tribes such as the Iwillimidan.

the region is prone to a host of violent conflicts that have also become increasingly intertwined with the ongoing offensive of the Islamic State in the Greater Sahara (ISGS) – the local Islamic State branch – and counterterrorist operations supported by GATIA and the MSA.²⁴⁷ In this context, where non-state armed groups hold a monopoly over violence, and where communities' alliances with pro-state armed forces have increasingly made them subject to extremist attacks,²⁴⁸ the importance of armed group leaders vis-à-vis traditional authorities has risen significantly. As stated by one representative of GATIA: 'Those who take up arms become chiefs. There is no traditional chieftdom. Each community has its own movement, and its leader is not the village nor the fraction chief – it's the military leader.'²⁴⁹

Box 13 The relationship between traditional authorities and extremist groups

Given the threatening presence of radical groups in both regions under study, and the rising number of extremist attacks in the Ménaka region as a response to the counter-terrorism alliance that GATIA and MSA have entered into with Barkhane,²⁵⁰ our local researchers did not ask questions about extremist groups. Nevertheless, the traditional authorities we interviewed indicated that they have little room other than to submit to the power that controls the ground. As formulated by one respondent: *'The relations here are such that the one that is weak has to adapt to the one that is strong. Traditional authorities are cautious not to create any problems.'*²⁵¹ Yet others added that radical extremist actors did not look favourably upon traditional authorities: *'The radical groups oppose our authority, they consider it unjust and pagan in character.'*²⁵²

247 'These conflicts centre either on tribe or fraction (infratribe) affiliation and local geopolitics, such as control of political positions (armed groups, formal institutions, community leadership, etc) and geography (trade and smuggling routes, transhumance tracks, checkpoints, grazing lands, wells, etc).' UN Security Council. 2018. UN Security Council, *Letter dated 8 August 2018 from the Panel of Experts established pursuant to resolution 2374 (2017) on Mali addressed to the President of the Security Council*, S/2018/581, https://www.un.org/ga/search/view_doc.asp?symbol=S/2018/581 (accessed 9 September 2019).

248 Bencherif, A. 2018. *op. cit.*; Desgrais, N. et al. 2018. *op. cit.*

249 Interview GATIA representative, Bamako, June 2019. An MSA representative similarly phrased this dynamic as follows: *'On ne peut pas vraiment faire une distinction entre chef traditionnelle et chef militaire. Tous nos notables sont membres de MSA.'* Interview MSA representative, June 2019, Bamako.

250 See for example: 'Mali facing "alarming" rise in rights violations, warns UN expert' 2018, *UN News*, 4 July, <https://news.un.org/en/story/2018/07/1013922> (accessed 9 September 2019).

251 Interview Respondent #3, Interim authority, Kidal, Kidal Region, March 2019: *'Les rapports ici sont ceux que doit adopter celui qui est faible devant celui qui est fort. Les autorités traditionnelles se veulent prudentes pour ne pas se créer des problèmes.'*

252 Interview Respondent #16, *Leader communautaire*, Kidal, Kidal Region, March 2019; see also: Interview Respondent #81, fraction chief, Alata, Ménaka region, March 2019.

4.3.3 Limits to tribal-based explanations

On a final note, and to illustrate that not all armed group alliances are ethnic-based, Table 10 provides an overview of the main fault lines of the most relevant tribes in each of the communities under study.²⁵³ It shows how, as a consequence of the wide range of security threats in the Ménaka and Kidal region, cleavages have multiplied across various fault lines, and with it, tribal communities themselves have split over their support for different armed actors. For example, the contribution to the counter-terror fight with Barkhane has resulted in some rifts within Iwillimidan and Idoguiritane (Ménaka). Some of the latter have recently joined HCUA in response to the increased pressure of the ISGS on their communities.²⁵⁴

Table 10 Tribal alliances with armed groups in the communities under study²⁵⁵

| Geographic location | Tribe | Fractions | |
|---------------------|---------------|--|-----------------------------|
| Ménaka | Idoguiritane | Idoguiritane | Split between CMA and MSA-D |
| | Iwillimidan | Kel-Talatate | MNLA and MSA-D |
| | Kel-Ahara1 | Kel-Ahara1 | GATIA |
| | Imghad | Imghad | GATIA |
| | Ichidinharene | Ichidinharene | MNLA |
| | Zoumbouritane | Zoumbouritane | MSA-D |
| Alata | Chamanamas | Icharawcharawane Kel Iket Iwarwarane Ikarbaghanane Kel Bardagh | MSA-D |

253 Given the fluidity of alliances and actors, this summary can only be a momentary overview, as alliances have been ever-changing and will continue to be so, as they are based on a combination of factors, not only tribal alliances.

254 UN Security Council. 2018. *op cit*.

255 Situation as of June 2019. Data collected in cooperation with local GARDL (a Malian NGO) researchers and independent local researchers.

| Geographic location | Tribe | Fractions | |
|---------------------|-------------------------------|--|--|
| Kidal | Ifoghas | Kel Tabankort Kel Afalla Irayakan Imizekaran | Split between different actors of CMA: HCUA; MNLA; MAA |
| | Idnan | Kel Ahilwat Tytoght Talkast Inheran | MNLA |
| | Imghad | Kal Takalot | GATIA |
| | Imghad | Intadeyni | HCUA |
| | Taghat Malet (Chèvre blanche) | Kal Telabit, Karran | HCUA |
| | Tribus Taghat Malet | Kel-Ayor, Achakatlam | MNLA |
| Anéfis | Kounta | Ahel sidi Amar1, Ahel sidi Amar2, Ahel baye, Ahel sidi Alamine, Ahel Sidi Abdourhamane | Split between MNLA and GATIA |
| | Idnan | Kel-Ahelwat, Imakorda1, Imakorda2, Inherane | MNLA |
| | Arabe | Lamhar, Oulad Almoulat | Allied to MAA – Platform branch |
| | Chamanamas | Chamanamasikar baghanane, Chamanamas 1, Chamanamas 2 | Split between MNLA and HCUA (biggest part) |
| | Imghad | Idawraghan | GATIA |

From the above, it follows that high-level traditional authorities and armed group representatives in Kidal and Ménaka collaborate in their governance efforts. Although it would be too simplistic to say that ethnic lines determine all affiliation to armed groups, the major armed groups in both regions anchor their power base on alliances with fraction chiefs of the different ethnicities. To deal with state absence, high-level traditional authorities have either founded their own military force (like the HCUA in Kidal), or collaborated with military actors that can provide security for themselves and their communities. As the following section will show, however, this same dynamic does not necessarily apply to traditional authority positions on the lower end of the hierarchical ladder, such as village chiefs and fraction chiefs. Those traditional leaders who are not in such a strong brokerage position have continuously lost their power. Their position has – and continues to be – sidelined by non-state armed groups – a dynamic that can be observed among pro-autonomy (Kidal) and pro-government (Ménaka) signatories alike.

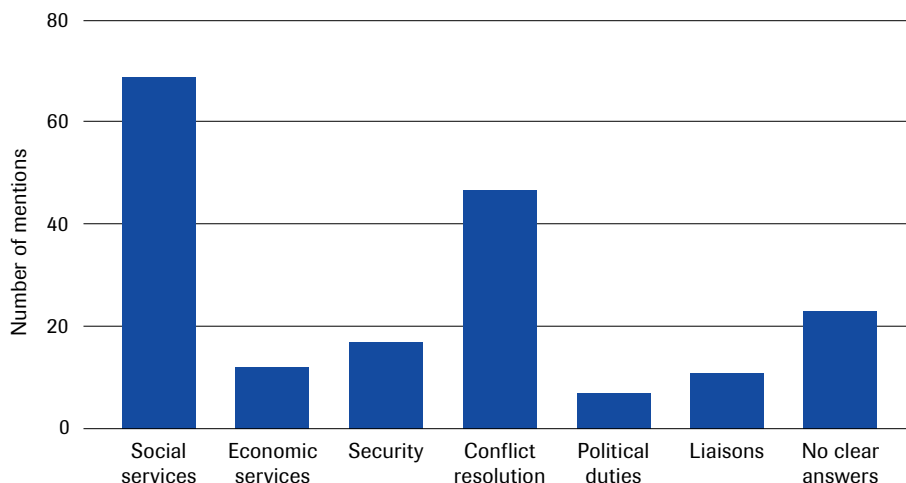
4.4 A new reality: implications for traditional authorities

As is the case in Niger, Malian law regulates the designation of traditional authorities in a summary manner, stating that they should be selected in line with local custom. A local state representative subsequently confirms the candidates' nomination. A majority of our respondents describe hereditary succession as the main modus of selection. Members of the village's founding family, or the family of a deceased traditional authority, are eligible to access the position. In the overwhelming majority of cases, this right is solely reserved for male successors. Nevertheless, a regional difference was observed between the two regions. Whereas in the region of Ménaka, none of our respondents included a female traditional authority, two of our respondents in the region of Kidal where women.²⁵⁶

The respondents pointed to two main roles for traditional authorities in contemporary society, namely service provision and conflict resolution. Service provision primarily involves small acts of reconciliation, such as investigating theft of livestock, addressing water shortages, and disputes between families or spouses. In contrast, conflict resolution refers to both inter and intra communal disputes, and the level of response indicate the role played by traditional authorities in this regard. Respondents observed that traditional authorities used to have a more prominent role in the protection and security of local communities, but in recent years the proliferation of armed groups has diminished the effectiveness of traditional authorities with regard to this function.

256 Similarly, female participants in our focus group in Ménaka described having only indirect access to traditional leaders – through their husband or father, while female participants in our focus group in Kidal expressed no such limitations. Focus Group Women, Alata, Ménaka region, and Kidal, Kidal region, April 2019.

Figure 4 Functions of traditional authorities interviewed in the four Malian municipalities



Number of respondents: 101

Note: Respondents could mention multiple functions

Against the backdrop of a largely absent state, traditional authorities have experienced an increase in tasks expected of them, thus underlining their pertinence as local governance actors. This has specifically extended the scope of responsibilities for Qadis,²⁵⁷ who traditionally occupy a role as customary justice actors. As one respondent from the community of Ménaka stated: *'With the state being absent, all the work falls back on us. (...) Previously, we worked on religious matters only, but for a few years now our guidance has been much solicited.'*²⁵⁸

But in the context of proliferated crisis, these tasks have become increasingly challenging to handle: *'The rebellion brought us many troubles (inter-community conflicts, theft and inheritance problems), which made the work of traditional authorities difficult and their tasks multiply.'*²⁵⁹

257 As religious and spiritual leaders of their community, Qadis occupy a key role in the customary justice system that is similar to that of a judge in Western judiciary. Goff, D., et al. 2017. *Under the Microscope: Customary justice systems in northern Mali*, CRU Report, The Hague, Clingendael.

258 Interview Respondent #67, Qadi, Ménaka, Ménaka Region, March 2019.

259 Interview Respondent #92, Qadi, Alata, Ménaka Region, March 2019.

The following section will address the question of how traditional authority functions under armed governance by looking at the relationships of traditional authorities with actors on the ground – including state actors and their communities – and the effect that armed governance has had on the legitimacy of traditional (religious) leaders.

4.4.1 Relationships with state actors

While state representatives are formally installed in both regions in all three administrative levels – regional, *cercle*, communal – state presence is de facto very limited. At regional level, governors are operating on site in both Ménaka and Kidal.²⁶⁰ In addition, interim authorities have been put in place at regional and *cercle* levels in negotiation between the government and signatories to the peace agreement, and in Ménaka, also in cooperation with the MSA. However, their operationalisation remains limited so far.²⁶¹ Against this backdrop, most respondents in our interviews identified the mayor as the only relevant state authority.²⁶²

Perceived relations between traditional authorities and state representatives vary according to the community's degree of urbanisation, as urban settings allow for more direct contact between state representatives and traditional authorities. In addition, urban settings generally provide a higher sense of security – making it less risky for traditional authorities to interact with state representatives without being targeted as state proxies by radical extremist groups. Indeed, as one interim authority representative from Ménaka explained: *'Those who have remained in areas far from the reach of decision-making powers (in the bush, camps and areas outside of security forces control) are more suspicious and even hostile to modern authorities. This is due to their vulnerability and risks to radical and armed groups, generally hostile to the state.'*²⁶³

By extension, respondents from Ménaka were more likely to describe their relationship with local state representatives as complementary than were respondents from Alata. As one Ménaka fraction chief described it, *'The people bring their problems to the traditional authorities to find solutions; if there is no agreement, these problems are*

260 UN Security Council. 2019. *Situation in Mali. Report of the Secretary-General*, S/2019/262.

261 The Carter Center. 2019. *Rapport de l'Observateur indépendant Observations sur la mise en œuvre de l'Accord pour la paix et la réconciliation au Mali, issu du processus d'Alger*, Atlanta/Bamako. UN Security Council. 2019. *Situation in Mali. Report of the Secretary-General*, S/2019/262.

262 This was even the case in the two regional capitals of Ménaka and Kidal, where regional authorities are installed. As local state representatives have been the main reference point for our respondents, we will not include the role of representatives at *cercle* and region levels, such as interim authorities and the governor, in our discussions of the relationships between traditional and state authorities.

263 Interview Respondent #102, Interim authority, Ménaka, Ménaka Region, June 2019.

*forwarded to the administration.*²⁶⁴ Nevertheless, most respondents highlighted that non-state armed actors are more supportive of traditional authorities than the state administration, adding that state authorities were much more likely to use traditional authorities as a political tool: *'Elected officials try to play the role of traditional authorities and attempt to manipulate them in the run-up to elections.'*²⁶⁵

In smaller localities, such as Alata, traditional authorities are more removed from state authorities. The mayor of Alata resides in the community of Ménaka and de facto governs from a distance (and through occasional visits), with traditional authorities supporting him in tax collection and the coordination of food aid. More symbolically, relations with state representatives are predominantly perceived here through a lens of marginalisation. As one respondent stated: *'There is no relationship between administrative and traditional authorities (...) the state does not even know we exist.'*²⁶⁶ Other respondents expressed the sentiment that their position under armed governance is better than it was before, as they feel armed groups value them more than the state ever did. As a respondent from Alata described it: *'The rebellion has bolstered the power of traditional authorities. They are valued higher by the rebels than by the state. All fraction problems are managed at their level. Armed groups have forwarded all problems to this level and ensured that their judgements were enforced.'*²⁶⁷

The situation in Kidal is distinct, as the 2012 rebellion and its aftermath has eroded the power of elected representatives. While local state representatives such as the Imghad mayor last elected in 2009 are still in place, the mayor's relevance in today's Kidal is negligible and most tasks have been taken over by one of his counsellors, a traditional authority representative. This illustrates the overturning of locally elected Imghad majorities and the absence of any state authority in the region, even if the mayor is still residing in the city. He expressed this sidelining in the context of 2012 as follows: *'My position and power as mayor has changed since the arrival of the new masters who drove the Malian state out, even though I am the emanation of the people who chose me through the ballot.'*²⁶⁸

This overturning of local state representatives has affected the way that traditional authorities relate to state representatives, who while physical present, have de-facto no power or influence. As such, respondents of traditional authority underlined their

264 Interview Respondent #60, Ménaka, Ménaka Region, March 2019.

265 Interview Respondent #64, Ménaka, Ménaka Region, March 2019.

266 Focus group (leaders), Alata, Ménaka Region, March 2019. Another respondent stated that *'The relationship between traditional and administrative authorities is tense. The administration is never present.'* Interview Respondent 99, Fraction chief, Alata, Ménaka Region, April 2019.

267 Interview Respondent #59, Qadi, Alata, Ménaka Region, March 2019.

268 Interview Respondent #5, Mayor, Kidal, Kidal Region, March 2019.

inability to work with state representatives in the current conflict dynamic, even where the working relationship between traditional authorities and state representatives have been described as good prior to 2012. As a Qadi from Kidal phrased his situation: *‘Since the onset of the 2012 crisis, I no longer work with modern authorities. Between the modern authorities and me, there is no working relationship at the moment. Before the crisis on the current issues of our communities, I spoke with the mayor without inhibitions. But now I am not consulting with the mayor anymore since there is no state authority in the entire Kidal region. It’s therefore impossible to work with them.’*²⁶⁹

This statement reflects how, prior to the 2012 crisis, adjudication of justice was based on close cooperation between customary justice authorities in the form of Qadis, and state judicial authorities. Where state judicial authorities were unable to resolve a case, they transferred the case to a Qadi, who vice versa transferred cases he was unable to resolve to the state.²⁷⁰ Since the onset of the 2012 crisis, however, and the ensuing state absence, traditional authorities are compelled to work with the governance actors still present and active in the region.

In a similar vein, respondents in the community of Anéfis described their relation to state authorities as mostly absent. Against this background, respondents perceive state capacities to be weaker than the limited capabilities of traditional authorities, and hence consider traditional authorities in many localities as the sole relevant representative of local communities: *‘Despite its decline, tradition continues to play a strong role. Traditional leaders remain the main source of authority. Traditional chiefdoms play a key role in society. They are the ones who are listened to while the national authorities pretend to decide.’*²⁷¹ Consequently, they noted that their own functions encompassed both their traditional responsibilities as well as tasks originally designated as state responsibilities: *‘Modern authorities are practically absent in the area, we exercise both the function of traditional and modern authority.’*²⁷²

4.4.2 Traditional justice and conflict mediation under armed governance

Traditional authorities tend to have a two-fold role, which – under the conditions of armed governance and given the problematic state-traditional authority relationship outlined above – they exercise through close (institutionalised) cooperation with armed

269 Interview, Respondent #103, Qadi, Kidal, Kidal Region, June 2019.

270 Ministère de la justice garde des sceaux 2017: ‘Etude cartographique de la justice informelle au Mali’, 33-34.

271 Interview Respondent #37, Communal leader, Anéfis, Kidal Region, April 2019.

272 Interview Respondent #27, Site chief, Anéfis, Kidal Region, March 2019; In a similar vein a female leader noted: *‘The absence of modern authorities has led us to exercise the functions usually assigned to them.’* Interview Respondent #38, Female leader, Anéfis, Kidal Region, March 2019.

actors. On the one hand, traditional authorities who occupy an administrative position, such as village chiefs or fraction chiefs, act as intermediaries between the population and armed actors controlling the territory.²⁷³ For example, a community member might bring a complaint about robbery or theft to a fraction chief, who will then communicate the complaint to the respective military command of his zone to search for the perpetrators. On the other hand, arrested individuals are subsequently brought in front of a religious traditional authority, such as a Qadi, who will judge the case as part of the informal justice system. The degree of institutionalisation of this cooperation differs across the two regions.

In the region of Kidal, the role of Qadis is highly institutionalised, as customary justice systems in northern Mali have long before the 2012 crisis been more prevalent than the official state judiciary, which is often perceived as predatory.²⁷⁴ In line with this historically important role, Qadis continue to play a key role in the provision of justice under the armed governance of CMA.

In June 2014, following the fight over the control of Kidal, the CMA established its own security institution, CSMMAK (*Comité de Sécurité Mixte de l'Azawad à Kidal*), which is composed of CMA members and is trained by French armed forces. In the absence of the full implementation of the MOC – the Operational Coordination Mechanism that would unify armed actors under a single military command structure and would constitute one of the main security provisions in the 2015 Algiers Agreement – CSMMAK comprises the key policing body in Kidal. In this position, and given the absence of formal justice actors, the CSMMAK is also in charge of prisons and detention centres in Kidal.²⁷⁵ The so-called *commission des oulémas*²⁷⁶ – a commission composed of Qadis, is currently the sole judicial body of Kidal and is, as such, responsible for the *Alqada* – the maintaining of rules and regulations. These two bodies in the institutional set-up of Kidal act in cooperation: arrests and detainment are carried out by CSMMAK, Qadis fulfil the function of the judiciary, and CSMMAK controls the prisons and detention centres.²⁷⁷

273 In all four communities, our respondents described the role of armed groups as de facto police forces.

274 See Goff, D., et al. 2017. *Under the microscope: Customary justice systems in northern Mali*, CRU Report, The Hague, Clingendael.

275 The prisons under CSMMAK control are inspected by the MINUSMA Human Rights and Protection Division (DDHP), verifying the number and status of inmates, the conditions of detentions and motives behind the arrest. See: *Kidal: la MINUSMA sensibilise les acteurs du système judiciaire traditionnel sur les règles internationales de détention*, MINUSMA. 2018. 10 June, <https://minusma.unmissions.org/kidal-la-minusma-sensibilise-les-acteurs-du-syst%C3%A8me-judiciaire-traditionnel-sur-les-r%C3%A8gles> (accessed 11 September 2019).

276 Also called 'commission des religieuses' in reference to the religious authority that Qadis hold.

277 As one respondent described his cooperation with the CSMMAK: '(...) *Quand cette commission attrape les voleurs ou d'affaires civiles, ils apportent devant moi et j'ai fait leur jugement.*' Interview Respondent #24, Qadi, Kidal, Kidal Region, March 2019.

Box 14 The Qadi interpretation of Islamic law

In Islamic law, the Qadi fulfils a function similar to a judge in the Western judiciary. He represents a highly respected figure in customary justice provision and conflict resolution, who both adjudicates disputes and performs conflict mediation. To access the position of a Qadi, individuals need to demonstrate wide-ranging knowledge of local customs and practices.²⁷⁸ Their local embeddedness has resulted in Qadis historically being perceived as more legitimate than state authorities.²⁷⁹

While their judgements are based on Islamic law, Qadis in Kidal have customarily followed a moderate interpretation of Islam. As such, they do not implement the Hudud requiring corporal punishment but rather a logic of reparations in line with the restorative nature of traditional justice systems in sub-Saharan Africa.²⁸⁰ These local customs continued to prevail in the Kidal community even under the occupation of Ansar Dine, who relied on the pre-existing Qadi system to uphold rules in their territory. This was partly the result of the fact that Ansar Dine was more concerned about maintaining the Ifoghas status quo in the Kidal region rather than reconfiguring local governance structure. In addition, local Qadis advocated for the continued use of incarceration over corporal punishment²⁸¹ – thereby demonstrating the tenacity of a local custom and traditional authorities' very limited acceptance of more radical interpretations of Islamic law.

278 For this paragraph, see Ursu A.-E. 2018, *op cit.*: 15.

279 Dakouo, A. 2009a. 'La difficulté de la délivrance de la justice officielle dans les sociétés nomades de Kidal', *Afrique-gouvernance.net*, http://www.afrique-gouvernance.net/bdf_experience-1373_fr.html (accessed 11 September 2019); Dakouo, A. 2009b. 'Le canon musulman comme base de règlement des litiges matrimoniaux dans la ville de Kidal', *Afrique-gouvernance.net*, http://www.afrique-gouvernance.net/bdf_experience-1386_fr.html (accessed 11 September 2019).

280 In Islamic law the term Hudud (singular Hadd) stands for prohibitions or limits. Based on Quran and Hadith, these limits are enforced through specific corporal punishments such as amputation, lashing and death for crimes such as theft or robbery. However, worldwide – with the exception of Saudi Arabia, the Hudud is only rarely applied. Source: 'Hadd'. In: *The Oxford Dictionary of Islam*, edited by Esposito, J. *Oxford Islamic Studies Online*, <http://www.oxfordislamicstudies.com/article/opr/t125/e757> (accessed 11 September 2019).

281 Terry, F. and McQuinn, B. 2018. *The roots of restraint in war*, International Committee of the Red Cross, Geneva, 50; Bouhlel, F., Yvan, G. and Jézéquel, J.-H. 2017. 'Les enjeux cachés d'une lapidation qui n'a jamais eu lieu dans le nord du Mali', *Le Monde.fr*, 27 June, https://www.lemonde.fr/afrique/article/2017/06/27/les-enjeux-cachees-d-une-lapidation-qui-n-a-pas-eu-lieu-dans-le-nord-du-mali_5151878_3212.html (accessed 11 September 2019). Note: Although their influence weakened over time and outside of the community of Kidal.

In this context of institutional cooperation, a CMA statement issued in January 2019 and signed by then-president Alghabass Ag Intalla sparked a controversy as it introduced new security regulations and simultaneously reinforced the role of the Qadi in the justice system.²⁸² Although the CMA was perceived as ‘backpedalling’ in a later statement by underlining their willingness to work with the central state government,²⁸³ their issuing of a new set of rules for those living in Kidal under the governance of the CMA remained unchanged.²⁸⁴ Essentially, the statement entailed a ban on armed motorcyclists and pedestrians, a ban on alcohol sales, and a requirement that foreigners have a residence permit. In addition, through underlining the justice of *Alqada* as the decisive institution, the role of Qadis as judiciary actors in the region was further enforced, underlining the close coordination of both armed and traditional actors in the administration of the community.

Box 15 The relationship between Qadis and armed groups

As depicted by our respondents, the authority of a Qadi ends with the provision of justice. As expressed by the leading Qadi in the region of Kidal: *‘The traditional authorities have no influence on the armed groups that are now managing the current affairs of the region.’*²⁸⁵ This hierarchy is similarly expressed in a statement of a HCUA representative: *‘traditional authorities exercise their present role, because we let them’.*²⁸⁶ This is not to say that armed groups do not respect the role and figure of the Qadi. During a reconciliation meeting between signatory parties in October 2017, called Anéfis II, the pro-state Platform coalition and the

282 ‘Kidal: La CMA édicte des nouvelles règles’. 2019. *maliweb.net*, <https://www.maliweb.net/la-situation-politique-et-securitaire-au-nord/kidal-la-cma-edicte-des-nouvelles-regles-2803790.html> (accessed 11 September 2019).

283 ‘Nouveau règlement de la vie publique à Kidal: la CMA rétropédale’. 2019. *RFI Afrique*, <http://www.rfi.fr/afrique/20190219-nouveau-reglement-kidal-cma-retropedale> (accessed 11 September 2019).

284 ‘Al Aghabass Ag Intallah, président de la CMA, en exclusivité: ‘Nous avons été mal compris par Boutache, notre décision demeure valable’, ‘La carte de séjour ne concerne pas les maliens’, 2019, *Malijet.com*, <http://malijet.com/les-faits-divers-au-mali/lettres-ouvertes-mali/223888-al-aghbabass-Ag-intallah-president-de-la-cma-en-exclusivite-nous.html> (accessed 11 September 2019).

As expressed by Ag Intalla, the statement was issued out of necessity following a spike in insecurity of which the CMA needs to take control given its prevalence as the governance actor in the region: *‘Nous ne pouvons pas être des spectateurs sur notre territoire.’* See: ‘Instauration de carte de séjour à Kidal: Bras de fer entre la CMA et le CSA’. 2019. *Bamada.net*, <http://bamada.net/instauration-de-carte-de-sejour-a-kidal-bras-de-fer-entre-la-cma-et-le-csa> (accessed 11 September 2019).

285 Interview Respondent #24, Qadi, Kidal, Kidal Region, March 2019.

286 HCUA Representative, Bamako, June 2019.

CMA agreed on the establishment of a Qadis Commission,²⁸⁷ to adjudicate crimes committed by either group.²⁸⁸ However, the commission itself declared its inability to adjudicate conflicts linked to trafficking – thereby illustrating the limited role and function of customary justice actors vis-à-vis non-state armed actors.²⁸⁹

In the Ménaka region, religious traditional authorities, such as Qadis, similarly play an important role in justice provision. A pool of Qadis works in turns, each Qadi responsible for customary justice provision on a different day of the week in Ménaka city.²⁹⁰ Against the absence of a state judiciary, this customary justice system currently constitutes the only available mechanism in Ménaka. However, there is no institutional exchange between the military command in each zone and the Qadi acting as judiciary in the region.²⁹¹ Rather, cooperation is highly individualised and, in many instances, includes members from the same family. For example, a son might be member of the military wing of MSA, while his father or uncle acts as the Qadi; and thus, the relation between armed actors and traditional authorities is characterised through a high degree of familiarity.

Traditional authorities that do not have access to such connections risk being replaced and sidelined, as community members increasingly turn towards armed group representatives who are more able to foresee their justice needs. As described by one traditional authority: *'The number of people who approach me has substantially decreased (...) In cases of theft or robbery, some people go directly to the armed groups which, unlike us, have the means and military strength to solve the problem.'*²⁹² A state representative similarly notes that: *'Many people do not turn to customary authority for theft and robbery problems. They prefer to turn to armed groups that are better able to manage these problems.'*²⁹³

287 The Qadi Commission is composed of two Qadis chosen by either group, and one jointly appointed Qadi presiding over them.

288 UN Security Council. 2017. *Situation in Mali. Report of the Secretary-General*. S/2017/1105.

289 International Crisis Group. 2018. *Drug Trafficking, Violence and Politics in Northern Mali*, 267, Africa Report, Dakar/Brussels.

290 Interview MSA Representative, Bamako, June 2019.

291 As Ménaka, in contrast to Kidal, does not have a prison, in the majority of cases justice, a fine must be paid as punishment.

292 Interview Respondent #78, *Leader communautaire*, Alata, Ménaka Region, April 2019. A fraction chief from Ménaka similarly observed: *'The inability of traditional authorities to secure the community and do justice has led some people to turn to armed groups for justice.'* Interview Respondent #65, Fraction chief, Anouzoukrene, Ménaka Region, March 2019.

293 Interview Respondent #89, Adviser to the mayor, Alata, Ménaka Region, April 2019. Nevertheless, a representative of MSA asserted that coordination with traditional authorities is the default mode of governance: *'For theft and robbery problems, some people contact us directly to apprehend thieves. But we still deal with the traditional authorities for the smooth running of the business.'*

In addition, respondents note an increase in vigilante justice, as community members take the resolution of disputes into their own hands, thereby underlining the debilitated role of traditional authorities. One fraction chief from Alata described the dynamic as follows: *'With the abundance of weapons in the community and the armed movements that go unchecked, many people try to take justice into their own hands.'*²⁹⁴ This dynamic has also been illustrated by a member of the amenokal family in Ménaka, who stated *'Everyone is his own leader, everyone has a weapon, and no one is taking orders. You don't comply to the rules because you have a weapon.'*²⁹⁵

In sum, the practice of customary justice in Ménaka and Kidal again reflects the difference between the more highly structured relationship between traditional authority structures and armed groups in Kidal vis-à-vis the more ad hoc manifestation of armed governance in Ménaka. In both regions, traditional justice actors rely on the enforcement power of armed actors to engage in justice provision. Where such enforcement power is absent, they lose their function within society.²⁹⁶ As the next section will show, this dynamic undermines the legitimacy of traditional authorities in the long run, as their position increasingly depends on armed actors allowing them to do their jobs.

4.4.3 The position of traditional authorities under armed governance

In contrast to the above described perception of the state, several respondents expressed an appreciation of armed groups, which they consider as advocates for traditional authority. In line with responses from several other Anéfis respondents, one traditional authority from Anéfis described armed groups as *'spearheading the revalorization of traditional chieftdom,'*²⁹⁷ and identifying them as actors that backed the revaluation of key traditional actors such as the Qadi.

Nonetheless, many respondents in both regions remarked on an effective weakening of their role and function since the 2012 crisis. This view is shared by many respondents, although few expressed it as openly as this traditional authority from Anéfis:

*'the signatory groups are increasingly eroding the power of traditional notabilities.'*²⁹⁸
As explained by one fraction chief from Ménaka: *'The rebellion completely destroyed the power of traditional authorities. It has encouraged disobedience to traditional authorities*

294 Interview Respondent #90, Fraction chief adviser, Alata, Ménaka Region, April 2019.

295 Interview Respondent #64, Traditional chief, Ménaka, Ménaka Region, March 2019.

296 This is, for example, illustrated by a member of the MSA cadre who, himself son of a traditional authority, does not see his future taking on the hereditary position against the backdrop of the influence he has as a member of MSA.

297 Interview Respondent #47, Female leader, Anéfis, Kidal Region, April 2019.

298 Interview Respondent #41, Traditional authority, Anéfis, Kidal Region, April 2019.

*and created inter-community conflicts. Before, these authorities were respected and esteemed and there were no inter-community conflicts, but the rebellion completely changed the situation, with little respect and consideration for traditional authorities.*²⁹⁹

The proliferation of inter-communal conflicts has further increased the alienation between some community members and their traditional leaders, as leaders are more likely to be perceived as conflict actors themselves. This development does not spare customary justice actors, who have historically based their legitimacy on their perceived neutrality. One Qadi explained that, based on their ethnic affiliation Qadis often automatically become perceived as conflict actors themselves: *'Intercommunity conflicts put the impartiality of Qadis to the test, considering that they often belong to one of the embattled ethnic groups.'*³⁰⁰

In part, this development is the result of the increased fragmentation of conflict actors in the region, which has divided communities and tribes across different sets of fault lines. This fragmentation has also affected the position of traditional authorities: *'Today, the situation has changed, traditional authorities only manage a portion of the society (...) The power of these authorities is indeed only exercised very locally. The reality is unique to each community and may vary from one site to another.'*³⁰¹ The fragmentation of traditional authorities' constituencies has made it more difficult for them to engage in justice and mediation efforts, which may now cross the borders of their constituencies.

At the same time, and as discussed above, traditional authorities also face competition from armed actors as alternative governance providers. In Kidal, for example, the majority of interviewed traditional authorities – while stressing the cooperation they have with armed actors – simultaneously underlined their perception of having lost a considerable part of their influence to armed actors who de facto control the region, leaving little space for traditional authorities to occupy their traditional roles. This dynamic is described by one respondent from Kidal who stated: *'There are new forces, new levels of recourse that leave little room for action by the titular leader. The administration that has more strength and wants to assert itself recognises leaders, relies on them, but does not give them a large margin.'*³⁰²

Some respondents understand the described dynamic as a competition of competences: *'There is often tension between the signatory groups and us, linked to jurisdictional conflicts. They often mingle with the internal life of the community without even asking*

299 Interview Respondent #65, Fraction chief, Ménaka, Ménaka Region, March 2019.

300 Interview Respondent #66, Qadi, Ménaka, Ménaka Region, March 2019.

301 Interview Respondent #29, Communal leader, Anéfis, Kidal Region, March 2019.

302 Interview Respondent #1, District chief adviser, Kidal, Kidal Region, March 2019; Interview Respondent #3, Interim authority, Kidal, Kidal Region, March 2019.

us.’³⁰³ In addition, respondents from the Kidal community articulated a fear of repression as a consequence of either taking on specific cases brought before them or of making honest judgements in cases. As stated by one respondent: *‘I am scared to pronounce certain decisions for fear of reprisals from armed groups.’*³⁰⁴ Another described: *‘We have too many complaints that we cannot even expose for the risk of losing our lives. You denounce a criminal and immediately a team is designated to eliminate you.’*³⁰⁵

Consequently, the community member chosen to address a certain authority is dependent on their perception of whether that authority will be able to resolve the problems – a capacity that has become linked to the ability to enforce decisions through the access to means of force and resources. As explained by one respondent: *‘Complainants bring their grievances to another authority who has influence because of his means, or to the amenokal or in front of a well-placed member of the armed groups.’*³⁰⁶ As such, traditional authority figures on the higher end of the echelon, such as the amenokal, are still perceived as powerful given their close links to armed leadership in the region of Kidal, while other traditional authorities – such in the position village chief, are often seen as not exerting the necessary power to resolve relevant issues within their community.

Hence, traditional leaders who have a close alliance with military commanders is more likely to be considered as an authority who could successfully resolve disputes than a traditional leader who does not demonstrate this closeness.³⁰⁷ In line with this statement, the majority of traditional authorities interviewed for this study share a lack of capacity to deal with evolving conflicts.

The close entanglement and dependency of traditional authorities and non-state armed actors has had wide-ranging implications for their legitimacy. While many community members still perceive traditional authorities as just and accessible, their traditional moral power has increasingly been considered as powerless against the backdrop of their little powers of enforcement in the armed conflict. In this sense, the changing functions of traditional authorities have had the most pronounced impact on their

303 Interview Respondent #19, Site chief, Kidal, Kidal Region, March 2019.

304 Interview Respondent #12, Communal leader, Kidal, Kidal Region, March 2019.

305 Interview Respondent #13, Communal leader, Kidal, Kidal Region, March 2019.

306 Interview Respondent #2, Site chief, Kidal, Kidal Region, April 2019.

307 Focus group (women), Participant E, Kidal, Kidal Region, March 2019. The Qadi is seen by some respondents as an exemption – although one who himself depends on the armed actors for his protection and safety. This dynamic is described by one respondent in Kidal: *‘All the problems exposed are transported to the most powerful authority, that is to say, those who have the (armed) force, such as the amenokal or the CMA leader or the Platform. It is these forces that can do something. The other authorities do not have enough power, except the Qadi, who himself needs security to render a healthy justice.’*

legitimacy. Against an absent state, traditional authorities increasingly lean on non-state armed groups to facilitate their mobility and protection, whereas community members tend to directly address armed groups representatives, thereby sidelining traditional actors and challenging their legitimacy.

Yet certain respondents – while acknowledging the declining role and function of traditional authority – nonetheless make a case for the continued power of traditional authorities. In a similar vein, the Bamako-based representatives of signatories to the peace agreement and allied groups, as well as the majority of interlocutors who met for the purpose of this study, share a perspective of traditional actors as potential enablers of social cohesion at local level.³⁰⁸ They point to the continuing relevance of traditional authorities, not only as actors bridging the void between the central state and local communities – especially outside of urban centres – but as intermediaries between any authority holding the force (such as the signatories and allied forces) and local communities.

In the general crisis of authority that has defined the northern regions of Mali, capacities of the state are perceived to be even weaker than those of traditional authority: ‘This sentiment is expressed by a village chief in Anéfis, stating that against the backdrop of a weakened state, his authority has increased: *‘The rebellion has strengthened our position of leadership, thanks to the rebellion I have recovered a greater power, including responsibilities that were previously assigned to other authorities.’*³⁰⁹ Against this backdrop of state absence, many respondents – while referring to the detrimental effect of armed actors on community relations, simultaneously continue to consider traditional authority holders as the sole relevant authority in the locality.³¹⁰

4.5 The way forward: conclusion and recommendations

This chapter has shown that high-level traditional elites in northern Mali have become entrenched in armed governance structures, either as founders or close allies of non-state armed groups. Rebel movements and armed governance are marked by deep fragmentation along tribal and social caste lines, a dynamic that has become particularly pronounced since the 1990 rebellion. The result has been an increasingly fractured landscape of armed actors, with important consequences for the ability of traditional authorities to govern and to present themselves as effective conflict mediators, able to work across vertical and spatial boundaries between communities.

308 Interviews Bamako, February, April, June 2019.

309 Interview Respondent #43, Village chief, Anéfis, Kidal Region, March 2019.

310 For example: Respondent #47, Female leader, Anéfis, Kidal Region, March 2019.

In Kidal, religious traditional authorities are integrated into the non-state armed group security and justice structure – exemplified by the cooperation between CSMAC and the commission de oulémas. However, in the Ménaka region, the relationship between non-state armed actors and traditional justice providers is more often individual, built on kin and clan networks. Although these relationships might prove instrumental in the short term, our data suggests that armed governance dynamics are negatively affecting traditional authorities' functions and the public's appreciation of their work, ultimately undermining their legitimacy in the longer term.

Indeed, this evolution is made most conspicuous in the *functions* that traditional authorities perform. In the absence of state authority, most traditional authorities are simultaneously confronted with more responsibilities and less support. While they may continue to exercise (some of) their governance functions, many respondents note that non-state armed actors often determine the scope of the traditional authorities' work. Respondents also note that community members increasingly turn towards representatives of non-state armed groups, who are perceived as more capable of addressing justice issues.

This perception creates a dangerous dynamic. Where non-state armed groups are increasingly addressed as justice providers by the communities under their control, inter-communal violence can begin to spiral. Traditional leaders aligned to non-state armed groups risk being transformed into, or at least being perceived as, conflict actors, eroding their historical role as mediators of communal conflict. In addition, radical groups have attacked traditional authorities that they see as too closely aligned to pro-state actors.

Some respondents also noted the increasing influence of corruption on the *rules* determining access to the position of traditional authority. Nevertheless, many respondents from our focus groups and representatives of the signatories in Bamako, share a belief in the continued *value* of traditional authorities in the local governance dynamic of northern Mali. This is particularly true of the main customary justice actor – the Qadi – considered to be a key relevant authority by non-state armed groups in Ménaka and Kidal. This begs the question of what could be done to strengthen traditional authorities' governance functions while simultaneously acknowledging their connection to armed groups.

4.5.1 Understand them

Traditional authorities cannot be described in generic terms. Rather, the dynamics in which each are embedded are highly individual, depending on their alliances with non-state armed actors, their personal and strategic interests and their resulting position within their communities. Local, national and international actors collectively have a broad range of experiences with these authorities. However, the limited

cooperation between them impedes learning. This calls for more institutionalised effort to share and capitalise on existing knowledge. Systematising exchanges on and with traditional actors in the various regions is crucial for facilitating further understanding of contexts that are highly localised and ever changing. Such exchanges could enable distinctions to be made between communities and traditional authorities linked to armed groups for pragmatic reasons versus those that are closely intertwined with armed actors and unlikely to want to facilitate the return of the state. This forms a key point of departure for the recommendations further developed below.

4.5.2 Institutionalise them in an informed manner

Any revaluation of traditional authorities as envisioned in the 2015 Algiers Accords needs to be based on the recognition of their potential connection to (radical) armed groups. The current constitutional revision that seeks to introduce territorial representatives in a second chamber is a case in point. This attempt would strengthen the role of traditional authorities – including representatives of young people and women – on a national level but risks leaving the current crisis of traditional authority unaddressed. This institutional reform is based more on an understanding of traditional authorities' role prior to the 2012 crisis, and fails to take into account their crisis of legitimacy that has since ensued. The organisation of local consultative meetings, in which the position of traditional authorities is evaluated by their respective communities, could inform this process in a manner that takes stock of local realities.³¹¹

In addition, many traditional authorities lack a detailed understanding of their roles and responsibilities as defined by the Malian state. Respondents expressed a wish to receive guidance, specifically regarding the roles of village chiefs and fraction chiefs as well as that of their councillors. Moreover, these actors would benefit from training on formal regulations, for example the pastoral code, about which they could inform the populations and use in adjudicating minor conflicts. Revaluation endeavours, likewise, need to clearly define the responsibilities and limitations of traditional authorities – including the Qadi, who, unlike village chiefs and fractions chiefs, are not formally recognised by the state.

This latter point is particularly relevant because the Qadi is the one traditional authority figure that seems to have been able to maintain its legitimacy under armed governance. As our study has shown, Qadis constitute the one traditional actor still considered highly relevant and legitimate by community members, and who simultaneously

311 As our data highlights, if the position of traditional authority is not to fully erode in the years to come, its legitimacy needs to emerge from the local communities in which they are embedded. Hence, any institutional attempt to re-evaluate traditional authorities should follow from an understanding of traditional authorities as primarily local actors.

maintain an authority that allows them to fulfil (at least partially) their function vis-à-vis representatives of non-state armed groups. In the context of armed governance, they have positioned themselves as upholders of a moderate Islam, demonstrating their tenacity to defend local custom in contrast to a radical interpretation of Islam. In addition, our interview data has underlined the Qadis' desire to work with state authorities on the adjudication of conflicts that lie outside their capabilities – such as crimes under the penal code.

As such, Qadis could provide a key entry point for donors and partners seeking to establish access to a region that has mostly been outside of central government control. This establishment of communication channels would be dually beneficial. It would allow donors and partners to improve their access to, and understanding of, a key governance actor in two regions mostly outside government control; and it would enable Qadis to access training and capacity building. In addition, the codification of customary jurisprudence – as similarly recommended in the case of Niger – could increase the transparency of local customs and help standardise existing procedures, while at the same time providing protection against radical influences.

4.5.3 Support and train them to increase their legitimacy

Mediation efforts at local level through the organisation of inter-communal dialogues might build a foundation of trust and stability that could subsequently be scaled up. Although this would not solve all conflict in the region, it could prevent the further spread and escalation of local conflicts before they take on an ethnic dimension or become co-opted by radical armed groups. Due to their historical role as conflict mediators and representatives of their communities, traditional authorities are pivotal partners in such dialogues. Moreover, the recent experience of the Clingendael Academy training negotiation skills for communities subject to herder-farmer conflicts in Nigeria showed that traditional authorities are key partners, as the outcomes of these dialogues will need to be communicated back to the community to build acceptance. In the case of protracted conflict, traditional authorities' historic role as mediators could thus provide a strategic entry point for partners to offer support.

Conflict mediation begins with the facilitation of meetings between members of estranged communities. In the context of proliferated insecurity, the mobility of community leaders is severely limited, and with it the possibilities for exchange. A structured approach towards community mediation would build from the bottom up, starting at community level, from there moving to the level of *cercles* and lastly to regional level. Many communal and cross-border reconciliation efforts have been supported by mediation actors such as the Centre for Humanitarian Dialogue and Promediation. Such initiatives have demonstrated the mediation potential of traditional actors and should be extended. In our interviews, traditional authorities expressed their

constraints in terms of limited capacity.³¹² Investing in capacity building for traditional authorities, such as negotiation skills and their understanding of important rules and regulations – such as the pastoral code mentioned above – would likely improve the success rate of such reconciliation efforts.

What most previous efforts lack is a follow-up mechanism that transforms isolated mediation efforts into a more enduring virtuous circle, in which the position of traditional actors is strengthened vis-à-vis the local armed presence. Long-term funding could allow for regular follow-up on exchanges between traditional authorities at community and regional levels. It could also help establish a channel for the communication of local community needs to national and international actors. Similar approaches have been taken up by the G5 Sahel countries (Burkina Faso, Chad, Mali, Mauritania and Niger) and the Danish Demining Group (DDG), and could be scaled up to allow traditional authorities to speak with a more collective voice that might facilitate the strengthening of their position as governance actors in the state. Ultimately, such efforts could prove preventive, should traditional authorities quell local conflicts effectively before they escalate, become co-opted by radical armed groups, and/or entangled in ethnic rivalries.

4.5.4 Protect them

Amidst ongoing conflict dynamics,³¹³ traditional authorities' ability to govern independently from armed groups is severely undermined. As expressed by several respondents in our interviews, traditional leaders cannot adjudicate cases or express themselves freely, for fear of being targeted. They either are unable to investigate the location of an incident due to pervasive insecurity or have become perceived as too closely aligned with a conflict – for example, through their cooperation with signatories – to be considered a neutral conflict mediator. Especially in the Ménaka region, signatories have become active participants in inter-communal conflict, creating a dynamic in which the legitimacy of traditional authorities is undermined through their reliance on the non-state armed groups controlling the territory.

Through the prolonged absence of the state, traditional authorities have thus become entrenched in the inter-communal conflict dynamics that ultimately are undermining their position in the governance system of northern Mali. Against the limited commitment from non-state armed actors to the Algiers Agreement, institutionalised

312 To begin with, most traditional authorities interviewed have not received formal training in conflict mediation or negotiation, but expressed the wish to improve these competences.

313 UN Security Council. 2019. *Situation in Mali. Report of the Secretary-General, S/2019/262*.

security mechanisms are not yet fully operationalised³¹⁴ and hence intermittent, as evidenced by the recurring peaks of crime and violence in both regions.³¹⁵ The protection extended to traditional authorities is thus highly individual and more based on personal relations between traditional authorities and certain military commanders than on a comprehensive protection force.³¹⁶

While the DDR process (disarmament, demobilization and reintegration) is similarly ongoing, and attempts to unify armed actors under a single military command structure have not yet been fully implemented, national and international partners should focus on the establishment of micro-level best practices. The Consultative Committees for Local Security, as envisioned in the Algiers Agreement, could represent a first entry point for cooperation in this regard.³¹⁷ Under these committees, authorities on all levels – state representatives at local and regional levels, local elected leaders, and traditional authorities as well as other representatives of communities – would come together in consultative meetings under the lead of a local chief executive to exchange information on shared threat dynamics and coordinate security responses.

314 *Report of the Independent Observer – Observations on the Implementation of the Agreement on Peace and Reconciliation in Mali, emanating from the Algiers Process*. 2018. The Carter Center, Bamako/Atlanta.

315 See for example: 'Growing insecurity threatens delivery of aid to Menaka'. 2018. *Norwegian Refugee Council*, <https://www.nrc.no/news/2018/june/growing-insecurity-threatens-delivery-of-aid-to-menaka/> (accessed 11 September 2019); 'Mali: "Real climate of fear and insecurity in country's north and centre", says expert'. 2018. *OHCHR*, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23710&LangID=E> (accessed 11 September 2019).

316 This dynamic has severely limited their traditional capabilities for communal conflict mediation, and ultimately risks overwhelming the traditional social order through the force of arms – a dynamic that has similarly been observed in other countries. Tull, D.M. 2003. 'A reconfiguration of political order? The state of the state in North Kivu (DR Congo)', *African Affairs*, 102(408), 437-439.

317 République du Mali. 2015. *Accord pour la paix et la réconciliation au Mali issu du processus d'Alger* article 28, <https://base.afrique-gouvernance.net/docs/accord-pour-la-paix-et-de-reconciliation-au-mali.pdf> (accessed 9 September 2019).

5 Traditional authorities in Libya: state neglect and alliance formation

5.1 Introduction

Since the fall of the Gaddafi regime in 2011, the Fezzan region has become increasingly neglected and unstable. As observed in Chapter 2, the region has always been subject to neglect in comparison with Cyrenaica and Tripolitania,³¹⁸ but since 2011 it has experienced a near total lack of state infrastructure. Libya as a whole post 2011 has been devoid of a united, functioning government, but in the Fezzan the situation has been further exacerbated for two reasons. First, the Tuareg and other groups were ostracised by the revolutionaries for their perceived or actual support for Gaddafi, and a deep-rooted racist sentiment towards darker-skinned inhabitants of the Libyan south (regardless of tribal or ethnic affiliation) began to be exhibited openly. Whole swathes of the Fezzan population were dismissed as 'African mercenaries' hired by Gaddafi, and therefore received little input, integration or representation in post-revolution decision making. Second, as security diminished throughout the south, local armed groups and opportunists took advantage of the enormous number of weapons that had been stored in the region during the Gaddafi regime. Thus, the Fezzan in recent years has been both neglected or wilfully ostracised, and highly armed.³¹⁹

At the same time, post-revolution Libya institutionalised a formal, democratically-elected local governance system for the first time in its history. In the south, Ghat and Ubari became municipalities in 2013, each with municipal councils tasked with implementing the rule of law and service provision. This represents a significant departure from the Fezzan's particular history of informal governance, traditionally implemented by tribal elites. This history extends back to Libya's colonial era, when influential tribes would maintain allegiances and trade routes on behalf of the Ottomans, and was also highly visible during the Gaddafi era, when the regime would select and empower certain sheikhs and tribes to be enforcers at local level. The recent introduction of formalised local governance, at a time of heightened instability and neglect in the Fezzan,

318 Libya has historically been divided into three regions: Tripolitania, encompassing the north-west of the country and its modern-day capital, Tripoli; Cyrenaica in the east; and the Fezzan in the south.

319 Daragahi, B. 2014. 'Libya's badlands', *Financial Times*, <https://www.ft.com/content/e5881820-78c4-11e3-a148-00144feabdc0> (accessed 12 September 2019).

poses a key question of how this will interact with the region's entrenched history of tribal dominance.

This chapter will illustrate how the position of traditional authorities in the Fezzan has been strengthened by recent state neglect, and how the paradoxical introduction of a local governance structure in conjunction with wholesale state absence has enabled these authorities to gain official platforms and manipulate Libya's competing national forces for resources. Simultaneously, traditional authorities are dogged by questions of legitimacy and ethnic or tribal favouritism, and there remains a sense within the community that their influence is borne out of pragmatism and lack of credible alternatives. Finally, this chapter will discuss the implications of these findings for the future of local governance in the region, and put forward recommendations for possible interventions.

5.2 Traditional governance in the Gaddafi era and the impact of 2011

As outlined in Chapter 2.4.c, the role of traditional authorities in the Fezzan has changed considerably in 2011, and in particular the role of Tuareg institutions, which historically aligned with the Gaddafi regime. The peripheral location of Ghat municipality means that service provision has always been fragile, yet the investment and incentives afforded to its majority Tuareg population during the Gaddafi era helped to offset this. Since 2011 the municipality has been largely overlooked by central authorities, and has become isolated by the closure of both the Algerian border and vital roads linking it with Ubari and the north of the country. Starved of resources and state salaries under a failing local governance infrastructure, living standards in the municipality have declined rapidly. Traditional authorities now take on responsibilities far beyond the inter-tribal roles they played during the Gaddafi era, and are tasked with attempting to provide services and security to a community that has severe shortfalls in healthcare, sanitation, electricity and financial services.

Indeed, respondents were unanimous in their observation that traditional authorities had assumed greater responsibilities since 2011, even from a non-Tuareg perspective. For example, a municipal official in Ubari and member of an Arab tribe described the pre-2011 situation as traditional authorities being restricted to working within their own tribes, but following the revolution they now serve far larger and more diverse constituencies.³²⁰ An influential Tuareg figure, who served as part of the 'popular leadership' – a committee of tribal leaders from across Libya formed and overseen by the Gaddafi regime – stated that during that era 'there was little reliance on traditional

320 Respondent #18, Scientific affairs officer, Ubari, Fezzan Region, March-June 2019.

authorities'³²¹ because, in his perception, state institutions and official bodies functioned far more effectively.³²² A prominent Tuareg figure and former head of the Ubari administrative office during the Gaddafi era documented his old responsibilities as follows: 'During the former regime when I was in charge most people's problems were simple... In the past people only thought about education and work and how to improve their family's conditions. Now people think about electricity, banks, water shortages, weapons proliferation, insecurity, low levels of education, healthcare and other services, and food shortages'.³²³

Most respondents, regardless of affiliation, point out that traditional authorities pre-2011 were concerned with social issues such as mediation between families, and their work in recent years has become more expansive and governance focused. This expansion of responsibilities was partly demanded by the traditional authorities themselves, as several ethnic and tribal groups sought greater political participation and citizenship rights following the 2011 revolution. Access to political power also became more tangible in the post-2011 climate, with the introduction of law 59 on local governance in 2012, which formally established local administrative units and electoral processes.³²⁴ Various ethnic and tribal groups now saw an opportunity to gain official representation via tactical voting among their communities. However, increased responsibilities for traditional authorities in this context has also arisen out of necessity, as the presence of official local governance structures in the south has declined markedly, particularly since the outbreak of civil war in 2014. Conflict between rival national factions led to severe shortages in services, delayed salary payments, an increased presence of armed groups, and a decline in security and the rule of law.³²⁵ This latter increase in responsibility for traditional authorities has not come without its problems, whether in terms of capacity and resources, or in terms of influence from Libya's various political allegiances.

321 Respondent #38, Traditional authority, Awainat, Fezzan Region, March-June 2019.

322 In reality, Gaddafi relied heavily on tribal connections with traditional authorities during his reign, but largely to maintain stability and quell unrest rather than to administer local governance. Such sentiments thus also reflect a tone of bias towards the Gaddafi regime, borne out of the enduring fondness of prominent Tuareg figures for a former era that empowered them individually.

323 Respondent #19, Former high-ranking civil servant, Ubari, Fezzan Region, March-June 2019.

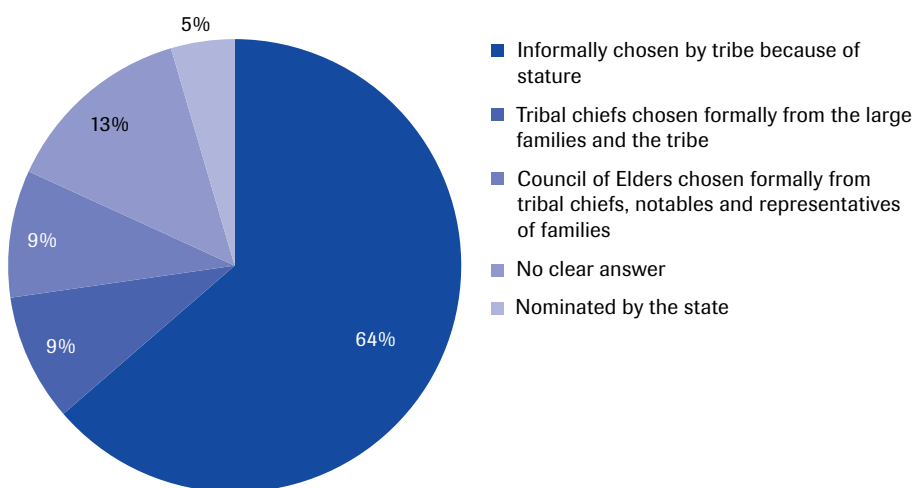
324 Libya's Interim National Transitional Council. 2012. *Law No. 59 of 2012 concerning the Local Administration System*, <https://security-legislation.ly/sites/default/files/lois/62-Law%20No.%2859%29%20of%202012..EN.pdf> (accessed 12 September 2019).

325 Murray, R. 2017. *Southern Libya Destabilized: The case of Ubari*, SANA Briefing Paper, Small Arms Survey, Security Assessment in North Africa.

5.2.1 Traditional leaders in their own words

The vast majority of Libyan traditional authorities interviewed in this study came to power through informal mechanisms, often by virtue of their stature within their tribe, and their tribe's relative influence within the community. Many more rose to prominence through designation by tribal elites. Crucially, and as opposed to the situation in our other country studies, none of the Libyan traditional authorities interviewed described ascending to their position via a popular vote. This reflects the fact that democratically elected local governance is a new phenomenon in Libya (from 2012 onwards), and influential traditional authorities in the Fezzan, such as the Tuareg, have only recently become institutionalised in a manner that allows them to put forward election candidates and canvas votes effectively.

Figure 5 Mode of accession of the Libyan respondents in the two municipalities studied



Number of respondents: 48

The roles and responsibilities of traditional authorities in their own words provide a unique insight into local governance dynamics in the Fezzan. Traditional leaders interviewed were often bullish in their assessment of their effectiveness in governance. For example, a former SSTC member claimed that the Tuareg council now solves all problems in Ubari.³²⁶ One Tuareg tribal sheikh even argued that traditional authorities are now more powerful than official structures. He explained that traditional authorities

³²⁶ Respondent #31, Former SSTC member, Ubari, Fezzan Region, March-June 2019.

have become ‘the ones who monitor the municipal authorities and hold them to account’, in addition to taking on more responsibilities and duties that were formerly the remit of formal governance.³²⁷ When asked why citizens of Ghat and Ubari would choose to approach them instead of formal authorities, traditional leaders gave similar reasons, such as being more trustworthy and more flexible in terms of meeting times and locations. The notion of being more trustworthy is particularly pertinent among respondents from Ubari, where the mediation role of tribal elders during the 2014 Ubari war helped to strengthen relations and trust considerably, according to various traditional leaders and civil society representatives.

Box 16 The 2014 Ubari war

In the years that followed the 2011 revolution, Ubari was severely affected by a lack of employment and legitimate economic opportunities resulting from the wider decline of Libyan national security, prompting a burgeoning illicit economy and a rise in tensions among the town’s residents over scarce resources and local power. What began in 2014 as a low-level dispute between Tuareg and Tebu fuel smugglers became a wide-scale conflict between armed groups, often acting as a proxy for warring national factions, that lasted until a ceasefire in February 2016. The Ubari war resulted in the deaths of over 300 people and left more than 2,000 injured. It also destroyed the town’s central business district and residential areas – much of downtown Ubari remains in a state of disrepair – and more than half of the town’s population became displaced.³²⁸

Several respondents hinted at the ability for greater cross-border cooperation by virtue of being part of a multinational ethnic group such as the Tuareg or Tebu. The former mayor of Ubari explained that traditional authorities are in regular contact with their counterparts across state boundary lines to find solutions to problems such as drug trafficking or arms smuggling.³²⁹ A former civil servant, not affiliated to any traditional authority, conceded that when it comes to border conflicts, ‘informal authorities may play a better role than the official authorities because of the knowledge of the people of the region and their awareness of the nature of surrounding societies in the neighbouring countries’.³³⁰ A tribal dignitary similarly observed that, ‘our good relations with the desert tribes in the neighbouring countries of Algeria and Niger can contribute

327 Respondent #10, Tribe sheikh, Awainat

328 Murray, R. 2017. *Southern Libya Destabilized: The case of Ubari*, SANA Briefing Paper, Small Arms Survey, Security Assessment in North Africa.

329 Respondent #19, Former mayor, Ubari, Fezzan Region, March-June 2019.

330 Respondent #34, Former civil servant, Awainat, Fezzan Region, March-June 2019.

to strengthening relations between these peoples'.³³¹ Traditional authorities were also better placed in other areas – a former mokhtar elaborated on the responsibilities of his role in particular, involving matters of personal status law, and stated that such a role could not be performed by a state official coming from outside the community, as it requires an understanding of traditional customs.³³²

However, despite the undeniably significant role undertaken by these authorities, and the efforts of some respondents to champion informal governance structures as being on a par – or even superior to – official governance in the Fezzan, there was an overwhelming sentiment of subordination expressed by many traditional leaders, suggesting that traditional authorities themselves consider their role to be unequal to that of the state. Traditional authorities are inclined to point out the asymmetries in this relationship with formal power structures. A representative from a council of elders lamented the distorted relationship between formal and informal structures, urging that the municipality grant traditional authorities 'a fundamental role rather than considering us merely in a supporting role'. He blamed the national-level conflict and the resultant competing governments as a factor behind the perceived marginalisation of traditional authorities, claiming that 'we do not have a clear place among them'. He portrayed the council of elders' role in Ghat as a lobbying body – a means of putting pressure on the municipal council on behalf of the Tuareg people.

This sentiment is echoed by a tribal sheikh who said that people come to him because as the sheikh of their tribe he can represent them in front of official bodies. It is also reflected by a dignitary of another tribe, and member of the council of elders, who said the council is effective in 'pressing the municipal council and its institutions to do their part'.³³³ Such rhetoric implies that traditional authorities in general consider themselves to be go-betweens, capable of accommodating the concerns of the community in an accessible manner, and then using their connections and stature to press the municipal council and other state institutions into taking action.

There are notable examples in the interview data where traditional authorities also concede that the municipal council and official institutions are better placed to implement effective governance. On the subject of regional disputes, the tribal dignitary observed, 'maybe our role here is less influential because central authorities have greater capacity than social authorities'.³³⁴ Two prominent members of the Ghat Council of Elders openly acknowledged that the traditional governance structure was not equipped to fully cater for the needs of society, and recognised that this left traditional

331 Respondent #35, Tribal dignitary, Awainat, Fezzan Region, March-June 2019.

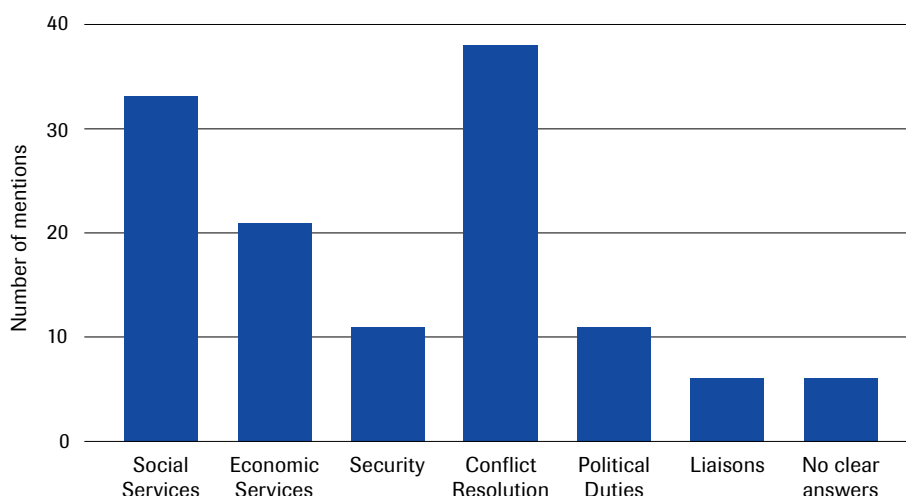
332 Respondent #40, Former mokhtar, Awainat, Fezzan Region, March-June 2019.

333 Respondent #37, Traditional authority, Awainat, Fezzan Region, March-June 2019.

334 *Ibid.*

authorities out of their depth in some regards. One suggested that the absence of state institutions in the region ‘weighs upon us and burdens us with responsibilities greater than our capabilities, having to take on matters that are not within our competence’. When asked what such burdens entailed, the Council of Elders member cited a lack of employment opportunities for residents, coupled with the rising cost of living.³³⁵ Another member said, ‘The dignitaries do not have the potential of the official authorities and there are problems greater than the capacity of traditional authorities that need solutions from the government.’³³⁶ These sentiments do not imply that traditional authorities resent their greater responsibility, but it is clear that the current situation does not enable them to perform the role of the state effectively amid such a governance vacuum.

Figure 6 Functions of traditional authorities interviewed in the two Libyan municipalities



Number of respondents: 48

Note: Respondents could mention multiple functions

335 Respondent #33, Council of Elders member, Awainat, Fezzan Region, March-June 2019.

336 Respondent #38, Council of Elders member, Awainat, Fezzan Region, March-June 2019.

5.2.2 Traditional leaders in the eyes of the community

To ascertain the effectiveness of traditional authorities in governance, this study also conducted several interviews and focus groups with religious leaders, members of civil society and the private sector in Ghat and Ubari.

In general, religious figures interviewed for this project expressed admiration for the work of traditional authorities in the region, with a Ghat-based Imam stating that they are a 'better and more viable solution than going to official authorities'. However, other respondents pointed to a relationship that was at times strained. A muezzin at a mosque in Awainat stated that, 'In the framework of religion we may not agree with the tribal authorities in some customs that are contrary to the rules of religion.'³³⁷

Civil society activists interviewed unanimously suggest that traditional authorities are indeed influential and prominent in Ghat and Ubari. One Tebu women's rights activist remarked that 'traditional authorities are closer to us than other authorities. They even welcome us in their homes'.³³⁸ A representative of the Ubari Youth League attested that 'traditional authorities are acting as mediators to resolve disputes faster than other authorities'.³³⁹ The reputation of traditional authorities among civil society is particularly positive in Ubari, where their mediation work during the Ubari war and in the following years was greatly appreciated. For example, a women's education and training activist claimed that traditional authorities left an 'excellent footprint' in ending the war, while after the war they developed a programme for reconciliation and the return of displaced people.³⁴⁰ A prominent Tebu civil society activist also praised traditional authorities for being 'instrumental' in reducing conflict and subsequent tensions between Tebu, Tuareg, and Ahali populations.³⁴¹

337 Respondent #36, Muezzin, Awainat, Fezzan Region, March-June 2019. NB People tend to resort to religious authorities for assistance in 'social issues' that require a religious edict, and this can often bring them into direct contact, cooperation, or conflict with other traditional authorities.

338 Respondent #20, Tebu women's rights activist, Ubari, Fezzan Region, March-June 2019.

339 Respondent #23, Ubari Youth League representative, Ubari, Fezzan Region, March-June 2019.

340 Respondent #24, Women's education activist, Ubari, Fezzan Region, March-June 2019.

341 Respondent #22, Tebu civil society activist, Ubari, Fezzan Region, March-June 2019.

Box 17 The role of tribal mediators in the Ubari war

The role of traditional authorities in mediating a lasting ceasefire between Tuareg and Tubu fighters in the Ubari conflict is often cited by the Ubari community as a fundamental reason for their support and legitimacy in the town. In 2015, both the Libyan National Army (LNA) and Government of National Accord (GNA) factions sought to bring about an end to the conflict through mediation, making use of local interlocutors to gather together prominent actors from each side in the same room. Tribal sheikhs and elders were particularly effective in this context as they had unparalleled access to the military factions of each side.³⁴² However, brokered ceasefires were fragile and quickly fell apart, largely due to ineffective national security institutions to enforce them and a lack of investment or foresight given to address the town's endemic poverty and lack of employment opportunities, both underlying grievances of the Ubari fighters.³⁴³ A lasting ceasefire was only achieved in 2016 under the sponsorship of international actors such as Qatar, Algeria and Italy, away from the politicized GNA-LNA divide. Tribal mediators were once again central to facilitating the ceasefire process in successive meetings in Doha and Rome. Implementation of the Ubari ceasefire also has an element of tribal mediation, with the Arab Hassawna tribe being identified as a (relatively) neutral peacekeeping force by both sides to implement the agreement on the ground.³⁴⁴

However, as expressed by the authorities themselves, civil society and private sector representatives suggest the role of traditional leaders is most effective as a link, or a vehicle, to convey citizens' concerns to the state in order to get things done. Two representatives from the education sector gave examples of when traditional authorities have lobbied the state effectively on their behalf. One education supervisor recounted that 'here in education we had a shortage of books so we went to the traditional authorities who then went to the ministry and received the books'.³⁴⁵ An influential school principal in Ubari explained that many students lack national identification numbers or registration documents, and traditional authorities are able to 'facilitate procedures' whereby pupils and students can communicate with municipal education officials to resolve the problems quickly and obtain documentation.³⁴⁶

342 Eriksson, M. and Bohman, E. 2018. *The Second Libyan Civil War – Security Developments during 2016-2017*, Swedish Defence Research Agency (FOI), Ministry of Defence.

343 Murray, R. 2017. *op. cit.*

344 *Ibid.*

345 Respondent #21, Education supervisor, Ubari, Fezzan Region, March-June 2019.

346 Respondent #16, School principal, Ubari, Fezzan Region, March-June 2019.

Focus group data gathered from Ghat municipality reinforces the perception among civil society activists that traditional authorities are the de facto leadership in the region. However, participants in a youth focus group suggested that they do not provide equitable governance to the whole municipality. One participant explained how sometimes traditional authorities would provide extra services to their relatives and tribal group, while another urged them to give priority to the citizens 'not just themselves'.³⁴⁷ Older focus group participants claimed that traditional authorities enjoyed their current power and influence at the expense of state institutions, which were described as 'divided and uncoordinated', 'incapable of solving problems' or even 'non-existent'.³⁴⁸ However, these elder residents also stressed that they resorted to traditional authorities out of pragmatism rather than preference, and suggested that they would follow the dominant authority in the region, whatever that might be, in order to gain access to resources.

The above implies that despite the current stature of traditional authorities in local governance in the Libyan south, the popular support enjoyed by these entities stems not only from tribal loyalty, but also from the incompetence or lack of credible alternatives. The overall impression from civil society respondents supports that of the majority of traditional authorities interviewed – the conditions in Ghat and especially Ubari are deplorable and basic infrastructure is severely lacking. Traditional authorities cannot replace the state fully in their current capacity and they acknowledge this. However, the transnational networks and informal organisation of such authorities mean they are better placed to respond directly to the needs of citizens in the south and then convey such concerns effectively to policy makers.

5.3 Challenges for engaging with traditional authorities

5.3.1 The merging of formal and informal governance structures

A particular challenge for future engagement with traditional authorities is that it is becoming increasingly unclear how such entities should be defined, and distinctions between formal and informal governance structures in southern Libya are increasingly blurred. Such a situation is nothing new in the Fezzan, particularly among the Tuareg, who have a history of being selectively co-opted into the Gaddafi security and governance apparatus. But since 2011, and with the dwindling state presence in the region, traditional authorities have become more formally entwined with municipal authorities, rather than existing as distinct entities. This could have lasting implications for the legitimacy of traditional authorities – who have developed a reputation in

347 Focus Group (Youth), Ghat, Fezzan Region, March-June 2019.

348 Focus Group (Elderly), Ghat, Fezzan Region, March-June 2019.

the eyes of the community as more flexible, approachable and effective than state counterparts. The phenomenon could also have an impact on future policy interventions in the region; increasing state incorporation of traditional authorities expands the spectrum of entry points for international governments and organisations and potential actors they can work with.

Much of the amalgamation of formal and informal authorities stems from the local governance law 59 of 2012, which has served as an entry point for traditional authorities to democratically achieve political representation through local elections. This is apparent with the 2019 election of Ahmed Matako Mustafa, a high ranking member of the SSTC, as mayor of Ubari. The mayor of Ghat, Komani Saleh, was also interviewed for this project and is reputed to have strong relationships and influence with the Tuareg. Many respondents with important positions in traditional authority structures spoke of their influence over the formation of the municipal council, particularly since 2011 and the decline of state presence in the south. A member of the council of elders explained that the practice of elections for state authorities in the region is ostensibly democratic, but in reality the outcome is predetermined. This is because nowadays 'most people resort to electing or appointing their relatives or tribesmen to hold official positions'.³⁴⁹ An eminent member of the Maqarghasan tribe went as far as to suggest that since 2011 and the absence of active government personnel in the region, the municipal council of Ghat has been formed via a consensus among prominent tribal members.³⁵⁰ Finally, a former mokhtar for the region of Awainat observed that '[tribal] social councils have become involved in the work of the official authorities, even in the assignment of official positions'.

This represents both a challenge and an opportunity for traditional authorities – an opportunity in the sense that they have access to greater resources and capacity as a result of gaining influence and high-ranking positions within the state apparatus. However, it also poses a challenge as traditional authorities have gained credibility by posing as an alternative to the state mechanism, and many traditional figures interviewed maintain their distance from the state. Moreover, those not directly affiliated to a traditional or official authority identify a clear boundary between the two. It remains a challenge for traditional authorities to balance their growing involvement at municipal level with the unique advantages of informal governance as identified by their communities.

349 Respondent #33, Council of Elders member, Awainat, Fezzan Region, March-June 2019.

350 Respondent #39, Tribe member, Awainat, Fezzan Region, March-June 2019.

5.3.2 Armed governance

Since 2014, Libya has been divided between competing governments based in the east and west of the country. At present Tripoli hosts the internationally recognised Government of National Accord (GNA), created in December 2015 as part of the UN-sponsored Libyan Political Agreement (LPA). In the east sits the Tobruk-based House of Representatives (HoR), which does not endorse the GNA.

In reality, both competing governments are dependent on networks of armed groups that dictate proceedings on the ground. In the east, General Haftar's Libyan National Army (LNA) is a combination of military brigades and armed groups which acts as the armed forces of the HoR.³⁵¹ In the west, local armed groups have divided Tripoli into areas of control and the GNA has been forced to cede resources and important positions in order to operate.³⁵² Armed groups are dominant throughout the country, often mobilising around city boundaries or 'city-states' in urban areas, or along tribal and ethnic lines in more rural areas, particularly in the south of the country.³⁵³

In the Fezzan, tribal armed groups have taken sides in accordance with the national-level GNA-LNA conflict. In general, Tuareg brigades have mostly sided with the GNA, although General Haftar has succeeded in persuading Tuareg offshoots to fight on his behalf. Most Tubu forces believe the LNA favours Arab armed units over non-Arab ones, and they therefore fight under the loose umbrella of GNA forces.³⁵⁴ The LNA meanwhile has been successful in forging local alliances with armed groups affiliated to predominantly Arab tribes such as the Awlad Suleiman and Zuwai.³⁵⁵

It is impossible to fully address the local governance challenges in the Fezzan without acknowledging the existence, and in some cases dominance, of this armed governance in the region. Residents interviewed for this study varied in their perceptions of how influential armed groups were in their municipality, but the strongest indications of a powerful armed presence came from Ubari respondents. Focus groups of Ubari youth,

351 Lebovich, A. 2019. *Mapping armed groups in Mali and the Sahel*, https://www.ecfr.eu/mena/sahel_mapping, (accessed 9 September 2019).

352 Lacher, W. 2018. 'Tripoli's militia cartel – how ill-conceived stabilisation blocks political progress, and risks renewed war', *SWP Comment*, 20.

353 Lebovich, A. 2019. *op. cit.*

354 Westcott, T. 2019. 'Feuding tribes unite as new civil war looms in Libya's south', *Middle East Eye*, <http://www.middleeasteye.net/news/feuding-tribes-unite-new-civil-war-looms-libyas-south> (accessed 12 September 2019).

355 Adel, J. 2019. 'Tensions rise in south as multiplicity of forces enter the power play', *Libya Herald*, <https://www.libyaherald.com/2019/02/08/tensions-rise-in-south-as-multiplicity-of-forces-enter-the-power-play/> (accessed 12 September 2019).

women and elderly residents all suggested that armed groups were in control of the municipality, either exclusively or in conjunction with traditional authorities or the municipal council.³⁵⁶ They commented that such groups did not provide services to the community and could not be approached for assistance, so they could not be considered to be governance actors in the traditional sense. Nevertheless, both formal and informal authorities must engage effectively with armed groups and leverage their influence in order to govern.

Very few interviewees in senior traditional authority positions were willing to divulge information on the subject of armed groups. A former head of the Ubari revolutionaries battalion disclosed that he worked closely with traditional authorities on security issues when he led the battalion, but his group did not interfere in non-security matters. He also touched upon the instability and volatility created by the presence of armed groups in the region, stating that each one can 'impose its will on the ground' if it wishes to do so.³⁵⁷ One particularly candid respondent, a former SSTC member and sheikh of an influential tribe, explained that 'they are our brothers and they defend the homeland. We consider them kin and we don't consider them armed groups.'³⁵⁸ This sentiment implies that the military arm of the Tuareg is considered a legitimate security actor within the context of the SSTC, and therefore is considered part of the traditional authority itself.

In a separate exchange, a member of the Relations Committee of the SSTC indicated that all of the Tuareg armed factions are registered military brigades affiliated with either the GNA or the Interim-Government of the East and the LNA. The committee member added that forces located at oilfields, such as al-Sharara near Ubari, work under the authority of the National Oil Corporation (NOC). Thus, the allegiances of these groups with national actors in Tripoli or Cyrenaica partially explains why they are not perceived as armed groups, as they are considered part of the country's military structure. Furthermore, the committee member stated that the SSTC has a member with a military background, usually a colonel, responsible for coordinating efforts between the two entities on issues of mutual interests. The Council has also established under its patronage a joint military operation room, composed of representatives from the Tuareg armed factions.³⁵⁹

The existence of armed groups within traditional governance models poses a challenge internally. There are numerous Tuareg armed groups in the region and it has proven difficult to maintain coherence among them, or secure their allegiance to the SSTC.

356 Focus Group (Women, Youth, Elderly), Ubari, Fezzan Region, March-June 2019.

357 Respondent #17, Rebel commander, Ubari, Fezzan Region, March-June 2019.

358 Respondent #12, Tribe sheikh, Ubari, Fezzan Region, March-June 2019.

359 Phone interview with a member of the Relation Committee of the SSTC, name disclosed, 17 July 2019.

When asked about this issue, the Relations Committee of the SSTC admitted that there is a high level of coordination between the Council and the Tuareg Brigades on social and Fezzan-centric issues. Regarding security, brigades tend to follow the commands of whoever pays their salaries in either Tripoli or Cyrenaica. Stocker (2014) observes these significant challenges to security and effective governance in the Fezzan region and relates it to ‘the empowerment of young fighters who reject governmental and tribal authority’.³⁶⁰ Armed groups also pose a challenge externally, as national and international organisations may be reluctant to engage further with traditional authorities if they are seen to be supporting armed movements.

Yet it is also important to acknowledge the role that armed actors in the Fezzan perform in determining the stability of the region. For example, Tuareg brigades exhibited unity and restraint in their reaction to the LNA military operation in the Fezzan in early 2019. To avoid war and maintain relative peace in their areas of influence, the leaders of the Tuareg Brigades – in cooperation with the SSTC – agreed to declare their allegiance to Haftar and granted him control over public institutions in their areas.³⁶¹ The brigades made their loyalty conditional on increased LNA support in order to address the Fezzan’s acute issues. Haftar, who has been occupied with his war efforts on Tripoli, has thus far failed to honour Tuareg demands, which places the longevity of their agreement in jeopardy.

5.3.3 A divided traditional governance landscape

Aside from a blurred traditional governance landscape, it is also necessary to highlight the extent to which traditional authorities are divided among themselves. There is a clear sentiment among various respondents – including representatives of traditional authorities themselves – that traditional authorities have aligned themselves along national conflict lines since 2011 and particularly since the East-West divide in 2014, often having to pick a side in order to secure some semblance of service provision.

One member of the Tuareg Council of Elders based in Awainat confirmed that, ‘the Council of Elders is divided in its work, which is influenced by political matters. This, in turn, has influenced some decisions’.³⁶² Another member revealed how politicization was not optional for the Tuareg in order to remain pragmatic, stating, ‘we are dealing with a fait accompli. We have to deal with the two governments and this leads to greater

360 Stocker, V. 2014. ‘Inside Libya’s wild west’, *Issue in Focus*, Atlantic Council and Rafik Hariri Center for the Middle East.

361 ‘المجلس الأعلى لطوارق ليبيا يعلن تسليم كافة المؤسسات في اوباري للقيادة العامة’ (Translated from Arabic: The Supreme Council of the Tuareg in Libya announces the handover of all institutions in Ubari to the General Command), 2019. Al-Marsad, <https://almarsad.co/2019/02/11/المجلس-الأعلى-لطوارق-ليبيا-يعلن-تسليم-كافة-المؤسسات-في-اوباري-للقيادة-العامة/> (accessed 12 September 2019).

362 Respondent #33, Council of Elders member, Awainat, Fezzan Region, March-June 2019.

problems. Sometimes we find ourselves a party to the conflict, rather than a mediator of the solution.’³⁶³ The former deputy mayor of Ubari revealed that this division became apparent in the town during the Tebu-Tuareg conflict of 2014. He said, ‘During the Ubari conflict traditional authorities’ work became linked to the political parties because the conflict in Ubari was linked to the East and the West and to the gains on the ground’.³⁶⁴

The reference to ‘gains on the ground’ underlines the instability and volatility that is generated through the division between traditional authorities, as local security forces, councils and committees can suddenly switch allegiance in an effort to secure the best access to resources or financial reimbursement. A former deputy member of the Council of Elders explained that this volatility could in fact work to the advantage of traditional authorities, stating, ‘we do not have a monopoly on us as a traditional authority. We do not follow any government, but any government body can provide aid and assistance, whether from the East or the West.’ Yet these external influences mean it is highly difficult for traditional authorities such as the SSTC to achieve a consensus, or for the Tuareg population to maintain a unified front among its armed and civil units, which poses a significant challenge for inclusive future governance.

The division also extends to traditional actors outside of the SSTC. A muezzin from Ghat described the 2014 conflict as creating ‘another kind of division between people and even among the clergy. Each team supports a political orientation, which has created a religious conflict even in some mosques.’³⁶⁵ The division even extends to the youth and recreational sphere, where the president of Ghat’s largest football team revealed that since 2014 the club has split in two, with one team affiliated with the government in the East, and the other with the West.³⁶⁶ These anecdotes reveal that the polarity blighting Libya at large is also evident at local level, and transcends ethnic or traditional bonds. The politicization of tribes, religious institutions and civil society presents a major challenge to effective governance in the region, particularly with the duplication of entities working in competition for already limited resources.

5.3.4 The risk of entrenching exclusionary practices

As explained in the historical chapter, traditional authorities in the Fezzan, such as the Tuareg, have maintained an elitist structure, with positions of authority allocated to ‘nobles’ – i.e., prominent members of influential tribes. Testimonies from the communities of Ghat and Ubari also suggest that despite democratic elections the tradition of nominating the most powerful nobles to power is still very much alive, and

363 Respondent #38, Council of Elders member, Awainat, Fezzan Region, March-June 2019.

364 Respondent #25, Former deputy mayor, Ubari, Fezzan Region, March-June 2019.

365 Respondent #36, Muezzin, Awainat, Fezzan Region, March-June 2019.

366 Respondent #43, Football team president, Awainat, Fezzan Region, March-June 2019.

current authorities have a tendency to prioritise the interests of their own tribe once in power. The Tuareg caste system also historically designated the least influential members of the community as slaves or servile classes. Although slavery may be ostensibly outlawed in contemporary Tuareg society, many exclusionary practices remain in force, such as the distinction and hierarchy between indigenous Libyan Tuareg groups and returnee or migrant Tuareg tribes from other countries, as detailed in Chapter 2.4.c. The examples below illustrate how in certain cases traditional authorities can improve access to and participation in local governance, yet the adoption of these structures as the dominant system can reinforce existing patronage systems and exclude certain members of society.

The involvement of traditional authorities in local governance can provide access and opportunities for other actors who would otherwise be unable to operate in Ghat or Ubari. For example, in 2016 when a Misratan group of the Young Arab Voices NGO sought to expand their work in the south of Libya, and create dialogue between young Misratans and young people in Ghat, the group approached tribal authorities in order to gain an entry point. A young member of a tribe in Ghat was able to facilitate initial access and protection for the NGO, and young people from Misrata and Ghat were able to come together in a 'peaceful atmosphere' to discuss the future of their country.³⁶⁷

However, evidence from Ghat and Ubari suggests that tribal or traditional governance structures can also have a negative impact. A notable example of this occurred between March 2013 and July 2014, when a group of young activists attempted to secure more employment opportunities at the Al-Sharara oil field for residents of Ghat and Ubari. Initially, this popular mobilisation was aided by tribal affiliation – armed Tuareg units supported the demonstrators as they approached the site demanding jobs for locals – and the oil company and Zintan brigades overseeing the site ultimately agreed to the demands. However, while the protesters were keen for a transparent, equitable recruitment process – taking into account social aspects such as marital status, place of residence and number of employed family members, and disregarding tribal or ethnic affiliations – tribal chiefs attempted to seize control and impose themselves as distributors of employment opportunities. As the oil company was overwhelmed with the volume of job applications from Ghat and Ubari they deferred to the tribal chiefs as administrators, and Tuareg and Tebu elites soon reserved the best opportunities for their tribal inner circle. Therefore the involvement of tribal authorities in local governance in this instance enabled the perpetuation of an exclusionary patronage system, which was only overturned with renewed protests in October 2013, when activists reached out to the poorest and most vulnerable communities to mobilise and establish a blockade on Al-Sharara. The blockade lasted until early 2014, and the activists were able to

367 Alunni, A., Calder, M. and Kappler, S. 2018. *Enduring social institutions and civil society peacebuilding in Libya and Syria*, British Council.

successfully pressure for greater involvement, at the expense of tribal elites, in the distribution of hundreds of jobs to local youths.³⁶⁸

The sense of disconnect between tribal authorities and young people is a recurring theme in south Libya,³⁶⁹ and its manifestations extend beyond the above example. Youth focus groups held in Ghat and Ubari were particularly vocal in their criticisms of tribal sheikhs serving their own interests rather than those of the wider community, and were enthusiastic in their calls for those in power to take responsibility or be replaced by more competent candidates. They felt that addressing youth unemployment should be a key priority in the Fezzan, and called for greater consultation between those in power and younger constituents. The sense of disillusionment and exclusion among impoverished young people makes them highly susceptible to armed groups, lured by salaries and the opportunity to impose a degree of influence on the ground.

As a result, the incorporation of tribal authorities into governance structures can have a limited impact on the ground if younger, often militarised, members of the tribes wish to pursue a different agenda. In an effort to combat this, there have been efforts in the region to encourage communication and connections between young people and traditional elders. For example, in Kufra, the Dialogues of Good People initiative stages regular meetings between Tebu elders and younger tribal members to give the latter an opportunity to convey their views and influence policy. Alunni et al. (2017) consider this an important way of bridging generational gaps in the town, with the end goal of building social cohesion and ensuring that local governance is as representative as possible.³⁷⁰

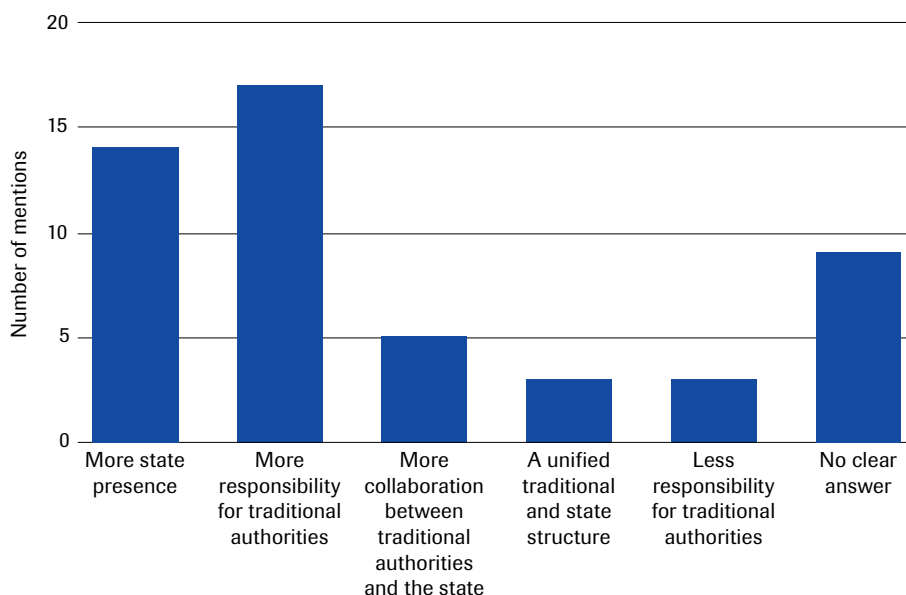
368 Tabib, R. 2016. 'Mobilized publics in Post-Qadhafi Libya: the emergence of new modes of popular protest in Tripoli and Ubari', *Mediterranean Politics*, 21 (1), 86–106.

369 This is a recurring theme in previous studies of traditional authorities and rural youth. Richards details young people feeling unfairly treated and marginalised by tribal elders in Liberia and Sierra Leone, and draws the connection with high levels of rural youth recruitment into armed factions, see: Richards, P. 2005. 'To fight or to farm? Agrarian dimensions of the Mano River conflicts (Liberia and Sierra Leone)', *African Affairs*, 104(417), 571–90.

370 Alunni, A., Calder, M. and Kappler, S. 2018. *op. cit.*

5.3.5 Differences among citizens about what should constitute governance

Figure 7 The future of local governance in Libya



Number of respondents: 48

Note: Respondents could indicate more than one preference

Aside from determining what constitutes a traditional authority, and which components of such a governance structure to work with, a further challenge for the future of the region is the differing perspectives among residents of Ghat and Ubari about what should constitute governance and who should implement it. The considerable differences among the populace can be traced back to previous allegiances, particularly among the Tuareg, with the Gaddafi regime and its model of state-centric governance maintained and administered locally through the co-option of certain tribal elites. As a result, while tribal elites empowered under this system would welcome its return, many residents of Ghat and Ubari favour a diminished role of the tribe in future governance, with greater emphasis placed on state institutions. Yet other citizens are particularly wary of state institutions, perhaps owing to the years of state neglect towards Ghat and Ubari, and especially following the devastating war in Ubari in 2014.

Initial focus group discussions held in Ghat and Ubari municipalities in early 2019 indicated that there is an overwhelming sense of disillusionment and lack of confidence in state institutions at present. All focus group participants in both municipalities were

dissatisfied with their current municipal council, and considered its structure to be both confusing and ineffective. However, despite the shortcomings, the sessions revealed that most citizens do not want to deviate from this model of governance, but would prefer more information and input in order to make the council more effective. This sentiment was expressed by both younger and older generations, with a participant in a youth focus group in Ghat calling for workshops to be held in the future 'to define the functions and duties of the municipal council'.³⁷¹ One member of a focus group for older Ghat residents advocated new municipal council elections to be held in order to address the divides and uncertainty surrounding the current institutions.³⁷² A women-only focus group held in Ubari echoed the calls for new elections with more 'consultative' input from the municipality, in order to move on from the current leadership that was considered neither credible or efficient.³⁷³

The focus groups revealed a strong preference across society for representative democracy based on elected individuals and institutions. There was also a clear desire for more inclusive and expansive local policymaking, incorporating wider components of society as opposed to governance administered by a small municipal leadership or select traditional authorities. A participant in a Ghat women-only focus group stated that 'citizens of the municipality [should be able to] choose the right person for the right role',³⁷⁴ while another individual in the same session argued for the increased involvement of civil society organisations and the private sector in municipality governance.³⁷⁵ In Ubari, there was a clear indication among young respondents for the election of technocrats, or as one participant described, 'highly qualified individuals from the education and cultural spheres'.³⁷⁶ Many Ghat citizens consulted also favoured a hierarchal, state-centric system of devolved governance, with local authorities being answerable to higher powers. During a focus group with teachers and education professionals, one participant insisted that 'once an authority has been assigned to their position, that authority must be directed from above, by the Libyan government'.³⁷⁷

These preliminary findings suggest that residents of Ghat and Ubari municipalities are still in favour of elected, state-affiliated local governance structures rather than the informal model of security and service provision currently being exercised by traditional authorities and armed groups. To examine this phenomenon further, this study

371 Focus Group (Youth), Ghat, Fezzan Region, March-June 2019.

372 Focus Group (Elderly), Ghat, Fezzan Region, March-June 2019.

373 Focus Group (Women), Ubari, Fezzan Region, March-June 2019.

374 Focus Group (Women), Ghat, Fezzan Region, March-June 2019.

375 Focus Group (Women), Ghat, Fezzan Region, March-June 2019.

376 Focus Group (Youth), Ubari, Fezzan Region, March-June 2019.

377 Focus Group (Education professionals), Ghat, Fezzan Region, March-June 2019.

conducted a workshop with residents of both Ghat and Ubari,³⁷⁸ presenting them with two scenarios from the recent history of the region (the 2014 Ubari war and the 2019 flooding in Ghat). Participants were asked to map out the key actors who responded to such events, the coordination between them, and the hierarchy of responsibilities. A third scenario (a hypothetical international NGO entering the region to fund a rule-of-law project) was then presented so that participants could envisage future governance dynamics in such conditions.

The results of the exercise for the 2014 Ubari war unsurprisingly revealed a unanimous consensus that armed groups were the most powerful actors in that scenario. However, a distinction was made between commanders of battalions based in the municipality and 'external forces' – armed groups affiliated with the GNA and LNA who subsequently entered the area. Both sets of armed groups were considered to have equal influence at the top of the actor pyramid, yet armed groups originally based in Ubari enjoyed far better relationships with actors further down the hierarchy. For example, traditional authorities, both Tebu and Tuareg, featured prominently in the second layer of influence, yet their relationships with external forces were only sporadic compared to established channels of communication and cooperation with Ubari-based groups. As the conflict continued, Ubari-based armed groups were able to provide more effective governance and services on account of their connections with local traditional authorities, whereas the external forces were not accepted as legitimate governors, despite their military influence.

For the Ghat flooding incident the majority of respondents highlighted tribal authorities, particularly the SSTC, as the most effective and quickest responders. The number of actors involved in such a crisis response was significantly reduced in comparison to the Ubari war, and the hierarchy of responsibilities was heavily concentrated among traditional authorities. Civil society actors featured relatively prominently, but served mainly a logistical function under the directives of the SSTC. Both the GNA and LNA were depicted in participants' hierarchies, but neither were considered influential in this context, given their lack of connection with local actors and an inability to deliver relief promptly.

378 Participants were selected on the basis of age, location, gender, tribal and political affiliation in an effort to achieve a representative sample of governance views in Ghat and Ubari.

Box 18 The 2019 flooding in Ghat

In June 2019 Ghat witnessed consistent heavy rainfall that flooded an estimated 70% of the municipality. This led to a humanitarian crisis, with over 1,000 residents displaced, entire food stockpiles destroyed, drinking water contaminated, and telecommunications shut down access in the region. The GNA allocated LD 10 million (EUR 6.5 million) as a disaster relief fund, the final destination of which remains unclear, and trucks carrying emergency supplies were ineffectively slow due to the isolated location of the municipality.³⁷⁹

The hypothetical future scenario revealed the clearest differences among citizens with regard to future governance in the region. A respondent from Ubari, for example, displayed a clear mistrust of the GNA and the LNA, claiming that citizens of the town now feel they cannot trust outsiders following years of neglect or broken promises. This respondent advocated that an international NGO should channel all communication and programming through the SSTC. To her, all tribal authorities seemed in sync and coordinated directly with one another, presenting a unified front. However, their ability to communicate well with the average citizen represented by civil society and other youth forums was challenged and seemed problematic for a future governance model with a greater role for the tribal authority. A respondent from Ghat similarly placed an improved version of the state in the governance structure. To him, as state offices begin to play a more efficient role, the role of the tribe would begin to diminish and fade out, limiting its activities to the social realm. However, a third respondent from Ghat, with a particular affiliation to the Gaddafi regime, envisaged a future governance scenario with a greatly diminished role for state institutions as part of attempts to build an alternative model that challenges existing regimes and bring back expertise and influence from old regime personnel.

Differing opinions about what future local governance should look like were also evident in interviews with civil society respondents. Although all civil society respondents acknowledged the role of traditional authorities in governance in recent years, and identified traditional outlets as more effective and approachable than state ones, there were a significant number who were keen for such authorities to have a lesser role in future. A female Tebu activist exemplified this sentiment, stating that, 'We elected the municipality and now we must focus on the work of the municipal council and cooperate

379 Zaptia, S. 2019. 'Ghat flooding causes deaths and more than 1,000 displaced', *Libya Herald*, <https://www.libyaherald.com/2019/06/05/ghat-flooding-causes-deaths-and-more-than-1000-displaced/> (accessed 12 September 2019).

with it to change our municipality.’³⁸⁰ An education professional argued, ‘Activating the municipal council and working to ensure the role of traditional authorities [in relation to that] is important... so that the law, the judiciary, the army and the police will work. Stability cannot come unless the state is secure and stable.’³⁸¹ These responses typify an underlying impression throughout interviews with civil society members, namely that traditional authorities have proven to be effective in the region largely due to the absence or deterioration of the state, and should not be considered a long-term replacement. There remains a strong preference among civil society respondents for democratically elected institutions emanating from a central state presence.

Traditional authorities themselves were also far from uniform in their perceptions of what future governance in the region should look like, and there appears to be a regional dimension to their responses. The regions of Awainat and Al-Barkat in Ghat municipality have significantly different demographics. Awainat has traditionally been dominated by high-income Tuareg members and noble families, who are considered among the most influential Tuareg families in the country. Al-Barkat is mainly home to lower-income and less influential Tuareg members and families. In Awainat, traditional authorities were optimistic and enthusiastic about their future role, and even suggested they could take on greater responsibilities. A tribal dignitary said, ‘the absence of official authorities, especially in the southern regions, give the traditional authorities a greater chance’ in the future,³⁸² while the head of a tribal youth council affirmed, ‘we aspire to have a greater role’ in local governance in the future.³⁸³

Tribal leaders interviewed in Al-Barkat were almost unanimous in their belief that traditional authorities should have a reduced remit in the future. Most leaders called for Libya to become a civil democratic state, based on strong institutions, but when asked what the role of traditional authorities would be within this structure, one sheikh replied, ‘If we want to build a state of civil state institutions, there is no place for traditional authorities.’³⁸⁴ Another stated there would be ‘no future for traditional authorities’ within such a structure.³⁸⁵ This notable shift in attitudes could reflect the lesser influence of tribal sheikhs based in Al-Barkat compared to the noble families of Awainat, and their desire to break with the status quo that favours certain tribes. Al-Barkat’s growing stature within Ghat as a focal point for young people to relocate to, in light of its lower living costs, could also influence this sentiment. Ghat’s young

380 Respondent #20, Female Tebu activist, Ubari, Fezzan Region, March-June 2019.

381 Respondent #21, Education professional, Ubari, Fezzan Region, March-June 2019.

382 Respondent #37, Tribal dignitary, Awainat, Fezzan Region, March-June 2019.

383 Respondent #42, Head of a tribal youth council, Awainat, Fezzan Region, March-June 2019.

384 Respondent #44, Tribe sheikh, Awainat, Ubari, Fezzan Region, March-June 2019.

385 Respondent #45, Tribe sheikh, Al-Barkat, Ubari, Fezzan Region, March-June 2019.

population display a stronger desire for civil state institutions, and the vision of the future portrayed by Al-Barkat's tribal elders reflects this.

In Ubari, perhaps reflecting the urgent need for reconstruction in the town, tribal leaders were more pragmatic about their future role, acknowledging the need to work in partnership with state authorities in order to enact meaningful change. A former deputy member of the SSTC believed that in any forthcoming government, sheikhs and tribal dignitaries must work together to resolve the region's problems, 'but what we see now is not even close'.³⁸⁶ A member of the Council of Elders stressed that in the coming months and years there 'must be cooperation and coordination with official authorities... because the country is passing through a phase that requires the intensification of efforts from everyone, official and non-official'.³⁸⁷

5.4 Recommendations

5.4.1 Traditional authorities in their current form do not represent a long-term governance solution

Traditional authorities have made considerable efforts to fill the governance vacuum in the Fezzan and provide services and administer governance, albeit within their limited resources and traditional frameworks. However, it is important to note that there is little appetite among the population (and arguably among traditional leaders themselves) for traditional authorities to be long-term governors or service providers. Representatives of civil society display a clear desire for elected accountable institutions, and the informal structure through which traditional authorities come to power and subsequently govern does not reflect this. The history of traditional leadership in the Fezzan is also one of unequal and undemocratic power dynamics, highlighted by the relationship between tribal nobles and slaves, and in the modern day many citizens observe that traditional authorities continue to prioritise the interests of their own tribes or families. Furthermore, traditional authorities have, to an extent, always been politicized. The Tuareg have a history of being co-opted and strategically fragmented by the Gaddafi regime, and this phenomenon is still evident today, with various individuals and factions choosing to side with different national actors in an effort to secure resources and influence.

As a final point, it is essential to note that Libyans must be able to construct a governance structure that works for them, incorporating elements that are specific to the Libyan context, and this could be a lengthy process. Traditional authorities in this

386 Respondent #31, Former SSTC deputy member, Ubari, Ubari, Fezzan Region, March-June 2019.

387 Respondent #29, Member of the Council of Elders, Awainat, Ubari, Fezzan Region, March-June 2019.

regard will certainly play a role in future governance, but the current format is likely to be unsustainable.

5.4.2 Traditional authorities can be an entry point to the Fezzan

This study has demonstrated that traditional authorities, despite their shortcomings, are relevant and influential actors in the current reality of Ghat and Ubari, and are praised by many citizens for being more approachable, flexible and efficient than central government. Case studies from the region also illustrate how traditional authorities are vital in order to gain access to particular areas or groups, and to foster connections and dialogue that would otherwise be impossible.

Building on the first recommendation, those seeking to improve local governance in the region must acknowledge that traditional authorities currently play a part, and should therefore seek to incorporate their benefits and expertise. The Fezzan has long been neglected both nationally and internationally, and the lack of state presence in the sparsely populated but resource-rich region means international actors are without points of contact or unaware of local projects. As a precursor to meaningful intervention, traditional authorities could serve as an entry point, given their close ties with local communities, history of mediation, and relatively well-established institutional structures.

5.4.3 Be aware of context

In order to implement effective programmes in the Fezzan, it is imperative to be aware of contextual nuance – at local and national levels. The municipalities of Ghat and Ubari have distinct characteristics formed out of recent experiences. Ghat serves as a Tuareg stronghold, particularly after the fall of the Gaddafi regime and the backlash experienced by the many pro-Gaddafi Tuareg groups. Yet within Ghat there are important distinctions to note: the relatively affluent district of Awainat is home to some of the most powerful and influential Tuareg tribes in the country, whereas residents of the poorer Al-Barkat district are less represented in decision-making circles.

Ubari has been the site of a protracted tribal conflict that was exacerbated by the involvement of external forces and has left the municipality in ruin.

These contextual backgrounds have a strong influence on citizens' perceptions of local governance, the role of the central state, the role of traditional authorities, and the future of the region. In a wider context, responses from both traditional leaders and civil society representatives in this research point to a sense of subordination within the Fezzan region. This is most evident with the respondents' portrayal of traditional authorities as go-betweens – entities to represent the community and convey their concerns to a higher power. This portrayal indicates that although there is considerable

desire for autonomous local governance, at present there is little motivation for active citizenship. From a national perspective, the longstanding debate over federalism, its controversial accompanying political movement, and the historical distinctions between Cyrenaica, Tripolitania and the Fezzan also entrench sentiments of regional autonomy. Such contextual nuances must be taken into account when working with Ghat and Ubari municipalities in order to promote effective local governance, and the idea of achieving consensus, even at local level, should not be taken for granted.

5.4.4 Identify those who profit from the status quo and integrate them into future plans

At present, any organisation looking to engage in the promotion of local governance in the Fezzan faces an arduous task. They must be prepared to work with divisions at every level – among the population, within municipal offices, and within traditional authorities themselves. Moreover, power and territorial control in the south is currently being derived largely from military or financial clout. This landscape proves hugely challenging for effective governance, as there are various duplicate entities affiliated to Libya's national warring factions and operating simultaneously. Duplication not only means less efficiency and higher costs, but it also contributes to an overriding sense of confusion and ambiguity, which plays into the hands of certain actors.

Those seeking to intervene must be aware of the powerful and sizable entities within the Fezzan that are profiting from the status quo and striving to maintain it. In this sense certain traditional authorities are complicit, successfully maintaining multiple allegiances with rival governments and armed actors in order to preserve their current status. In order to bring about a change in circumstances that benefits the many rather than the few who are currently prospering, it is essential to engage with those profiting from the status quo and identify future roles and opportunities that could integrate them into a more inclusive future. The disarmament, demobilisation and reintegration of armed groups is central to this, but any actor (traditional or otherwise) prospering in the current climate who is not consulted and factored into future plans will seek to maintain the status quo. It is particularly difficult for international organisations to work with unofficial authorities such as tribes or armed groups due to ethical and political sensitivities, but any attempt to change the status quo without understanding what this long-term engagement implies is not sensitive to current conflicts.

5.4.5 It is essential to lay the groundwork for functioning institutions

To date, decentralisation in Libya has been poorly implemented and resourced, and therefore this recommendation is particularly difficult to achieve. However, it remains imperative that elected local institutions in the Fezzan operate effectively. The local governance law 59 of 2012 was passed in response to a strong message from communities, namely that they sought greater local autonomy following decades of

centralised rule.³⁸⁸ The findings of this research indicate that such a sentiment remains popular in the Fezzan, despite citizens' initial experiences with municipal councils over the past seven years being hugely disappointing.

In order to ensure a more effective relationship between citizens and their municipality in the Fezzan, it is first essential to lay the foundations for good governance in the region. The municipalities of Ghat and Ubari are in severe need of infrastructure in order to provide basic services, and until such investment is made any authority will struggle to govern effectively. Younger members of the community in particular are susceptible to illicit activities and militarisation, and greater investment and attention is required to provide sustainable, legal employment avenues. Second, it is important to remember that local governance via direct democracy is a relatively nascent concept in the region, and many residents are unaware of the exact roles and responsibilities of their elected institutions and officials. Efforts should be made to raise awareness and strengthen the influence of the population via inclusive dialogue and practical pilot projects managed by local communities and their representatives, to further develop locally supported governance structures and solutions.

388 UNDP. 2015. *Rapid Diagnostic of Local Governance and Local Development in Libya*, [https://www.undp.org/content/dam/libya/docs/UNDP%20Libya%20Rapid%20Diagnostic%20of%20Local%20Governance%20-%20Synthesis%20Report%20\(Final%20Version\).pdf](https://www.undp.org/content/dam/libya/docs/UNDP%20Libya%20Rapid%20Diagnostic%20of%20Local%20Governance%20-%20Synthesis%20Report%20(Final%20Version).pdf) (accessed 12 September 2019).

6 Conclusion

Based on a comparison of the various chapters' main findings, a number of common themes emerge regarding the legitimacy of traditional authorities. This chapter will first evaluate how such legitimacy is derived, in what areas or functions it is particularly pronounced, and how it is sustained. It will then outline shortcomings of, and challenges to, traditional authorities' legitimacy in all three countries. Finally, based on the above comparative examination, the chapter will set out a series of key takeaways and recommendations that could contribute to effective future interventions in local governance in Niger, Mali and Libya.

6.1 Sources of legitimacy of traditional authorities

6.1.1 Rules

Traditional authorities in areas of limited statehood come to power through various mechanisms, but the majority ascend to positions of influence via customary rules and traditions, which correspond to an elitist framework. In Libya, an individual's stature and level of experience within their tribe, coupled with their tribe's level of influence in the community, are the two key factors in determining tribal elders and other prominent tribal members. In turn, these prestigious figures designate positions of authority within closed consultations and votes. In Niger, the majority of tribal positions are inherited or likewise designated by tribal elites, reinforcing a hierarchical patronage system. Recent legislation reinforces these customs, with a 2015 law stipulating vaguely that 'any Nigerien from a given traditional or customary community can apply to the chiefship of said community if custom gives him the right to do so'. In Mali, hereditary succession and closed appointments appear less common than in the other two countries, but these practices still account for less than half of traditional authority positions.

In recent years traditional authorities have been increasingly incorporated into the state. This is most apparent in Niger, where such entities constitute a formal layer of local governance with state benefits, territorial jurisdictions and a local mandate. In Mali, traditional chiefs are tasked with administering the lowest levels of local governance – basic service provision and mediation at village level, albeit under the auspices of higher-ranked state officials. The 2015 Peace Agreement also acknowledges the unique contribution of traditional authorities in reconciliation and justice, but falls short of outlining an official remit. In Libya, democratically elected local governance has been introduced far more recently than in Niger or Mali, and while there is no official state incorporation of traditional authorities into this system, such authorities now ostensibly have the opportunity to run for local office and achieve representation.

It is essential to note that while there may be official provisions for traditional authority mandates at local level in all three countries, in reality the situation is far more complex. Traditional chiefs in Mali speak of being undermined or unrecognised by the state despite recent legislation outlining their role, while in Niger the formal incorporation of traditional rulers into the state administration blurs the distinction between territorial and community or ethnicity-based jurisdiction and legitimacy. Finally, in all three countries a lack of state resources or presence often means that traditional authorities are the *de facto* local governors, regardless of the extent to which their positions have been officially incorporated or formalised.

6.1.2 Values

Traditional authorities across in three countries are recognised to an extent as valid and respected sources of authority, particularly in areas where there is minimal state presence and therefore little alternative. These findings resonate with previous research on customary leaders in Africa, in particular the legitimising qualities of traditional authorities' accessibility, community representation, and role in conflict resolution.³⁸⁹ Focus groups conducted by this study specifically examined community trust and regard for traditional authorities, identifying key areas that distinguish them from other governance structures.

In Libya, focus group data shows that traditional authorities are considered to be more trustworthy than state bodies, which have promised to invest in the Fezzan but largely neglected it in recent years. Tribal leaders are considered approachable and flexible in terms of meeting times and locations, quick to provide solutions, and possessing an acute understanding of local dynamics and customs. This understanding often extends across national border lines and hence such authorities also enjoy a high degree of legitimacy when liaising with borderland communities. In Niger, focus group respondents highlighted the trustworthy and compassionate nature of traditional authorities, praise their proximity to local people, and concur that all other institutions (whether modern or religious) require customary chiefs to provide a validating or mediating authority. In Mali, focus group respondents praised the accessible nature of traditional authorities as a key pillar of their legitimacy. Such authorities are considered to be well known to all their constituents, which makes them not only more trustworthy but also able to dispense tailored advice and solutions. The traditional judicial role of the Qadi is held in particularly high regard, drawing legitimacy not only from customary stature and community proximity but also from Islamic principles.

389 Logan, C. 2013. 'The roots of resilience. Exploring popular support for African traditional authorities', *African Affairs*, 112(448), 353-376. Molenaar, F. et al. 2017. *A Line in the Sand: Roadmap for sustainable migration management in Agadez*. CRU report, The Hague: Clingendael Institute.

6.1.3 Functions

In recent years, traditional authorities have taken on greater roles and responsibilities owing to crises in the governance infrastructure of all three countries. In Libya, the role of tribal elders during the Gaddafi regime was restricted to tribal and community mediation, as well as to curbing potential rural dissent and administering rulings from the central government. However, since 2011 these authorities have replaced state governance actors that are in fact non-existent in the Fezzan. In this context traditional authorities now informally attempt to provide basic financial, health, education and security services in an under-resourced environment that suffers from heightened instability.

In Niger, traditional authorities have a formal role ascribed by the state in justice provision and conflict mediation as well as local administrative governance and social support. The ability of such authorities to effectively carry out this role depends on their respective training, experience, resources and social capital. In Mali, traditional authorities have formalised, low-level governance functions but in reality perform a wider array of service provision and mediation roles, particularly in the north of the country where state governance is ineffective.

All three contexts highlight the particularly effective role of traditional authorities in conflict resolution – whether mediating a ceasefire in Ubari, Libya, between Tuareg and Tebu fighters, instigating the 1996 peace initiative in northern Mali, or resolving land and resource disputes between Tuareg and Fulani herders in Niger. The importance of tribal influence in this particular function is acknowledged to varying degrees in the state legislation of Mali and Niger, and interviewees in this study emphasised conflict resolution as a key strength of traditional authorities in all three countries. A final theme consistent throughout this study is the function of the traditional authority as an intermediary, representing their community and conveying its needs to official bodies.

6.2 Challenges to traditional authorities' legitimacy

The first section of this chapter identified the ways in which traditional authorities come to power, how and why they maintain such positions in the eyes of their constituents, and what roles they perform after assuming such a platform. Central to all such questions is the concept of legitimacy, which is derived from a series of related factors such as state accreditation (or as a replacement for the state in areas where the central government is absent), community support, and effective or even unique performance in certain roles.³⁹⁰ Yet this overview only accounts for positive sources of legitimacy for

390 Beetham, D. 2016. 'Max Weber and the legitimacy of the modern state', *Analyse & Kritik*, 13(1), 34–45.

traditional authorities, and in order to evaluate their contemporary position effectively it is also necessary to outline the various challenges to their legitimacy.

6.2.1 Challenge 1 – Democratisation and decentralisation

Of the three countries included in this study, Niger is the one where the issue of politicization appeared most forcefully. The chieftaincy in Niger is normally secluded from politics by the fact that traditional authorities are legally appointed to an administrative role – therefore enjoying (in theory) the autonomy which administration normally has from the political class. Yet as Chapter 3 surmises, Nigerien elections – although not of the highest quality in terms of freedom and fairness – are still run well enough to pose the possibility of the incumbent losing power. Incumbents and opponents are therefore engaged in a continuous scramble for the resources needed to win elections. The traditional authority structures, which form a bridge to reach local constituencies, have become a political battleground. This has effects for traditional authorities' nomination, as several cases were identified where a village chief was removed from his post for not supporting the governing party and, vice versa, chiefs imposed by the government because it is expected they will toe its line. A process of politicization of traditional authorities is thus taking place in Niger.

This politicization is further compounded by the democratisation of the rules for the appointment of traditional authorities, combined with – at local level – their lack of resources. The data shows that, whereas in the past chieftaincies were mainly hereditary functions, today more and more chiefs are appointed through some form of election or local consultation. This has resulted in the need for potential candidates to campaign for their position. Chapter 3 has shown that this democratisation of chieftaincies has increased the ability of wealthy individuals to become traditional leaders. At the same time, and given the lack of resources generally available to traditional authorities at local level, wealthier chiefs are generally perceived to be able to get more things done than chiefs who have no money or (political) connections. All of this has affected how people view traditional authorities, with complaints abounding that they have become too partial, political or corrupt – like other state authorities.³⁹¹

Libya is illustrative of traditional authorities' responses to the introduction of new, democratic institutions. As discussed in Chapter 5, local governance law 59 of 2012 created municipal councils elected through local elections. In the municipalities under study here, these councils did not constitute new inclusive spaces for the voices in society. Rather, the municipal councils simply reproduced existing traditional power structures – either because the council was formed 'via consensus among tribal

391 Previous research has found a similar dynamic to be at work in Mali. See Ursu, A.-E. 2018. *op. cit.*

eminent³⁹² or because people simply elected prominent relatives or tribesmen.³⁹³ This does not mean, however, that there is strong popular support for the involvement of traditional authorities in local governance structures. Civil society activists and respondents from districts with less influential Tuareg families and a large young population (residing here due to lower living costs) were almost unanimous in their belief that traditional authorities should have a reduced remit in the future.

The co-existence of traditional governance structures and elected state institutions hence poses several challenges. Continuous attention will need to be paid to the question of how to balance traditional authorities' growing involvement in local governance with their unique advantage as mediators and bridges between society and the state. A second dilemma that requires attention is the fact that traditional authority structures generally represent elite status quo groups. To the extent that they control local governance structures, they shut off pathways for the emancipation of less influential groups (lower castes, women and young people). Solid and neutral institutional structures should be able to provide a space where such conflicts can be fought out in a non-violent manner.³⁹⁴ Where this avenue does not exist, conflicts over self-determination risk turning violent and institutions risk losing their legitimacy. Continuous attention will therefore need to be paid the quality of local institutions and elections. Chapter 3 proposed that, in the case of Niger, both challenges could be addressed through the organisation of an 'Estates general convention'.³⁹⁵

Finally, the commonly held assertion among respondents in all three countries that traditional authorities are particularly effective as representatives of their community vis-à-vis the state is not without controversy. Some traditional authorities believe this intermediary role reinforces their subordination to the state, while certain constituency members believe traditional authorities are not fully representative, favouring their own tribe or family network at the expense of wider community interests. Moreover, the act of conveying local needs to national policy makers and attempting to secure resources inevitably reproduces national-level conflicts and political allegiances within the locality.

392 Respondent #39, Tribe member, Awainat, Fezzan Region, March-June 2019.

393 This finding does not stand alone. Although not touched upon expressly in this study, the advent of democracy and decentralisation in Mali similarly resulted in the reproduction of status quo relationships and power struggles in local institutions. Lecocq, B. 2010. *op. cit.*

394 Lehoucq, F. 2002. 'Can Parties Police themselves? Electoral Governance and Democratization', *International Political Science Review*, 23:1, 29-46.

395 Estates general conventions (from the historical French process of the *états généraux*, of revolutionary fame) are conventions where delegates from all branches of an activity sector across a national territory are convened to debate problems and recommend solutions. Such conventions typically start and end with plenary sessions, and they organise committees to discuss each major issue area identified as a source of problems. Estates general are meant to propose solutions and build consensus around them.

6.2.2 Challenge 2 – The advent of armed governance

In Mali and Libya, traditional governance structures function under a logic of armed governance. A key finding is that relationships between traditional authorities and non-state armed groups differs in line with local conflict dynamics. In Mali, we compared the situation of traditional authorities aligned to the separatist CMA coalition in Kidal and those aligned to the pro-state Platform coalition in Ménaka. In Kidal, where armed group formation and composition is very much defined by traditional elites' attempts to maintain control over the status quo, the relationship between traditional authorities and armed leaderships is highly organised and intertwined. This has consequences for the way in which traditional authorities do their work. Traditional justice provision, for example, is formally organised and recognised within an institutional framework in which the non-state armed groups have taken on policing functions as well as control over the prisons and detention centres. This does not mean, however, that traditional elites see the current situation as ideal. They note that they feel severely circumscribed by armed groups in the execution of their tasks.

In the Ménaka region, the armed group dynamic is more disorganised. It is best explained as different armed leaders (and their tribal constituencies) trying to achieve representation in the peace process by countering the dominant hold over armed groups of those higher up the tribal hierarchies. As opposed to the situation in Kidal, the fusion of traditional authority figures and armed group leaders is therefore less clear-cut here, with the fragmentation of armed groups being more the result of those wielding arms seeking to stake a claim in the peace process than of traditional leaders trying to control armed group leaderships. Amidst a context marked by violent inter-communal conflict and the presence of radical groups, traditional authorities collaborate with military actors who can provide security to themselves and their communities. The more disorganised nature of the relationships between traditional authorities and armed groups is also visible in traditional justice provision, as authorities rely much more on personal connections with armed groups rather than operating within an institutionalised framework. As a consequence, those traditional authorities that do not possess such connections are quickly losing their relevance – and hence their legitimacy – with their constituencies.

In the case of Libya, (Tuareg) armed groups have similarly become the main security actors in Ghat and Ubari.³⁹⁶ Formal exchange and coordination mechanisms exist between these groups and the SSTC, allowing both sides to coordinate on social and Fezzan-centred issues. Traditional authorities have no say, however, over larger strategic matters. The armed groups tend to follow the commands of whoever pays their

396 In the case of Ubari in particular, respondents noted that armed groups control the municipality and that formal and informal authorities must therefore engage with them.

salaries in either Tripoli (the internationally backed Government of National Accord – GNA) or Cyrenaica (Libyan National Army, LNA, controlled by Field Marshal Haftar). Both national camps seek to establish alliances with local armed groups to shift the balance of power in the Fezzan in their own favour – albeit in a haphazard manner. On the one hand, this increases local instability as local communities and authorities are increasingly divided along these national fault lines. On the other hand, armed groups and traditional authorities attempt to make strategic use of these alliances to gain access to the service provision and resources that the region is in dire need of.

From the above, it follows that the relationship between traditional authorities and non-state armed groups may range from fusion and a high degree of organisation (Kidal), to coordination (Ghat/Ubari), to pragmatic collaboration (Ménaka).³⁹⁷ Nevertheless, in all three cases we find evidence of an eroding role for traditional authorities. With the monopoly of violence in the hands of armed groups, traditional authorities only have as much leeway for their work as armed groups allow them. In addition, their enforcement power similarly depends on their connections to these armed actors. They thereby run the risk of losing their constituents to armed groups – an erosion of their legitimacy – when the latter become seen as more effective governance actors.

6.2.3 Challenge 3 – insecurity

Next to the presence of non-state armed groups, all three countries under study here also suffer from inter-communal conflicts, such as those between herders and farmers, and from the presence of radical armed groups. In theory, one of the key roles of traditional authorities is to act as mediators and thereby contribute to stability at local level. Throughout the study, two significant examples came up where traditional authorities were able to successfully contribute to high-level peace efforts. In Mali, the 1996 peace initiative led by traditional leaders of Songhai communities and Tuareg tribal and religious leaders resulted in reconciliatory meetings between all ethnic groups of northern Mali and, eventually, the Bourem (Peace) Pact.³⁹⁸ In Libya, the 2014 Ubari war between Tuareg and Tubu armed groups (supported by national and international sponsors) ended after prolonged negotiations between traditional mediators. This helped to strengthen community relations with, and trust in, traditional authorities.

Yet in the case of Ménaka, we find that traditional authorities' ability to engage in conflict mediation is increasingly undermined by the dynamics of armed group

397 We did not come across any cases where non-state armed groups rejected or chased away the traditional authorities in the areas under their control. This practice seems to be more prevalent with radical extremist groups, who see traditional authorities as agents of the state and/or as obstacles to their religious or ideological convictions.

398 Lecocq, B. and Klute, G. *op. cit.* 34.

fragmentation described above. Local fault lines play an important role in this process – resulting in the armed mobilisation of communities along ethnic lines and/or in line with local grievances over conflicting land use or trafficking routes. As a consequence, constituencies that respond to certain traditional authority structures have become more fragmented. In addition, traditional authorities run the risk of being (perceived to be) associated with one of the sides in the conflict. This undermines their security, their neutrality, and – by extension – their ability to engage in effective conflict resolution. In Tillabéri, we also find that certain ethnicities, such as the Fulani, have historically been underrepresented in (traditional) authority structures. This has stood in the way of effective conflict resolution, as Fulani constituencies systematically feel unheard and mistreated.

In addition, radical armed groups frequently exploit the inter-communal conflicts in the region to anchor themselves in local communities. The security situation prevented us from asking direct questions about the presence of radical armed actors and their relationships to traditional authorities. Yet evidence did emerge that these groups pose a severe threat to traditional authorities. This is the case in Ménaka, where radical armed groups threaten and attack traditional authorities, who they see as local allies or representatives of the pro-state Platform coalition. In northern Tillabéri, the worsening security situation has similarly resulted in chiefs fleeing their position, being killed or abducted, joining the militants, and/or staying put amidst both suspicions of the state (who view them as potential jihadist collaborators) and extremist threats.

An interesting finding from Mali is that there is a strong difference in the relationship between perceived state authorities and traditional authorities in urban and rural settings. Rural chiefs are viewed as being more suspicious and even hostile to the state due to the risk they would face if seen to be associated with the state. Given the absence of state-enforced security in many rural settings, traditional authorities in these regions have little alternative than to co-exist with the *de facto* holders of power, such as radical armed groups. All of this suggests that strengthening the position of traditional authorities in areas of limited statehood – as well as the state's or international community's ability to work with them in conflict mediation – is intrinsically linked to security provision. Chapter 4 proposed that, in Mali, institutionalised cooperation among the signatories of the peace agreement to extend their protection force towards all holders of traditional authority would constitute a first key step on the path of revaluation of customary actors.

In addition, an important lesson from Niger is that traditional authorities are uniquely placed to monitor ongoing radicalisation processes and conflict dynamics, and to take action if needed. In the case of Ayarou, for example, the arrival of 'Izala' Salafi preachers from the 1990s onwards sparked local tensions. Traditional authorities brokered some appeasement between Salafi groups and more moderate local community members by drawing lines of conduct that ought not be crossed. Together with state authorities,

traditional authorities have kept a check on Salafi preaching. In the summer of 2019, the Nigerien government formalised this practice through a law formally allowing the territorial administration to oversee religious activity for the sake of public order. Although this step is debatable from the point of view of religious freedom, it goes to show that better use could be made of traditional authorities in at-risk regions to monitor and provide early warning on the potential spill-over of conflict and radical extremism.³⁹⁹

6.2.4 Challenge 4 – The rejection of the status quo

One point that became crystal clear across all three countries is that traditional authorities represent traditional elites who seek to maintain the status quo. Amidst changing contexts, this means they have to continuously adapt to the arrival of new competing authorities. Indeed, as Chapter 2 has shown, traditional authority structures are not static entities but rather configurations of power that wax and wane together with the rise and fall of different empires, colonial powers, post-independent state building processes, and, more recently, processes of democratisation, decentralisation, and armed governance.

In Libya, the hierarchical structure and levels of representation among traditional elites is a cause of confrontation and a threat to legitimacy. There is a strong desire among focus group respondents for their local leadership to be elected by the people and held to account, and an underlying assertion that traditional governance should only be a short-term fix to contemporary governance problems. Younger members of society also express a certain disillusion with tribal elites and feel excluded from the decision-making process, and when this sentiment is coupled with high rates of youth unemployment and poverty, it is inevitable that Libyan youth feel drawn towards other actors such as armed groups that offer them greater influence.

As described above, collaboration with armed governance is one strategy that traditional authorities – and contenders to the status quo – have at their disposal. In Mali, for example, the HCUA is a prime example of an armed group formed to protect the traditional status quo. Conversely, some of the other armed actors represent previously marginalised groups that have taken up arms to fight for social change (the MNLA in its early days) and/or to be represented in the peace process and reap the accompanying spoils. Tensions between status quo and previously marginalised groups also play out within formal institutions in more democratic settings. In Tchintabaraden (Niger), black Tuareg (slave descendants) used formal regulations to apply for the creation of breakaway settlements that would be headed by their own chief. They did so because

399 Although it should also be recognised that this could put traditional authorities further at risk of radical attacks.

they felt excluded from consultation, decision making and benefits by the light-skinned noble Tuareg settlement leadership who had been in power for centuries. The latter did not look kindly upon this development and mounted a legal challenge against the decision.

Each country context has thereby demonstrated that traditional authorities cannot be considered apolitical actors. Pragmatism dictates that these authorities must develop relations and alliances with those who can provide access to resources and security in the region, whether state administrators, armed groups, or rival national governments. This need to align with the *de facto* holders of power is ongoing and allegiances can shift quickly in accordance with developments on the ground. The result of this is that traditional authorities actively marginalise or fracture sections of the communities they are supposed to represent, in order to secure optimal, albeit short-term, access to resources. With particular regard to traditional authorities' allegiances with armed actors, such cooperation also contributes to the ongoing militarisation of society and proliferation of violence – phenomena that are clearly apparent in all three countries.

This research shows that future interventions must incorporate a greater array of key stakeholders in their efforts and should accommodate as many perspectives as possible. Although there are cross-border commonalities and themes, each country displays particular local aspects – for example, the different dynamics between armed groups and traditional authorities in Mali, the varying regional perceptions of future local governance in Libya, and the complex inter-community relationships of multiple tribes and ethnicities in Niger. The existence of such different aspects points to a common recommendation that effective future interventions in this region depend on rigorous actor mapping and stakeholder consultation beforehand. Due to the volatile environment in each case, such actor mapping must be carried out at regular intervals, ideally within an institutionalised framework, to share knowledge and resources among international organisations.

6.3 Key takeaways and recommendations

The abovementioned challenges have important long-term consequences for traditional authorities, and the stability of the regions in which they are active:

- First, the enduring practices of hereditary rule and elitist appointments within traditional structures perpetuate the status quo and damage the legitimacy of such structures in the eyes of marginalised communities. Younger and underrepresented members of tribes and communities will seek alternative structures that provide greater opportunities for empowerment.
- Second, the increased roles and responsibilities undertaken by traditional authorities in areas of minimal state presence are empowering in the short term, as reflected by

high levels of community trust in such cases. However, chronic resource shortages in these areas will inevitably leave traditional authorities exposed and overburdened, and levels of community trust will begin to reflect this reality. When legitimacy is tied to effective governance, traditional authorities in these regions are in an unenviable position.

- Finally, traditional authorities are valued and respected among their constituents, particularly in the fields of conflict resolution and mediation, but this reputation is being undermined by the need to make short-term allegiances for security at the expense of long-term stability. By siding with political or armed actors, traditional authorities risk eroding their neutrality and close community ties, upon which much of their legitimacy is derived.

Based on these findings, a number of general recommendations for policy makers can be concluded:

- Efforts should be made to address the exclusive tendencies of traditional authority structures and key dynamics that contribute to this, such as their politicization. From our discussions with high-level political elites in Niger, there emerged a call to organise a national forum to discuss the negative effects that the introduction of democratic governance has had on traditional authorities' perceived neutrality and legitimacy. Given that we find politicization has similarly affected traditional authorities in Mali, we argue that the time has also come for a broader regional debate on the role of traditional authorities in contemporary governance structures. The dialogues, which should include underrepresented groups, could inform processes such as the current constitutional reform in Mali, which seeks to provide traditional authorities with designated seats in a new second chamber, or the further development of local governance interventions in Libya.
- A second recommendation, specifically proposed by the Nigerien Minister of Justice, is to codify traditional authorities' customs in the form of jurisprudence and to standardise their justice provision. This could improve the transparency and objectivity of local justice provision and allow for a comparison between the traditional (sharia) law implemented in these countries and international human rights norms.⁴⁰⁰ In areas presently under the control of armed groups, such as northern Mali, efforts to engage with Qadis (traditional religious figures in reconciliation and justice, administering verdicts on the basis of Islamic law) in this manner would allow for the establishment of a channel of communication between the central state and justice providers that currently operate under armed governance. A related recommendation is to train and equip all types of traditional

⁴⁰⁰ Ursu (2018) shows that there is not necessarily a tension between the two. Ursu, A.-E. 2018. *Between ideals and needs: Is Malian customary justice incompatible with international human rights standards?*, CRU Policy Brief, The Hague, Clingendael.

authorities – especially those with limited access to resources – to ensure the effectiveness and neutrality of their governance.

- A third main recommendation is to support mediation efforts at local level to build a foundation of stability that could subsequently be scaled up. Although this will not solve all conflict in the region, it could prevent the further spread and escalation of local conflicts before they take on an ethnic dimension or become co-opted by radical armed groups. Due to their historical role as conflict mediators and representatives of their communities, traditional authorities are pivotal partners in such inter-communal dialogues. Moreover, the recent experience of the Clingendael Academy training negotiation skills for communities subject to herder-farmer conflicts in Nigeria showed that traditional authorities are also key partners because the outcomes of these dialogues will need to be communicated back to the full community to build acceptance and support.

There are already a number of organisations present in the border area between Mali and Niger that arrange meetings between representatives of different communities to encourage trust and dialogue. These efforts should be further supported. Investing in capacity building for traditional authorities, such as negotiation skills and their understanding of important rules and regulations – such as the pastoral code – is likely to improve the success rate of such reconciliation efforts. Facilitating dialogue and the exchange of experiences at regional and national levels could subsequently scale these efforts up. This would also allow for the establishment of a communication channel between local communities and the (inter)national community.

The findings from our country studies also act as a warning signal for the Sahel and West Africa region more generally. Traditional authorities are often the only authority structures present in regions threatened by (radical) armed groups, which have shown the ability to capitalise on local fault lines that are often linked to conflicts over access to natural resources. Many of the recommendations presented here should therefore be applied to at-risk regions as well, to strengthen local resilience against armed governance. Such a proactive approach would entail supporting traditional authorities' ability to engage in effective and transparent governance efforts, including justice provision, combined with support for preventive inter- and intra-community conflict resolution. Although such measures will not defeat (radical) armed groups, they could make it much more difficult for them to anchor themselves in new localities.

Annex – Methodology

Data collection took place between March and May 2019. In each country, a team consisting of local researchers either from, or familiar with, these regions was trained during a two-day workshop to conduct structured key informant interviews (KIIs) and focus group discussions (FGDs) in the selected municipalities. In principle, all researchers followed the same interview and FGD guides, although the workshops were used to tailor the questionnaires to local circumstances and sensitivities. In addition, the training workshops served to map the local authority structures and community dynamics to identify key respondents for the structured interviews and FGDs.

In every municipality, the local research teams conducted between 20-25 structured KIIs with traditional authorities, religious figures, state authorities (to the extent that these were present, such as mayors, security forces and the judiciary), non-state authorities such as leaders of armed groups and self-defence groups (again, to the extent they were present), and civil society organisations. The structured nature of the interviews allowed for the comparison of findings across municipalities and countries. In addition, the local research teams conducted between 1-4 FGDs in each municipality with 5-15 respondents per session. Focus group participants explicitly included women, young people and underrepresented groups. In total, the study uses data obtained through 323 KIIs and 34 FGDs. The interviews and FGDs were conducted in French, Arabic and other local languages.

Table 11 Distribution of KIIs and FGDs across countries and municipalities

| Mali | | | Niger | | | Libya | | |
|--------|------|------|----------------|------|------|------------------|------|------|
| | KIIs | FGDs | | KIIs | FGDs | | KIIs | FGDs |
| Kidal | 25 | 4 | Ayarou | 30 | 1 | Ghat (Al-Barkat) | 20 | 4 |
| Anéfis | 25 | 4 | Abala | 32 | 1 | Ghat (Awainat) | 20 | 4 |
| Ménaka | 25 | 4 | Banibangou | 21 | 1 | Ubari | 20 | 4 |
| Alata | 25 | 4 | Abalak | 32 | 1 | | | |
| | | | Kao | 23 | 1 | | | |
| | | | Tchintabaraden | 25 | 1 | | | |

The local researchers provided French and Arabic transcripts of the KIIs and FGDs to the Clingendael project team. Where possible, we aimed to receive verbatim transcripts but recording the interviews was often not possible due to the sensitive nature of the questions and the fact that data collection took place in local areas experiencing ongoing violence and insecurity. Receiving the interview notes also proved challenging

due to the limited availability of communication means in remote regions, to the local researchers having limited to no access to electricity, and to the outbreak of violent conflict in Tripoli in early April 2019, as well as massive flooding in the Ghat region (the latter two issues preventing the local researchers from travelling to other locations to type out their interview notes). The local researchers had to resort to creative solutions like sending photographs of their handwritten notes via WhatsApp (Al-Barkat) and sending their handwritten notes and audio recordings via UN Humanitarian Air Services flights (Mali) and buses (Niger) to Bamako and Niamey respectively so that they could be typed up there by other members of the local research teams. To the extent possible, the local researchers checked the transcripts before sending them to the Clingendael project team.

The abovementioned solutions all posed different risks to the data. To ensure the quality and consistency of the data, the Clingendael project team sought to engage with the local researchers on a daily to weekly basis (depending on the available lines of communication – either through direct WhatsApp contact or through the local research coordinators) to follow up on data collection issues and answer questions from the field. The project team asked the local research teams to send transcripts of their interviews on a daily to weekly basis, again to monitor the quality and consistency of the data. This allowed the team to identify data collection issues early on and to address them as soon as possible.

To ensure the validity of the data, the Clingendael project team, VNG International, and Bureau Ensemble organised 1-2 rounds of follow-up workshops and meetings in the three countries to discuss the initial findings and recommendations with the local research teams, as well as with a wide range of experts, (traditional) authorities, NGOs and members of the international community (the latter of which are all potential end users of the project's findings).⁴⁰¹ As well as data validation, many of these conversations took the form of key informant interviews that allowed the Clingendael project team to fill gaps in the data and collect additional information. In Libya, for example, the Libyan researchers engaged in a participative scenario exercise mapping local authority structures under different scenarios that proved insightful into local dynamics but perhaps even more so into local conflict lines that ran across the local research team itself.

So than an analysis could be undertaken, the project team coded all transcripts using NVivo software. A codebook was developed to enable the coding of the transcripts – followed by an intercoder reliability exercise to ensure consistency across

401 The security situation in Libya did not allow for the organisation of a validation workshop in April 2019. In Mali and Niger, these validation workshops took place in April. Validation workshops were organised in all three countries in June 2019.

the different coders. We coded 6,426 text segments. The coding focused on identifying the main governance actors identified by the respondents (cases), the relationships between the different actors (relationships), and the main dimensions of legitimacy (rules, values, functions – see conceptualisation in Chapter 1.1) and challenges/changes to this legitimacy in the municipalities under study (nodes). The coding allowed for the creation of network sociograms that we have published online using the kumu.io software.⁴⁰² The online sociograms provide access to some of the key data points underlying our analysis of the relationships between different governance actors in the municipalities under study here. They can be found here: <https://www.clingendael.org/publication/legitimacy-traditional-authorities-mali-niger-and-libya>.

⁴⁰² Ursu. 2018. *op. cit.*

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