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**IMPROVING DEMOCRATIC GOVERNANCE FOR
SUSTAINABLE DEVELOPMENT:**

AN ASSESSMENT OF CHANGE AND CONTINUITY IN NIGER

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Managed by: Associates in Rural Development, Inc.
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Assessment Team:

Robert Charlick
Leslie Fox
Sheldon Gellar
Pearl Robinson
Tina West

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ACRONYMS

ACTN	Association des Chefs Traditionals du Niger
AFC	Alliance des Forces de Changes
AFN	Association des Femmes Nigeriennes
AFJN	Association des Femmes Juristes du Niger
AHA	Amenagement Hydro-Agricole
AIN	Association Islamique du Niger
AMACA	Hausa Self-help and Cultural Association
ANDDH	Association Nigérien de Démocratie et Droits de l'Homme
ANDP	Alliance Nigérienne pour la Démocratie et le Progrès
ARD	Associates in Rural Development
BDRN	Banque de Développement Rurale du Niger
BNA	Bloc Nigérien d'Action
CCC	Caisse de Crédit Coopérative
CD	Conseil de Développement
CDS	Convention Démocratique et Sociale
CLUSA	Cooperative League of the United States of America
CMS	Conseil Militaire Supreme
COTEAR	Coordinating Committee for GON Services at Arrondissement Level
COTEDEP	Coordinating Committee for GON services at Departmental Level
CUN	Communaute Urbaine de Niamey
CPSP	Country Program Strategy Plan
CPCT	Caisse des Prets aux Collectivites Territoriales
CSC	Conseil Superieur de la Communication
CSO	Conseil Superieur d'Orientation National

CT	Collectivite Territoriale
D/G	Democratic Governance
DLD	Démocratie, Liberté et Développement
ENA	Ecole Nationale d'Administration
FSN	Foreign Service National
GAP	Groupement des Associations Privée
GIE	Groupement d'Interet Economique
GON	Government of Niger
GM	Groupement Mutualiste
GMP	Groupement Mutualiste Pastorale
GMV	Groupement Mutualiste Villagois
HCR	Haut Commission de la République
ILO	International Labor Organization
IMF	International Monetary Fund
IRED	Innovations et Reseaux pour l'Environnement et Développement
LNDH	Ligue National de Droits de l'Homme
MNS	Mouvement National de la Samariya
MNSD	Mouvement National pour la Société de Développement
MOI	Ministry of Interior
NGO	Non-governmental Organization
(S)NC	(Sovereign) National Conference
NRM	Natural Resource Management
ONAHA	Office Nationale d'Amenagement Hydro-Agricole
ONEP	Office National d'Edition et de Presse

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ORDN	Far Left Party of Ruling Coalition
ORTN	Office National de la Radio-Diffusion et Television
PND	Parti Nigerien pour la Démocratie et La Socialism
PO	Project Output
PPN-RDA	Parti Progressiste Nigerienne-Rassemblement Démocratique Africaine
PSDN	Parti Social-Democrate Nigérien
PUND	Parti pour l'Unité Nationale et la Démocratie
PVO	Private Voluntary Organization
RDFN	Rassemblement Démocratique des Femmes Nigeriennes
RIDD-FITILA	Nigerien Civic Education Organization
SNAD	Syndicat National des Agents Douaniers
SNEN	Syndicat National des Enseignants du Niger
SNV	Dutch Volunteer Organization
SO	Strategic Objective
UDN	Union Démocratique Nigérienne
UDPS	Union pour la Démocratie et le Progrès
UNC	Union National des Coopératives
UNCC	Union National des Coopératives et Crédit
UNIS	Union Nigérienne des Independents et Sympathisants
UNTN	Union Nationale des Travailleurs du Niger
USAID	United States Agency for International Development
USN	Union des Scolaires de Niger
USTN	Union National des Travailleurs du Niger
WOCCU	World Council of Credit Unions

CHRONOLOGY OF POLITICAL EVENTS

- October 1946 The Rassemblement Démocratique Africain formed as a regional party, with the Parti Progrèssiste Nigérien (PPN as the Nigerien chapter).
- 1947 French organize the Union Nigérien des Independents et Sympathisants (UNIS) as a counter weight, appealing to the eastern (Hausa) chiefs, and UNIS won the elections of 1948 and 1952.
- 1954 The Union Démocratique Nigérienne (UDN) formed led by Djibo Bakary ("leftist split within the PPN-RDA).
- 1955 Bloc Nigérien Action formed as a party of the chiefs winning nearly 50% of votes in election of 1956 in the East, while the PPN swept the West.
- 1957 Coalition of the UDN (Sawaba) and the BNA won 41 of 60 seats in the Territorial Assembly.
- September 1958 75% of those voting approve the proposition to continue affiliation with France, against the position of the UDN. Turnout rate was lowest in French West Africa at less than 30%.
- December 1958 Niger proclaimed a Republic within the French Union.
- October 1959 Sawaba party officially banned.
- August 3, 1960 Independence of the République of Niger
- 1968-1974 Intermittent severe drought, particularly severe from 1972 rainy season to 1974 rainy season. Major refugee camps outside of cities, particularly outside of Niamey
- April 15, 1974 Coup d'Etat by 12 officers formed into Counsel Supreme Militaire. Lt Col. Seyni Kountche and Major Sani Sido quickly emerge as dominant figures.
- April 1974 Sani Sido removed from power by implication in "coup attempt" linked to Sawaba. He dies in prison in 1977.
- March 1976 Coup attempt with ethnic overtones (Hausa-Twareg) fails.
- 1979-1982 Government preparations for the Société de Développement (corporatist development scheme).
- Late 1983 Société de développement officially in place with creation of the CND (Conseil Nationale de Développement) at the top.

October 1983	The supposed Bonkono coup attempt led by Kountche's top advisor and security officer. Chief of Staff Ali Saibou remains loyal.
1983-1984	Severe drought and famine affecting most regions of Niger. Refugee camps not established. System of resettlement of nomads and "micro-réalisation plots" started.
1985-1987	The National Charter (a pre-constitutional document) written and finally submitted for referendum.
February 1985	Twareg commando raid on Tchín Tabaraden marks beginning of armed hostilities.
November 1987	General Seyni Kountche dies and is replaced by General Ali Saibou.
December 1989	Adoption of a new constitution, creation of a single legal party the MNSD, and holding of elections for deputies to the single party National Assembly (December 1989). Ali Saibou elected as President of new Second Republic.
January 1990	Expulsion of Twaregs from Algeria. Niger accepts 18,000 of them, many settled in temporary camps near Tchín Tabaraden.
February 1990	Student demonstration on Kennedy bridge results in 91 injuries including several deaths (some estimates as high as 14).
February 1990	Series of strikes popular demonstration lead to government concessions.
May 7, 1990	Twareg raid on administrative post by Twareg unit results in death of three policemen and two civilians, Army action at Tchín tabarden results in deaths of many Twaregs (government estimate of 70, Twareg estimate of 600) including summary execution of at least 20 Twaregs and torturing of others.
May 1, 1990	USTN denounces the regime and calls for multiparty government, renouncing policy of responsible participation.
June 1990	Unions and students jointly demand multiparty democracy.
November 1990	First massive strike and demonstration for multipartyism.
April 1991	Constitutional amendment permitting multiple parties.
July - Nov 1991	National Conference, and several Estates Generaux held in Niamey. National Conference declared itself "sovereign," and established a transitional government which was supposed to remain in power for 15 months. National Conference rejects notion of "classical structural adjustment program." New aid dries up.

November 1991 Transition government under Prime Minister Cheiffou Amadou and the High Council of the Republic headed by Prof. André Salifou. President Ali Saibou was permitted to continue in a symbolic role.

February 28, 1992 Military mutiny in Niamey, forces government to pay overdue military salaries and to release officers held for the Tchín Tabarden massacre.

August 1992 Following the killing of a police official in Agadez, a unit of the Nigerien military took action in its own name, arresting approximately 100 "suspected sympathizers" including several top officials of the national government, and held these people hostage against the express will of government until February and March 1993.

December 1992 Nigerien electorate overwhelmingly approved the Constitution of the Third Republic.

Feb - March 1993 Elections for legislature and President of Third Republic.

April 16, 1993 Mahamane Ousmane (CDS) is installed as President with new government headed by Mahamadou Issoufou (PDNS). President of National Assembly Moumouni Djermakoye (ANDP-Zaman Lafiya) elected after a brief constitutional dispute settled by the Supreme Court.

June 1993 Truce signed with leaders of Twareg rebellion but rejected by several factions.

Jan - March 1994 Twareg attacks recommence following June 1993 cease-fire agreement.

Jan - June 1994 Series of strikes by various unions of government workers, and by USTN Central Union for overdue salaries and demands for a 30-50% adjustment in salaries following CFAF devaluation.

February 1994 Police and Republican guard occupy the office of the Supreme Council for Communications.

February 1994 IDA approves a new support of \$25.0 million, and GON signs a new IMF standby agreement valued at \$26.0 million.

March 1994 Parliamentary opposition begins its "civil disobedience" campaign over charges that President Ousmane is violating constitution on appointments.

March 1994 Student demonstration over non-payment of stipends results in police response which claims the life of one students (accidentally).

March 11-12, 1994 Clashes between government troops and a sect associated with Izala in Koulouka (near Bani Bangou) leave 8 dead, all Nigerien soldiers. Of note, no military reprisals followed the killings.

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- April 17, 1994 Opposition demonstration leads to arrest of a number of leading opposition figures and government attempt to strip arrested parliamentary opposition leaders of their immunity.
- May 1994 General Assembly of Islamic associations at Grand Mosque of Niamey finds that over 2/3 of the articles in the proposed Family Code "run counter to the Koran."
- June 1, 1994 USTN calls for an indefinite general strike by public sector employees. Strike suspended on July 22.
- June - April 1994 Supreme Court finds parliamentary resolution of lifting of parliamentary immunity from arrested opposition leaders is unconstitutional.
- July 22, 1994 General strike by public sector employees suspended following defection of a number of unions.
- August 11, 1994 Motion of censure of the government of Prime Minister Issoufou is defeated on a straight party coalition vote, but Prime Minister promises to reorganize the government by the end of August.
- October 3, 1994 Prime Minister Issoufou resigned and his party PNDS leaves the AFC and joins the parliamentary opposition.
- October 5 President Ousmane appoints Souley Abdoulaye as Prime Minister.
- October 8 A peace agreement and truce is signed between representatives of the Government of Niger and the CRA (Twareg insurgency) in Burkina Faso. The war is said to be over.

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EXECUTIVE SUMMARY

INTRODUCTION

At the request of USAID/Niger, Associates in Rural Development, Inc. (ARD) undertook a broad-based democratic governance assessment designed to:

- provide data and analysis useful for the completion of a portion of the Country Strategy (CPSP) related to democratization and governance;
- identify governance constraints to progress in sustainable development in both Nigerien society and government;
- suggest areas of long term support through which existing USAID/Niger projects and programs can promote solutions to democratic governance constraints; and,
- suggest a conceptual approach through which USAID/Niger might identify new activities to further democracy and more effective governance.

A detailed scope of work laid out a large number of governance issues to be addressed in the report. To address this scope of work, the ARD team conducted research in Washington and fielded a team of five individuals who undertook a total of 21 weeks of fieldwork in Niger, including approximately 33 days of field work outside of Niamey. The ARD team had the support of a number of Nigerien consultants, including the active involvement of three Foreign Service Nationals, in the conduct of its data gathering and field work activities.

THE POLICY QUESTION AND APPROACH OF THE STUDY

The approach adopted by the team was based on a policy-oriented use of institutional analysis. The key organizing question of the study was the following, "How do governance behaviors manifest by actors at all levels of Nigerien society affect the capacity of the Nigerien people to achieve sustainable improvements in the quality of their lives, and what can donors, like USAID, do to enhance behaviors which will support that goal?"

The institutional analysis adopted is based on a very simple proposition: the choices people make, including the way they choose to organize themselves to manage their public resources, are rational. Choices are facilitated through an understanding of the rules of the game, i.e., formally or informally institutionalized norms. Since independence in 1960, Nigerien political actors have made these choices according to a set of rules determined by pre-existing political values, by the logic of political action in a one-party state, and subsequently by the logic of political action under a narrowly-based personal regime dominated by military officers. Since 1988 these rules have been evolving, leading to the political transition to a formal democratic system manifest by the free election of a new government under the Constitution of the Third Republic in April 1993.

This study explores how political institutions and behaviors have been affected by the interplay of this new set of democratic rules and older, well institutionalized patterns of political behavior. It explores what the incentives are for political actors to play by the newly adopted democratic rules of the game. It documents the "action tendencies," i.e., the dominant trends in behavior, which seem to be emerging

after one year of formal democratic governance. It explores these trends at a number of levels, ranging from an analysis of the formal constitutional rules established, to the operation of the institutions of national government, to the efforts to "decentralize" government, to the organization and functioning of civil society. It also analyzes the functioning of two important institutions which we call linkage structures, political parties and the media, to learn what their contributions have been to political behavior.

The study starts from an understanding of Nigerien society and political life, and notes how Nigerien political behavior has begun to incorporate a number of political behaviors which, it is posited, constitute the basis of effective democratic governance. Specifically, it asks how Nigerien society attempts:

- to limit abuses of executive power;
- to broaden opportunities on the part of more Nigeriens to participate in national public policy decisions;
- to establish a rule of law under which all Nigeriens, including those in positions of authority, are held accountable for their actions under the same rules; and,
- to make their governance processes more effective and responsive to the interests of the Nigerien public.

Having established the dominant behaviors, the study discusses their implications for the achievement of sustainable development, including the deepening of a pattern of managing public resources which is increasingly democratic.

The study concludes with a strategic approach to determining how donors should support the reform of governance in Niger in the direction of effective democratic governance, what each donor is currently committed to do to assist Niger, and what USAID might do as a function of its current and proposed strategic objectives, program outcomes, and project activities.

ANALYSIS AND FINDINGS

In general, the Nigerien people have taken a giant step in improving their governance patterns in the past four years. It is now widely acknowledged (Carter, Africa Demo; Freedom House, 1994 Report), that Niger must be counted among the "free" societies in Africa which have completed an initial transition to democratic rule. This is in dramatic contrast to its ranking as "not free" or as on an ambiguous path to democracy only a few years ago. In addition, Niger's democratically elected government has been able to agree to and commence implementing some difficult economic reform measures recommended by international financial institutions. The dramatic devaluation of its currency, the CFA franc in January 1994, has also restored considerable confidence in its ability to resume its progress to a sounder economic development base. Together these improvements have fully warranted placing Niger in the category of a "focus" or "sustainable development" country where USAID can maintain and even consider expanding its development assistance program.

It is in this general context that we offer our analysis of specific changes in governance patterns, of the emergence and persistence of political behaviors, and of areas in both government and in the society at large where current patterns seem to limit the deepening and consolidation of Nigerien democracy.

Finally, to the extent that our specific analysis and findings are based on our understanding of what movements toward specific institutional changes and reforms reinforce the prospects for further consolidation of democratic behaviors and practices, this is not intended to hold Nigeriens up against a gold-standard or idealized norm. Rather, we see all societies as evolving political institutions and behavior in a number of domains unevenly and incompletely. The function of this analysis is to point out where certain patterns of behavior may logically limit further governance reforms by failing to provide the proper incentives, or by instead providing perverse or incompatible incentives.

A. Formal Rules and the Nigerien State

Nigeriens have made very significant progress in adopting a set of formal legal understandings to govern political behavior in the Third Republic. This has produced a set of rules (a regime) for the conduct of politics which is sharply at odds with those of the First and Second Republics and to the military regime (the regime d'exception). The Nigerien Constitution places a number of important limits on the exercise of executive power. These limits have opened up important opportunities for political actors, including non-state actors, who previously had very little legal authority to act. A careful analysis of the Nigerien Constitution leads to the following observations:

- it retains a heavy bias toward a powerful centralized state;
- it provides for an executive that is more powerful than the legislature or the judiciary;
- it provides the basis for constructing a rule of law and an independent judiciary, but it also allows very little access or recourse to ordinary citizens through appeals to constitutional principles in court processes;
- the constitution and electoral laws provide some potential political representation to minority ethnic groups, which could increase the protection of minorities in law;
- it provides the basis of broadly representative government by assuring the right of multi-party competition coupled with the electoral principle of proportional representation. At the same time, through various devices, including in its highly idealized notion of public interest representation and its banning of ethnic, gender-based and regional parties and associations, it limits the actual opportunity of ethnic minorities or women to gain representation.
- it provides for broad freedom of association and expression, and provides for the establishment of particular institutions (the Supreme Council for Communication, for example) to help guarantee these rights.

At the Constitutional level, then, the Third Republic has emerged as a political system which has greatly improved both political rights and political liberties, compatible with the development of democratic governance practices, while retaining provisions which could limit incentives to broaden participation and effective representation.

B. Dynamics of State Institutions

In principle, Nigeriens who framed the Third Republic wished to reduce the power of the President and to provide an effective counter-balance in a more powerful legislature and independent judiciary. The reality of how the institutions of the Third Republic have been functioning after approximately 18 months is, however, somewhat less encouraging.

1. Legislative Dynamics

Thus far, the National Assembly remains weak as a deliberative and representative body, although there are some indications that its governance role is already expanding. Its weakness has been due in part to practical and material constraints on the possibility for legislators to initiate and draft legislation, to review bills introduced by the government, or to broaden the public debate on these bills by organizing public hearings. The fact that the legislature must depend heavily on the executive branch for information, research and analysis, and that its own technical staff is quite limited, contributes to this fact. On the other hand, the legislative commission system is now functioning, and the Finance Commission gives National Assembly deputies the opportunity to examine all laws which have financial or budgetary implications. Given the absence of an auditor general, and given the fact that it is the Supreme Court, with its own institutional limitations, that is charged with holding government accountable in budgetary matter, the legislature is not yet capable of exercising sufficient budgetary control.

There are also constraints embedded in the legislature's constitutional authority. For example, while the legislature may request that government ministers provide answers to questions, or may establish special commissions on inquiry, it has no power to force the government to cooperate with these efforts.

A principle reason for the weakness of the legislature as a countervailing institution must be traced to the logic of coalition politics, notably the imperative of maintaining a working majority in order to play the game of majoritarian politics. So fragile is the coalition of nine parties, and so vital is it to keep the coalition together in order to distribute virtually all the benefits of victory and control of the state, that deputies have had little incentive, thus far, to vote independently or even to engage in extended debate. This logic of majoritarianism, or winner takes all, has been expressed in the legislature through a series of straight party-line votes, first on internal rules, then on parliamentary immunity, and most recently on the motion of censure. By June 1994, however, the underlying political norm of limitation of victory and of reconciliation was beginning to be manifest in the appointment of members of the parliamentary opposition group to leadership roles in the National Assembly President's Conference as well as to chairmanships of several of the parliamentary commissions. Given the fact that the single most important party in parliament, the MNSD, has been in opposition, this is a significant development in broadening participation in deliberation. As of the time this study was conducted, however, the coalition majority still used its domination of the President's Conference to set the legislative calendar and agenda so as to deny the opposition the possibility of introducing legislation.

Despite the heavy incentive for majoritarian voting thus far, the legislature has been a useful arena for publicly airing complaints against the executive, largely by attacking the Prime Minister and his government instead of taking on the President directly. In this manner, deputies, even from major parties in the majority coalition, have been able to play watchdog functions.

Finally, the concept of representation does not appear to have advanced beyond the traditional view of linkage to power through personal intervention and clientelism, and the value of the legislative

representative in even this capacity has not significantly grown. Despite the maxim, carried over from the Second Republic, that deputies are supposed to be "national" rather than "representatives of local constituencies or interests," most politically involved Nigeriens see their deputies at best as channels for furthering complaints ("doleances") and look to executive branch politicians and administrators, rather than to legislators, for action. This is compounded by the fact that legislative constituencies are so large that few people actually know their representatives. Thus far, there is little evidence that organized interest groups even look to legislators for support, although recent efforts by the unions to draw representatives into a mediational role with government over the strike may constitute a beginning in that area as well.

2. Judicial Dynamics

The judiciary is the one national governmental institution in Niger which has been able to maintain considerable legitimacy, even when the principle of "rule of law" was severely weakened by the military regime. In principle, Niger's judiciary should be able not only to play an important role in adjudication and conflict mediation, but in limiting the abuses of executive power and majoritarianism. The Constitution accords the judiciary important authority for furthering the rule of law and establishes the principle of judicial independence. This is reinforced by professional norms, and relatively good salaries, and by the fact that the political "winners" can make no political appointments to the judiciary, making it one branch of government that cannot easily be politicized.

Our study reveals significant limitations on the role which the judiciary can currently play in furthering Nigerien democracy, both at the constitutional level and the level of practical political matters. Because of constitutional limitations, judges and courts are obliged to play a fairly passive role in invoking law or in ruling on the legality of executive action. Only individuals who have been directly injured by such governmental actions have standing in this regard. Coupled with the near total absence of private sector lawyers, this probably unduly limits access of individuals to the legal system, not only as watchdogs, but as complainants. This means that much of the watchdog role for the enforcement of legal limits on the executive behavior must come from only a few groups in civil society, such as human rights groups. Given the extreme paucity of resources available to these groups and the limited number of legally trained specialists who can carry such cases forward, they can play only a limited role in testing the law and in invoking legal limits. Efforts on the part of donors to support the activities of these groups in legal rights education and related matters are laying the foundation for righting this imbalance, but the process will be a long one.

Practical limitations are paramount in limiting the role of the judiciary. Judges complain about the severe lack of material resources to support their operations, including the very vital role of investigation in a system which depends on a "judge of instruction" instead of the adversary process conducted by lawyers and prosecutors to bring forward evidence. Judges lack timely access to current law and to legal decisions, weakening their capacity to function well as professionals, and judicial processes are slow, too distant from most people, and too costly in time and travel to serve most ordinary Nigeriens and even most businessmen as well. These practical limitations force judges to be excessively dependent on executive branch support, and with the high level of politicization of the executive, this poses serious problems about the effective independence of the judiciary. There have already been complaints from the media, for example, that political pressure is brought to bear on judges in cases where individuals in the executive branch bring defamation cases against the private sector media, its owners and its journalists. In general, however, the Nigerien judiciary is considered to be relatively free from direct political intervention which is a very hopeful sign for the progressive establishment of a rule of law.

3. Executive Branch Dynamics

In creating a semi-presidential regime, the designers of the Third Republic provided the executive with ample authority to dominate all other national political actors. Clearly, the President has far greater powers than does the Prime Minister. Incentives to build and reinforce the powers of the executive and particularly of the President are strong, especially given the norm of coalition political behavior which predominated at the time this study was conducted, i.e., to use the power of the State to allocate as much of the benefit as possible to the winners, to the exclusion of the losers. As long as the winning coalition holds together, the logic on the part of winners will continue to be to maintain and even strengthen executive, and notably Presidential dominance. Only the losers -- those excluded -- have strong incentives to try to limit executive power by, among other means, the invocation of legal and constitutional norms.

Given that the winners have been a very broad and substantially incoherent coalition of nine political parties, there is relatively little internal incentive to resolve difficult and potentially divisive political issues, or to develop a strong and consistent policy based on clear ideological or strategic perspectives. Interministerial coordination and policy implementation is also likely to be weak where different parties in the alliance, sometimes with significantly different positions and interests, hold top positions in different ministries.

Instead, what the holders of executive power share is the common desire to reinforce the power of the central state, to keep the coalition intact, to weaken the opposition. What potentially divides and troubles them are their differential desires (depending upon how they see their base of support) to respond to demands of particular interests, and to address the policy demands of donors in order to keep external resources flowing for allocation and distribution. In such a context, the internal logic of good governance, i.e., of effective decision making, of efficiency, of merit, professionalism and honest management of public resources, cannot be high, nor can the abstract desire to play by constitutional rules which may restrict the winners scope of effective action be strong.

The major limitation on majoritarianism and questionable governance practices is the capacity of factions of the politically involved elite to mobilize "public opinion." Admittedly, both the politically active elite and the tending public are small, but both are important to the survival of the state. Factions involve not only opposition groups, but even groups within the majority which are striving to improve their position. They use Niger's remarkably free media to criticize actions of the executive in ways which often seem irresponsible, but which also seem somewhat effective in cautioning blatant and personal use of state power in ways which violate legal norms. Still, dependence on mobilization of public opinion cannot substitute for a well functioning institutional mechanism to promote political and financial accountability.

As for the administrative apparatus of the executive branch, there is little to indicate that its working rules and dominant behaviors have been altered for the good, thus far, by political democratization. Nigerien bureaucracy still discourages initiative and merit, and rewards seniority and personal loyalty. Managers have few tools available to sanction poor performance, even if they wish to do so. Working rules still favor centralization and extreme hierarchy in administration with little opportunity on the part of subordinates, particularly in the field, to influence implementation. When the bureaucracy does come in contact with the public, the paternalistic notion of guardianship (tutelle), in which it is assumed that it is the state which knows best and can best protect the public interest, guiding the people for their own good, still operates as a powerful justification for continued central control. All of this is hardly unique to Niger, but it all negatively impacts, nevertheless, on the effective functioning of the administration.

The logic of majoritarian coalition politics has compounded the problem by emphasizing political party loyalty above professional norms and political work over professional duties. It has also resulted in significant waste of scarce trained manpower as opposition administrators have been excluded from meaningful work, compounded by rapid turnover in personnel following the elections of 1993. In one way, democratic politics has introduced a factor which could conceivably reduce bureaucratic centralization, with greater attention to staffing localized administrations (regions, arrondissements, municipalities) with people from that region or linguistic/ethnic group. Certainly, the new regime did not invent the use of ethnic and regional criteria in the recruitment of administrators. It has, however, made it more explicit and localized. This can give rise to the hope that the administration will be more locally responsive, or to the fear that it will be more easily captured by local interests which are often portrayed as corrupt. Thus far, a battle is still raging between the effort of central political leaders to orchestrate this process to enhance their own and the "public" interest, and local political leaders.

Thus far, as well, the administration has not yet been able to deal effectively with several critical governance issues -- notably with revenue management, with bureaucratic accountability, and with administrative and effective decentralization. In the first two instances, adequate formal rules exist to improve performance, but informal rules and incentives have not yet shifted, and have in fact been negatively affected by the extreme politicization of the bureaucracy. Although politicization has slowed down local tax collection, especially in former MNSD strongholds, the bulk of the revenue problem does not lie here since both accountability and incentives on the part of local traditional authorities to participate in tax collection is still significant. Rather, the problem still resides with control of state employees who are in a position to gain rents because they control and regulate access to scarce and valued resources such as licenses and trade opportunities. Economic liberalization as well as policy conditionalities are already helping reduce these opportunities, but partisan control over unions of state officials and the participation of those parties in the government alliance undercuts efforts to improve accountability at the same time.

Decentralization poses more serious difficulties because even here the formal rules are only now being tentatively put into place, and they confront long standing preferences for centralized control on the part of those who control the state. Decentralization, as well, poses serious problems of uncertainty which, thus far, Nigerien democratic politicians have been anxious to avoid. Uncertainty arises from the fact that meaningful decentralization would give opposition parties, and even smaller parties within the majority coalition, opportunities to win control over councils, council presidencies, and even mayoralties of significant municipalities. Thus far, the response has been a reluctance to hold municipal elections, to redistrict the country, to bring local government closer to the people by extending it beyond the arrondissement level, and to make it more representative by reducing the size of constituencies and perhaps altering electoral rules to make representatives more accountable to specific people. A number of these changes are being considered or are already mandated in broad outline legislation, but there are serious disincentives to their full implementation anytime soon. Not the least of these disincentives is the desire to appear firm against the Twareg rebels who are demanding just such changes (with others that appear significantly less democratic as well). The failure to implement effective decentralization, on the other hand, reduces the government's capacity to improve governance performance in such vital areas as local economic development, service provision and natural resource management.

In the absence of effective decentralization, the role of traditional authorities in territorial administration continues to loom large. Niger's traditional authorities, operating most importantly at the canton and provincial levels, occupy a strange place in a constitutional democratic regime since for some purposes they must be viewed as unelected representatives recruited largely on the basis of birth-right rather than

on the promise of accountability or merit, and on the other hand they have characteristics of agents of the state without the status, protection or theoretical accountability of civil servants. What is notable for the present is that, despite being under heavy attack in some quarters for their support and association with the authoritarian regime and its corporatist mobilization structure -- the Société de Développement --, they emerged from the National Conference and the transition with more powers and roles, particularly in local development and resource management matters. This outcome may be attributed to two things -- the exceptional level of organization and advocacy of the "chiefs" as a "professional" interest group, and the reluctance, thus far at least, on the part of the new regime to decentralize and allow more popularly accountable local institutions to develop and play governance roles. To this must be added the strong and persistent political norm of deference to authority which most Nigeriens, even highly educated and western trained Nigeriens, display for both the secular and religious authority of chiefs.

C. Dynamics of Civil Society

In general, civil society has been the domain that Niger has changed most dramatically in the past four years. Without question, institutions of civil society have flourished -- they have become much more numerous and diverse as new formal rules of political liberalization and democratization have been put into place, and as a combination of external pressure and internal changes have made the operation of these institutions a practical working reality.

Like state institutions and constitutional principles, civil society can, and in fact must, come to play several roles in the consolidation of democratic governance. It must assist in limiting the exercise of state power to reduce abuses which threaten not only democracy, but ultimately associational autonomy. It must help deepen democratic behavior and beliefs by offering more opportunities for participation in national political life than are available solely from the functioning of state institutions and political parties alone. They can further help support the development of a more democratic political culture by offering opportunities locally to lead, to monitor and control leadership, and to associate across narrow and parochial lines so that attitudes of greater trust, tolerance and mutual interest can eventually emerge. Finally, they can help improve governance by providing greater opportunities for self-governance. This is a great deal to ask of any civil society, much less one that has emerged from decades of suppression in a society which never clearly distinguished the notion of "state" and "society" in its own historic development. Progress, then, must be viewed from this perspective as "developmental," rather than expecting the full blown emergence of a civil society fully capable of performing all of these roles effectively in the foreseeable future.

Having said this, it is obvious that Nigerien civil society is just beginning to emerge and to play some of these roles. At its current stage of development, it is unrealistic to expect that Nigerien civil society can be a significant counterweight to governmental and particularly to executive power.

1. Evolution of Civil Society Institutions

The most important feature of civil society conceptually is that it must involve voluntary association neither mandated from above, nor required by a collective, often ascribed, identity over which the individual or interest group has no control. In Niger, opportunities for association on this basis traditionally were limited to very small and informal associations, usually for informal work arrangements, for friendship or for social activity. While, at this level, association was normally based on at least nominal equality, in virtually every other form of associational life Nigeriens were associated on the basis of hierarchy, power and status inequality. Under both colonial and post colonial regimes,

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voluntary forms of association were either openly suppressed or marginalized, even when their function was ostensibly spiritual or recreational, because such associations were seen as potential competitors for power and influence to those fostered by the State. This certainly included cooperatives and other official producer associations. There is ample ethnographic research to demonstrate that this tendency also described many residential associations, such as villages, where people were obliged to settle and become "sedentary" for administrative convenience, whatever their real preferences. Subsequent "development" and "relief" activities, such as reserve grain storage schemes, collective groundnut cultivation, or "village cooperatives" constructed on the model of the residential community as a unit of voluntary cooperation, reciprocity and trust, often encountered sharp resistance or passive neglect because these assumptions were incorrect and the actions they prescribed often were not viewed by "villagers" as in their interest.

In the virtual absence of voluntary associational life, assisting individuals and groups with their life problems, Nigeriens tended to adopt a different voluntary associational model based on individual loyalty and the exchange of unequal benefits. This system, broadly called a system of patron-client relations, was very well developed among most of Niger's societies. While it served to help individuals secure their material well-being, it did little or nothing to limit the exercise of power on the part of superiors, or to enhance the bargaining power of individuals in a similar life or work situation.

The principal exceptions to this rule emerged in urban settings where people began to associate around common occupational and professional interests. The most important of these in Niger were unions and student associations which states attempted, with less than total success, to control membership and often leadership positions. It now appears that a similar development may have been emerging for religious associations in Niger as well. It has only been since the 1980s that these urban associations began to assert some autonomy, often beginning by forming clandestine voluntary associations paralleling the officially mandated ones. Apart from these clandestine groups, the only voluntary associations to emerge in the 1980s were formed and fostered by international non-governmental associations, principally in the context of their work to combat famine and environmental degradation. All other professional groups, including those grouping lawyers, journalists, and "traditional" authorities, were formed and regulated by the state in corporatist fashion. The same was true of categoric associations of women and youth.

Since 1991 there has been a virtual explosion of voluntary associations, particularly formally recognized associations most of which are urban-based. Fully 61% of Niger's total voluntary associations, and 95% of its recognized indigenous associations, have been formed just prior to or following the National Conference held in mid-1991. In addition to social and religious associations, these associations have included human rights and development groups, gender-based associations, and de facto local development associations started by urban dwellers originally from a particular area or town.

Simultaneously, there has been a dramatic increase in the number of informal associations both in rural settings and in the informal private sector in cities. No systematic survey has been conducted as yet to permit an accurate description of either the range or scale of these groups, but our informal work permitted us to identify the importance of the phenomenon. In the rural sector, many of the new associations are growing out of the work of international NGOs such as IRED, Clusa, Woccu, 6S, etc. Others are building on the experiences of previous development projects, particularly in irrigated agriculture, at times with the support of educated people from the region now working with local people either as informal consultants or in new Nigerien development NGOs.

2. Characteristics of Civil Society Actors

For the most part, voluntary associations are organizationally and financially weak, and heavily dependent on external financing for their survival. Reflecting their newness, their management capacities are usually rudimentary and technical skills are limited. Few have permanent office space, communications capability and staff. Relatively few civil society institutions in Niger are truly membership based organizations linking base-level groups to higher levels of association and eventually to a national apex body. In Niger, only unions really fit this description. Few other associations have any real capability to play roles as intermediaries. Most other formal associations are "public interest" groups grouping a small number of individuals who associate around a common issue or need. Internal governance of Niger's embryonic formal associations is not generally very democratic. Unions now retain some national accountability of leadership and do seem to offer some opportunities on the part of member groups to have input in national decisions. Most "public interest" NGOs, on the other hand, appear to be elite-led and often one-person dominated. Even the alternative woman's association, the RDFN, seems to be replicating the model of a centrally controlled association providing little opportunity for local chapters to influence its policies or governance. Interestingly, some of the best organized and seemingly most participatory associations in the country today are Islamic associations which are having a major impact on public policy decision making through broad resistance to government legislation which they do not like.

An additional characteristic of much of Niger's newly created associational life, which is worth noting, is its increasing politicization. To the extent that major urban interest groups have become associated with particular political parties, their capacity to maintain their autonomy, and to play a constructive role in monitoring and dealing with government, once the parties they support either win or lose power is seriously constrained. This tendency toward politicization and loss of autonomy appears to be much less serious today than it was two years ago, offering the prospect that civil society may be able to develop some independent role.

3. Behavioral Dynamics in Civil Society

Niger's civil society today operates in one of the most favorable and progressive legal enabling environments in Africa. This is truly one of the remarkable accomplishments of the country's democratic transition. Apart from some restrictions on ethnic and regional association, stemming from fears about its recent history, its laws offer generous tax and customs advantages to NGOs, and make legal registration fairly inexpensive in money and transaction costs. On the other hand, there is definitely the need to complete work on legislation governing cooperative associations and assuring them of their autonomy and legal standing. Draft legislation is highly encouraging in fostering flexible forms of truly voluntary associations and reasonable financial incentives. The framework law for the Rural Code also provides a very valuable legal basis for a variety of rural associations, although the finalization of fully enabling legislation may be able to clarify and specifically authorize certain types of associations which will work on land use, water management, and other natural environment related issues.

To the extent that associational life is authorized and even encouraged by law, it is clear that what Niger has been doing is to establish an alternative set of rules and potential incentives which will do battle with some very deeply ingrained political norms (hierarchy, central "guidance"). It can be expected that many civil servants will view these new developments with suspicion and even hostility. On the other hand, a number of new incentives are emerging which powerfully support some changes in Niger's civil society. Not the least of these is the collapse of the state as the super-client, provider and employer of last resort.

As more trained Nigeriens are forced to seek employment in non-state associations and as more civil servants view this as a possible option for the future, resistance should decline, at least to formal urban-based NGOs. The association of civil society actors with political parties, on the other hand, can go either way. There is, of course, significant danger that these groups will be "re-incorporated" into the state apparatus as their political parties win. Conversely, in the context of vigorous multipartyism, at least some parties will have an interest in defending the interests and autonomy of particular interest groups. What is much less clear is who, in the short term at least, will speak for and defend the interests of rural associational life which is as yet too weak to defend itself.

4. Assessing the Impact of Civil Society

Thus far, the record of Niger's civil society in limiting the exercise of state power is a mixed one. This is due mainly to its newness and its limited capacity. In general, Niger's human rights and legal associational community has made significant contributions in dealing with some human rights problems particularly in the North (DLD and ANDDH), in dealing with the on-going problem of slavery (Timidria), prison conditions (ANDDH), and arbitrary arrest and detention (RIDD-FITILA, and the Association of Women Jurists). There are important issues, however, which they hesitate to take on, such as defense of women's rights particularly against Islamic associations, defense of journalists against a rash of defamation suits, and public sector corruption issues. In addition, no "watchdog" NGO seems particularly interested or capable of taking on the government on issues of constitutional law and interpretation. In the absence of this, and with the narrow basis of standing for individuals in many cases, there is little incentive on the part of government to hold closely to constitutional principles.

The role which organized urban NGOs have played in promoting participation in policy has been very limited. No NGO currently takes on the task of monitoring and publicly reporting, much less assessing government performance, on a range of public issues. With the assistance of international NGOs, Nigerien NGOs have begun to get involved in advocacy for legislation in such areas as family code, cooperative law, credit union law, and national environmental policy. Unfortunately, these associations are not, in general, membership associations linking to the base and mobilizing a great many Nigeriens for political action. The Nigerien associations which the international NGOs support, thus far, have very limited capacity in analysis and policy formulation. Private sector associations, thus far, also reveal no capacity to get involved in decisions most directly affecting them such as trade, investment, taxation and tariffs.

Slowly, some base-level civil society actors are beginning to offer some experience in democratic decision-making at the local level, which over time can become the basis of a greater understanding of the rules of democratic processes at the national level. But even where local associations are not democratically managed, voluntary membership itself can constitute a powerful lesson and restraint on abuses of authority by local leaders.

Slowly, as well, Niger is beginning to develop some experience in local self-governance through its newly empowered civil society. Density has not yet reached the point where this has yet become a major feature of society, and capacity to manage will clearly need to be built up over time. This will probably require the continued active presence of international NGOs for some time in order to build a critical base of self-governance capability.

I. INTRODUCTION AND CONCEPTUAL FRAMEWORK

Part I provides the reader with a brief review of the assessment purpose, scope of work and methodology (section A); a presentation of the conceptual approach and analytic framework employed by the assessment team (section B); and an overview of the report structure or roadmap detailing the content of the assessment and where it is located in the report.

A. Assessment Purpose, Scope and Methodology

1. Assessment Purpose and Objectives

Within the context of a dynamic process of political change in Niger, the USAID Mission and U.S. country team requested a comprehensive analysis of governance issues for the purpose of informing the elaboration of a new country program strategy, and providing a set of recommendations for future investments in support of Niger's newly emerging democracy. The Scope of Work (see Annex 1) details five overarching objectives of this democratic governance assessment:

- to provide data and analyses useful for the completion of those portions of the CPSP related to democratization and improved governance;
- to identify constraints to progress in both economic development and the further political democratization of Nigerien society and government;
- to suggest areas of long-term support through which existing USAID/Niger projects and programs might promote solutions to governance constraints;
- to assess strengths, weaknesses and effectiveness of the U.S. Mission's Section 116(e) portfolio for improving the climate for democracy in Niger, with special emphasis on large projects; and,
- to develop a conceptual approach through which USAID/Niger might identify new activities to further democracy and more effective governance as a contribution to Niger's achievement of sustainable development.

Specifically, the SOW called for and the assessment team undertook a series of related tasks that included a combination of data compilation and analytic exercises pertaining to both political institutions and processes. The principal objective of the assessment was the presentation of a series of recommendations for specific emphases, approaches and activities related to the furtherance of democratic governance in Niger. The principal institutions analyzed included those of the (i) **state**, i.e., the executive, decentralized administration, legislature, judiciary and bureaucracy; (ii) **civil society**, i.e., unions, professional associations, indigenous NGOs and grassroots associations, religious and cultural organizations, producer and commercial associations, and gender/women's groups; and (iii) **linkage mechanisms**, i.e., political parties, the independent media and neutral fora. The political processes evaluated ranged from the functioning of the electoral system and capacity of government to make and implement coherent policies to the capacity of the judicial system to render fair and impartial judgements.

2. Assessment Methodology and Approach

The assessment team was made up of five American political scientists with backgrounds and expertise in each of the focus areas detailed in the SOW (e.g., rule of law, effective state governance, civil society

and local self-governance, and conflict resolution) and with previous experience in state and civil society institutional analysis. Two team members were also Hausa speakers with long-term experience in Niger. The U.S.-based consultants were joined by three Nigerien academics and three senior USAID FSNs, all of whom provided critical insights on a range of sensitive issues not easily discernable to the non-Nigerien analyst.

Prior to the field component of the assessment, a two day team planning meeting was held in Washington in which the team went over the SOW and its requirements; undertook a preliminary review of core documents previously obtained; and met with the USAID/Niger desk officer and the Democracy Advisor in the Bureau of Policy and Program Coordination. During the in-country phase of the assessment -- July 28, to September 1, 1994 -- numerous documents provided by the USAID Mission and American Embassy, as well as others received from a range of donors, academics, NGOs and government agencies were reviewed. The team conducted dozens of interviews with concerned officers within USAID and the Embassy, a range of state and civil society actors, political party leaders, and most of the active donors resident in Niger. All five members of the team travelled outside Niamey for periods of up to eight days to get a sense of changes in governance at the village and regional levels since the beginning of the construction of democracy in Niger. The team held numerous meetings with concerned USAID staff as well as the Niger country team to tie assessment findings to the specific needs of the Mission.

As this assessment was contracted through a buy-in to the Africa Bureau's Democracy and Governance Project, the particular needs of USAID/Niger and the country team were given priority focus throughout the study period. From the development of the scope of work to the final set of proposed recommendations, the entire assessment process was both interactive and iterative, drawing heavily on the local knowledge and expertise of Mission staff and the wider Nigerien community; and matching them with the wider perspectives and analytic tools which team members brought to the specific Nigerien context; in short, it was a collaborative effort

In particular, the assessment was geared toward providing the Mission with recommendations centering on its overall country program strategy and, equally so, for each of the individual projects either currently in execution or under design. Considerable time was thus spent working with project officers reviewing their individual portfolios to identify governance issues and, specifically, constraints encountered during project implementation. As the concluding recommendations section of this report illustrates, the focus on practical Mission concerns has provided an immediate application of the assessment's methodology and analytic framework, and has served as a means to transform abstract concepts of political theory into more familiar issues associated with sustainable development.

B. Improving Democratic Governance for Sustainable Development: A Conceptual Approach and Analytic Framework

This section provides the conceptual approach and analytic framework used by the assessment team in analyzing Nigerien political change and governance behavior that commenced with the emergence of the pro-democracy movement in early 1990, continued through the establishment of the Sovereign National Conference and transitional, and into the consolidation phase marked by the installation of the democratically-elected government of the Third Republic. The utilization of this approach and framework has not only met the team's needs for an analytic tool to understand the dramatic changes of the past four years, but provides USAID/Niger with a means for continued analysis of the still evolving democratic system.

1. Relating Governance Change to Efforts to Promote Sustainable Development

This assessment relates the governance environment of Niger, including the dynamic processes of change currently unfolding, to the opportunities that donors have to undertake a program of sustainable development that will improve the lives of the Nigerien people in a sustainable manner.

The approach adopted in this study is based on a very simple proposition: the choices people make, including the way they choose to organize themselves to manage their public resources, are rational.¹ Choices are facilitated through an understanding of the rules of the game, i.e., the rewards for using formally or informally institutionalized norms. If we want to know why people behave in certain ways, especially with regard to the way they govern themselves, the place to start is with an understanding of the existing or underlying working rules. We can also think of these as values. As we will see below, values or working rules are always in some state of dynamic change. A number of forces, including the spread of commercial private enterprise and the introduction of ideas of political liberalization and democratization, have accelerated the pace of change in Africa, resulting in a complex mixture of different sets of formal and working rules. Therefore, we not only need to know which underlying rules and understandings have "traditionally" affected political choices, but how these are changing. In Niger, democracy introduces a new set of rules.

The second step in this analysis focuses on the study of places where rules are formalized (which we call institutions). Institutional processes and rules provide strong signals (incentives) for political behavior. We need to understand the logic of these institutions, as well as to discern the institutional dynamics ... how do institutions actually work and what logic do those who occupy positions or play roles in them actually follow? The Constitution is a set of formal rules (an institution): how does it allocate authority and provide incentives to encourage people to enforce its rules? How do these rules work in practice?

These two analytic tasks permit us to begin to understand actual political behavior. We are interested in both the actions that reveal the logic that people appear to follow most frequently in different places in society, and in the trends or tendencies for governance that result from these actions. Nigeriens have divided themselves up into political parties at amazing speed: what logic explains this behavior at various levels and what tendencies can be predicted from it?

This analysis of political actions and trends should be of great value to external actors who support a specific development agenda. For USAID, the development agenda is clear. It is stated in the Mission's proposed goal: to promote a "political, economic, and social environment that empowers all Nigeriens to achieve sustainable improvements in the quality of their lives." The policy question which this study addresses is "how can governance behaviors manifested by actors at all levels of Nigerien society affect the possibility of achieving this goal?" Answering this question satisfactorily can allow USAID to plan strategically how best to invest its resources to encourage certain behavioral tendencies which represent opportunities, while ascertaining which behaviors constitute important constraints.

¹ By rational, we mean that people make behavioral choices based on the best information (always limited or bounded) available to them about the rewards and costs (incentives and disincentives) of given behaviors, attempting to chose behaviors which they esteem will yield rewards at reasonable cost.

This study aims to address the policy level of analysis by carefully examining USAID/Niger's proposed goals, objectives and program outcomes, and then by examining its current project portfolio in the light of the above analysis. This should lead the authors of this study to contribute to three specific policy-oriented outputs:

- a conceptual approach for assisting USAID/Niger in making decisions about how to best promote governance reforms, and specifically democratic governance reforms, in Niger;
- a set of recommendations applying the above strategy that relate to the conduct of projects within USAID/Niger's current project portfolio;
- a recommendation whether additional efforts, projectized or not, should be contemplated in the current and near-term context of Niger.

2. USAID and Democratic Governance

USAID/Niger's program is being developed in the context of United States Government commitments to promote "sustainable development." This entails improving the long-term prospects of four inter-related development outcomes: broadly-shared economic development; improvements in the health and physical well-being of the population; improvements in managing natural resources and the environment; and furthering democracy. As an instrument of this overall US policy, USAID is committed not only to governance reform, but to the promotion of democracy both as an objective in its own right and as the most fundamental means by which other development objectives can be achieved in a sustainable manner. Above all, democratic development means development in which opportunities for meaningful participation are enhanced and institutionalized. It also implies the acceptance of legitimate and regular processes that allow people the opportunity to choose their leaders in an open, and at least potentially competitive, manner. For democratic development, and hence sustainable development to be feasible, the U.S. Government strongly believes that a minimum standard of behavior assuring basic human rights must be maintained.

Good, i.e., effective, governance and democracy are not identical. In fact, democracy can best be viewed as a type of governance, or as a set of governance behaviors or tendencies. The overall goal of U.S. development policy is to promote both democracy and effective governance, or, more accurately, their convergence. Various USAID and Africa Bureau policy papers suggest that successful democratic development depends on, or in the long run is closely linked to, improvements in governance.

It may be useful, then, to distinguish briefly the concepts of "democracy" and "good governance" and to indicate how they might be related in practice. Governance can be viewed abstractly as the means by which societies organize themselves for the management of their "public" or collective resources. At a minimum, good governance (or better governance) implies management which is **effective, efficient and responsive**. To this, many analysts add some process dimensions of governance, suggesting that for effectiveness, etc., to be improved it is important to enhance accountability for performance (Crook, 1993), specifically transparency, and financial accountability.² The idea of good governance for Anglophones often includes notions of "fairness" and "due process," while in the Francophone tradition,

² World Bank, "Managing Development: The Governance Dimension", 1992.

these ideas are expressed in terms of widely known and accepted legal limitations on abuses of office and authority (Etat de Droit).

Democracy is also a compound and complex concept. At a minimum, democracy (for some, polyarchy) involves an expansion of public accountability made possible through meaningful opportunities on the part of the public to judge and sanction leaders (usually through competitive and free elections), and a widening and deepening of public participation in the political process.

Democratization -- the movement toward the minimal principles or behaviors of democracy -- may occur without improving governance in the terms addressed above. Democratic politics may even undermine good governance by introducing incentives for greater corruption, and opportunities for majorities to behave unfairly, including by selectively applying rules of law. It is preferable to promote a governance environment that not only embodies democratic rules for managing public resources but that also embodies principles of good governance. For the past two years, the Africa Bureau of USAID has been describing this convergence as the promotion of "effective democratic governance" (ARD, AID/AFR, 1992). The underlying premise is that, if governance decisions are to be truly responsive to public values, the public must have meaningful ways in which to express those values, and to readily obtain information about performance of actors who act presumably on their behalf. In addition, if governance is to be effective and efficient, the quality of governance performance must improve, and the capacity of the system to produce and implement good decisions about how to manage public resources must improve.

3. Understanding the Evolution of Democratic Governance in Niger

The actual governance performance of every political system in the world varies from the ideals suggested by the concept of effective democratic governance. Democratic governance is always hard work; there is no end point to be achieved. There can only realistically be indicators of trends or directions of change that can be used to assess what the context of governance is and how the donor's support for sustainable development will probably be affected by that environment. As the section on the historic context of governance in Niger will reveal, efforts to improve the trend toward democratic governance in Niger must begin with the reality of Nigerien society, and with the experiments that Nigeriens themselves are undertaking to alter governance behavior in their country.

In order to better understand the evolution of governance reforms in Niger, it helps to clearly define what Niger's most critical governance problems or issues have been, as identified by many Nigeriens with whom we spoke and who clearly articulated these concerns during the transition, particularly at the National Conference. A minimum list of criteria for measurement appears to emerge.

First, effective democratic governance implies a trend in the direction of *limiting the abuse of executive or central state authority*, no matter whether the abuser is a single person, a small unrepresentative group, or a major political force in society.

Second, it implies a trend in the direction of *broadening opportunities for meaningful participation* in managing a society's public resources. This involves not only elections, but increasing opportunities for actors at all levels of the society to take on real governance tasks, thus reducing the current situation of total dependence on the central state for governance.

Third, it implies a trend toward *assuring a minimum of what the Nigerien people now call "social justice" -- more commonly referred to as the rule of law --* by which they mean guarantees of basic security, and equal application of the rules to all, including those of higher status, wealth, and education.

A fourth critical element, effectiveness of governmental policy making and implementation, is implied by *the notion of "effective democratic governance"* discussed above and must be factored into the measurement of progress.

To these minimum criteria we add two additional ones which seem highly desirable for the consolidation of democratic governance: *the development of democratic norms and values* (a civic culture), and the *expansion of opportunities for self-governance*.

In looking at the governance environment of Niger and how that environment promotes these four goals or values, we will use a set of tools. Because, however, it is possible to achieve these goals in a number of ways in different societies, our tools must focus more on how incentives behave in particular ways, and are structured and evolving in Niger than on how closely a given system resembles a pre-ordained specific set of institutional arrangements. These tools should also allow us to understand how these goals or values are promoted in the formal institutions of government and also in the broader civil society. It is in that spirit that we will examine trends towards reinforcing six kinds of democratic behaviors, which we refer to as "democratic disciplines." The development of these behaviors, it is posited, is vital to improving governance in the four areas specified above.

- (i) **The discipline of constitutionalism:** to what degree and through what means has the society decided to create formal limits on the behavior of authorities, as well as ordinary people, which are basic, are difficult to change, and are enforceable?
- (ii) **Judicial discipline:** to what degree are holders of state authority willing to faithfully execute judicial decisions, and acknowledge that they must obtain legal (judicial) sanctions in order to exercise coercive power. It is clearly related to the progress of any meaningful rule of law.
- (iii) **The discipline of "popular limits:"** to what degree can informed citizens sanction their rulers for inappropriate, or illegal behavior, or simply for poor and unresponsive performance? Movement in this direction represents an increase in political accountability. It is usually associated with the exercise of meaningful electoral choices, although there are certainly other ways in which citizens might be able to hold leaders accountable, particularly between elections. Citizen advocacy and the articulation of demands through non-governmental associations may also be an important additional way to counter the abuse of power by holders of state power.
- (iv) **The discipline of the "open public realm:"** to what degree can citizens associate freely and express themselves freely at reasonable costs (material and personal security)? Without significant progress in this realm, participation will be severely limited in two ways: people will confront major constraints in participating in public policy through government, and they will be discouraged from forming groups capable of performing some governance processes for themselves.
- (v) **Discipline of advocacy and deliberation:** to what degree can citizens associated in a variety of groups articulate demands for governmental policies and programs that address their needs, and

to what degree can they associate with one another to aggregate these demands more powerfully?

- (vi) **The discipline of effective decentralization:** to what degree can citizens address public or collective problems that confront them at the local level? People have the strongest incentive to participate when they can deal concretely with issues of direct concern to them. Although there will always be the need to harmonize and coordinate local solutions at higher levels of the "public," political systems that move toward empowering local solutions are also likely address larger issues more effectively. Broadening participation is therefore associated with improving the effectiveness of governance.

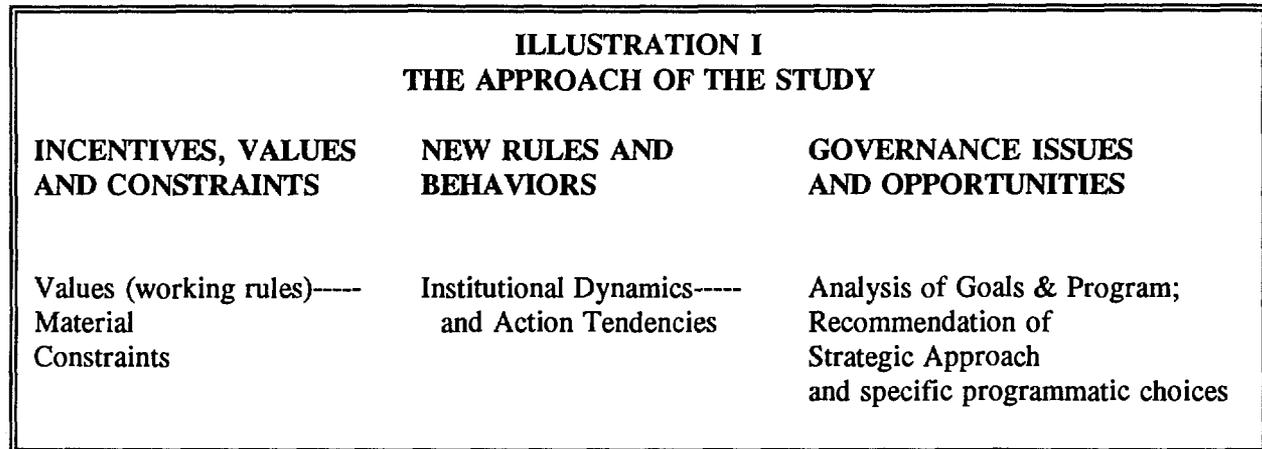
C. Assessment Structure and Content

The remainder of this report is divided as follows: Part II, "Background and Context of the Political Transition," provides summary overviews of both the political and economic history of the post-colonial era, as well as a discussion of the values and norms that underlie Nigerien society and associational life. As such, it provides the background and context required to understand the institutional dynamics and political behavior of the principal Nigerien actors since the beginning of the pro-democracy movement in 1990.

Parts III through V, provide the major data sources and findings of the assessment portrayed in terms of analyses of the three principal sets institutional actors participating in the newly emerged democratic arena. Each of these three sections thus corresponds to one institutional analysis, i.e., Part III, the state; Part IV, civil society; and Part V, linkage mechanisms, and discusses them in terms of their (i) institutional dynamics (the new set of formal rules and whether or not people adhere to them or not); and (ii) patterns of observable behavior which demonstrate how traditional values and actual working rules conform to the formal rules.

Part VI, "Synthesis and Recommendations," is the concluding chapter of the assessment and provides (i) a synthesis of the three institutional analyses looking specifically at "action tendencies" or the relationship between formal rules and actual behavior, and the governance implications which flow from the these tendencies; and (ii) a set of recommendations that have been narrowed in focus based on a review of USAID's current and projected portfolio, and the governance implications which constrain or provide opportunities for successful project implementation. The recommendation's section has been framed in terms of a democratic governance "strategic objective," and the project outputs that are anticipated from each of the activities currently contained in the Mission's portfolio.

The illustration below schematically represents the thinking underlining and guiding the remainder of this work.



II. BACKGROUND AND CONTEXT OF THE POLITICAL TRANSITION

For those readers not familiar with Niger, this chapter provides an overview of both the country's political and economic history (sections A and B) as a means for setting the context for the radical political change that has taken place over the past four years. Equally important, it describes the norms and values that underlie Nigerien society, and significantly determines the behavior of political actors and the logic which leads people to join in voluntary association (section C).

A. A Summary Overview of Niger's Political History

1. The Colonial Era and Period of "Nationalist Politics"

The French colonial state in Niger was an alien and autocratic institution imposed on indigenous populations through military conquest. Until 1946, the constitutional regime established by the French denied Nigeriens basic civil and legal rights by relegating them to the status of "subjects."

The rules determining the organization and functioning of the French colonial state were shaped by the French passion for centralization which was the driving ethos behind French colonial policy throughout Black Africa. The French colonial state, thus, was a single structure, a single hierarchy, and a single set of rules in which a direct chain of command flowed from the President of the French Republic down to the lowest colonial administrator (Miles, 1994:95). Because Niger was one of the last colonies in French West Africa to be fully "pacified," French military officers often held key territorial administrative posts. French colonial rule was perceived by the local populations as severe and harsh in comparison with British colonial rule in Northern Nigeria.

While the French worked with traditional authorities, the latter were clearly subordinated to the rules of hierarchy and chain of command of the French colonial state. Niger's huge area and undeveloped transportation infrastructure meant that it was difficult for the colonial governor to directly control the field bureaucracy. The French *commandants de cercles*, thus, had considerable autonomy to administer

the area under their jurisdiction. At the same time, they had to rely heavily on the canton and village chiefs as their main link to the local populations.

The French colonial bureaucratic tradition based on a quasi military chain of command discouraged local initiative and involved little consultation with the chiefs and local populations. The chiefs were there to collect taxes and maintain order in the name of the French state and the local populations were there to carry out economic activities -- grow certain crops, provide labor to maintain roads, etc. -- deemed important by the French colonial decision-makers.

In 1946, the Fourth Republic granted their overseas Black African subjects the status of citizens which meant that they were granted most of the civil and legal rights enjoyed by French citizens. The new post World War II constitutional regime set the stage for the emergence of African based political parties, trade unions, and other forms of associational life; independent newspapers; and competitive multiparty elections.

Despite the new democratic rules which expanded the freedom of Africans in the political arena, the French colonial state continued to govern in an autocratic manner because it was not accountable to Nigeriens but to the Overseas Colonial Ministry in the metropole. As the chief executive in the territory, the Governor prepared and executed the budget, held the police powers, and exercised broad administrative powers. The territorial assembly created in 1946 was controlled by conservative forces subservient to the administration until 1957. Although a deliberative body, the territorial assembly had no real power to initiate legislation or to hold the governor and colonial administration accountable for their actions.

The French controlled the command posts of the bureaucracy until independence. Not accountable to Nigeriens, they often used their administrative powers to rig elections, harass nationalist civil servants and political activists, and intimidate the local populations to vote for the "right" political parties. Nigeriens had few opportunities to use the courts to prevent administrative abuses since courts were rare and controlled by French magistrates who were themselves colonial officials and, therefore, not truly independent.

During this period, Nigeriens had some experience with multiparty competitive politics under the close guidance, and with substantial interference, of the French colonial administration. No nationalist party challenged the legitimacy or the form of central state authority. Instead, each attempted to capture the state. The pattern that emerged pitted the *evolues* (the Western-educated) whose appeal was to the tiny class of unionized workers, teachers and civil servants against the "traditional authorities" who were presumed to control the countryside. Both of Niger's "nationalist" parties, the PPN-RDA and the UDN, publicly adopted a position of being "modernizers" pitted against the reactionary "traditional" authorities. Since most public educational opportunities had been given to people from the West, both of these parties were dominated by Songhai-Zarma people.

Since, however, controlling the rural vote, and the urban uneducated vote was critical to victory, both parties quickly adopted the practice of courting traditional authorities. For a time this was complicated by the fact that the French organized a separate party of the chiefs (the UNIS) to counter the growing strength of the RDA, and fed it by establishing "pre-cooperatives" which were little more than patronage devices to get equipment and money into the hands of the chiefs. They further complicated nationalist politics by adding to the division between chiefs and educated commoners, the dimension of regionalism or ethnicity, appealing to "Easterners," i.e., Hausas, to reduce "Westerner," i.e., Zarma, dominance.

In fact, the resulting UNIS party was a mixture of a few Hausa intellectuals, and a number of traditional leaders from all over the country.

For the rest of the 1950s, the most critical variable in the success of nationalist parties was external support by the French, as the PPN, now free of its association with the French Communist Party, swept to victory in 1952. During the campaign, ideology and tactical differences vanished. Despite the general view that UDN, and its later incarnation Sawaba, were leftist parties, it is clear that they campaigned in the countryside on identical grounds to PPN. Both parties attempted to attract support by allying with one traditional leader or marabou against another. At the same time they tried to hold onto their support among workers in regional cities. Both had support in Niamey, while UDN had more support in Zinder and Maradi. Until 1956, however, UDN did attempt to distinguish itself in urban centers by continuing to articulate its hostility to traditional authorities and to the corrupt cooperatives they were allowed to control.

The 1956 Loi Cadre reform laid down new rules that permitted Africans to establish an African government approved by the Territorial Assembly which would share some executive power with the colonial governor. In 1956, a new party of traditional authorities, the Bloc Nigerien Action, formed and won nearly 50% of votes in the election of 1956 in the East. This confronted both nationalist parties with the need to form a coalition in order to rule. Since the power base of the PPN was still heavily in the West, the more natural alliance in ethno-regional terms was with the UDN. With the encouragement of the French Governor, this alliance formed and won 41 of the 60 seats in the 1957 elections resulting in UDN leader, Djibo Bakary, heading the first government under the loi-cadre.

From 1956 to late 1958 when the UDN-BNA (Sawaba) alliance collapsed, political choice in Niger was heavily influenced by French political strategies and heavy-handed control over the central state and the internal security forces. Multiparty democratic politics did not run very deep. Both traditional and western-educated Nigerien elites learned political pragmatism, while the masses learned little about democratic values or processes. Turnout rates were low and political awareness in the countryside was virtually non-existent except among government workers stationed there and a few powerful businessmen based in secondary towns and regional cities. Retrospective field interviews in the 1960s indicated that rural people simply followed cues from traditional authorities and voted on the party's color and symbol. In 1958, French intervention was again critical, this time to split the Sawaba alliance in order to assure the "yes" vote on the Constitution of the French Fifth Republic, thereby maintaining association within the French Union.

2. The Era of the PPN-RDA

As a result of French intervention, the PPN-RDA quickly displaced Sawaba. By the time of the December 1958 elections it had effectively ended open political competition, structuring a de facto one-party state. In place of a nominally democratic system, Hamani Diori and top PPN leadership instituted a system of personal rule. Its inner leadership came from a close circle of loyalists, most of whom were Zarma. Its broader leadership was more or less symbolic, made up of clients from various parts of the country, many of whom were traditional authorities. The major dynamic of politics involved the struggle in the inner circle as President Hamani Diori and National Assembly President Boubou Hama variously built their personal networks through the party, the cooperatives (UNCC) and the community development service (Animation Rurale).

As the decade of the 1960s wore on, the political party became increasingly irrelevant and was allowed to die in the countryside. As internal resources decreased with drought and external resources flowed with increased foreign aid, the political leadership became increasingly corrupt and irresponsible. No party Congress was called for ten years. Apart from the brief and easily mastered Sawaba guerilla attacks of 1964, the only organized resistance was from student unions, and at the very end of the Diiori period, from labor unions. Plans to mobilize the rural population through the animation program and rural communes were abandoned, leaving only the skeleton of top-down marketing cooperatives with no real members.

Not surprisingly, the regime undermined all institutions of effective and responsive governance, reaffirming the supremacy of state authority over society and of the executive over the other branches of government. Under Diiori, the National Assembly dutifully rubber-stamped legislation and rules initiated by the executive. The formal court system, when used at all, was used primarily to resolve conflicts in civil cases and not to limit the arbitrary use of state authority, and uphold the rule of law.

Nor did the embryonic civil society of urban Niger fare well. One year into office, the PPN had eliminated its rival party and all opposition cultural groups, youth groups, unions, and newspapers. In their place it established centrally controlled "mass" organizations linked to the single party. One trade union spoke for the workers, one women's organization for Nigerien women, one youth group for Nigerien youth, etc. Centralization also led the regime to control the formal sector of economic life through tight regulations and the establishment of parastatals.

3. The Regime d'Exception: Seyni Kountche and the CMS

The military coup that brought Kountche to power in 1974 was quickly followed by the dissolution of the PPN-RDA, the National Assembly, the local government, and the suspension of the Constitution of 1960. The new regime established the Supreme Military Council (CMS) to rule the country and governed directly by decree.

Today some political actors are anxious to differentiate the PPN-RDA regime from that of Kountche and the Conseil Militaire Supreme. At the governance level, however, the differences were minimal. Like Diiori, Kountche established a personal regime, supported by a small inner circle made up almost entirely of Zarma military officers. Initially, all the command positions, and even some of the positions of "traditional chief," were held by military officers. As the period wore on, the administration of the countryside and the technical ministries were increasingly staffed by a trained cadre drawn from a variety of ethnic backgrounds. These cadres, however, were never permitted to exercise any real influence over policy or over the political organization. In fact, they served solely at Kountche's pleasure, disappearing, usually through assignment upcountry or abroad, when they were perceived to be a liability or a potential threat.

Despite Kountche's widely accepted image at the time as an austere and generally honest leader, subsequent information reveals that Kountche ran a highly corrupt "mafia," involving massive payoffs to top military officers, some traditional leaders and marabouts, and an wide array of sweet-heart deals with large-scale merchant traders. This machine both solidified power and contributed mightily to the bankruptcy of the country.

In 1979, Kountche set the stage for a new political order by creating a National Commission to lay down the guidelines for a "Société de Développement." Touted as participatory democracy structures, the

Conseils de Development (Cds) established at the village, canton, sub-regional, regional, and national levels, were, in fact, instruments of the state, used by the CMS to hand down directives and to mobilize people for involvement in policies and programs. Local administrative authorities -- village and canton chiefs, sous-préfets, and military préfets -- presided over the Cds in their jurisdiction, while a civilian named by the CMS headed the National Development Council, which had no deliberative authority. Representation rules reflected corporatist principles. Delegates to the National Development Council were drawn from a wide range of functional associations chartered by the state (Robinson, 1991:12). No independent associations were allowed to speak for the diverse corporate groups represented in the Cds: youth, women, rural producers organized in cooperatives, and other representatives of socio-professional organizations. The role of the traditional chiefs was, however, enhanced, as they were given a designated place in the country's corporatist organization.

As early as 1984, political pressure for some kind of governance reform was building up among Niger's young intellectuals and technical cadres. Kountche's answer was a protracted process of writing a pre-constitution, the National Charter. It changed little, apart from offering a rhetorical affirmation of the country's commitment to respect the principles contained in the Universal Declaration of Human Rights. To the disappointment of those charged with drafting the charter, they were not permitted to offer the least modification of the command structure in the direction of devolution of authority, much less mention the possibility of reorganizing the regime to allow for some legitimate political competition. As the economy worsened and fewer resources were available to mollify the bureaucracy, unions and students, the regime became ever more unpopular as it dealt with a more open political discourse and dissent harshly.

4. General Ali Saibou and the Second Republic

With Kountche's death in November 1987, the CMS unanimously chose a compromise candidate, General Ali Saibou, who had been chief of staff since the 1974 military coup. His principal rivals, Moumouni Adamou Djermakoye and Mamadou Tandja, posed too great a risk of instability. Each had been members of Kountche's inner circle at various times and each had his own base of support, thus offering the prospect of open contestation should one and not the other be selected. Ali Saibou, however, was the least apt and strong-willed of the three, trying to manage the severe tensions of a deteriorating economy through moderate step-wise liberalization policies.

Events moved rapidly toward writing the 1989 Constitution. Although it authorized only a single party, the MNSD, it did authorize some political discourse and intra-party competition. Nonetheless, given the role of which the military retained under the Second Republic, it would be difficult to argue that the new regime, which took effect in January 1990, represented a major change in the country's governance. The new constitution concentrated power in the hands of the President and the Conseil Supérieur d'Orientation National (CSON), which replaced the CMS as the executive branch of government. Although restored as a deliberative body, the National Assembly remained weak, having virtually no power to question or check the power of the executive. Moreover, the fact that the President and the CSON designated most of the candidates running on the MNSD list stripped the National Assembly of any semblance of independence. The judiciary branch also lacked the powers and the independence needed to rule on the constitutionality of government acts.

These institutional changes, however, were to be short-lived, incapable as they were of addressing the changed external conditions of the international system and the aspirations these events were producing at home. Declining revenues and donor support resulted in the inability of the state to pay the salaries

of civil service and military personnel. This situation precipitated frequent strikes by government workers and unruly behavior by certain elements in the military. Moreover, the Twareg rebellion in the North disrupted trade and made large segments of the country unsafe. The collapsing authority of the state in the towns, and the deepening social and economic crisis also led to a sharp increase in urban crime. Paradoxically, the popular movement to create a new democratic regime based on the rule of law contributed to the destabilization of Nigerien society and a decline in government performance.

5. The National Conference and the Interim Government

Below, we discuss in more detail the conception, process and governance implications of the National Conference, held in Niger from July 29 to November, 1991. This process, whereby powerful actors in civil society, notably unions and student organizations, challenged and effectively overthrew the Second Republic bore the strong imprint of a new game of politics of exclusion -- notably of minorities, women and of "the rural world," -- thought to be too strongly associated with forces of conservatism and past regimes. The National Conference, together with a series of more specific meetings called "Etats Generaux" produced a guidance document, the *Cahiers des Charges*, and a commitment to install a transition regime to last for 15 months while preparing the way for elections under a new constitution of the Third Republic. The National Conference process produced rules forbidding the interim President, Prime Minister, and the President of the High Council of the Republic (HCR) from running for president in the upcoming elections, assuring that, for the first time since independence, the individuals who controlled the executive and legislative branches could not use their office to insure their continuation in power.

The task of the interim government was enormous, and it is generally acknowledged that its overall governance performance was mediocre at best. Governance was certainly complicated by jurisdictional disputes between the President of the HCR, Andre Salifou, and the Prime Minister of the Transitional Government, Cheiffou Amadou, by the huge number of tasks and objectives mandated by the National Conference's *Cahier des Charges*, by the rapid turnover in government personnel, and by the lack of texts and clear rules delimiting the powers and functions of the transition institutions. Compounding its difficulties was the disastrous economic situation of a country whose economy had virtually come to a standstill, making foreign debt payment as well as the meeting of routine domestic budgetary obligations impossible. Despite its serious problems, however, the transition government managed to organize a national referendum on the new Constitution in December 1992, and legislative and presidential elections in early 1993 deemed by international observers to be fair and open.

B. Summary Overview of the Economic Situation

The fact that Niger is one of the poorest countries in the world significantly affects its prospects for economic development and for consolidating a more democratic regime. Since independence, its economic performance has been extremely weak, with an average rate of "growth" of gross domestic product of minus 2 percent per annum over the past twenty years. There is no doubt that the standard of living for many Nigeriens is worse today than it was in 1960. Since 1980, for example, per capita income in Niger declined by 3.4 percent per year. Since 1993, however, economic growth has in fact been picking up, with a 1.4 percent real GDP growth in 1993, compared to a minus 6.5 percent decline in GDP in 1992. Given devaluation, reasonable labor relations and a decent rainy season, growth in 1994 should be considerably better.

Still, the Nigerien economy confronts some very serious structural difficulties. Agriculture still employs 80 to 85 percent of the population, but now produces less than 40 percent of the GDP. Nigerien rain-fed agriculture continues to be a highly risky and variable proposition, dependent on low levels of technology and on highly variable rainfall. Yields have been static or declining for most food crops. No major broadly produced export crop has been developed to replace groundnut sales which peaked at 250,000 tons in the late 1960s and have fallen to almost nothing today. Irrigated cultivation of onions produced in a few specific sites has generated some agricultural exports, but affects only a very small number of producers. By all appearances, the harvest of 1994 should be a very good one given very good rainfall in many parts of the country. Many farmers apparently bet right and planted significant areas of groundnut which may produce good yields and total crop tonnages for the first time in many years. In the long haul, Niger has good prospects for accelerated growth through expanding its exports of a limited number of agricultural commodities, and through the development of its food crop sector, in the view of a number of agricultural experts. For this potential to be realized, Niger will have to continue promoting the proper macro-economic policies and maximizing the capacity of small-scale producers to respond to market signals.

Industrialization, almost exclusively in the form of mining of uranium yielded about 15-20 percent of the GDP in the peak years in the late 1970s and accounted for a significant percentage of Nigerien investment budget. Today, however, uranium production has declined to less than 10 percent of GDP, and produces only 11 billion CFAF (about \$5.0 million) in revenues. Still uranium sales constitute 75 percent of Nigerien export earnings, a figure which clearly points to the country's serious balance of payments and trade dilemmas. Given world market conditions, it is very unlikely that uranium exports can lead the way to economic recovery.

At the level of macro-economic policy, Nigerien policy makers are still dealing with years of severe mismanagement and miscalculation. Past earning and export production trends, coupled with heavy investments in the mining sector and in para-statal enterprises in the late 1970s and early 1980s, led Niger into deep debt difficulties and into a series of agreements with the International Monetary Fund and World Bank. The political upheavals of 1990 to 1993 intensified the fiscal crisis leaving the newly installed government of the Third Republic, when it took office in April 1993, with 76 billion CFAF internal and 336 billion external debt and a totally unmanageable debt service ratio of 80 percent of fiscal receipts and 59 percent of export value (*Construire l'Afrique*, December 20, 1993). The new government owed 16 billion CFAF in back unpaid salaries to its public servants, and 14 billion CFAF in unpaid obligations to suppliers.

Niger's implementation of its IMF ESAF (Enhanced Structural Adjustment Facility) program had been interrupted in 1990 and eventually abandoned, compromising any further IMF and Bank lending, and significantly affecting rapid disbursing loans from other donors as well. Relations with the Bretton-Woods institutions deteriorated during the period 1990-1993 when efforts to get Niger back on track all failed.

Since early 1994, however, this relationship has improved along with Niger's fiscal situation. First, in January 1994, the Government of Niger agreed to the devaluation of its CFAF currency, along with other countries of the franc zone. This correlated with the approval of new IDA support of \$25.0 million, and the signing of a new IMF standby agreement in February 1994, valued at \$26.0 million, both designed to support further structural adjustment efforts. These support programs, however, have not been without their political costs since they have required the new regime to control (initially to reduce) public sector wage expenditures and to improve internal revenue generation largely through improvements in the rate

of taxes collected. At the same time, devaluation caused inflation of nearly 42 percent in the first two months, although prices for most commodities appeared to be stabilizing by May. The combination of this economic medicine produced a wave of labor demands for wage adjustments on the part of urban workers and public sector employees. The new government could not meet their demands for wage adjustments of 30-40 percent to offset inflation, and countered with an offer of about 15 percent. The inability to meet these demands triggered Niger's first "indefinite general strike" called by its dominant labor federation, the USTN. This strike, which lasted all of June and July, caused serious tensions within the governing alliance, and between labor and the Bretton-Woods institutions. The strike was "temporarily" suspended in late July for one month, and had not resumed as of the time when this report was concluded in early September.

On the other hand, there are indications that devaluation, coupled with policies of trade liberalization have significantly favored the export of Nigerien agricultural commodities, and notably of livestock. Should the 1994 harvest prove abundant in cereal grains, there may be good opportunities to export surpluses. The impact of flooding in a number of parts of the country on irrigated production of such crops as onions, however, remains to be seen. There is also some indication that devaluation is benefiting Nigerien rice farmers, and stimulating the development of small and micro-enterprises. Devaluation has been costly to a small but powerful segment of the work force, and has caused serious political tensions within the Alliance of Forces for Change (which drew significant support from Labor especially through the PNDS-Tarraya political party). It is, however, offering many Nigerien producers, particularly rural producers, the opportunity to become competitive and to gain a sustainable share of markets for its products.

Nonetheless, Niger continues to experience a fiscal crisis of unprecedented scale. Although the new government has taken measures to enhance revenues, the revenue/GDP ratio fell to an all-time low of only 7.6 percent. Current expenditures require at least 12.5 percent of GDP. The difference is producing a current budget deficit of nearly 5 percent of GDP with an overall budget deficit (including domestic and external payment arrears) at over 8 percent. Tax revenue collections have been so weak that the current wage bill for the public service takes 90% of tax revenues, leaving virtually nothing for other public expenditures, such as medicinal supplies or the most basic and vital operating supplies for government services.³

Under the agreement signed with the World Bank in February for the Economic Recovery Credit (ERC), the Government of Niger must demonstrate that it can increase tax revenue and it must demonstrate that it can prudently manage demands from public sector workers and limit wage increases. This presents the regime with very serious political challenges. Among the government's most vital supporters have been unionized public sector employees and students, many of whom aspire to public sector employment. Yet the February 1994 agreement with the IMF requires the Government of Niger to hold public sector employment virtually static at about 39,000 positions. This coincides with a time when demands for political patronage in government jobs is very intense as well.

Expectations of what democracy would bring, reinforced in large part by the political parties during the legislative and presidential campaigns of 1993, constitute a serious problem. In the countryside, people often evaluate regime performance strictly in terms of how well off they see themselves to be. If the

³ This section draws heavily on the analysis by USAID economists in the Office of Analysis, Research and Technical Support (AFR/ARTS).

harvest of 1994 is ample, the government may gain a bit of breathing room at least in that quarter. But if villagers and urban dwellers expected that democracy would result in lower taxes (as many apparently did) and in better public services, particularly in health care, there could be a major backlash as the regime attempts to meet the conditions of its international financial partners. While the February ERC agreement with the Bank requires the government of Niger to maintain and even increase expenditures for health and education while reducing the effects of devaluation on vulnerable groups, this might be exceptionally difficult and politically painful to do. If it is unable to do this, and at the same time is obliged to vigorously step-up tax collections, it could become very unpopular. Its very unpopularity could feed the opposition's campaign, which up until June 1994 included, among other things, discouraging the payment of local taxes.

C. The Underlying Socio-Communitary Values of Nigerien Society

Our examination of political behavior in Niger begins with a brief overview of informal values or working rules pertaining to the organization of public life. While these are deeply embedded in Nigerien society, they are, nonetheless, dynamic, corresponding to the evolving logic of how people meet their identity and survival needs in changing circumstances. This logic is based on a series of sociological and material realities that structure incentives and perceptions of available choices of behavior. Because social and material conditions have changed dramatically in Niger in the past 20 years, these values are dynamic, not really "traditional" in the sense of expressing static or enduring preferences from some inexplicable past.

1. **Historic Socio-Communitary Values**

Power and authority are hierarchical and based on unequal social relationships

Niger is made up of a series of sub-societies identified both in terms of historical ethnic differences and in terms of differences that have always existed between urban and rural people and, to some degree, between women and men. Differences among the major ethnic groups of Niger on this point are significant, but do not negate this overall historical value. Looking only at pastoralist social organizations, a Nigerien social scientist has classified the societies of Niger as those which still maintain a considerable element of hierarchy (Twareg, Arab) and those where previous forms of hierarchy have broken down (Toubou, Fulani) (Sidikou, 1994). Another author, looking only at Niger's largest ethno-linguistic groups, classified them on a continuum from most hierarchical (Hausa) to intermediary (Twareg) to less hierarchical (Zarma) (Charlick, 1991, 18-20). These gradations, however, mask the considerable extent to which even weakly centralized political organizations of "traditional" societies made sharp status distinctions between such categories as nobles and serfs.

Because of the hierarchical nature of power, political processes in Niger have always tended to discourage initiative on the part of status and political inferiors.

Seniority and the value of age

Although never an absolute principle of authority, all of Niger's societies historically valued age. It was associated with wisdom and with careful and thoughtful management, as compared to the excesses of youth. Although not strictly lineage based, most groups preferred to select the oldest competent (male) person eligible for rule at whatever level of the political system, and were disturbed by external intrusions which violated this order.

Power was always competed for, but the competition was mainly personal

Strategies for mobilizing support historically depended on two interrelated processes: the recognition of personal distinction and the development of loyal followers. By and large, the right to exercise authority and to hold a position of power always involved a competition (the search for title, or neman sarauta in Hausa). But, while such resources as social status and specific lineage were important, the decisive factor was usually the ability to mobilize people. Campaigning for office meant building networks of supporters based on promises of personal reward. Loyalty of followers depended to a large degree on instrumental factors, such as the perception that the leader could deliver the promised reward and protection. Maintenance of this network depended on the leader's ability to control access to benefits which potential followers wanted, and to make certain that these followers could not obtain them at a lower cost elsewhere.

Political mobilization has been patrimonial and corporatist

In the historic "state systems" of Niger, such as the Hausa and Kanuri, political organization was based primarily on constituting a patrimonial bureaucracy -- an organization based on appointment of loyal individuals who in return could derive income from the "prebends." The operating principle was one of "tax farming" -- the collection of taxes with shares taken by local officials and revenue passed up to the top. When it was necessary to mobilize political support beyond payment of taxes, as in time of war, people would be mobilized in groups or categories (by clan or professional category such as hunters, or sarkin baka, and blacksmiths).

Leadership was historically never defined principally in terms of material wealth

Although leaders depended on their ability to generate rewards for followers, leadership was never defined principally in terms of material wealth. Leaders always needed to have other qualities, most important of which was their willingness to be integrated into the life of the community. The wealthy were often viewed with suspicion for this reason, particularly in rural areas, as people who held themselves apart from the community. The way in which wealth was typically "socialized" varied from "potlatch" rituals among some pagan groups (periodic distribution of the leaders' wealth to the community as a manifestation both of strength and of solidarity), through the social pressure of griots (praise-singers) who would viciously attack the wealthy who did not share, and through the more or less obligatory involvement of individuals in gift exchanging networks.

Power was never strictly secular

Historically, power of any sort always merged both the ability to mobilize and command "force," and the ability to attract support (influence over people). Neither attribute could be achieved without close connections with the invisible world of magic, spirits, and religious forces. The forms which this spiritual connection took varied from the clear association of the authority of Hausa chiefs with Islam (the idea of the emir as a leader of a theocratic order) to the much less formal notion among the Songhai and Zarma of choosing from among the aristocracy those leaders who manifested spiritual power. In no case was spiritual support, however, linked only to formal religion, notably to Islam. In highly Islamized societies, the connection to the spirit world controlled by supernatural forces and the ability to manipulate them was formally played down, but informally constituted a considerable asset. In pagan societies (such as the Maguzawa, non-Islamized Hausa speakers) and the Songhai-Zarma the role of Zima (conjurers and spirit intermediaries) was openly acknowledged. As Nigerian societies became increasingly Islamized

(a continuing factor to this day), the most powerful common identity became that of being a Muslim as opposed to everyone else, specifically Christians/Europeans, and pagans (Miles, 1994).

Women played only the most marginal roles in authority structures

Unlike cultures with "queen-mothers" or other politically powerful roles for women, Niger's patrilineal or bilateral kinship structures, reinforced by the values of Sahelian Islam, accorded women no place in public life. In Niger, however, where women were very rarely cloistered, they were permitted to participate in economic life and to hold assets of their own. These assets could yield political influence only very directly through male relatives or economic clients.

*Power was best exercised somewhat paradoxically:
Win but reconcile. Victory is fleeting.*

Here a distinction must be made between local (usually rural) and state (usually urban) patterns. The lower the leader in the political hierarchy, the fewer the resources historically available to maintain clear victories and repress enemies. At the village level, there was a strong preference for reconciliation (*zumunci*) and peaceful relations (*zaman lahiya*). At this level, people valued personal qualities of cautious wisdom and patience. People preferred to deal with differences in terms of ritualized joking (*wasu*) relations rather than exclusion. Higher in the political hierarchy where resources were more abundant, the cost of clear victory could be more easily sustained. At this level, people talked more about decisiveness and tough mindedness. Hence, although in state systems like the Hausa political system, villages and city-states (urban areas) were linked, two different socio-communitary values dominated.

Ethnicity was a powerful identity but not an all encompassing one

All of the identity and power logics discussed above tended to crosscut ethnic exclusiveness historically. None of Niger's so-called ethnic groups used ethnic identity as the principal force to mobilize individuals. For most, identity was at a much smaller level of sub-group (*Kel* for the Tamashaq speakers; specific locality of origin or historic city state, such as Gober, Katsina or Daura for Hausa speakers). Inter-ethnic relations varied in intensity and in their specific nature based on such factors as environmental conditions, occupational specializations, and the overall security situation. Circumstances at times forged close relations and at others engendered conflict between nomads and sedentary farmers. One prominent analyst of Nigerien society argues that exclusive ethnic identities and antagonism stemmed principally from the decision of Niger's colonial and post-colonial rulers to impose a new central state (Nicolas, 1972, Adji, 1991).

2. Evolution of Values and Associative Logic

Overall, what has happened in Niger, as elsewhere, is that traditional communitarian values were modified as they came into contact with other values based on different preferences and logics. The result are values or informal rules which are both more complex and ambiguous. At the same time, the existence of multiple rules and logics frees the individual somewhat to choose the rule and identity which best serves him in a given circumstance. This has had the most importance in urban areas and among urban elites.

Three forces have served to alter to differing degrees the "traditional" principles outlined above. The first has been the dramatic removal of legitimate authority and control from local-level society to the distant State under both colonial rule and its authoritarian successors (see Adji, 1991). Although behavior of holders of power in the central State certainly reflected some of the patterns and norms of the past, it almost totally neglected the elements of socio-communitary control from below the level of the state, appropriating much of the value to national leaders, their followers and, as a consequence over a period of years, disproportionately to people from their region and ethnic group. Ironically, this led not to a repudiation of control by the summit, but to the "*chang*i" notion of democracy that we will be describing below: the notion that it is now the turn of new groups to capture the state for their own benefit.

The second value shift has been the introduction of a liberal democratic logic, presumably a value most prevalent among urban educated elites. Some aspects, however, have reached rural communities in the form of messages about individual liberty (*yanci* in Hausa) and legal equality. These new norms have been heavily promoted by both domestic and international media leading to their wide use in the language, even by some villagers, and to the perception on the part of authorities that democracy is being interpreted and acted on as anarchy (by which they mean loss of control and sense of obligation). Political disruptions and the loss of a good deal of state capacity, not only to provide but also to extract, have encouraged "free" behavior, raising questions about how a new socio-communitary logic can be reformulated and perhaps reimposed.

For many though, the most powerful of these forces has been the expansion of the merchant capitalist economy, and the logic of personal material gain, particularly important since 1974 (Gregoire, 1987). The search for material wealth has replaced the search for followers and titles to a considerable degree. But it has also been overlaid with political overtones as another way of exerting power and influence in a hierarchical manner. For rural people, acquiring money has become so vital to survival that other forms of social affinity have been eroded. In urban areas, the need to acquire money has motivated individuals to hold themselves apart from the community and to use wealth to confiscate and appropriate resources, such as land, from those who would previously have been considered the rightful holders. In urban areas, material survival has driven the poor to increasing levels of theft and anti-social behavior (behavior which attempts to escape established rules of conduct).

These forces are provoking changes in the nine principles of socio-communitary logic discussed above.

Hierarchy and social inequality

Although the democratic discourse has raised questions about these values, they persist in modified ways. First, the logic of hierarchy, backed by the logic of the central state is still extremely powerful, making power holders deeply suspicious of meaningful decentralization and loss of control to more local-level units. Second, some customary bases of status inequality have been eroded, although they are far from dead. During the era of nationalist politics, traditional status differences (between noble born and commoner or serf) were sufficiently important to structure faction struggles even within the "party of the modernizers" -- the PPN-RDA (Adji, 1991, and 1994). Former President Kountche used his noble status to reinforce his own network politically (Adji, 1994). Intermarriage among people of noble and lower caste origins is still rare and produces a scandal even in urban Niamey. Third, the phenomenon of personal wealth has heavily interpenetrated all these hierarchical logics, eroding, for example, public disapproval of status intermarriage, and significantly affecting the basis of voluntary association at all levels of society.

Specifically, the status of the chieftaincy has been evolving. Under the military regime, chiefs were so thoroughly incorporated as agents of the state and of the ruling party (MNSD) that their independent bases of authority were weakened. At the same time, they lost a good deal of the income they could extract, which made them less able to maintain their own patronage structures. This trend has continued with multiparty democracy. Although outward signs of respect for "traditional authorities" are still strong, there is also growing evidence of challenges to their decisions by cadres, by wealthy merchants and even by ordinary villagers (Adji, 1994).

Seniority and the value of age

This value has been most heavily attacked by intervening and conflicting systems of ranking status, principally by the factor of education. Younger educated people have for the past forty years become "mushur" (monsieurs or government workers) according them both the support of the state and a regular source of income. Today, many Nigeriens are shocked to see the level of disrespect of customary authority and norms by educated youth, and are disgusted by the disorder youth engender when they defy authority, demonstrate and destroy public property in pursuit of their demands for subsidies and employment guarantees. The age seniority principle of social and political organization has, nonetheless, been widely altered (Adji, 1994).

Politics is competitive and personal

Certainly, this principal was reinforced by the Diori and Kountche regimes (Charlick, 1991). The question is whether political party organizations and systems will be dominated by the same logic. Some parties (like ANDP) seem to be organized around a single leader. Others appear to have sprung up from broader affinity groups (notably CDS, PNDS). It is too early to tell whether these groups will devolve into machines of personal loyalty, or will broaden the basis of political organization. Competitiveness, however, is the rule, at least between the power blocks.

Political mobilization as patrimonialism and corporatism

Both the Diori and Kountche regimes continued and expanded these organizational principles. The primary locus of patrimonialism has been within the public service, in state and parastatal associations, although with more state revenues Kountche was able to extend the network of clients very substantially to include both merchant capitalists and some Islamic leaders. The nature of prebendalism altered from tax farming to "revenue-sharing." Not only were loyalties cultivated by selective employment of loyalists, but side payoffs (Kountche's "envelops") augmented the incentive for personal support. Corporatism also expanded considerably with the incorporation of a number of social categories (women, youth, chiefs, Islamic leaders) into the Societe de Developpement (Charlick, 1991; Robinson, 1991) structuring "participation" from the top-down, and using these networks more for extraction and control than for the distribution of patronage.

These patterns of political mobilization persist in the era of competitive democracy in two forms. The impression we have received in interviews with former ruling party members and those of more recently formed parties is that MNSD longs to reinstate the corporatism of the Societe de Developpement, in which people of different social categories (professional, statuses, functions) could be "associated" (and controlled) through associational life with as little autonomy as the State could manage. Today, in the brief time since multiple parties and "civil society" associations have sprung up, there is already evidence in from our interviews with local civil society leaders and party leaders at the arrondissement level that

national leaders of the organizations are attempting to limit branch autonomy, preferring to structure all associations as "mass movements" heavily controlled by top leadership.

Wealth is not enough

Much has already been said of the growing role of wealth; this principal has been modified, if not entirely invalidated.

Power was never strictly secular

All of Niger's top leaders, until 1993, came from the Songhai/Zarma culture, and it is indisputable that they all relied not only on Islam but also on the public perception that they were assisted by spirit intermediaries to reinforce their power. This was most obviously true for President Seyni Kountche. Niger's new leaders are drawn nearly exclusively from the ranks of technically trained and western-educated elites, and they are increasingly drawn from Hausa society. It should be of no surprise then, that they look more to formal linkages with Islam, as well as to more occult aspects of Islam, for additional political support.

Women marginalized

This organizational principal has begun to shift, although more slowly than most women would like. Although educated women play increasingly prominent roles in government services, there are no women in command positions in the administration (préfets and sous-préfets), only one woman of ministerial rank, and only four women currently in the National Assembly (out of a total of 83). The most important development here has been the formation of separate women's organizations not controlled by male-dominated parties or the state. Interpretations of religious values by many Islamic leaders, reinforcing pre-existing values, have tended to challenge women's roles as leaders.

*Power is best exercised somewhat paradoxically:
Win but reconcile. Victory is fleeting.*

Sixteen years of military rule eroded this principle, at least at the national level. It gave rise to the view that victory could be consolidated with long-term spoils to the winners and little for the losers (Adji, 1991: 294-297). The implications of this excluding the losers and of giving them inadequate security when they do play by the rule are sobering for the consolidation of democracy in Niger. Many think that an alternative logic does emerge to deal with the fleeting nature of victory: win, exclude, and profit as much as possible before being excluded.

Ethnicity is a powerful identity but not an all encompassing one.

Ethnic identity and its benefits were reinforced by the years of Songhai/Zarma leadership of the State. "Changi," the battle cry of much of the democracy movement, has had a strong ethnic and regional connotation. Yet there has also been an explosion of associational life cutting across ethnic lines, particularly in the development NGOs. Nor is partisanship strictly ethnic, as parties try to build national bases. In some aspects of political life, the high degree of partisanship is moderating ethnic cleavages; in others it is reinforcing it.

III. AN ANALYSIS OF INSTITUTIONAL DYNAMICS AND POLITICAL BEHAVIOR: THE NIGERIEN STATE

Chapter III provides the first of three analyses of Nigerien institutions engaged in political life and which will ultimately determine the nature of the country's evolving democracy. This chapter specifically discusses the Nigerien state and begins (section A) with a review of the "social compact" or set of understandings, tacit and explicit, reached between the social and political forces that were responsible for initiating the democratic transition. In section B a review of the constitution of the Third Republic is undertaken, which essentially reflects the set of understanding reached during the transition concerning the nature and extent of state authority under the Third Republic. In the concluding section C, the three principal institutions of the state -- the **executive** including the bureaucracy and decentralized administration, the **legislature**, and the **judiciary** -- are analyzed in terms of their institutional dynamics and political behavior and whether these conform to the new rules for democratic governance established under the constitution.

A. The Social Compact Underlying Niger's Transition to Democratic Governance

The movement towards democracy in Niger began in earnest when labor unions and students joined in calling for multipartyism in June 1990. International events were propitious: the collapse of Communism in Eastern Europe; Mitterrand's pro-democracy statement at La Baule; the release of Nelson Mandela from his South African prison; and the holding of the first National Conference in Benin to serve as a model for a possible course of action. The domestic front was also ripe for change with the collapse of the economy, and the withering of state capacity and any trace of a development ideology (Niandou-Souley, 1991). When government security forces fired on student demonstrators on February 9, 1990, killing three and wounding ninety-one more, thousands lined the streets of Niamey in support of the student martyrs. Within three months the government again used deadly force against innocent civilians ... this time in the Tchintabaraden region, where the local population was suspected of harboring forces of the Twareg rebellion from the authorities. International human rights groups in France and elsewhere spot-lighted this abuse of power. This wanton use of coercion propelled a campaign by students, unions and human rights activists to put an end to the old regime. The regime could not resist the call for a national conference as the only possible means to chart the country's future political structure and its economic and social policy.

What did Nigerien activists hope to achieve in the National Conference? What understandings did participants reach in order to forge a new Constitution and a new regime?

One way of ascertaining this is to look at the interests and demands of the most critical actors in the democracy process.

Militant students and union activists were clearly the catalytic forces behind Niger's National Conference and the subsequent creation of the Third Republic. This fact of political life cannot be separated from the country's transition to democratic governance: it frames the present-day context of struggles to define meaningful participation, assess government effectiveness, and hold political actors accountable for their performance in office.

Student unrest had been chronic in Niger since the late 1960s, resulting in several efforts on the part of both the Diouri and Kountche governments to control student organizations and a number of violent repressions of student strikes, notably under Kountche in 1976 and again in 1982-83. The advent of

Nigerien structural adjustment policies in 1983, and subsequent World Bank educational reform programs, with their recommendations for reallocating resources from higher education to primary level and vocational training, meant that students saw the entire logic of social mobility, represented by scholarship aid and guaranteed public sector employment, at risk. It was precisely these policies and proposed changes in educational priorities that prompted the student union, the USN (Union des Scolaires de Niger), to call for the ill-fated February 9th protest. What students expected from the National Conference was above all an end to the abuses of power of the regime, particularly against themselves, and a substantial modification of the structural adjustment policies which they saw as compromising their future economic standing.

Union militancy had been more episodic in the years preceding 1990 (Charlick, 1991:85-88). Trade unions and public employee unions were largely government-controlled under both Diouri and Kountche. Pressure for union autonomy was contained during the uranium boom years of the late 1970s. But, as we have seen above, falling uranium earnings during the decade of the 1980s, combined with spiraling debt and periodic drought, compelled the Government of Niger (GON) to adopt an adjustment program that threatened the interests and employment, not only of miners but civil servants as well. By 1990, Niger's financial crisis was so acute and its compliance with adjustment recommendations for public sector salary compression so poor (Gervais, 1992) that the Government of Niger was forced by the IMF and World Bank to agree to even tougher reductions in the civil service, a government hiring freeze, and stepped-up efforts to privatize or shut down parastatals. The unions responded with an unprecedented general strike in June 1990, serving notice that they could cripple the government at will. In contrast to his repression of wildcat uranium worker strike in 1988, President Saibou, calculating the popular sentiment against and capacity to resist his regime, declined to exercise open repression. The interests of unions in the National Conference, represented by the USTN, were best expressed by their Secretary-General Mamane Laouli when he stated that the unions had no choice but to enter the political fray because "the solution to the economic crisis can only be found in the political system ... We must democratize our society as well as our strategies and policies for development."

The pre-eminent position of these two organizations was evident in the distribution of voting delegates to the National Conference. The 884 voting delegates were divided in seven structures or blocks: (i) the USTN with 100 delegates, (ii) the USN with 100 delegates, (iii) 18 embryonic political parties with 14 delegates each, (iv) other associations, including women's groups and the association of traditional chiefs, with 2 delegates each, (v) the non-affiliated unions with 2 delegates, (vi) the Patronat (representing business) with 2 delegates, and (vii) the "Power" of the State, including delegates from national government institutions and the MNSD. Women in Niamey had demonstrated vigorously to increase their representation from one delegate to five; the effectiveness of their solidarity led to a prohibition in the Political Parties Law on forming gender-based parties. Two additional structures representing the Army and the Nigerien Administration were given delegates but no votes. The "Rural World" was not even considered as a structure (because students and unions considered its representatives to be pro-regime), thus it was allowed to send delegates but they had no votes. While this listing of delegates seems grossly skewed toward students and unions, in the event the Conference decided upon a unitary voting rule, so that each of the five voting structures had, in effect, one vote.

What this formula does reveal is that the planners of the Conference gave very little thought to the role of peasants, of women, of traditional authorities, or even of human rights organizations. They planned the proceedings to marginalize those currently in power and to humiliate civil administrators and, especially, the coercive services including the army. It is also noteworthy that the Conference made no effort to include ethnic minorities or to represent them as such. In fact, the issue of the Twareg rebellion,

linked to the Tchén tabaraden affair, was considered by many to be one of the "hottest" dossiers to be dealt with at the National Conference. In actuality, it appears to have been put in this position more to discredit the military and the leaders of the Second Republic than to deal with abuses of minorities. Many Twaregs present or listening to the coverage of the Conference were incensed at the treatment given the issues of the rebellion and minority rights, and at the failure of the Conference to deal with minority rights as an important future national issue.⁴ Interestingly, although Prime Minister Issoufou of the new government would eventually (May 1993) rank the resolution of the rebellion through negotiations as the number one task of his administration, this commitment appeared nowhere in the Cahier des Charges of the National Conference.

One governance principle or agreement appears to emerge from the proceedings of the National Conference: the drive for consensus and the maintenance of corporatist block voting. As later described by Prof. Andre Salifou, a leading figure at the National Conference and later head of the Haut Conseil de la République during the transition, the purpose of the Conference was, in large part, to begin developing a democratic political culture.

"But a democratic culture doesn't just fall from the sky. It develops through a process of trial and error. So where do you begin? One way to start is by analyzing practice -- both the good and the bad. That's how we began our National Conference -- with an evaluation. We then tried to build safeguards against the abuses."⁵

Looking at the record of the National Conference, and at its final document, the Cahier des Charges for the Prime Minister of the interim government, it is remarkable how little focus this document provides. It reads more like a shopping list than a set of clear priorities and orientations. What appears to have emerged in the way of a social compact is the following:

Politically: The need to change the nature of relations between the population and the state radically, from relations based principally on repression and the arbitrary use of power to a relationship based on education and persuasion. The commitment of the National Conference is to create a democratic state based on the rule of law and to embody it in a new Constitution to be submitted for popular approval in a referendum. This commitment extended to specific details, such as the promise to finalize a number of laws of association, including the law governing NGOs. It is also very clear that the delegates shared a commitment to preventing the holders of power during the Kountché period and during the Second Republic (notably the Army and the MNSD) from returning to power. At the same time, the National Conference reaffirmed the need for a strong state and for the need to restore authority and credibility to the state.

Administratively: The key agreement seems to have been to improve the quality, transparency and probity of State management. For the members of the National Conference, this meant prohibiting as management practices those based on clientelism, regionalism, favoritism or

⁴ This point was discussed with Twareg leaders in both Paris and Niamey as part of this assessment, and was made abundantly clear by the presentation at the Brazzaville 50+ conference in Boston (October 9, 1994) of the video tape showing the testimony of Lt. Maliki and the reaction of conference participants.

⁵ Interviewed August 2, 1994, Niamey.

corruption. The National Conference, however, affirmed the role of a reformed Army in the defense of republican interests and policies.

The Economy: The economic policy is the least comprehensible and coherent. On the one hand, the National Conference urges the new government to restore financial credibility by reducing the deficit and paying foreign and domestic creditors. On the other hand, the National Conference mandates that the government is not to agree to reduce the total wages or the number of public sector and parastatal workers, nor is it to reduce public services in health and education. Special emphasis is put on the effort to reduce the social consequences of adjustment. On the revenue side, commitments were made to improve tax collection and fiscal transparency, and to broadly promote understanding of new taxes and the income tax, and the need for citizens to pay these taxes.

Rural Development: The strongest commitment made to the farmers and herders was to stop treating them as children (infantilisation) through the creation of a legal framework that will insure them full freedom to organize themselves and to decide for themselves whether and how to be associated with specific development activities. In addition, a commitment was made to enhance the conditions of rural production by providing a legal framework to assure the rights of property, residence and the right to benefit from their own development investments. At the same time, the National Conference maintains the instruments of state support for the provision of agricultural inputs, credit and technical assistance.

The Constitutional Commission created to draft the new constitution reflected some of these charges in its work. It has a number of provisions to safeguard against the return of authoritarian rule. It prohibits in several places corrupt practices and abuses of authority and enjoins government in the public interest. It requires a balanced budget and transparent budget processes. There is a heavy emphasis on human rights. Like the National Conference, it avoids grappling with some of the most serious issues: it clearly establishes a unitary government, thus making negotiating options for dealing with the Twareg rebellion more difficult; it makes no mention of the role of traditional authorities; and, intentionally or not, it provides few mechanisms for ordinary people to question existing laws and practices in light of its proclaimed principles.

B. The Constitution of the Third Republic

All constitutions, although they are meant to be an impersonal set of fundamental rules, represent the outcome of a political bargaining process at a particular historical moment. Usually, how to apply some of their provisions is not clear, and an ongoing process of interpretation is necessary and normal. An additional complicating factor is that constitutions are carried out largely by politicians who may well have strong incentives to ignore some constitutional provisions or intentions. Constitutions can be well or badly crafted in terms of their own internal consistency with their overall objectives; they can also fit more or less well into the society and its accepted ways of sharing power.

The Nigerien 1992 Constitution represents an ambitious leap from a series of authoritarian governments to a multiparty democracy. Nigeriens clearly wanted change in 1992; but few expressed an open preference for the highly partisan party politics they have seen so far. The question is whether the 1992 Constitution allows, through its internal power-balancing mechanisms, the various centers of authority and the popular forces for change to hold those in authority to the letter and the spirit of the Constitution's directive to govern in the public interest. The new President took office little more than

a year ago, and it would be unreasonable to expect that such a new system would immediately work smoothly. However, when one looks at the current gaps between the intention of the Constitution and actual governance practices, and then at the available recourse mechanisms and whether they are being used, it seems clear that it has been easier for political parties to take advantage of their new opportunities than for proponents of a rule of law to establish constitutional principles firmly.

One way of analyzing a constitution is to look at its formal rules and mechanisms for allocating and limiting authority in terms of how they support the essential elements of a system of democratic governance, and then to look at whether these elements are being sustained in practice by the various political actors. This analysis is particularly concerned with the mechanisms that "ordinary citizens" can use to protect constitutional rule.

1. Constitutional Limits

The Constitution is similar in many ways to the French 1958 Constitution in its allocation of authority, and borrows from the recent Benin constitution its strong human rights provisions (Raynal 1993). The Constitution protects all standard civil and human rights, but often refers to limits set by unspecified laws, a problem that will be discussed in the section on the freedom of expression and association. The Constitution sets up a basically presidential system. The relationship between the President and the Prime Minister is not entirely clear. On the one hand, the President is given all the formal powers. On the other, the Prime Minister, who can only be removed from office by the legislature, has an incentive to build up a separate support base.

Although the intention of the framers of the Constitution was to limit the powers of the executive compared to earlier Nigerien executives, the executive is still very strong in relation to the legislature and the judiciary. The unlimited power of appointment given to the President is the cause of much of the current criticism of the behavior of the majority in replacing a significant number of administrators and even low level civil servants with political appointees.

Those Nigeriens who voted in the December 1992 referendum overwhelmingly approved the new Constitution, but did most of them understand the content of the Constitution and the implications of the set of rules that are embodied in it? In most democracies only a small fraction of the population knows about constitutional issues in detail, but this group includes a reasonable proportion of the politicians and a large enough number of other people, including journalists and lawyers, to facilitate invoking constitutional rules. Their watchdog function is supported by a larger section of the population that understands the importance of constitutional rule, even though they may differ with the interpretation of specific provisions. In Niger, within this tiny group, there have been few attempts to use the legal procedures for interpreting and enforcing the Constitution. The only two constitutional test cases so far were brought by the parliamentary opposition to confirm basic properties of the legislature. The Supreme Court's decisions to protect a constitutionally defined procedure and parliamentary immunity for deputies has helped to establish the force of the Constitution and to increase confidence in the independence of the Supreme Court itself. At the same time, the behavior which necessitated it reveals the limited understanding of the Constitution, or limited commitment to it at the highest levels of government.

The Constitution does properly define itself as fundamental law and has standard, difficult procedures for amending constitutional provisions. Amendments cannot be initiated by "ordinary citizens," but can only be initiated by individual legislators or the President. Three provisions of the Constitution may not be amended: separation of state and religion, a republican form of state and multi-partyism. These three

represent contentious issues at the time the Constitution was drafted. Islamic groups succeeded in removing from the final draft of the Constitution the characterization of Niger as a secular state that had been in all previous constitutions and substituted the weaker notion of separation. The Constitution also emphasizes in several places that Niger is to be governed as a unitary state, totally excluding any federal arrangements. In Article 124 the word employed is "republican" not "unitary," suggesting a fear not just of the breakup of the state, but of the return to authoritarian rule.

Since there do not seem to be any pressures at the moment to amend the Constitution, the more relevant procedures for establishing its force are those for interpreting it and for ensuring consistency between the Constitution and the rest of the body of law. Access to the Constitutional Court (the Supreme Court in this case) is very limited. Only the President, the Prime Minister and the President of the National Assembly have standing to bring a constitutional question directly. Ordinary citizens must use the mechanism of court cases that raise constitutional questions that are then referred to the Supreme Court. They only have such standing if they themselves have been directly injured or have hard evidence of wrong-doing by state authorities. This is a higher barrier to citizen control of abuses of authority or unconstitutional behavior than is typically found in Anglo-Saxon legal systems where reasonable grounds, not direct evidence, suffices.

The Supreme Court approves draft organic law before the government submits it to the legislature; the Secrétaire Générale of the Government ensures that other proposed legislation is consistent. The Ministry of Justice should take responsibility for ensuring that the body of existing law is amended to make it consistent with the Constitution and Supreme Court decisions on constitutional questions, but this work is proceeding slowly. The process of hammering out what the Constitution means through raising questions about confusing provisions or reconciling existing law and the intentions of the Constitution has hardly begun.

Two important notions do seem to be taking hold: that the law applies equally to all and that the government's duty is to govern in the public interest. They are a good beginning in the Nigerien historical context. Their application, however, is still quite limited because so few people understand the principles of constitutional rule, and because elected political leaders have been so intent on pursuing the logic of patronage that they seem willing to bend constitutional limits to their discretion at times. In addition, the Constitution itself may slow the process of establishing constitutional rule because it narrows the opportunities of "ordinary citizens" to invoke the constitution to check abuses of authority or to question the constitutionality of existing laws and practices so sharply.

2. Popular Representation Through Elections

Elections allow voters to select their representatives and to vote them out of office if they do not perform well. The national elections for President and the single-chamber National Assembly held under the Interim Government in early 1993 were generally considered to have been fair and well-conducted given the logistical and time constraints. The low turnout (except in Niamey) in these elections probably contributed to maintaining orderly procedures. They revealed, as expected, that women did not vote in equal numbers to men; distance to polling places may have been one factor in some areas. More research needs to be done to determine how people selected their party and decided whether or not to vote. The next test of the electoral system will come with the election of arrondissement-level mayors and councils, using the mechanisms defined in the Constitution, the Political Parties Law and the Electoral Code.

The President is elected through a conventional two-round national election. The mode of representation in both National Assembly and local elections is proportional multi-member representation by department/arrondissement. The National Assembly has seventy-five seats elected in this way, with eight additional special single-member constituencies for distinctive minority groups. The Constitution explicitly forbids candidacies independent of party slates. This was written to forestall the possibility of parties' putting up proxy "independent" candidates in addition to their official slates of candidates. The National Assembly election results were in fact what would be predicted from a proportional multi-member representation system: a large number of parties won seats and minorities were well represented.

Good minority representation is a trade-off in Niger, however, for the direct relationship between deputy and constituents that is lost with a multi-member system. The Constitution says that each deputy represents the nation, and no interest supersedes that. Given the realities of party politics anywhere in the world, these provisions are not enforceable. In the current situation, the questions become a) how representative are the parties' slates of candidates and b) does party discipline interfere with the ability of deputies to represent their constituents? A survey of nine party statutes shows that all nine embraced the familiar top-down structure and the device of a party congress at two or three year intervals to elect a national executive. Parties vary in the numbers of voting deputies at congresses from the regional level, but in none of them do party members from the regional or lower levels have a majority in the congress. The two parties that specify who has the authority to decide on slates of candidates give the authority to the national executive. Representatives of 10 parties in Tillabery did not know how their slates of candidates for the local election would be chosen by their parties, nor did one of the mayors interviewed. The conclusion is that there is little to guarantee that party slates will be responsive to the wishes of most of their members other than the national executives' incentive to put up likely winners.

The question of party discipline arises for both voters and their representatives. Our perception of how strongly party membership now colors local political behavior leads to the inference that party members will either vote for their own slate of candidates or abstain. This inference could be tested by analyzing behavior in the local elections. The voting in the National Assembly on August 11 on the censure motion, and in general, shows that party discipline controls voting behavior. The one notable exception was when the National Assembly unanimously rejected a government motion to lift parliamentary immunity from a deputy who was being sued by the transition government's Prime Minister for defamation. Here, the self-interest of the legislature as an institution prevailed. Several Nigeriens have attributed the effectiveness of party discipline in the National Assembly to the fact that deputies are not certain to be re-nominated by their parties, nor are they interested in risking elections (that they might well lose) before they have to, at the end of five years. Deputies who always vote with their parties must necessarily compromise the interests of their constituents or the nation at times. How party discipline affects deliberations and the independence of the legislature from the executive will be discussed below.

The Constitution gives the Supreme Court the responsibility for ensuring that elections are conducted properly, for deciding whether candidates are eligible to run for office, and for certifying the election results. The management of elections is an executive branch function under the Ministry of the Interior and the local administrations, watched over by the local judiciary. This is not a constitutional assignment of authority but a provision of the Electoral Code, which could be amended if the executive proves to be other than neutral. The local elections will be the first managed by the Ministry of the Interior alone; the 1993 national elections were managed by an interim Electoral Commission and the Ministry of the Interior. The opposition party has called for the creation of a neutral Electoral Commission; this will be raised at the October National Assembly session.

The rules for financing political parties and their election campaigns are set out in the Political Parties Act and are explicit in their restrictions on private and external donations. Loans and gifts must be declared to the Ministry of the Interior, and annual accounts go to the Ministry of the Interior. The Ministry is not required by the law to make these accounts public. It is not, therefore, clear whether parties are complying with these regulations. The possibility that the oversight by the Ministry of the Interior could be used for partisan purposes is present, but has not apparently been a cause for complaint by the opposition parties. It is too early to tell whether any of the parties are complying with the regulations on contributions, and, therefore, whether they have any incentive to blow the whistle on each other. There is a provision for the government to give state funds to political parties in proportion to their seats in the National Assembly if national finances permit. The President's reported distribution of funds from Taiwan to the National Assembly deputies did not follow this provision. Under the Constitution, such external gifts are supposed to be transmitted to the National Treasury. The legality of the Taiwan distribution, however, is unlikely to be the subject of a legal challenge because members of the National Assembly have no incentive to set up an enquiry and only the deputies have legal standing to challenge the action.

Parties are forbidden by the Constitution to be based on ethnicity, region or religion. The Political Parties Act adds gender; the large-scale protests by women about their lack of representation at the National Conference appears to be responsible for the additional prohibition. All of the parties, except perhaps for the Twareg ones, have at least a window-dressing of ethnic and regional mixtures in their national executives to avoid breaking the prohibition.

Presidential elections are held every five years, with a two-term limit. National Assembly elections are also held every five years (unless the National Assembly is dissolved sooner by the President or the President extends the term because of exceptional conditions, a power greater than the legislature's power to censure the executive). A feature of the National Assembly election rules is that each deputy is elected with an alternative who automatically replaces a deputy who dies, resigns, etc. If an alternate dies there is a by-election, but this feature virtually eliminates the use of by-elections as a feedback mechanism on the government's mandate. There are no recall provisions that voters can invoke and no way for voters to initiate referenda. (Referenda are only called if more than 75% but less than 80% of the deputies have approved an amendment to the Constitution.) This means that there are no significant mechanisms for any review by the electorate of the mandate they gave at the last general election.

This lack of review by the voters increases the power of the majority, and the parties in general, if there are incentives for deputies to obey party discipline. The Constitution implies that deputies may not change their party affiliation and retain their seats; it is not stated that a deputy who is kicked out of a party must resign from the National Assembly, a mechanism that has been used in Zambia to rid the National Assembly of majority party dissidents. The intention of the Constitution to prohibit "crossing the floor" seems to reinforce the strength of party national executives because their deputies do not have the power to threaten to take their vote out of the party.

An important aspect of representation is that, roughly, each voter has an equal say in choosing representatives. The national presidential elections conform to that principle. For the National Assembly deputies, Niger has chosen to ensure that eight minority "special situations" are represented; the constituency boundaries for the rest are the department boundaries and, so long as the number of deputies for each department is proportional to the department's share of the national population, the principle is upheld. The Electoral Code bases the number of deputies per department on the number of communes and arrondissements, and their demographic weight but shifts the responsibility for determining the total

number of deputies and the number per department to another law. A new commission on redistricting is about to examine the situation. As the US experience shows, setting the number of deputies and their constituency boundaries is an important power in an area that can be highly contentious.

Elections in Niger have begun well. Whether the majority coalition will maintain the good record will be further demonstrated in the local elections. The real problem of representation in Niger is that voters are less powerful than national party executives in the selection of candidates and in compelling elected officials to be responsive to their interests.

3. Deliberative Democracy in the Legislature

One of the strengths of a democratic system should be the number of opportunities in the policy-making (and implementing) process to deliberate the pros and cons of a major decision. Debate takes place in the public realm, but the most important forum is the elected legislature. Ideally, legislators should be free to vote on the merits of an issue and the national interest; more often, there are pressures to vote on narrower interest group lines related to their constituencies; also, there are pressures from the parties they belong to. In Niger, constituency pressures are reduced by the multi-member system but party pressures are strong. Two measures of the deliberative process are the independent quality of debate by legislators and the capacity of the legislature to obtain good information and expert opinions on which their votes could be based.

With respect to deliberation, democracy is slower than authoritarian systems, trading off speed for a process that allows contributions from all interested groups and gives the decision makers some degree of understanding about what is involved in the decision. Ideal deliberative democracy has a fair number of similarities with the idealized process of decision-making in many African societies.

Two other measures of the amount of deliberation in a system are 1) the number and representativeness of civil society groups and fora debating issues and lobbying the executive and the legislature, as well as the quality of coverage of the policy process in the media, and 2) the points of access in the legislative process for hearing contributions from the public and from experts.

Policies that are deliberated and approved should also be subject to accountability in terms of their use of public resources and whether their objectives have been met. The legislature in Niger has the usual authority to pass laws, to approve the executive's budget and also to hold the executive accountable for its policies through debate and through votes of censure. (Under the Nigerien Constitution, deputies may not serve as ministers).

At the moment, the independent press carries most of the burden for civil society in bringing pressure on the government and in opening up public debate on policy issues. Its development in a short period of time is highly encouraging, but its capacity to do investigative journalism is limited, and, most importantly, it is accessible only to a small number of Nigeriens. Not surprisingly, civil society has not yet developed much ability to lobby the government; groups that have important contributions to make find ministers fairly accessible, but there is currently a major obstacle to public debate of proposed legislation. This is that the Constitution requires that laws passed by the legislature be published in the government's Journal Officiel, but there is no constitutional requirement to publish draft legislation before it is debated in the National Assembly. Draft legislation is not explicitly secret and the press occasionally publishes texts but access to draft legislation is confined to people who know that it has been submitted to the legislature and can obtain copies from deputies, i.e., primarily the press and the educated elite in

Niamey. The Constitution does not forbid publication, and Nigeriens might be wise to change the current procedure so that the draft legislation becomes publicly available and a normal topic for public scrutiny and lobbying.

Debate in the legislature follows standard procedures; the Nigerien constitution opts for an elected President of the National Assembly rather than a professional Speaker of the House, as in some Anglophone African countries, who acts as a custodian of the rules. The Constitution envisages sessions of 90 days beginning in March for general business, a budget session of 60 days beginning in October and special sessions of no more than 15 days that can be called either by the President or by 20% of the deputies. The National Assembly sessions are normally public (there is a provision for closed sessions which has been mostly for security matters), and the transcripts are published in the Journal Officiel. The National Assembly elects its officers and committee chairs, and can create special committees. Members of the government have a constitutional right to be heard both in committee and in the full house. The National Assembly has the right to information from the government through question sessions in the full house, written questions and in committee. The National Assembly can force the Prime Minister and the other ministers to resign through a vote of censure on their policies (the President would then appoint a new set); the Prime Minister can force important or unpopular legislation through by requiring a vote of confidence to defeat it. Again, the executive appears to come out ahead. The recent debate on the motion of censure showed the ability of deputies to articulate criticisms and the interest of many citizens, but also the power of party discipline.

While debate in the legislature may be independent, voting is along party lines and the time allowed for debate by the full house is often inadequate. To spend only five hours debating the decentralization legislation that is key to lives of ordinary villagers and to settling the Twareg rebellion is to allow the executive to dominate the legislature. It is also an example of how the majority coalition attempts to avoid serious policy debate that might weaken it. It is clear that a good deal of preparatory work is done in the parliamentary committees, and that these are places where executive, legislature and interested groups can interact to bring out the facts and difficulties surrounding legislation. The committee process, however, is not a substitute for a public debate.

The 1994 budget session was scheduled to take place in October. It should further demonstrate whether the legislature has sufficient power to hold the executive accountable. Many Nigeriens, including some deputies, doubt it. Ultimate accountability rests with the Supreme Court, but the Supreme Court does not have the right to undertake audits. There is no Auditor-General and the inspectorate deals mainly with parastatals. The government's annual report on its actual revenues and expenditures lapsed years ago, and reports of the budget process in the ministries reveal little effective auditing actually goes on. In theory, the legislature should be able to require the government to produce good reports on its handling of public funds and to ask penetrating questions about the proposed budget, but it is not clear that the capability exists in either the executive or the legislature. The World Bank and the European Community are both initiating projects in this area, but the results will not be felt soon. There is also a question of divided responsibility: is it really the Supreme Court or the legislature that has effective responsibility to hold the executive accountable?

The way of creating legislation in Niger also seems to reduce the power of the legislature. Deputies have the power to initiate legislation, which, as in most other places in Africa, they use rarely. They do use their power to amend legislation. Most legislation is introduced by the executive following its own timetable and agenda. The system of creating framework legislation, like the Constitution or the Code Rurale, that requires a great deal of enabling legislation to flesh out before it becomes comprehensible

plus the ability of the government to delay introducing the enabling legislation and to ask for temporary ordinances (*loi d'habilitation*), seems to result in a great deal of general confusion on what the law in force actually is. The judiciary is well trained in these intricacies (and uses the principle that the more precise and concrete law applies), but it seems to be a problem for many others. One wonders whether the legislature's role is clouded by these complexities which result from the executive's ability to divide up and introduce over time the legislative pieces of a single policy.

Allocating authority to an institution should result in the institution's using that authority to the extent that more powerful incentives permit. The Nigerian Constitution does not appear to back up the formal allocation of authority with equal powers to the executive and the legislature in their interactions. Party discipline further reduces the independence of the deputies and their ability to debate on the merits of the issue and to hold the executive accountable. The legislature has defended its interests against the executive on at least one occasion and the budget process this year may present an opportunity to use its authority vis-a-vis the executive. The National Assembly has certainly opened up the policy process compared to earlier periods and the press has also contributed enormously. Until proposed legislation is made public well before it is debated, a democratic deliberative process will be incomplete.

4. Freedom of Expression and Association: The Open Public Realm

The Nigerian Constitution guarantees all the human and civil rights that are generally covered in the international convention on human rights. An open public realm protected by the Constitution enables people to discuss political matters freely, gauge the performance of the government and organize themselves to perform whatever lawful activities seem appropriate to them to meet their needs. The most important protection for an open public realm are freedom of speech and freedom of association. The Nigerian Constitution both guarantees and limits these rights. A number of articles prohibit particularist activities, including those on free speech and association: propaganda and associations that encourage discrimination on racial, ethnic, regional, political or religious grounds are punishable by law (Article 9). Associations may form freely but must respect national sovereignty, democracy and the relevant laws (Article 10). The Constitution directs that the body of law be consistent with the principles expressed in the Constitution, but there is no easy mechanism for the "ordinary citizen" to deal with a law on the books that seems to be inconsistent, and the Supreme Court reviews only organic laws.

There have been no test cases to demonstrate how the Constitution protects these freedoms in practice. Thus, the principal problems are 1) that old laws, particularly those limiting freedom of speech and association, have not been revised in light of constitutional principles and cases to force their revision have not been brought to the Supreme Court, and 2) the enabling legislation that explicitly protects associations not now covered by legislation has not yet been written. As a result, a defamation law that appears to be unconstitutional (because it allows the executive standing to interfere in a criminal process and it does not distinguish between provable and false allegations) is used to dampen media criticism of public figures and professions. In addition, because they are not covered by existing legislation, some types of rural associations cannot become legally constituted and open bank accounts, which impedes their development.

The positive change that almost all Nigeriens mention with regard to democracy is the increased freedom of expression, not only for the independent media (which is strongly supported), but for themselves. The opportunity to openly discuss the political events of the day is welcomed without reserve. The freedom of the independent press has been respected on the whole by the government, although the defamation

law has been used by political figures against particular journalists and newspapers with the result that newspapers censure this type of criticism to a considerable degree.

The new Conseil Supérieur de la Communication was created by the Constitution to administer the communications sector and guarantee its independence and provision of equitable access to political parties, citizens and associations. It got off to a rocky start and will have to prove its neutrality and usefulness.

The government-owned electronic media seems to have done a respectable job of covering important National Assembly debates. They carry programs produced by human rights and legal associations. They thus seem to contribute to the ability of citizens to inform themselves and to participate in the new system. The new private radio stations will reduce the monopoly of the government media, at least in the cities where they operate. The right of response to press articles and media coverage is respected by the media.

In order for the open public realm to operate, there needs to be access to up-to-date, accurate information, as well as freedom of speech and association, so that citizens can judge for themselves whether their government is performing well. As with the budget process, the biggest problem is that the executive is not producing such information about its activities. In addition, the administrators have previously operated in a system that encouraged secrecy rather than openness. This is an area where donors can help by assisting ministries to publish information and by making their own reports public. It is also an area where Nigerien groups must begin to have an impact.

The Constitution requires very few things to be made public routinely. One is the financial disclosure statements to be made by the President, the Prime Minister and the other ministers on taking and leaving office, and at annual intervals. The President of the Supreme Court used the occasion of receiving statements from the President and the Prime Minister to remind other ministers to submit their statements, which they then did because of the strength of public opinion rather than a formal enforcement mechanism. Only one of the ministers included in his inventory of goods a description of how those goods were obtained. The requirement thus seems in practice to raise as many questions as it answers. For most other information on the executive, the general public is dependent on the legislature to ask questions.

Another basic property of the open public realm is that the society as a whole, and state employees in particular, preserve a reasonable standard of human rights. From our interviews with several human rights organizations (e.g., DLD, ANDDH), it appears that, with the exception of the area affected by the insurrection, there are few gross human rights violations. Human rights groups are working to regularize arrest procedures and the operations of prisons. Not surprisingly, prison conditions are bad. The police do not always operate within the letter of the law but interventions by human rights groups are enough to correct behavior in individual cases. There are certainly cases of people being held before trial for long periods. In the North, there have been clear instances of human rights violations by the military, particularly by militia loosely connected to the military, and by rebel forces. On the whole, the government has more interest in being seen to preserve human rights than incentives to violate them.

The opening up of the public realm is the most important and encouraging aspect of the construction of democracy in Niger. Although many peasants are still effectively shut out, many more people than before can participate in public debates and they seem to be interested in expanding debate. Civil society associations are still weak; where they need legislation for legal protection, this should be a priority.

Protection of the development of the independent media is also critical. The Constitution is not as helpful as it might be in this area; there is need to clarify its protection and to make the relevant laws consistent.

5. Establishing a Rule of Law

A rule of law means more than an independent judiciary. It means a body of law that is well disseminated, understood and accepted at all levels of the population – and well enforced. The benefit of a rule of law is confidence that rules will be applied fairly and consistently, enabling citizens, businesses, etc., to plan their activities without fear of arbitrary state intervention. An open public realm and the deliberative process should enable citizens some voice in framing laws; elections allow citizens to remove governments that have imposed unpopular laws. Legislators make law (usually proposed by the executive); judges apply law to individual cases; branches of the executive enforce laws; and individuals take advantage of the laws to resolve conflicts between themselves, to resolve the meanings of laws and to constrain abuses of authority by the government or its officials. In the Nigerien system, there is no provision for judges to invoke the law to curb abuses of authority by any part of the executive; it must be done through the action of an individual or group bringing a case to the judicial system, and only someone who is directly injured can do so. Establishing the rule of law thus becomes the responsibility of citizens with a specific complaint to bring cases which the judiciary must interpret in light of the Constitution.

The Constitution sets up an independent judiciary and gives decisions on constitutional matters exclusively to the Supreme Court. The President is the guarantor of the independence of the judiciary; he nominates, with advice, bench judges who then cannot be removed until the mandatory retirement age. Although the Ministry of Justice has some administrative responsibilities for the judiciary, the judiciary is appropriately separate in its organization, with its own commission and union. Its budget, however, is drawn up the Ministry of Justice, so in that respect it is not independent. As we saw in the field, judges are dependent on prefectures for materials and services that their own budget does not cover.

A constitution should contain the fundamental elements of a rule of law and the Nigerien Constitution does so. However, an interesting feature of the Nigerien Constitution is the number of provisions that attempt to protect the country from coups. One that goes somewhat counter to the rule of law gives all citizens the duty to resist tyranny through civil disobedience (not very clearly defined). This provision was invoked by the opposition parties to create disturbances on the anniversary of the President's inauguration, which did nothing to clarify the legal meaning. It is thus not clear when citizens have a duty to obey the law and when they have a duty to resist.

The Constitution also emphasizes the separation of state and religion. The body of law in Niger is primarily based on French legal principles, not Islamic or customary principles. In practice, a number of legal matters, particularly to do with the family, are usually decided outside the state judicial system. The recent attempt to introduce a Code de la Famille into the state system was interpreted by many people as an unwarranted intrusion of the state into a new area. Family cases are sometimes brought to the state judicial system, and some of the state family law is informed by customary law, but the system allows for the resolution of many disputes through a number of alternative mechanisms without recourse to the state judicial system. This seems appropriate in the circumstances of few courts, few lawyers, and well-accepted alternative dispute resolution mechanisms. The state judicial system acts effectively as a court of appeal, making use of specialists in traditional law (assesseurs). Whether this provides sufficient protection for peasants, especially peasant women, is not clear.

The judges interviewed report an increase in the number of civil cases since the Constitution came into effect. These are largely of two types: people, particularly civil servants, seeking to overturn decisions by préfets and sous-préfets, and losers in earlier land disputes seeking to re-open the case under the new regime. Given the number of different principles that have been used in the past 50 years to settle land disputes and the refusal of the regime d'exception to grapple with the problem, the problem of definitive principles for land tenure disputes will have to be resolved by the executive, not the judiciary. The new Code Rurale framework is a step in this direction, but like land questions everywhere, this is a can of worms.

The cases challenging the préfets and sous-préfets seem to represent both the almost anarchic questioning of rules people felt democracy entitled them to, and a healthy testing of the limits of authorities. The freedom of local authorities to act arbitrarily is also being limited by the actions of the regional human rights groups. They have been especially active around arrest procedures by the administration and the police, and proper prison procedures and conditions. While they have not been able to change prison conditions, they feel that they have made a significant positive difference to the behavior of authorities.

The main point that the human rights groups, and many other believers in a rule of law, make is that massive amounts of education and counselling are needed to teach local people what a rule of law is. They all make the additional point that authorities at all levels also need to be educated. While they have some instruction materials, these are woefully inadequate. The work of the different groups seems complementary, with ANDDH and LNDH concentrating on limiting authorities, and DLD advising ordinary people to pay their taxes and, in exchange, to demand services. RIDD-FITILA does more legal awareness. All the groups do teaching and counselling. Their energy and commitment are encouraging, but they are very few in relation to the size of the task.

The groups appear to cooperate and to work well with the judiciary, especially where judges are members of the groups. While some of the groups were initially suspected of having sub-rosa political affiliations, this suspicion has died down. In some regions the groups may be politicized; others stress that their membership includes people of different parties and that their reputation as non-partisan is essential for the success of their work.

Judges in Niger have some advantages over judges in other parts of Africa for helping to establish a rule of law. They are very well trained and well paid compared to other public servants, and have a clear career progression. They are not so isolated from society that it is considered improper for them to spend time in their personal capacity teaching people and participating in the activities of human rights groups. They have a well-established set of procedures for using the police to collect evidence that mitigates the problems of their own lack of resources (although it may add to the intimidating image that rural people hold of them). On the other hand, they lack both the ordinary necessities for carrying out their jobs (paper, pens and stamps, as well as computers and vehicles) and the professional necessities (a copy of the Journal Officiel for each tribunal, annual collections of Court of Appeal decisions and relevant journal articles by Nigerien and other legal specialists). They have few opportunities for in-service discussion and training; there is one major conference every three years. The judiciary is somewhat vulnerable to being starved for funds by the executive.

The shortage of lawyers in Niger (approximately 25, including some in the process of taking the series of bar exams) may be both a blessing and a problem. It means that in most disputes, neither party uses a lawyer and the costs are low. Civil servants, usually teachers given a little legal training, act as court-appointed counselors; the quality of their advice is not that of a lawyer. Lawyers are apparently not a

major force for bringing constitutional test cases as they are in other African countries. Their relative absence reduces the ability of the legal profession to act as a counterweight to the executive. It also reduces the number of people available to help formally and informally with teaching the meaning of a rule of law.

The establishment of a rule of law in Niger is not so much impeded by constitutional provisions as by the small size of both the judiciary and the number of people with legal training. Most peasants have no access to the legal profession, making the task of educating them in the principles of a rule of law all the more important.

6. Development of Local Government and Self-Governance

Decentralization and its implications for local government and local associations are discussed elsewhere. The Constitution says simply that local administration should be founded on the principles of decentralization and deconcentration (Article 115). In a number of other places it emphasizes the unitary state. A statement of principles in the Constitution is not enough to resolve the conflict with the Twareg, nor does it guarantee that decentralization will be carried out in a way that truly empowers local people.

CONCLUSION

A good start has been made towards establishing constitutional democracy, and the people who are defending the principles of a rule of law and an open public realm should be supported. The Constitution itself, although much of it consists of conventional republican provisions, unduly restricts access of ordinary citizens to decision-making processes and recourse to challenge the behavior of state officials and the constitutionality of laws in force. In practice, the executive and the political party national executives have too much power vis-a-vis the legislature and the people. The judiciary's role is hampered by inadequate access to current laws and recent decisions and the difficulty of initiating constitutional test cases. The executive's deliberate speed in revising existing laws in light of constitutional principles and introducing all the enabling legislation for the Constitution and the Code Rurale is delaying the establishment of a solid body of law upon which to base a rule of law.

C. The Nigerien State and Democratic Governance

1. Government Policy and Democratic Governance

The Declaration of General Policy presented by Prime Minister Mahamadou Issoufou to the National Assembly on May 22, 1993 provides an excellent summary of many of the problems faced by the Nigerien state in its efforts to build a new political order based on democratic governance principles. The Prime Minister listed five major political problems which undermined state authority and its capacity to govern effectively:

- the Twareg rebellion which was the consequence of an arbitrary and unjust regime (Political Order and the Rule of Law).
- the growing insecurity in the towns and countryside because of the development of banditry and delinquency touched off by high unemployment and a decline in traditional moral values (Political Order and Rule of Law).

- the rise of ethnic and religious intolerance and sharp conflicts between farmers and herders (Open Public Realm and Rule of Law).
- a legal system characterized by the slowness of judicial procedures and deplorable prison conditions (Rule of Law).
- an inefficient and demobilized state bureaucracy, overconcentrated in the capital, overstaffed in some areas, understaffed in others areas, and marked by old work habits not corresponding to democratic and republican principles; the traditional bureaucratic defects such as corruption, nepotism, embezzlement of public funds, etc.; and finally, the fact that most government employees had not been working at their jobs for the past few years while many Nigeriens had lost their taste for work (Democratic Governance principles involving the effective management of the public realm).

The Prime Minister also cited the country's low level of social and economic development infrastructure, the enduring financial and economic crisis, and the allocation of most state resources to a tiny percentage of the country's population (public sector workers and university students) as major constraints to implementing the government's development policy and programs. Having laid out the problems and constraints, the Prime Minister then presented the government's main policy objectives and priorities:

- the restoration of the authority and credibility of the state.
- the consolidation of national unity.
- the resolution of the financial and economic crisis by increasing state revenues, better management practices, and promoting economic recovery.
- the resolution of major social issues, such as regular payment of government salaries, the rehabilitation of the educational system, and the revival of functional literacy structures.
- decentralization.

The government placed far more emphasis on increasing state authority than in expanding the open public realm or strengthening institutions like the Conseil Supérieur de la Communication designed to insure greater access to the state media. The policy statement thus reflected a predominantly state-centric perspective on democratic governance issues.

2. The Executive Branch: Institutional Dynamics

a) Formal Rules and Structures

Niger has three main decisionmaking centers within the executive branch of government: the presidency, the Prime Minister's office and the council of ministers. The government presently has 18 ministries and eight specialized State Secretariats attached to ministries. The imminent government shuffle may reduce this number.

The 1992 Constitution created a semi-presidential regime that clearly gives the President preeminence within the executive. The President is the head of state, commander-in chief of the army, and head of

the administration. He chairs the meetings of the Council of Ministers, chooses the Prime Minister, and names ambassadors, military officers, préfets, sous-préfets, ministerial Général-Secrétaires and Directors of Central Services. As head of the administration, the President also has the power to reorganize ministries by decree.

The President can dissolve the National Assembly, call for a referendum, declare a state of emergency, and assume special powers when the country is in danger after consulting the Prime Minister and the heads of the other branches of government. In dealing with the National Assembly, the President can ask for an obligatory second reading of a law or specific articles within a law. If he still opposes the bill, the National Assembly needs a two-third vote to pass the bill.

The Prime Minister has limited powers. As head of the government, the Prime Minister manages and coordinates government action and insures the execution of the law. He chooses the ministers in his government but must submit these nominations to the President for approval. The Prime Minister and his government can be brought down by a vote of censure, or by a vote of no confidence when he engages the responsibility of the government on a particular vote.

The government, i.e., the Council of Ministers, formulates and conducts national policy and directs the army and the administration. The government takes most of the initiative in introducing new laws. Ministries usually draft legislation in their domain and then send these drafts to other ministries affected by the legislation for comments and suggested changes. All legislation must be screened by the Secrétaire Général of Government, currently attached to the Prime Minister's office, to see that it is not in conflict with existing law.

The Constitution imposes several rules to insure transparency in the executive branch and safeguards to prevent executive officials from using their office to enrich themselves. Thus, the President, Prime Minister, and all ministers must make a financial declaration of their wealth before taking and after leaving office, and at annual intervals while holding office. Their financial disclosure statements must then be published in the Journal Officiel. During his tenure in office, the President may not buy or lease public property or take part in public bidding on government contracts. Conflict of interest rules also insist that ministers can not hold other public offices, represent national and local professional interests, or engage in any business activity.

b) Coalition Politics and Executive Behavior

The composition of the government and executive behavior, to a large extent, reflect the requirements of AFC coalition politics. The desertion to the opposition of any one of the three largest parties would bring down the present government. The constituent parties in the AFC have little in common ideologically. The main incentives to form a coalition were to prevent the MNSD from taking power, to divide the spoils once they had won the elections, and to stay in power as long as possible. The nine-party coalition agreed to allocate government ministries according to each party's score in the national elections or (for the smallest parties) their contribution to the AFC's victory. They established a very clear quota system for how many governmental posts each could expect to fill with their supporters at various level of government. Finally, they agreed to exclude from positions of authority people perceived to be MNSD supporters.

Of the three main parties in the AFC, the Convention Democratique et Sociale (CDS) has the lion's share of ministerial posts with eight ministers and three State Secrétariats. Even more significant is the fact that the CDS holds most of the key ministries:

- Interior and National Defense (control over army, police, and the territorial administration).
- Commerce, Transport, and Tourism (control over one of the most important and politically influential sectors of the economy).
- Civil Service, Labor, and Employment (control over the state bureaucracy, labor relations, and employment opportunities).
- National Education (control over the education system, and relations with teachers and students who represent two of the most active and powerful interest groups in Nigerien society).
- Foreign Affairs (control over foreign policy).
- Relations with the Parliament (negotiates with the National Assembly).
- Equipment, Housing, and Spatial Planning (control over important investment and social sectors).
- State Secrétariat for Communication (oversees use of state media).
- State Secrétariat for Budget (manages national budget).
- State Secrétariat for Agriculture (manages key rural sector in Agriculture and Livestock Ministry).

As the second party in the coalition, the Parti Nigerien pour la Democratie et le Socialisme (PNDS), took the Prime Minister's office, four ministries, and two State Secrétariats:

- Finance and Plan (deals with donors, controls tax receipts, the disbursement of public funds, and the allocation of state resources).
- Mines and Energy (tutelle over uranium mine sector, the major source of foreign exchange for Niger and Electric Power provision).
- Communication, Culture, Youth, and Sports (oversees national media, cultural development, relations with Nigerien youth associations, and sports teams).
- Justice (controls legal and criminal justice system).
- State Secrétariat for Public Security in Interior Ministry (CDS monopoly of police power).
- State Secrétariat for Plan (reinforces PNDS influence in Finance Ministry and provides access to donor-initiated projects).

The Alliance Nigerienne pour la Democratie et le Progres (ANDP) got fewer ministerial posts although it attracted more votes than the PNDS and has only two fewer deputies in the National Assembly. The head of the ANDP was rewarded with the presidency of the National Assembly. Thus, the ANDP holds three ministries and two State Secrétariats:

- Public Health (controls the country's health system and the second largest public service sector after education).
- Social Development, Population, and Promotion of Women (headed by a woman and deals primarily with issues and services of interest to women, a potentially important interest group).
- Hydraulics and Environment (controls water supply and forestry services, areas of vital interest to rural constituencies).
- State Secrétariat for Transport and Tourism (tutelary authority over transport sector).
- State Secrétariat for Cooperation in the Foreign Ministry (provides some access to donors).

Four of the small parties in the AFC hold the rest of the ministries and state secretariats. The PPN-RDA had the Agricultural and Livestock Ministry and a State Secretariat for the Promotion of Women and Children. Leaders of one Twareg-based party, the Parti pour l'Unité Nationale et la Democratie (PUND), headed the Industry and Artisanat, and Administrative Reform and Decentralization ministries despite the fact that they had fielded no presidential or legislative candidates. The Parti Social-Democrate Nigerien (PSDN) held the State Secretariat for Education while another Twareg-based party, the Union pour la Democratie et le Progres (UDPS), held the State Secretariat for Promoting Employment and Small and Medium Industries. In effect, the smaller parties received the "crumbs." The distribution of ministries to the smaller parties could be interpreted as reflecting the low priority given to ministries involved in the productive sectors of the economy ... agriculture, livestock, industry, small and medium enterprises, and the artisanat.

The government contained only one woman minister and two female State Secrétariats. Unlike the past when Zarma dominated the government, Hausas now hold the lion's share of ministerial posts and control most of the key ministries. Six of the eight CDS ministers are Hausas, as is the PNDS Prime Minister. The Zarma were the second largest ethnic group represented in the government with five ministers. Twaregs, Fulanis, and Kanuris are also represented.

c) Making National Policy: Conflicting Interests and Incentives

Our analysis of the platforms of the different parties in the coalition reveals why the government has not taken a clear ideological position in making national policy. The AFC also contains parties reflecting different ethnic, regional, and socio-economic interests. The five priorities listed in the April 1993 government program do not indicate an ideological preference. National unity, a strong state, good government, and the resolution of critical social and economic problems were phrased in a general way, perhaps to reduce the risk of splitting up the coalition on ideological grounds.

Five main factors seem to drive the behavior of the executive in formulating national policies: (1) the need to maintain the survival of the coalition; (2) the need to maintain the upper hand over the opposition and reduce their chances of taking power; (3) the need to reestablish the authority of the state; (4) the

need to respond to the demands of key pressure groups in Nigerien society -- e.g., students, trade unions, Islamic Associations, etc.; and (5) the need to satisfy donors in order to continue to receive the funding that keeps the state going.

In attempting to formulate and implement national policies, top political actors often find themselves faced with conflicting goals and interests which lead them to take what, on the surface, seem to be contradictory actions. Good governance goals, like choosing competent and honest personnel to fill executive posts and fighting nepotism and corruption, thus often clash with the goal of holding the coalition together by distributing as many patronage positions as possible and leaving the field free for rent-seeking behaviors on the part of state officials. In a similar manner, the goal of maintaining the upper hand over the opposition sometimes clashes with that of reinforcing the credibility and authority of the state, leading the government to attempt to violate constitutional rules (e.g., lifting the parliamentary immunity of opposition deputies during the civil disobedience campaign).

The state's heavy dependency on donor support has often led the government to adopt national policies which are opposed by key groups in Nigerien society or are unpopular because they seem to go against widely-held traditional values. Thus, while the government promised the World Bank that it would redirect investments from higher education to primary education, it made a major point of paying arrears owed to university students. The largely donor-inspired comprehensive Family Code has run into stiff opposition from Niger's Islamic Associations, whose fierce campaign against the "Women's Code" forced the government to stop promoting it. Moreover, many of the national policies and Codes pressed on the Nigerien government by the donors have little popular support. Economic reform programs are as unpopular here as elsewhere. The government thus finds it difficult to reduce the number of civil servants, as demanded by the major donors, because this means pitting it against the powerful civil service unions. Far from reducing the number, the government claimed that it had added 2000 new government jobs after a year in power. The uneven application and zig-zag patterns of government policy reflect efforts by those in power to maintain the coalition, and satisfy different constituencies to whom they are accountable or whose support they are courting.

Within the executive, there are problems of conflicting loyalties between party membership and coalition membership. As the leading coalition partner, the CDS controls the presidency and the key ministries in government. As Prime Minister, the PNDS leader, according to the formal constitutional rules, has the power to name his ministers and to hold them accountable. In fact, ministers, general secretaries and service heads are chosen by their respective parties. As a result, a CDS Minister sees himself as more accountable to the CDS president and his party than to the PNDS Prime Minister who heads the government in which he serves. In a similar manner, PNDS or ANDP service heads or general secretaries within ministries headed by a CDS person may feel more accountable to their party leader than to their Minister. A major consequence is that ministers have relatively little control over subordinates who are members of another party. The lack of ministerial authority over subordinates from other parties can have a detrimental effect on the execution of ministerial decisions.

While individuals in the executive owe their primary loyalties to their party, the government as a whole is accountable to the AFC coalition. The President is less accountable to the coalition than the Prime Minister because he can not be removed from office until the end of his term, while the Prime Minister and his government can be brought down by the National Assembly.

Donors can and have used conditionality to impose sanctions -- stopping payment or the continuation of a project -- for violation of donor rules. The government's main incentives to follow donor rules are

financial. While donors have no constitutional authority to make national policy, it would be difficult for government to function if the donors stop payment of funds. However, although there are thus strong incentives for the government as a whole to follow donor rules, there are few incentives for individuals within the government to implement donor policies.

The government is also held accountable by public opinion and ultimately by the electorate. Although public opinion is an amorphous term, public opinion does have some real influence in Nigerien politics. The perceived unpopularity of the present government among the public has been a major factor underlying the forthcoming changes in government. Moreover, field interviews revealed a negative reaction on the part of many educated Nigeriens to the machinations of both sides. This negative reaction was a factor in the moderation of the behavior of both the majority and opposition coalitions, and the search for agreement on the rules of the game which was taking place during the 1994 rainy season.

d) State Authority and Democratic Governance

The AFC government had a difficult first year in office because it had to devote its energies to dealing with major crises: the Twareg rebellion; the civil disobedience campaign launched by the opposition, widespread strikes including a 55 day strike led by the USTN; student unrest; and, at least initially, donor dissatisfaction with the government's implementation of certain structural adjustment reforms.

Most of the crises faced by the government since the advent of the Third Republic are related to the authority of the state and political order. The government and the majority coalition argue that the authority of the state must be strengthened, while the opposition and some segments of civil society complain that the state has abused its authority and violated constitutional norms. A number of donors interviewed see the government as lacking authority and unable to meet its commitments. Many people we interviewed from the capital to the arrondissement level expressed the view that democracy has brought about a great deal of chaos.

The use of "spoils" rules for appointments has led to the wide dispersal of decisionmaking power throughout the government, state bureaucracy, and territorial administration. Conflicting individual, party, and coalition interests, coupled with some incentives for rent-seeking behavior, have generated confusion, poor implementation of government policies and programs, and ineffective government.

The main problem may be not the dispersal of power but the lack of accountability in the system. In practice, there are few checks on abuses of authority or negligence in carrying out duties. This problem has been exacerbated by the principle of exclusion mentioned above. Under this principle, hundreds of civil servants not affiliated with the AFC, particularly in the territorial administrative corps, have been shunted aside in favor of party supporters.

To the winners of the election these behaviors are justified in their efforts to:

- to restore the authority of the government over the state bureaucracy to insure effective government and reduce political, social, and bureaucratic conflicts.
- to restore the authority of the state over society so that people would pay their taxes and respect the law.
- to consolidate the power of their coalition by rewarding party faithful.

The "ins" naturally want to strengthen the authority of the state they now control. Officials we interviewed in Niamey and in the field constantly reiterated the need to establish order and the authority of the state. Although critical of the abuses of the Kountche regime, some people revealed a certain nostalgia for Kountche because he knew how to impose his own authority over the state apparatus and the authority of the state over society. One person who had spent six years in prison during the Kountche years said that it was too bad that Kountche was not in charge during the transition to democracy because he would have managed it in a more orderly fashion. Others criticized the regime as being too soft and not clamping down hard enough on the opposition, trade unions, dissident civil servants, and corrupt government officials engaging in illegal activities.

The "outs" criticize the government for abusing its authority and violating constitutional rules. Ironically, the MNSD, which is identified with the undemocratic regime d'exception, has become an ardent supporter of constitutional rights and an implacable critic of abuses by state authorities. The opposition has focused its criticism on the notorious practice of "exclusion" which discriminates against MNSD supporters in the civil service and the private sector. Their defense of the "public interest" and constitutional freedoms coincides with their private interest to discredit the regime and bring down the government. On the other hand, the government and AFC majority cited several manifestations of undemocratic and illegal behavior on the part of the opposition.

In the past two months, the government and opposition show signs of moving towards at least a minimal agreement on the need to preserve public order and stop the undermining of the authority of the state. In Maradi, for example, the leader of the MNSD recently urged his supporters to pay their taxes. Préfets in several regions have been instructed to intervene to prevent abuses of power by sous-préfets and to reassert their authority over their subordinates. The trade unions have also temporarily suspended their strike in order to negotiate with the government. At the present time, it looks as though the government may make some concessions in order to insure social peace.

It is too early to determine whether a new "Social Contract" or "pact" between political elite which will provide new ground rules for competitive party politics, is in the making. Such an agreement seems essential to insuring the consolidation of democracy in Niger by giving all relevant leadership groups an incentive to reduce social tensions and reverse the polarization of the country into warring political camps. Without such an agreement, Nigerien government is also likely to remain ineffective.

3. The State Bureaucracy: Institutional Dynamics

a) Formal Rules and Organization

The executive branch uses the state bureaucracy to implement government policy and to perform a wide range of government functions: public order, law enforcement, tax collection, delivery of public goods and services, regulation of the economy, and promoting development.

Several points about the structure and importance of the state bureaucracy to Nigerien society and economy are important to understanding the major factors underlying its institutional dynamics. First, the public sector is the largest single employer in the country. Second, public sector trade unions provide most of the membership of the trade union movement. Third, the trade union movement is the most powerful single interest group in civil society. Fourth, the state bureaucracy is not monolithic and consists of individuals with different levels of education, skills, functions, and hierarchical authority.

The state bureaucracy encompasses three main categories:

- civil service (cadres and auxiliaries);
- military and special security forces; and
- parastatal sector.

The civil service has approximately 40,000 employees divided into five categories based on education and status. Cadres in the A category hold the highest positions in the civil service and must have at least the equivalent of a B.A. degree. The A and B cadres are the managers; the C, D, and E categories are the executing agents.

Civil servants are organized into 28 different corporate groups that reflect the specialized activities of their group, e.g., general administration, customs, treasury, agriculture, livestock, public works, and mines, etc. Most of these corporate groups have their own unions and are affiliated with the USTN. For example, the customs agents are organized into the Syndicat National des agents Douaniers (SNAD).

As civil servants, government workers are governed by the rules contained in the Civil Service Code. The Civil Service Code lays down a wide range of rules which deal with recruitment, rights and obligations of civil servants, salary scales and benefits, career paths and promotion rules, procedures and sanctions for civil servants violating the rules, mechanisms to resolve conflicts between management and labor.

Most civil servants work within the various national level government ministries. The civil service can be divided into those who work in the central services and are based in Niamey within a particular ministry and those who are based in the field. Several important factors affect the functioning and efficiency of the civil service:

- the overconcentration of state officials in the capital;
- the rapid expansion of the number of A cadre officials which has led to an increasingly top-heavy and costly bureaucracy;
- selective enforcement of the rules on the books;
- the lack of sufficient operating funds for supplies and equipment needed to carry out duties; and
- the poor training and limited skills of civil servants at the lower echelons of the bureaucracy.

The formal rules are clear about the responsibilities of civil servants but they provide few incentives for civil servants to work harder or more efficiently. Promotion is based primarily on seniority and time. If the rules are followed, sanctions are difficult to apply and require a long and drawn-out procedure. Although performances are evaluated, ratings by local superiors seem to have little impact on promotion. In practice, personal relations and political connections play a more important role in getting ahead. Our interviews with a wide-range of party, government, and union members, show that the so-called "rule of exclusion" mentioned above, has done much to weaken incentives, downgrade the importance of professional norms, and intensify conflict within the state bureaucracy.

Some of the behavioral and management changes flowing from the quota system that affect government performance include:

- the increased importance given to party loyalties over professional norms.
- the priority given to political over professional objectives in work-related activities.
- a rapid turnover in personnel as hundreds of officials associated with the MNSD were replaced and transferred to different posts when the AFC coalition took power, and the subsequent wastage of the skills and talents of these people.
- the politicization of conflicts within the state bureaucracy, e.g., strikes in the civil service.
- the naming of inadequately trained and inexperienced people to take over important technical services and administrative posts.

Women are relatively well represented in the civil service compared to other sectors of political and economic life in Niger. Nearly one quarter of the civil service is staffed by women, and women make up 21% of the 14,249 A and B cadres in the civil service. This group constitutes one of the strongest constituencies for promoting women's rights in Niger. Despite their relative progress, women rarely hold command posts in the state bureaucracy. Thus, there are at the moment no woman préfets or sous-préfets. Moreover, women holding relatively high posts tend to be concentrated in the administrative and technical services. A disproportionate number of women can be found in the Public Health and Social Development Ministries.

Women civil servants are concentrated in the capital and in large towns largely because of the rule that married women must work in the same place as their husbands. Women rarely work in rural areas and are often underutilized in the towns of the interior.

The military has played a major role in the state bureaucracy since the 1974 coup d'état. Kountche provided many advantages for the military and institutionalized their role in governing the country. Thus, military men held most of the préfet posts in the territorial administration and many important jobs in the parastatal sector. Since the National Conference, the military have gone back to their barracks. Their primary task under the transition government and the Third Republic has been to insure national security. A significant portion of the military is dealing with the Twareg rebellion. Although it is difficult to find good data about the remuneration of the military, it seems likely that they are not doing as well as they did under the Kountche regime. During the transition period, there was considerable unrest among the rank-and-file soldiers because of the failure to pay their salaries on time. In a democratic regime, the military is always subordinate to civilian authority. The first year of the Third Republic bodes well for adherence to this rule.

b) Working Rules and Relationships

The state bureaucracy operates by norms which discourage initiative on the part of civil servants working in the field. The French colonial tradition of centralized and extremely hierarchical modes of administration has persisted. Top-down decision-making norms are also embedded and reinforced by pre-colonial African norms. Service heads usually don't consult their officials in the field when making policy or organizational changes. They give their instructions, which are then passed down the

administrative hierarchy to be executed. Subordinates don't act or take initiatives until instructed by their superiors.

During the course of the team's field trips, the wait-for-orders norm was expressed widely by local party officials, civil servants, and members of local branches of national associations. When asked why they did not take a particular action, the answer was invariably: "we are waiting for instructions from the national leadership." The team also noted that the further down one went in the administrative hierarchy, the less likely the person was to be informed as to changes in national policies and rules taking place. Thus, sous-préfets and even préfets, were not aware of the details of the administrative reform law that had been sent to the National Assembly. Moreover, many officials did not have copies of important legislation and regulations directly affecting their activities.

The poor flow of information downward and the lack of feedback upward are major impediments to efficient policy making and administration. This mode of operation has implications for democratic governance. Without changes in rules and behavior, administrative deconcentration, for example, will simply mean the establishment of a highly centralized administrative entity at a lower level of the bureaucratic hierarchy. The new arrangement will do little to foster greater participation of subordinate officials or the local population. The lack of feedback from below also means that national policy is often made on the basis of poor information about what is actually happening in the field, resulting in policies and programs which are not adapted to local realities.

The fact that few state bureaucrats will take any initiative unless ordered to do so by their superiors does not necessarily mean that the chain of command works smoothly. On the contrary, the limited monitoring capacity, the lack of material means and incentives to execute the orders, and the difficulty of sanctioning offenders means that instructions from the top do not get carried out.

The difficulty in getting things done through standard bureaucratic procedures has been exacerbated by the politicization of the civil service along party lines. The negative consequences of the coalition working rules and incentives at the top have been replicated down the line. This undermines the authority of non-AFC superiors in the state bureaucracy over subordinates in the AFC. The exclusion of opposition cadres from decisionmaking and access to information poisons the atmosphere, destroys incentives, and denies resources needed by opposition civil officials to work efficiently.

c) Group Interests versus the Public Interest

Individuals always have to live with the tension of choosing between pursuit of their individual and group interests, on the one hand, and a larger public interest, on the other. This conflict can be seen in several areas among civil servants:

- pursuit of rent-seeking behavior rather than respecting professional civil service norms.
- obeying party authority rather than that of the hierarchical superior in carrying out bureaucratic activities.
- following party directives rather than those of the trade union.
- following trade union directives which might go against the larger public interest (e.g., shutting down health facilities and medical care during a strike).

The recent strike provides an excellent case study of how the different and conflicting interests of civil servants played out. Interviewing a wide range of government officials and employees uncovered different interpretations of the causes and potential consequences of the strike.

Partisans of the AFC in management positions asserted that the strike was politically motivated and inspired by the opposition to destabilize the regime. Even if the strike were not politically motivated, they argued that the demands of the union were unreasonable and beyond the capacity of the state to meet. Moreover, they agreed with the Prime Minister who maintained that it was not fair that such a large part of national wealth went to such a tiny percentage of the population.

To some degree, the response of union members to the strike call was motivated by partisan considerations. It was in the AFC government's interest to break the strike and weaken the power of the trade unions. According to interviews we conducted, considerable numbers of civil servants who were members of the parties in the ruling coalition opted to follow the strike orders because they felt that their obligation in this case was to the union and not to the party. In Tibiri, for example, many CDS teachers continued to teach while most of their colleagues went on strike. Now it found itself trying to break the strike. The choice was easier of partisans of the MNSD who invariably took the side of the trade unions.

The union leaders believed that they were fighting for their interests. They believed that government employees were entitled to get a pay hike because of the loss of purchasing power caused by the devaluation. They were willing to sit down with the government and negotiate the increase. What they opposed most were the changes in the rules which limited their power to use the strike as their ultimate bargaining chip. The most controversial rule change gave the government the authority to requisition strikers, a tactic that could be used to break the strike and pose a permanent threat to the trade union movement.

One AFC party was particularly troubled by the strike. The PNDS, the party of the Prime Minister and one of the three major players in the coalition, had built its base to some degree on support from the trade union. Now it found itself trying to break the strike in order to enforce the "public good" defined as the application of wage constraint policies embedded in IMF and World Bank agreements.

d) The State Bureaucracy and the Public

State bureaucracies play a vital role in implementing public policy and performing many functions such as maintaining order, upholding the rule of law, rule enforcement, collecting taxes, delivering public goods and services, regulating the economy, and promoting social and economic development.

(i) *The Tutelary Mentality and Territorial Administration*

The French colonial and Nigerien post-colonial states governed the country primarily through the territorial administration. The guiding principle of administration was the notion of tutelage (*la tutelle*) which defined how the state was to relate to the people. The notion of state tutelage assumed that the state was the guardian of public interests and that the population needed guidance in conducting their affairs. It also assumed that the state should know what is going on in every sphere of activity and that activities should not be undertaken before receiving the approval of state authorities. According to this logic, representatives of the central state needed to supervise all activities at the local level, including those of other state officials.

As the official representative of the state, the préfet or sous-préfet is responsible for maintaining public order and executing the policies of the state. As a consequence, the préfet and sous-préfet are the hierarchical superiors of all the state technical services in their districts. The authority of the préfet and sous-préfets derives from the fact that they are named by the President as the official representatives of the central state.

The territorial administration will be discussed in greater detail in the section on local government and decentralization. The point to be made here is that the territorial administration plays the most important role in dealing with the day-to-day problems of the populations under its jurisdiction – "*les administrés*."

The préfet or sous-préfet has police powers and uses these powers to preserve public order. The préfet or sous-préfet often intervenes to arbitrate and resolve conflicts. He also coordinates and supervises the activities of all of the state agents working in his area. Territorial administration officials play crucial governance roles in collecting taxes, establishing electoral lists, collecting vital statistics, authorizing local associations to function, and supervising food aid relief.

Under the Third Republic, the profile of the préfet and sous-préfet has changed considerably because of the dynamics of the multiparty system. Under the Diori one-party system and the Kountche military regime, the préfets and sous-préfets were chosen by the President and were directly responsible to him. Reflecting the existing power structure which was dominated by the Zarma, the majority of territorial administrators also tended to be Zarma. According to one study by a Nigerien political scientist, 74% of the sous-préfets and 85% of the Secétaires d'Etat under Kountche were Zarma (Adji, 297).

The coming to power of the AFC within the framework of a multiparty system changed the recruitment rules and politicized the role of the préfets and sous-préfets. Thus, while still named by the President, they were not all the "President's men" as in the past. The offices of préfet and sous-préfet became part of the political spoils system. Thus, the offices were divided among the three major parties in the AFC coalition, with the CDS as the major partner in the coalition getting the lion's share of the posts. This meant that most departments had at least some sous-préfets who were not of the same party as the préfet. As a result of party differences, in some areas préfets had problems in imposing their authority over sous-préfets from another party.

The politicization of the territorial administration, especially at the arrondissement level, has resulted in a decline of administrative training and experience in local-level administration, and may be contributing to heightening political and social tensions. For example, none of the préfets and six sous-préfets in the department of Maradi came from the ranks of the administrative cadres trained by the Ecole Nationale d'Administration (ENA). Most had been teachers or medical personnel. The MNSD, which has a relatively large number of high-ranking cadres in its membership, has criticized the AFC for this. They are joined by some AFC members who are part of the civil administrative corps who argue the need for more administrators with ENA training to occupy the command posts in the territorial administration.

In addition to party loyalty, the ethnic background of territorial administration officials has evidently become a key determinant of appointment. Overall, many more Hausas have joined the ranks of territorial authorities. Appointments have reflected, as well, a pattern of recruiting people which were from the area in which they served and were allied with the leading politicians of the region. Thus Dosso, the fief of Djermakoye, the leader of the ANDP, had a Zarma as préfet while Maradi and Zinder, strongholds of the CDS, had Hausa administrators. While this may make the administration more responsive to the local population, it also places into question its technical and professional character.

As during the colonial period, the traditional chiefs remain vital cogs in the state bureaucracy in the rural areas because the territorial administration has not descended officially below the level of the administrative post. The canton and village chiefs serve as intermediaries between the local populations and the state. They are responsible for collecting taxes, maintaining order, and arbitrating conflicts that arise in their area. The Rural Code, for example, states that litigants in land and herder-farmer conflicts must go to the customary chiefs to reconcile their differences before going to the territorial administration or the courts. Unlike the préfets and sous-préfets, who are political appointees, the chiefs are recruited by traditional criteria. Though many have their political party preferences, as a group they maintain an appearance of political neutrality. Because they can deliver large blocs of votes, the chiefs are vigorously courted by the main political parties during election campaigns and watched very carefully by the territorial administration. All the chiefs interviewed declined to openly say which party they supported. In Tibiri, Maradi, Zinder and Dosso, the team found that the Provincial Chiefs have an important role in reconciling differences which have not been resolved through administrative channels.

While filling administrative functions, the chiefs are also elected officials. Election rules for selecting chiefs differ markedly from those for choosing non-customary elected officials. Family heads, rather than individuals, elect the village headmen. Canton chiefs are in turn elected by household heads or by village headmen -- the working rule as to which applies is still somewhat in dispute. Eligibility follows customary rules which usually restrict candidates to the male members of the family which is recognized as having the right to rule (*les etants droits*).

(ii) *Revenue Collection and Economic Regulation Functions*

For government to function, it needs financial resources to pay the salaries of public sector employees, provide materials and equipment to enable them carry out their duties, and promote social and economic development through capital investments in schools, dispensaries, and basic infrastructure.

One of the main governance problems facing the Nigerien government is its capacity to collect sufficient revenues to keep the state bureaucracy functioning and to meet its development objectives. In the Nigerien case, the three most important factors affecting government capacity to collect the needed revenues are:

- national and local economic conditions.
- the rent-seeking propensities of state officials, especially those involved in collecting and managing state revenues.
- the degree of confidence of the people in the fairness of the revenue collection system.

Both poverty and underdevelopment, and habits of privately appropriating "public" resources, have been serious constraints on tax collection in Niger since independence. Taxes collected at the local level are the responsibility of the Ministry of the Interior. Village headmen collect the head tax, which is the main source of revenue for local government bodies in the rural areas. They are allowed to keep 10 percent of what they collect. Canton chiefs supervise the village chiefs, often thought the work of their sub-chiefs or court officials. In many cases, they assemble and forward the revenues to the local administration. In the urban areas, the neighborhood chiefs collect the head taxes while other personnel (*percepteurs*) collect various market taxes.

Since there are approximately 10,000 villages in Niger, there are thousands of tax collectors at the village level, and millions of taxpayers. Nevertheless, the revenues collected at this level constitute only a small part of total state revenues because the local head was almost totally eliminated during the period of the uranium boom and is now only 700 cfa per adult. Less than four percent of all the revenues collected by the state come from local sources earmarked for local government despite the fact that these kind of head taxes touch the most people. This means that neither village headmen nor subchiefs and canton chiefs have much room for corruption in withholding tax revenues. Village chiefs cannot be big crooks because there is little to steal. Village headmen, in fact, have incentives to collect taxes and to pass them up the line in order to qualify for their commission. Apart from the years of very harsh weather when many people simply could not afford to pay their taxes, the problem of revenue collection arose during the political transition when opponents to the MNSD discouraged villagers from paying, and subsequently when MNSD activists have similarly discouraged payment on the basis of the non-legitimacy of the regime.

Market tax collectors have more opportunities to divert money to their own pockets since the tax rules are not as clear. The receipts they give out must be matched by funds coming in. The main opportunity for obtaining rent incomes for the percepteurs comes from their ability to solicit or accept small gifts in exchange for not collecting the market tax.

Customs taxes constitute the most important source of state revenues. In 1991 more than 50 percent of fiscal receipts came from customs revenue. The position of customs agent is one of the most coveted jobs in the state bureaucracy because of the many opportunities for extracting rents. The customs service deals with large numbers of Nigeriens and foreigners, rich and poor, businessmen and consumers, formal and informal, including those engaged in cross-border transactions. Many people interviewed continue to express the view that customs agents extract side-payments in a variety of ways which impede trade, including the enforcement of legal restriction and control of identity papers. Rank in the customs services determines the volume and value of rents that can be extracted. The higher-ups deal with big ticket items. Corruption here usually comes when customs officials accept bribes for not levying customs duties or for lowering assessments rather than for not turning in the receipts collected.

The customs agent union (SNAD) is one of the most powerful unions in the country because of its ability to stop the flow of the single most important source of government receipts. At the present time, the customs service is headed by a military officer. During the recent general strike, the government fired several leaders of SNAD for engaging in illegal activity designed to reduce the collection of tax revenues. Initially, many customs workers joined the strike causing tremendous consternation on the part of the government. Eventually, the strike fizzled as custom workers returned to work disobeying union orders.

Ministry of Finance officials from the tax and treasury services also come into frequent contact with the public. They tend to deal with people in the formal sector. One set of officials assesses the taxes to be paid by formal enterprises and urban real estate owners; another set of officials collects the money. Opportunities thus exist for rent-seeking behavior on the part of officials dealing with merchants, import-export firms, manufacturers, trucking companies, oil distribution firms, etc. The larger the enterprise, the higher the stakes. Because formal sector enterprises bear the brunt of the tax burden, they may be tempted to bribe officials to lower assessments.

Rent-seeking behavior on the part of state officials involved in tax assessment and collection also undermines the confidence of the people in the fairness of the system. Those working in the formal sector complain that the informal sector does not pay its fair share of taxes. So why should they?

Political factors also often come into play in the non-payment of taxes. Under the Diouri and Kountche regimes, important businessmen or those with influential political connections were often exempted from paying taxes.

Tax collection became highly politicized after the 1993 elections. Most of the larger merchants and local business interests had supported the MNSD. When the AFC coalition won, many MNSD businessmen refused to pay the licensing fee, or *patente*, especially in areas like Maradi where party affiliations were relatively strong. The tax revolt became politicized, with MNSD partisans not paying their taxes openly as part of a protest movement. For their part, AFC partisans paid their taxes or sought the same kind of special treatment accorded the favored few in the past. Politicization also affected the tax collectors themselves. In some areas, market percepteurs associated with the opposition were replaced with those from the AFC coalition. Fortunately, some effort has been made to end the open politicization of tax collection on the part of both the AFC and the MNSD. Thus, in some areas, some opposition market tax collectors were put back on the payrolls, while some opposition leaders, like Mamadou Tandja, presidential candidate for and leader of the MNSD, have begun to call upon people to pay their taxes.

State officials also come into direct contact with the public through their various economic regulation duties. The Labor Code, for example, lays down rules which employers must follow before hiring employees and rules which must be followed in the case of firing employees and individual or collective labor disputes. These rules call for much paper work and approval by Labor Ministry officials before one can hire a new employee. The Labor Code also provides workers with social benefits which must be paid. Inspectors from the Labor Ministry verify whether the employers are conforming with the law in dealing with their employees. Violators are subject to sanctions. The high transaction costs of dealing with the Labor Ministry, coupled with the high costs of following all the regulations, provide temptations for employers to bribe officials to push through the paperwork or to turn a blind eye to violation of the regulations.

Liberalization measures which have reduced state regulation of the economy have not only lowered the private sector's transaction costs but they are also reducing the opportunity for rent-seeking behavior of state officials. The greatest opportunity for rent-seeking still comes from officials charged with enforcement of economic regulations which are often out of sync with reality. Transportation safety codes, if enforced, would put many trucks and cars off the road.

(iii) The Delivery of Public Goods and Services

One of the major functions of government is to provide public goods and services to the general public. When discussing the bloodedness of African state bureaucracies, some critics often forget that the great bulk of public sector employees provide essential public services. In Niger, teachers and health agents alone account for 60 percent of the civil service. There are more than 13,000 employees in the education ministry and close to 4,000 employees in the public health ministry.

Some of the major constraints affecting the capacity of the state to deliver good-quality and cost-effective public services in education and health areas include:

- low salaries and poor working conditions.
- the priority given to salaries at the expense of the operating budget.

- the relatively large amount of state resources devoted to post-secondary school student support.
- frequent work stoppages due to strikes.
- the limited participation of local communities in financing and supporting local educational and health facilities, e.g., contributions from parent-teachers organizations in the rural areas and cost-recovery programs based on user fees.
- the poor training given teachers at the lower ends of the civil service scale.
- the insufficient number of women working in rural dispensaries because of rules affecting family life.

The priority given to salaries over operating costs takes state funds away from providing books, writing materials, blackboards, and proper maintenance in schools and to provide scales, furniture, drugs, medical supplies and proper maintenance in health facilities.

The large sums allocated to support post-secondary student scholarships and living expenses are largely the result of their strength as a pressure group which is reinforced by their concentration in Niamey and the role that they played in moving the country towards democracy.

Frequent work stoppages are a reaction to deteriorating purchasing power, low salaries, and dissatisfaction with poor working conditions. Strikes have been taking on a more political nature because of the intensification of partisan politics.

Teachers and health officials generally have good relations with the local populations. They are probably the most appreciated elements in the state bureaucracy and work closely with the people on a regular basis. Their contacts with the local populations provide them with a potential electoral base when they enter politics. Teachers and health workers are highly politicized and active in the trade union movement. The teachers' union (SNEN) is the largest and strongest civil service union.

(iv) Natural Resource Management and Development

In the rural areas, the agricultural, livestock, forestry, fisheries, and hydraulic services are the principal state agents for promoting development and preserving the environment. Rule changes in the 1993 Rural Code will affect, or rather ought to affect, the way in which these services relate to local communities.

The Rural Code provides an enabling environment for stimulating the organization of rural producers in cooperatives, youth groups, women's producer groups, and other producer groups. The most salient point is that the new rural producer groups must be initiated by the interested parties. In the past, rural producer groups were generally created by fiat or induced to organize groups to participate in donor-financed projects.

Rural development agents also share the top-down perspective described earlier. One can divide the various services into three components:

- the policy makers in the capital, i.e., the ministers and service heads who spend a significant part of their time and energy negotiating with the donors and drawing up national sectoral plans in their domain.
- the middle level managers at the departmental and arrondissement levels who are responsible for executing programs and projects drawn up in the capital.
- the field agents who work closely with the population (e.g., agricultural extension agents, forestry agents, livestock officials) and who, for the most part, have limited technical skills.

Those making national policy rarely consult their middle level staff and managers for input. The middle level managers in the field usually don't have the logistical capacity to monitor projects and supervise their personnel in the field. In many instances, extension agents in the field have limited technical skills and often less knowledge of their environment than the groups slated to be the beneficiaries of their work.

The absence of real administrative deconcentration coupled with the lack of material support in the field hinder changes in the top-down syndrome and kill initiative on the part of development agents outside the capital. The notion of the tutelary responsibility persists throughout the different rural development services. The local populations are described as illiterate and in need of training. They are rarely regarded as equal partners in a development project. Just as the field development agents expect to follow the instructions given by their superiors, they expect farmers and herders to follow their instructions rather than consider their advice and recommendations.

The top-down centralizing modes of bureaucratic operation also prevent information from flowing down from the top to the base with the base providing feedback up to the managers and eventually to those responsible for formulating, monitoring, and evaluating national policies, programs, and projects.

Another factor affecting rural development agents' relationships with their clients is their lack of training to adapt to new participatory structures and development strategies. The forestry service was originally organized as a paramilitary service by the French to enforce French rules to protect the environment. Although the forestry service has been undergoing change, it is still regarded primarily as a repressive agency. Moreover, grassroots forestry agents have received little training in how to manage forestry resources. The livestock service has traditionally focused much of its attention to maintaining and improving the health of Niger's livestock resources. Their main cadres have generally been veterinarians who have received little training in working with herders in managing the commons.

The new Rural Code requires state officials to consult the local populations before starting any development project in their area. In the past, rural development agents met together at the arrondissement levels to formulate development projects with little input from local communities. The new code calls for more direct contact with local groups and communities, and more listening on the part of rural development agents.

The Rural Code still remains only a framework for change in the countryside. Land, tree, and grazing tenure rules will have to be clarified and worked out in greater detail and more detailed procedures developed for resolving conflicts. Rural development agents should also be given more training in the new land, tree tenure rules and NRM strategies and learn to incorporate indigenous rural knowledge into their planning. The chiefs might also benefit from such training since they must be consulted by litigants in land disputes.

(v) *Bureaucratic Accountability to the Public*

The Nigerien penal code contains a list of crimes and corresponding punishments relating to individuals in the bureaucracy who abuse their authority in dealing with the public. Criminal offenses thus include the following:

- the violation of constitutional and civil rights through arbitrary detention, holding people outside of legal channels, interfering with mail, and forceful entry into households without a proper warrant.
- the illegal use of one's office to extort funds from the public, i.e., the "*taxe sauvage*" (Article 124).
- various forms of corruption -- soliciting bribes, using one's office for personal gain, giving illegal tax exemptions, rigging public bids, and distributing state products without authorization.

The law provides for fines and imprisonment ranging from three months to five years for these offenses. In practice, very few government officials have been jailed or fined for abusing their authority with the public. Only those who have been directly injured by the action have standing to bring a case; in a corruption matter, the person with standing is the person who paid the bribe.

On the other hand, democratization processes in Niger are providing new channels for citizens to complain about abuses of authority by individuals in the state bureaucracy. In the past, people with grievances against an official would usually try and work within administrative channels. Now they can go to political parties, the press, and human rights organizations to complain. The opposition parties are particularly eager to publicize abuses of administrative authority and illegal acts, especially those involving their militants. At the same time citizens aligned with parties in the AFC can bring their complaints to their respective parties. The private press has also been a major source of exposing abuses and bringing it to the attention of the public. Finally, human rights groups have intervened to protect citizens rights in cases involving the unnecessary use of force by police against individuals, arbitrary detention, and the arrest of individuals by state authorities which violate the former's constitutional rights. In many instances, public exposure of bureaucratic abuses has led the state authorities to take steps to remedy the problem (e.g., ordering officials to stop certain kinds of harassment, removing some officials from their posts, opening up public bids on government contracts, and new jobs to individuals in the opposition).

The expansion of the public realm has thus provided the public with new channels of recourse to complement their use of the court system, while public exposure by various elements in civil society is making state bureaucrats more accountable.

4. Local Government and Decentralization

a) Decentralization and Democratic Governance

Decentralization permits democratic governance to be conducted at more than the central level of society, reduces the concentration of political power, and opens up more opportunities for self-governance.

The National Conference affirmed decentralization as one of the primary objectives of and means for the democratization of Nigerien society. During the 1993 national election campaigns, most parties listed decentralization as a major plank in their platforms. Decentralization also was one of the five priorities enumerated by the Prime Minister in presenting the government's program to the National Assembly. The donor community has also vigorously supported decentralization as a major objective.

Although there seems to be a general consensus about the desirability of decentralization, there is considerable disagreement over which aspects of decentralization should be promoted, at which level, and at what pace. During the 1980s and early 1990s, the donors emphasized economic or market decentralization and pressed the Nigerien government to deregulate important sectors of the economy and to liquidate or privatize unprofitable state and parastatal enterprises. During this same period, national planning authorities stressed the importance of spatial decentralization, chose the region as the main unit, and created a special regional development service. Adopting economic and spatial decentralization required few changes in the country's political and administrative system.

For the purposes of assessing Niger's progress in moving towards greater democratic governance, it would be useful to disaggregate the concept of decentralization into three basic forms:

- Administrative deconcentration which implies giving more authority and autonomy to state officials at the local level, i.e., department, arrondissement, poste administrative, to make decisions and to take initiatives.
- Political devolution which means transferring authority and financial resources to elected and autonomous self-government units.
- Creation of an enabling legal environment to empower local communities and associations to organize self-governance units and create special jurisdictions to deal with specific problems in such areas as health, education, natural resource management.

b) Decentralization and Conflicting Institutional Interests

The three forms of decentralization affect power relationships within the state bureaucracy and between the state and civil society differently. The traditions of centralization and state tutelage are deeply ingrained and resist movement towards political devolution and the emergence of self-governance units.

Those controlling the executive branch of government have an institutional interest to define decentralization primarily in terms of administrative deconcentration. They are reluctant to transfer powers now concentrated in the central government to local government units. The people in power came to power through national elections. The devolution of power to local government and self-governance units would reduce the power of central government and, hence, their own power. The heads of central services are even reluctant to accept administrative deconcentration.

The political parties as an institution have an incentive to give more power to local government units. For individuals in the coalition, local governments provide more opportunities for those not in the executive to have direct access to resources and to use local government as a base for positioning themselves to obtain national office. Politicians in the opposition parties have an interest to promote local government because they know that their parties can win control of local government units in certain

areas and thus break the monopoly of the AFC-controlled executive over rural councils and urban communes.

The donors and civil society have the most interest in promoting locally based self-governance units. In recent years, donor projects in Niger have placed greater emphasis on working directly with local populations and NGOs rather than through state or formal local government structure. The executive and the state bureaucracy still prefer to maintain the tutelary authority of the state over civil society. For their part, the political parties as an institution are also reluctant to foster the creation of power bases and self-governing units outside the political party system. Hence, they are likely to argue that formal local government units should plan and control development activities in their jurisdictions. The political parties will continue to have the monopoly over local government because the Constitution excludes independents from running for office.

Associational autonomy is currently promoted primarily by a tiny well-educated elite concentrated in Niamey and the regional capitals. At the present time, there is no great grassroots demand for establishing local self-governance units. Traditional hierarchical values and the long history of centralization and state tutelage have discouraged local initiative. However, there are some signs that the opening up of the public realm has created the preconditions for developing local initiatives and organizations independent of the state.

c) Decentralization and Political Devolution

The December 1992 Constitution reflects the limited interest of those who drafted the Constitution in promoting political decentralization and a perspective which defines decentralization largely as an administrative issue. Article 115 of the December 22, 1992 Constitution thus speaks of local government (Collectivites Territoriales - CTs) under the rubric of territorial administration. In Niger, local government still remains primarily an appendage of the territorial administration.

Though the two decentralization laws recently approved by the National Assembly clearly represent a step in the direction of political devolution in transferring executive power over municipal communes and the arrondissement councils from the préfets and sous-préfets to elected officials, they also reflect the reluctance of the executive to give up state tutelage over local government, and to provide more concrete details about the powers embodied in local government and how these powers can be realistically applied.

The two bills reflect the government's current thinking. The first bill determines the principles underlying the rules and organization of existing local government units. It does not set up any new local government jurisdictions at a level closer to the local populations. It provides a general framework for local government which needs to be filled in with more specific rules.

The second bill refers to the rules of state tutelage which will be applied at the commune and arrondissement level. Although this bill clearly lightens the tutelary authority of the state, it still retains considerable supervisory powers over local government which restrict their freedom of action. It is interesting to note that the bill laying out the tutelary authority of the state is far more detailed in how it is to be applied than the first bill, which provides very little detail as to how the communes and arrondissement councils are to actually function.

(i) *Uniformity of New Local Government Rules*

One of the most striking features of the new legislation is that the rules structuring the powers and organization of the urban communes and rural arrondissement councils are almost identical. Thus, the municipal and rural councils all have more or less the same areas of competence and powers, the same potential sources of revenue, and the same relationships between the executive and the legislative functions.

The general rules do not reflect differences in population, area, levels of development, and potential sources in revenue or the different needs of urban and rural populations. Thus, an arrondissement council like Bilma which encompasses a population of less than 10,000 inhabitants has the same responsibilities as the arrondissement of Mirriah which has a population of over 500,000.

There are no rules to determine the relationships between the three urban communes that make up the Communaute Urbaine de Niamey (CUN) and the CUN itself, whose densely populated communes are lumped together with the urban communes of the interior. The rules also don't clarify the division of responsibilities between urban communes nested within an arrondissement and those of the arrondissement council.

The new decentralization law lists a huge number of areas in which local governments have decision-making powers and responsibilities which include some of the following:

- planning, construction, and maintenance of streets and local roads.
- responsibility for sanitation and public health, e.g., garbage collection, maintenance of sewers, etc.
- wells and water taps.
- maintenance of health facilities.
- construction and maintenance of primary schools.
- organization and management of fire fighting units.
- installation and maintenance of street lights.
- responsibility for controlling public transport.
- the security and free passage of public thoroughfares.
- construction, management, and maintenance of slaughterhouses.
- providing welfare and emergency assistance to the needy.
- construction of markets.

It is not clear whether local communities will now have to go to the arrondissement council to get approval for digging a new well, setting up a village fire-fighting brigade, or constructing a new school through local contributions and human investments. And while the law lists various potential sources of tax revenues, it does not say anything specific about how these are to be obtained.

The lack of specificity in the rules thus does not address the specific needs of different units of local government. Unlike other Francophone countries like Senegal and Mali, Niger has no detailed municipal code setting out in detail the powers and competencies of urban municipalities, and little more than a general framework for determining how local government will actually work.

(ii) Representation Rules

Local government elections are bound by the same rules as the national legislative elections. Rather than voting for representatives in a specific constituency, voters must vote for a list compiled by the political parties. The elected official represents the entire arrondissement or urban commune just as the deputy represents the nation. The proportional representation rule has several consequences:

- the municipal and rural councils will have multiparty membership.
- the opposition will have the opportunity to control local government bodies in areas where they are strong.
- breakdowns in party and coalition discipline at the local level can provide arenas for creating new coalition alignments within the urban and rural councils.

While the rules provide canton and provincial chiefs a consultative voice in the rural and urban councils, chiefs are not eligible to run for office. A wide range of categories are also excluded from running for office: préfets, sous-préfets, security personnel, customs and forestry agents, magistrates, and public accountants. This rule was doubtless designed to prevent civil servants and traditional authorities from dominating the councils, and to provide a separation of powers between the territorial administration and local government.

The fact that the municipal mayor and president of the rural council are elected by the councilors rather than directly elected reinforces the power of the political parties and those controlling the nomination process.

(iii) Reorganizing Local Government Jurisdictions

The new decentralization legislation does not address the issue of redrawing government jurisdictions and creating smaller or larger local government districts. The issue is a hot political potato. CDS party leaders and state officials maintain that political devolution to smaller districts should proceed slowly in order to prepare the local populations. Nevertheless, the government is studying measures to create 120 to 140 rural communes below the arrondissement level.

Different interests are at stake. As long as local government remains blocked at the urban commune and arrondissement level, the state will continue to exercise considerable power at the regional and sub-arrondissement level through the territorial administration. The opposition has focused more on calling

for early local government elections than for creating new local government units and changing boundaries.

The government is also faced with this issue in dealing with the Twareg rebellion. The Twaregs are demanding the creation of new tiers of local government both below the arrondissement level and above the current departmental level. While the negotiations were still underway, the government was reluctant to make unilateral concessions of this issue. With the signing of the agreement at Ouagadougou in early October, it remains to be seen whether the government will introduce and successfully be able to pass the necessary legislation.

While the AFC government has generally accepted the principle of creating more local government units in the future, it has not yet set the criteria for determining how the new jurisdictional boundaries should be drawn -- e.g., population, area, historical precedents, safeguards for preserving minority rights, and gerrymandering to maximize the AFC coalition's chances of winning local government elections in the future. At the same time, the fragility of the coalition means that what makes political sense today may not work tomorrow if the present coalition breaks up. On the other hand, as long as local government has so few resources at its disposal, it will not become an important political stake in Nigerien politics. Moreover, few of Niger's political leaders have shown a deep commitment to creating truly autonomous local government units.

The freezing of local government at the arrondissement level has implications for donor programs and projects at the grassroots level. The rural code foresees an important role for local rural government in the management and monitoring of grassroots development activities. Unfortunately, the rural arrondissement councils are probably too far removed from the grassroots level to perform the functions called for in the rural code. Moreover, they are likely to be dominated by party leaders who are not accountable to the sub-arrondissement constituencies in which donors like USAID will be working.

(iv) Deliberation Rules and Executive Dominance

The new law gives urban and rural councils the power to vote the budget, examine local government accounts, create new taxes, authorize public loans, acquisition and sale of public property, create new services, and voice its views on governance issues when solicited by the central government.

The rules governing the executive parallel those at the national level and insure executive dominance. The President prepares and executes the budget, hires and manages local government personnel, supervises public bidding on government contracts, establishes the tax rolls, and represents the collectivity in legal disputes. Mayors have extensive police powers to insure public order. In the arrondissements, the sous-préfet retains control over the police.

The councilors have little power to check the executive. There are no provisions which permit the council to remove the executive or give it authority to investigate executive management and hiring practices.

The electoral rules giving preeminence to party affiliation, the relatively large size of arrondissement districts, executive dominance, and the limited powers of rural councilors are all factors which diminish the representivity of the rural councils.

(v) *Tutelary Rules and Financial Dependency*

The state, through the Ministry of Interior, will continue to possess considerable instruments for exerting control even after the new local government institutions are in place.

The state has the power to suspend the presidents or mayors for misconduct, malfeasance, and negligence in carrying out their duties, to dissolve the local councils and to set up special delegations to run local government affairs until the next elections.

On the other hand, the law provides some protection against the arbitrary use of state power. Thus councilors cannot be charged, arrested or tried on the basis of their political opinions or their votes in the urban or rural councils. Moreover, the state must show reasonable cause and provide the accused party with a chance to defend himself before carrying out the suspension. Finally, the government must set up new elections within three months of dissolving the council. These safeguards are a major advance over past practices.

The tutelary powers of the state are especially heavy in financial matters. The state fixes the amount that may be paid as indemnities for elected officials, sets the rules for organizing the budget, and examines the budget to see that it conforms with national law. National laws dictate balanced budgets, the areas where expenditures are obligatory, the tax rates, and the kinds of taxes permissible to levy. The state can intervene to correct the failure to follow the rules laid down by national law.

The fact that most taxes collected for local government must be channeled through the Treasury in line with the principle of "unicité de caisse" sharply restricts the financial autonomy of local government, especially during a period of public finance crisis when the government feels compelled to redirect local government receipts to feed the general budget. In the field, several state officials remarked that local government was actually subsidizing the central government when it should be the other way around. There is a provision in the new law which states that all or part of the taxes collected by local government for the benefit of the state will be returned. If acted upon, an unlikely possibility in the near future, this could provide additional revenues for local government, particularly in urban areas or in the richer rural areas.

The current capacity of local government to provide services is severely limited because of low budgets, the obligation to pay back the sizeable debts contracted with the Caisse des Prêts aux Collectivités Territoriales (CPCT) during the transition period, and the high percentage of budgetary resources going into salaries and administrative costs. In many areas, arrondissement budgets have declined in value because of more realistic estimates of tax receipts. For example, the 1994 budget for the arrondissement of Guidan Roumji, which has a population of more than 210,000 people was only 105 million CFAF or 500 CFAF per capita (less than one dollar per capita at current exchange rates).

Moreover, when one considers the depressed economic tax base in most areas and the fact that many local government functions are carried out by government officials whose salaries are paid by the state, the potential for local government financial autonomy in the near future is not very great. It makes little sense to create local government bodies with extensive powers and functions without providing the financial resources needed to carry out their mission. The paltry resources available at the local level also reinforce the politicians' traditional support of and interest in centralized government because that is where the money is.

The presently low capacity of existing local government institutions at the urban commune and arrondissement levels and their lack of representivity should lead donors to avoid putting large amounts of resources into local government institutions. Moreover, any resources channeled to local government should be put into building capacity in urban communes over rural councils because urban government is likely to be closer, more accountable to local constituents and have a stronger economic tax base than the rural arrondissement councils.

(vi) *Empowering Local Communities and Associations*

There are currently few constituencies for promoting self-governance jurisdictions outside of formal local government institutions or for creating self-governance units which don't correspond with existing administrative lines. To do so would go against deeply embedded norms of hierarchy. Democratic governance implies the expanding of individual and group freedom, and people's capacity to manage their own affairs at multiple levels of society. This aspect of decentralization seems to be the form least embraced by the Nigerien political elite.

The rules and conditions for strengthening the size and capacity of civil society are spelled out in greater deal in the section on civil society. Achieving this goal requires that the state loosen its tutelary authority over civil society, and that countervailing power outside the state be developed to limit potential state abuse of power.

d) Administrative Deconcentration: Institutional Dynamics and Issues

(i) *Territorial Administration and Local Government Under the New Rules*

Since the transition, the territorial administration has served as both the representative of the state and as the representative of the local populations in guiding the affairs of the urban communes and arrondissement levels in the absence of elected mayors and presidents. With local elections, the roles of préfets and sous-préfets will change considerably. The clear-cut division between political roles -- i.e. that of elected mayors and rural council presidents -- and administrative roles -- i.e., that of préfets and sous-préfets as representatives of the central government -- will be to some extent restored. The new rules should have the following effects on administrative behavior:

- the préfet will become the government's watchdog rather than the direct manager of local government affairs.
- the préfet will be less subject to local pressure because patronage will be now in the hands of the elected officials running the government.
- the préfet will be especially attentive to possible violations of their mandate by opposition party officials heading local government units.
- mayors will remain subordinate to the préfet in their role as representative of the unitary state.
- the sous-préfets will see a significant drop in their political and supervisory powers but will retain control over local police at the arrondissement level.

- while the préfets and sous-préfets will remain political appointees, their roles may become somewhat less politicized.
- with local government in place, there will be fewer opportunities for préfets and sous-préfets to have access to local government resources, thus reducing the temptation and payoffs for corrupt, rent seeking behavior.
- with the new system of local government in place, préfets may push for placing more resources at the departmental level where there are no local government units.

(ii) *Territorial Administration and the Role of the Chiefs*

Traditional chiefs have an unusual and mixed role in the territorial administration. On the one hand, their authority derives from customary authority and election procedures; on the other hand, they can be punished and even removed from office by the state for misconduct. Moreover, although they perform important functions on behalf of the state and receive some remuneration from the state, they do not have the status of civil servants.

While the traditional chiefs have often been attacked by politicians as retrograde elements in society, political realities dictate that political parties seek their support during election campaigns and work with them closely in running the country after taking power. Thus, despite the fact that traditional chiefs tended to be identified with the old regime, and particularly with the MNSD, the AFC coalition government has done little to weaken their power. On the contrary, the March 30, 1993 ordonnance modifying their old status asks them to play an important governance role in their communities. The customary chiefs represent their communities in dealing with the administration and third parties. Article 14 gives the chiefs a broad mandate to act in several areas:

- to protect individual rights and liberties.
- to safeguard the harmony and social cohesion of his community.
- to respect religious and customary practices as long as these do not disturb the public order and undermine the rights and freedom of other members in the community.
- to insure respect for the application of administrative rules and the law in his community.

Article 15 gives the chiefs the power to reconcile different parties and to make rulings about the use by individuals or families of community farm land and grazing areas. The Rural Code reiterates this authority by stating that litigants in these areas have to go to the chiefs before they can go to court to seek redress through administrative channels or go to the courts.

Article 18 is particularly relevant to donors working directly with local producer groups and communities in that it designates customary chiefs as agents of development who must be fully associated with all development activities taking place in his community such as:

- public health and sanitation.
- the application of population policy.

- production of potable water supplies.
- reforestation and agroforestry.
- construction and maintenance of rural roads.
- agricultural production.
- cooperative activities.

The mandates listed above thus give the chiefs the role of defender of civil rights and liberties, conciliator, and development agent in addition to their traditional functions of maintaining order and collecting taxes or encouraging the collection of taxes.

It remains to be seen whether the chiefs have the capacity or the proper incentives to fulfill all these functions effectively. Some pertinent questions which the Mission may wish to follow-up on, later, include: Will the chiefs be part of the problem or part of the solution in checking abuses of state authority and defending individual and group liberties? As to resolving land use and herder-farmer conflicts, will the chiefs act as impartial and fair mediators or will they use the expanded formal role assigned them for their own aggrandizement? Will the chiefs be at the forefront of local development activities or will they put roadblocks in the ways of local associations in their bailiwick which they do not control?

There seems to be some evidence that the provincial chiefs are being called upon more frequently to intervene in an effort to resolve conflicts in the political arena touched off by intense rivalries between the AFC and the opposition at the local level.

(iii) Deconcentration and Local Development Activities

Although the Nigerien government has been invoking the need to bring the administration closer to the people since the 1960s through administrative deconcentration, relatively little has been done to achieve that goal. In 1990 an interministerial committee charged with preparing administrative reform identified the following constraints on promoting greater efficiency in the Nigerien state bureaucracy:

- the low productivity of administrative structures.
- the poor coordination of state activities.
- the lack of interaction of different services within ministries and of different ministries with one another.
- the concentration of human and material resources in the central services.
- the lack of delegation of authority to field agents.
- the absence of horizontal as well as vertical flows of information.

The Administrative Reform and Decentralization Ministry created in 1993 is now trying to determine the best way to go about administrative deconcentration, which is seen as providing the major solution to overcome the constraints listed above.

Since the early 1970s, the various field services have worked together in technical committees organized at the department (COTEDEP) and arrondissement (COTEAR) levels to exchange information and formulate plans for specific projects and activities. The préfets and sous-préfets presided over these horizontal committees which had no formal legal standing. The centralized organization of the state bureaucracy and the lack of coordination among the services provided few incentives for field personnel to work with each other or to take the initiative in devising new strategies since decision making power remained concentrated in the capital, and career advancement remained tied to pleasing superiors in one's own service and ministry.

Administrative deconcentration would entail the allocation of more decision making authority to the middle managers and technicians, and more personnel and financial resources to the department and arrondissement levels. The government has three major options as to how to deploy its personnel through administrative deconcentration.

The first option entails the deployment of more technicians to local government units whose salaries will continue to be paid by the state and who will remain directly under the authority of their superiors in the hierarchy, which is how the present system works. Local government units now rely heavily on personnel from the central ministries and have little direct control over their activities.

The second option would change the status of local technicians serving local government and transform them from state employees into local government employees. This option implies a massive transfer of financial resources from the central government to local government. This would make technicians in the field more accountable to local government officials. Taking such an option would entail a major revolution in thinking on the part of those running the central government, and who are deeply committed to the model of the highly centralized unitary state.

The third option would consist of strengthening the powers and decision making autonomy of COTEDEP and COTEAR and place more resources at their disposal. Delegating more authority at the department level, where there is still no corresponding local government body, is probably the most likely outcome. In this case, the préfet would retain much of his authority over the technical services and be able to control most of the development resources allocated to his region. This option would keep resources out of the hands of the politicians controlling local government.

Donors and NGOs, working at the grassroots level, also have an important stake in promoting administrative deconcentration since this will permit their project managers and field specialists to collaborate more closely with Nigerien local-level managers and technicians in implementing projects with a minimum of interference from the central ministries. The new primary health care program built around the health district provides an excellent example of an area in which administrative deconcentration would lead to greater efficiency in service delivery.

5. The National Assembly: Institutional Dynamics

a) Formal Rules and Organization

Article 76 of the Constitution stipulates that the National Assembly establish its own by-laws and rules of internal governance. When the AFC coalition, in the first meeting of the National Assembly following the legislative elections, decided to push to elect the president of the National Assembly before establishing the by-laws, the opposition balked. The result was a constitutional crisis which was finally resolved by the Supreme Court which ruled that the MNSD camp was correct in asserting that one had to establish by-laws before the National Assembly could elect its bureau. Confrontational tactics on the part of the opposition has been a constant feature of legislative behavior in the brief history of the Third Republic.

The by-laws of the National Assembly were passed on May 4, 1993 and established the basic institutions within the National Assembly itself. The by-laws call for the deputies to elect a bureau which acts as a sort of executive branch within the National Assembly which presides over the deliberations of the National Assembly, organizes its services, and controls its financial resources. The bureau consists of a president, three vice presidents, two treasurers, and four secretaries. The president is elected for the duration of the legislature while other members serve one year terms.

As President of the National Assembly, Moumouni Adamou Djermakoye, the head of the ANDP, exercises most of the powers of the bureau. The president manages the personnel of the National Assembly who provide administrative and technical support. The legislative service processes all of the proposed legislation and prepares the materials needed by the deputies to do their work. The National Assembly also has a small professional staff of technical advisors who are assigned to work with the diverse legislative commissions.

The National Assembly does not have a very developed autonomous documentation center and must rely heavily on the executive to provide materials to study a particular issue.

During its first year of operation, the bureau consisted entirely of members from the AFC coalition that controlled 50 of the 83 seats in the National Assembly. However, in June 1994, Hama Amadou, the leader of the MNSD parliamentary group, accepted the post of Third Vice President which had been held by a CDS woman deputy. (Women have little influence in the National Assembly; only 4 of the 83 deputies are women).

The commission system plays a vital role in the deliberative process. Members can not sit on more than one commission. The commissions examine proposed legislation in their area of specialization and present their recommendations to the National Assembly just before the bill is to be discussed. The National Assembly has seven permanent commissions:

- Finance (14 members)
- Defense and Security (8 members)
- Social and Cultural Affairs (11 members)
- General and Institutional Affairs (14 members)

- Foreign Affairs (12 members)
- Economic Affairs and Planning (11 members)
- Rural Development (11 members)

The Finance Commission is the most important because it examines all laws which have a financial or budgetary component in them. The General Affairs and Institutional Commission is also a key commission since it deals with constitutional and organic laws, government regulations, parliamentary immunity, justice, the territorial administration, and local government.

One interesting aspect of the commission system which goes against the prevalent political norm of exclusion is the representivity of its membership. As the largest single group in the National Assembly, the MNSD has more members in all seven commissions than any other single party. Even more surprising is the fact that opposition deputies head two of the seven commissions, including Finance, despite their minority status in the National Assembly. Despite its dominance in the executive, the CDS heads only one commission -- social and cultural affairs -- while ANDP and PNDS deputies divide the other four commissions among them.

The political groups constitute a third body in the National Assembly. To organize an autonomous group, a party must have at least 10 per cent of the seats. Smaller parties can affiliate with a recognized group. The National Assembly has four main groups -- the MNSD and its affiliates from the UPDP and Sawaba parties (33 members); the CDS and its affiliates from the UPDS-Amana and the PSDN (24 members); ANDP (11); and finally, the PNDS (13 members). Although the three main groups in the AFC coalition have voted together as a bloc, they have been careful to maintain their autonomy in not merging into a single group. This gives them more leeway to form other possible coalitions. The defection of any one of the three constituent groups could bring down the government and possibly lead to new elections, while an alliance of any one of the three parties with the MNSD could lead to an opposition government and set the stage for a Nigerien version of cohabitation (the French term for a system in which the opposition controls the government while the former majority coalition controls the presidency).

The Presidents' Conference consists of the National Assembly's three vice presidents, the presidents of the four parliamentary groups, and the rapporteur-general of the Finance Commission. The President convokes the Presidents' Conference which has the important task of setting the legislative calendar and daily agenda. The limited representation of the opposition gives the AFC control over the agenda. For example, in the August 1994 special session of the National Assembly, the agenda was set in such a way that none of the bills introduced by the opposition actually came to the floor, until the censure motion in August. All opposition bills were placed low on the agenda which meant that bills like the one to reform the electoral code by establishing an Independent Electoral Commission did not make it to the floor before the special session ended. In setting the agenda, the Presidents' Conference usually follows the priorities established by the executive.

b) Executive-Legislative Relations

The power relations between the executive and legislature are complex because of a semi-presidential regime and the playing out of coalition politics. The President of the Republic has the power to dissolve the National Assembly while the National Assembly has the power to bring down the Prime Minister and his government through a motion of censure. The Prime Minister is the weak link in the triad of

President, Prime Minister, and National Assembly. He lacks the power and clout of the presidency and can not menace the National Assembly with dissolution.

Partisan politics and the objective of maintaining the coalition at all costs have tempered potential institutional conflict between the executive and the legislature. The only example of legislative institutional solidarity came when the National Assembly unanimously refused to lift the parliamentary immunity of a deputy whom the Prime Minister wished to sue for defamation of character. On the other hand, deputies from both the majority coalition and the opposition have used the National Assembly as an institutional platform for attacking government policies and practices, with most of the fire directed towards the Prime Minister because he is the one responsible before the National Assembly. While one might raise some questions concerning the purity of intention of those individuals involved in attacking the government, the fact remains that the National Assembly is an important national forum for discussing public issues. Parliamentary immunity provides deputies with the freedom to attack the government without facing possible arrest. The fact that debates are often broadcast or televised provides the general public with more information about how the political system is working and opens up the public realm.

The recent debate over the motion of censure introduced by the opposition in August 1994 provides an interesting example of how executive-legislative relations are shaped by partisan coalition politics and factionalism. During the debate, deputies from both the majority coalition and the opposition provided a sharp attack on the policies of the Prime Minister. In some ways, the attacks reflected the use of the watchdog functions of the legislature over the executive. The most blistering critique of the government came from Sanoussi Jackou, the leader of the CDS parliamentary group. It was, of course, less difficult for a CDS leader to attack a PNDS prime minister than to attack a CDS President. On the other hand, it would have been too much for Jackou and his faction to vote the motion of censure and bring down the government. While coalition discipline prevailed, the National Assembly as an institution effectively placed significant pressure on the executive to reorganize the government. Even if one argues that factional politics rather than institutional differences was the decisive factor underlying Jackou's tactics, the fact still remains that he used the National Assembly as the instrument for challenging the Prime Minister rather than party or coalition channels.

The National Assembly has limited power to monitor government activities. It can ask ministers to provide written and oral answers to questions prepared by individual deputies and invite state officials to testify. The National Assembly also has the authority to establish special commissions to investigate various aspects of government and to send missions of inquiry to look into situations of concern to the public. On the other hand, there are no rules to force the government to collaborate with these investigations.

The executive clearly has the upper hand in several key areas:

- Although the National Assembly votes the budget, the executive actually manages and controls financial resources.
- The executive controls the flow of information and can mobilize more expertise to defend its position.
- The executive has the dominant hand in the legislative process because the National Assembly has relatively limited capacity to initiate its own legislation.

c) The Legislative Process

The legislative process usually begins in the executive. The ministry initiating the new law (projet de loi) drafts legislation which then circulates throughout the appropriate ministries for comments. The Secretary-General of the Government plays an important role in checking the legislation for mistakes and conformity with existing laws. When the legislation is ready and approved by the President and the Prime Minister, it gets sent to the National Assembly.

The Bureau of the National Assembly then registers the bill and assigns it a number. The legislative service makes multiple copies of the draft bill and sends them to the appropriate commissions for study and comments. The commissions can ask government officials to come to the National Assembly to provide explanations. Once, the commission has finished its work, it prepares a report and recommendations for amending, rejecting, or passing the bill. The bill is placed on the legislative calendar. And when its turn comes, it is brought to the floor for discussion. The discussion begins with a report and recommendation from the appropriate commission. At that point, the concerned minister usually presents his point of view. Then the discussion is opened. Little time is allowed to discuss and debate the law. Those wishing to speak must be registered beforehand. The rules allow no room for back and forth free debate although they do allow for alternating those for and those against the law. In practice, the AFC's control of the National Assembly and party coalition mean that the government has little trouble in getting its bills through. Before being officially signed into law by the President, organic laws must be sent to the Supreme Court to test their constitutionality.

In the event that the National Assembly rejects a bill, the president of the Republic can send the bill back for a second reading. If the deputies can't muster a 2/3 majority to block it, then the bills passes. These rules give the President great power and limits the freedom of action of the legislature.

When a bill is initiated in the National Assembly, it is registered and then transmitted to the government through the Ministry of Parliamentary Relations. If the government suggests amendments, the bill is sent back to the appropriate commissions for further study. When ready, the bill gets on the calendar and is brought to the floor for discussion and voting.

Until the bill actually gets to the floor to be debated, the legislative process is essentially closed to the public. While the commission keeps a record of attendance, how the deputies voted, and a summary of the proceedings, these records are confidential and not available to the public. Moreover, bills are not made public until they actually reach the floor for discussion. The executive branch is also reluctant to share knowledge of draft legislation with the public. These practices restrict public debate.

Once the bill is signed into law, it must be published in the Journal Officiel which is under the Secretary-General's office. Since only 800 copies are published, this means that distribution is extremely limited and not readily available to the public.

The speed with which bills are sent, the limited time available to study them because of relatively short sessions, and the poor legal training and background of many deputies are all factors limiting the capacity of the National Assembly to effectively monitor government legislative initiatives.

d) Legislative Politics

The concept of national deputy is deeply embedded in Nigerien political culture and has survived the last days of the Ali Saibou regime and the MNSD-inspired 1989 Constitution. It implies that deputies are not accountable to local constituencies but to the nation. Being attached to the nation, they should not succumb to local pressures.

Interviews in the field indicated that various sectors in civil society rarely looked to their deputy to defend their interests or to solve their problems. If the problem was a local one, they relied on solving their problem primarily through the territorial administration; if a national one, they went to the executive branch or to the national party leaders of the ruling coalition.

Interviews also indicated that local party leaders defined their representative role primarily in terms of expressing the "doleances," or wish lists, of their constituents and looked to national party leaders, rather than individual deputies from their district, to satisfy these demands. Answers like this reflected the clientelist perspectives still prevalent in politics. Politicians were not accountable to the people; the people were thus clients rather than constituents.

As long as the deputies have no real input in national budget allocations and how they are to be spent at the local level, they are not likely to be sought after by local constituents. This situation is reinforced by the electoral rules in which local constituencies are too large for most of the people to know their deputy and they are more accountable to party than to local constituents.

The lack of real power and control over material resources contributes to the weakness of the National Assembly as a representative body effectively aggregating the interests of various constituencies. Its main role to date has been that of a public forum for expressing criticism of government policies and behavior. As such, it gets the attention of those elements in Nigerien society watching the country's political scene for signs of improvement in their living standards and in democratic governance.

Some deputies now find it in their interest to strengthen the institutional capacity of the National Assembly, if not as a counterweight to the central government, then as a platform for their own political ambitions. Excluded from the executive and the territorial administration, the opposition is at least present in the National Assembly and receiving a share of seats on the permanent commissions proportionate to their numbers.

Yet there are some signs that the National Assembly may be on the way to becoming a more relevant and responsive political institution. For example, the Nigerien press has reported that the USTN was soliciting, albeit unsuccessfully, the support of the National Assembly in its negotiations with the government concerning the way in which the government acted to break the strike. Progressive elements in civil society may also support the National Assembly as a check on the abuses of state power. Opposition bills to place greater limits on state censorship of the press and to create an independent electoral commission are attractive to those committing to preserving freedom of the press and transparency in national and local elections.

Despite its relative weakness vis-a vis the executive, the National Assembly has made considerable progress as a countervailing power to curb undemocratic tendencies in the executive.

6. The Nigerien Judiciary

The judiciary has maintained the same procedures and effectively the same organization since the reforms of the late 1960s; both procedures and organization are based on the French system. The 1989 Constitution returned to the judiciary the powers to check the executive it had lost in 1974 with the beginning of military rule. The 1992 National Conference and the interim government suspended the executive and the legislature but allowed the judiciary to continue to function. The Supreme Court decisions in the only two test cases in the Third Republic have strengthened the perception of the independence of the judiciary. An earlier section discussed the problems of establishing the rule of law in Niger, including the lack of a mechanism that allows judges to initiate actions, and the narrow definition of standing to bring constitutional questions or limit abuses of authority. It also discussed the piecemeal nature of drafting legislation. These are major problems for justice in Niger but they are not the judiciary's problems.

The courts are hierarchically organized, with the Supreme Court and its four chambers at the top; the High Court and the Court of Appeals in Niamey, the Tribunaux de Premiere Instance (four plus six sub-sections) at, roughly, the regional level, and 15 Justices de la Paix at the arrondissement level. A second Court of Appeal will open in Zinder later in 1994; the Ministry of Justice's policy is to put a Justice of the Peace in every arrondissement.

The Cour d'Assizes is a travelling judge presiding over jury trials of serious criminal offenses. He takes some of the burden off the tribunaux (his visits should be at six-month intervals but are currently annual), but they can also try such cases; the accused does not have a choice. Altogether there about 135 judges (20% of them women), all with the same two-year training in France. Approximately 20 have administrative, not judicial, jobs in the bureaucracy. There are no private lawyers outside Niamey; hiring them is very expensive.

Judges see the lack of resources and the general lack of understanding of a rule of law as major problems but they also see the courts as accessible, affordable and fair. Do users of the justice system agree? The business community finds the courts too expensive and too long, although small businessmen use the courts to recover debts. Peasants find the courts intimidating, but customary and land cases do come to court if they cannot be resolved elsewhere. There is an emphasis at the Justice of the Peace level on resolving cases without bringing them to court. One regional court was hearing about 700 cases per year, evenly split between criminal and civil cases. It was staffed by three judges, with three local Justices of the Peace.

Cases in which neither side hires a lawyer are not costly in money, although they have high transaction costs in terms of time in Niamey, where the case backlog is enormous, and distance to travel to courts outside Niamey. Simple cases in at least two tribunaux outside Niamey are settled, on average, in three-four months; appeals or referrals take much longer because there has been only one Court of Appeal. Cases that are assigned counsellors, who have little legal training, may not get the best possible legal advice, although the institution of the juge d'instruction, which gives a judge the task of collecting and weighing the evidence from both sides, ensures highly qualified preparation of cases. The courts are used to resolve the conflicts of ordinary life: landlord/tenant disputes, petty traders' debts, family matters that cannot be resolved by alternative mechanisms.

A legal enabling environment is essential for economic development, and this is clearly a problem area. Business law, business practice, arbitrary government implementation of regulations and tax collection,

as well as government policies, all need to be addressed. It is the executive branch's function to make policy, draft laws and then to implement them evenly; is the solution to be found in the executive branch, the functioning of the judiciary, or does it come back again to the limits on standing to bring cases? A Council on Judicial Reform for commercial law is to be inaugurated soon with the task of reviewing and revising commercial law, but the content of the law is only part of the problem. The establishment of a rule of law by both state and business actors and the framing of laws, policies and practices that are seen as equitable and encourage the business sector to operate in the "formal" sector are as important as strengthening the capacity of the judiciary to deal speedily with commercial cases. Most important is the development of a perception that the proper functioning of the business sector is in everyone's interest, and that this puts a responsibility on the shoulders of everyone with a legitimate grievance (and, therefore, the standing to take it to court) to pursue it and thus contribute to the development of regular and well-understood processes.

With only ten tribunals de premiere instance and their regional branches, and 15 Justices of the Peace for the entire country, many citizens may be effectively shut out of the system by distance. A group that is not well served by the judicial system is the nomadic people. There does not appear to be any device that takes their shifting residence into account, although they clearly do take some land use disputes to court. Court systems are inevitably used more frequently by the those familiar with their proceedings than by peasants, particularly peasant women. Projects of village-level legal awareness, such as RIDD-FITILA's village paralegals and clinics, and the radio and television programs produced by several legal and human rights groups may in time make a difference.

What the judicial system needs in order to serve people better can be thought of in several ways. The existing system needs professional inputs: timely delivery of the Journal Officiel so that judges know the content of new laws and timely (at least annual) copies of Court of Appeal decisions. The budget for the judiciary must have a reasonable amount for recurrent expenses: paper, pens, stamps, running and repairing vehicles, so that the tribunals are less dependent than they are now on cadging resources from administrators. Inputs from Nigerien and other legal experts in the form of journal articles and seminars/in-service training should bring judges together more than once every three years as at present. The next step in support would be to help to open more courts.

The Nigerien system has some clear strengths: it is a well-established institution, people know which disputes should be taken to court, and it is staffed by uniformly and highly trained judges. Judges appear to have sufficient incentives in terms of salary and prestige and a clear career ladder (there are no non-professional appointments to the judiciary) to prefer to remain judges rather than opt for private practice.

IV. AN ANALYSIS OF INSTITUTIONAL DYNAMICS AND BEHAVIOR: CIVIL SOCIETY'S CAPACITY TO PROMOTE DEMOCRATIC GOVERNANCE

Part IV turns to a discussion of the non-state sector civil society and its role and capacity in the promotion of a system of democratic governance in the post transition period. Section A provides a very brief conceptual framework for understanding the role and functions that civil society is expected to play in constructing this new political system, while Section B, traces the evolution of associational life from pre-independence to the present, and how the values and norms which underlie it have set certain parameters for the nature and dimensions of emerging modern-day civil society. Section C looks at the enabling legal environment for civil society growth and development, including a review of both fundamental and ordinary law governing associational formation as well as the attitudes and behavior of government officers towards this new phenomenon of voluntary and autonomous associational formation. The chapter

ends with an assessment of civil societies capacity to undertake four fundamental governance functions that essentially limit state authority and increase and broaden non-state involvement in governance matters at the national and local levels.

A. A Conceptual Framework for Understanding Civil Society

As the introductory section of this assessment pointed out, the notion of democratic governance implies a broadening of our understanding of the governance process to include within it the participation of civil society actors. Ideally, the role of civil society is one of partnership with the state in terms of the organization of a governance system that is capable of fairly and effectively making decisions about the way public resources will be allocated and managed.

There are essentially four functions that civil society is expected to perform in this regard: (i) limiting the state's exercise of authority and particularly its potential abuse of power; (ii) broadening societal participation in national governance matters, including decisions related to the allocation and management of public resources; (iii) contributing to the development of democratic norms and values (a civic culture); and, (iv) undertaking self-governance directly and outside the formal state administrative system. In a very simplified framework, these functions can be reduced to: the **demand** for good governance from state institutions (functions i and ii); and, the **supply** of good governance from within the institutions of civil society itself (functions iii and iv).

The capacity to undertake such functions is referred to here as **civic action** and those entities within civil society that carry out civic action will be referred to as **civic organizations**. While civil society defines the realm of **voluntary** social interaction that takes place between the household and the state, associational life encompasses a wide variety of institutional and organizational forms which do not necessarily or directly contribute to the growth of democratic governance through the performance of civic action functions. This analysis will eventually lead to our focussing on two types of civic organizations: (i) **multipurpose NGOs**, or those organizations which in addition to their normal development activities undertake some aspect of civic action (e.g., sectoral advocacy or local organizations capacity building) as a response to member or client needs; and (ii) **specialized civic organizations** which have a single civic action dimension to their program (e.g., human rights or civic education).

Part IV thus has as an overall objective to ascertain the capacity of this narrower sliver of civil society to promote democratic governance. Before arriving at this point, we first turn to the nature of Nigerien associational life from which civil society emerges and is defined.

B. Associational Life and the Evolution of Nigerien Civil Society

This section sets out to answer the following question: has there, in fact, been a fundamental reordering of the basic principles of Nigerien political life, including norms and behavior, since the National Conference (1991) in which society, rather than serving the narrow interests of the state, is now served by it?

1. Traditional Forms of Associational Life and Underlying Norms

The point of departure for assessing civil society and its role in promoting a system of democratic governance must start with a discussion of the traditional values and norms that define the way in which

people come together in voluntary association. This section looks at traditional forms of Nigerien associational life, the norms and rules that underlie their formation and govern their behavior and which, it is proposed, carry over into the modern institutions and organizations which we identify with civil society. As noted earlier, the following discussion takes place at a general level of analysis, while recognizing the significant differences between the ethno-linguistic groups that compose Nigerien society, as well as the dynamic nature of normative change that has taken place within society over several generations.

a) Values and Norms

Traditional Nigerien associational life is based on a set of norms and rules that places great emphasis on an extremely hierarchical system of social relations and respect for the authority of those at the pinnacle of this structure. To a significant degree, a corresponding set of ascribed characteristics, including gender, age, caste and ethnicity, reinforce these traditional norms and exert tremendous pressure for individual conformity to prescribed roles, the nature of social relationships that they develop, and with whom it is expected the individual will associate in common endeavor. Added to indigenous, traditional values has been the relatively recent adherence to Islam with its own set (some would say only set) of norms and rules for structuring societal relations. As in most of Africa, these norms and rules are learned within the context of daily family, clan and village life which, as basic social units, implicitly embody and reinforce the traditional value system.

It is hardly surprising then that most social relationships were primarily defined in asymmetrical power terms, whether between men and women, royal and commoner, elders and youth, etc. Accepting these traditional values as the rules governing social interaction was essential to ensuring social harmony and group cohesion -- primordial values in the context of relatively small social units. As discussed earlier in this assessment, the dominant political norms and behaviors which emanate from this hierarchical, authority-based and ascriptive social structure are those based on the notion of reciprocity in power relationships, and can be best characterized as both personalistic and clientelistic. Identifying with and adhering to a recognized authority figure in a relationship in which a significant measure of personal autonomy is exchanged for an understood set of future obligations underlies the political calculations of both patron and client.

b) Traditional Associational Forms

Traditional forms of associational life have evolved based on the socio-cultural, spiritual and economic-cum-productive needs of rural people. Those instances where people have historically come together in voluntary association to advance a common interest -- as distinct from and beyond those of the extended family, clan or village -- were primarily some form of mutual aid society based on relative symmetries in the social hierarchy and shared ascriptive traits (e.g., age, gender, caste) or affinity groupings. Age-grade groups of girls and boys, or what have been generally termed the "samaryia," undertook a variety of common tasks for their members, particularly those related to agricultural production needs (hoeing, weeding, harvesting) and home construction or repair; equally important, they served as cultural learning centers for the expressions of their culture (e.g., dance, song, folklore).

What we call today the "tontines" (traditional savings and credit associations) were initially expressions of both economic and social solidarity, providing members succor in times of need (e.g., illness, death, natural calamity); as a means to meet social obligations associated with traditional rites of passage (e.g., birth, adulthood, marriage); and the intricate system of reciprocal gift-giving which is practiced by most

of Niger's ethnic groups to maintain status and gain prestige within the traditional value system discussed above.

Other traditional associations were formed around shared spirit/spiritual interests (e.g., Zarma Hauka societies), security needs such as the "Yan Banga," or those with shared interests based on occupation and, especially, among artisans (e.g., blacksmiths, potters, leather workers) which were, in many cases, already defined by the caste into which they were born. A number of characteristics were common to all these groups and have thus served as the basis of their effectiveness and, hence, longevity. First and foremost, they were formed on a strictly voluntary basis around a common need or interest and not imposed from outside. They were relatively small and homogeneous in their composition, with identity based on common affinities or on a geographical basis in what would be considered a neighborhood within a larger social unit, such as a village. Where larger associational forms did emerge, they were either a direct response to threats to the larger social group's survival or were addressing interests or needs that were clearly seen to have the common good in mind. Of particular note, was the lack of an ethnic dimension to traditional associational life, largely a result of their localized and atomistic nature.

In summary, voluntary associational life in the above context was, to a large extent, devoid of the power asymmetries and, thus, the authoritarian and hierarchical structures found in the larger social setting and denoted by clientelistic patterns of association. Such associations were permitted an independent existence precisely because they did not challenge the underlying governing principles of the larger social order. Not only did the advent of colonialism in Niger do little to change the nature and structure of the larger hierarchical social order, it coopted and reinforced it as the principle means for extending and maintaining colonial rule. The ensuing introduction of a market economy, which essentially monetized the means of traditional subsistence production for the purpose of extracting peasant surpluses, had the effect of marginalizing many traditional forms of association and perverting others, as social life was reordered to serve the twin interests of the colonial and indigenous power structures.

2. Patterns of Associational Life in the Post-Colonial Era

From an historical perspective, the evolution of associational life in Niger demonstrates the state's attempts to order society to serve the interests of those in power. This section looks at the impact that some thirty years of authoritarian rule has had on the development of associational life in Niger. From independence to the National Conference, three different Nigerien governments put into place a political regime based on traditional values and colonial forms of administration -- and with their own unique contributions, as well. The question that needs to be answered in this regard is what value, normative and behavioral legacy has been bequeathed to the new citizens of a democratic Niger.

a) State Building and Peasant Departicipation

The Nigerien state has been virtually synonymous with executive branch power, whether under French colonial domination (1922-1960), the de facto one party state of the Diouri government (1960-1974), the military "regime d'exception" (suspension of the constitution of the First Republic) of the Kountche era (1974-1987), or the MNSD "parti unique" of Ali Saibou (1987-1991). Each of these three post-independence authoritarian regimes was established or eventually came to serve the interests of a relatively small group of ethnic elites centered around a personalistic leader. The maintenance of these regimes required the elevation and expansion of clientelism as conventionally practiced within the traditional rural social milieu into a nationwide system of political patronage. The patronage machine depended on the ability of those at the pinnacle of the hierarchy to extract surplus from foreign assistance,

and from control of trade, principally through the monopolization of marketing and indirect taxing of exports. As Niger's base of export production shifted from groundnuts to uranium, it became less important to directly control peasant production and marketing, although the tendency to want to do so persisted.

To accomplish and maintain this system of personal rule and patronage, holders of power at various levels of the political system had to limit participation of the principal social forces in national governance. This required the executive to maintain itself at the apex of a centralized hierarchy of political authority, accomplished primarily through a highly centralized territorial administration and control of much of the commercial economy through para-statal enterprises whose managers were highly integrated with the patronage machine. The maintenance of the chieftaincy as a corporate group dependent on the state and charged with many local administrative and representational tasks served to extend this system of control down to the village level. All three instrumentalities (centralized administration, state-run economic actors, and the chieftaincy) had already been prepared for this role by the French under colonial rule.

Not only was the state reorganized to manage society, but so too was society reordered through the policies of successive Nigerien regimes to respond to "state-executive-personalistic" requirements. Initially, during the Diouri regime, support for this strategy depended heavily on control of the rural economy. This was achieved largely through taxation policies which forced farmers to devote a substantial proportion of their land and energies to the production of the cash crop, groundnuts, in order to pay taxes. Taxation was vigorously, and sometimes forcibly, collected through the collaboration of "traditional authorities" and the representatives of the central administration, the sous-préfets. The cooperative structure, put into place through the UNCC, may have been intended by its foreign counselors to foster an independent farmer class, but it served instead mainly to extract surplus from producers through a combination of enforced pricing and monopoly marketing.

The role and nature of both the village and the village chief, and their evolution during colonial and post-colonial times, is important to understanding how the hierarchical system of control was maintained. It is also important to understand how this pattern of rural organization bears on current development efforts, including those of interest to USAID. In a number of Niger's traditional societies village organization and chieftaincy preceded French colonial rule. But French rule significantly modified the structure and functioning of these institutions. In much of Niger, local residential patterns based on clan and lineage descent groups and the array of traditional voluntary associations coincided both with the choice to live in small and often dispersed villages. People were as likely to be involved in associations, such as a clan, which cut across these small units of organization, as they were to concentrate their social interactions on those in residential proximity. Elsewhere, larger scale villages, really small towns, did develop as fragments of hierarchical states like Katsina, Gobin and Daura.⁶

Colonial administration and Niger's post-colonial regimes emphasized the tradition of hierarchical village organization, and of concentrated patterns of settlement, ignoring or suppressing other forms of residential

⁶ There is some contention to the proposition that many villages were an artificial creation imposed by government for purposes of administrative convenience. While many writers in the fields of applied anthropology and rural sociology provide examples supporting this line of thought, our basic premise is that the village-cum-traditional power structure is neither voluntary nor particularly representative of group solidarity; and often masks tremendous differences and tensions between social classes, ethnic groups, age and gender.

affinity based on smallness, semi-nomadism, relative self-sufficiency and cross-cutting affiliation. This change, most evidenced by forcing people to settle in concentrated villages in proximity to roads, emphasized hierarchical control and association through patron-client networks. The principal option which rural people could exercise to try to avoid this control was "exit," the fissioning of village communities and the creation of bush hamlets. This option was prevalent in western Niger, particularly among the Zarma. Since the Zarma were much less involved in cash crop production, it was an option which was also tolerated by administrative authorities to a greater degree in western Niger. To a significant degree, then, the concentrated village (where people live in one central location) can thus be viewed as an "administrative convenience" to facilitate colonial rule. Its underlying principle of organization was thus "involuntary" association. The myth of solidarity and social cohesion attributed to the village unit and upon which successive waves of rural development strategies (donor-supported in most cases) were based, was substantially a fiction which masked much deeper social realities of both affinity and conflict. This fact has compromised many rural development actions over the past thirty years in Niger.

Perhaps the best example of the inconsistent goals of these two trends of thought, i.e., the village as a base unit of state control and as the base unit of economic and social development, is seen in the creation of one of the most impressive attempts at grassroots mobilization in French West Africa, that is, "animation rurale." The basic premise of this development paradigm was that rural people on their own lacked the capacity to organize and mobilize the local resources, including their own labor, required to participate fully in Nigerien national development. This responsibility thus rested "rightly" with the enlightened state, which orchestrated during the Diori regime a massive movement of rural animators working to "develop" (*sensibiliser*) the village, villagers, and related cooperative structures as the basis for local development. Its failure, like that of its later incarnation in the "société de développement," was virtually preordained given the fundamental structural flaw in hierarchical authority which permeated Nigerien society.

The cooperative structure of the UNCC (Union National des Coopératives et Crédit) and the later "rehabilitated" UNC under Kountche, dealt with extraction within a subsistence and, at best, a dualistic rural economy. In times of favorable climatic conditions, peasants grew crops for the market economy, in years of drought, simply to meet their basic subsistence or survival needs. In good years, the cooperative structure worked to tax rural producers indirectly; in bad ones, central administration could ensure that at least a minimum of resources could be extracted through taxation, although with the sharp increase in uranium revenues in the late 1970s the need to extract capital through heavily and forcibly collected taxes fell. The UNCC/UNC structure was based on a village or several villages in proximity serving as the base of the pyramid through the superimposition of "groupements mutualists" (GM) over these administrative units. Cooperatives regrouped the GMs at roughly the cantonal level, then into larger unions at both the arrondissement and departmental levels, and finally a federative unit at the national level. In short, the cooperative structure was the first of what were later to become the corporatist units governing associational life in the modern Nigerien state.

b) Reigning in the Remainder of Associational Life

Once started, ordering society became an end in itself -- as distinct from its initial purpose which was a means to serve elite interests. Having reordered rural society through the cooperative structure initiated under Diori, the state focussed on associational life in growing urban centers and, for good measure, the various ascriptive groupings cutting across the rural-urban divide.

The underlying principle of state corporatism was clear: to leave no realm of associational life open to the voluntary coming together of people around shared interests or needs. Corporatism was, in fact, the elevation and expansion of the traditional system of clientelism and patronage to the national stage in modern political life. The following discussion provides a summary overview of this evolution and the form that corporatism took during three decades from 1960 to 1990.

THE LABOR UNION AND STUDENT MOVEMENTS

From an historical and global perspective, the labor union and student (as distinct from youth) movements have traditionally posed the greatest threat to the power of centralized states. Given Niger's historical linkage to France, the evolution of these two movements were greatly influenced by their counterparts in the "metropole." Of the two, it was the Union des Scolaires Nigeriens (USN) that was less susceptible to state structuring, for the simple reason that it remained a clandestine movement until October 1991, although it periodically posed serious concerns to all three regimes, and particularly that of the Second Republic.

Under both Diori and Kountche, the union movement was largely captured through the corporatist structures of, first, the Union Nationale des Travailleurs du Niger (UNTN, created in 1960) and, second, under the Kountche regime, the Union des Syndicats des Travailleurs du Niger (USTN, created in 1976). Both "federations" were brought together under a single umbrella for all unions operating at the time, which today number some 40. While nominally independent in principle, practice translated into pure clientelistic politics, with the head of the federation and each of the individual unions affiliated to it directly or indirectly attached to the single parties of Diori and Saibou, i.e., PPN/RDA and MNSD respectively, or to the military regime of Kountche.

It is important to keep in mind that both unions and student groups were little more than appendages of the Nigerien state and, principally, the civil service. Since the largest employer in Niger was the state it is not surprising that all but a handful of the individual unions were engaged in some aspect of public sector or parastatal service provision. Students, it can be said, were actually "fonctionnaires in waiting," as the government paid for their training through stipends and employment in government and in the parastatal agencies to university graduates. There was thus a very strong incentive for these two privileged groups to abide by the corporatist rules in place. The understanding, however, was based on the state's capacity to ensure the economic welfare of its clients in return for their adherence to the rules in play.

As the events of the past four years have demonstrated, the state's abrogation of its responsibilities to its two major corporatist clients led to their calculation that group interests could no longer be protected by the political regime in operation. The distinction between "regime," i.e., a set of rules defining the way in which the political game was to be played, and the particular "government" in power, i.e., those managing the regime, is an important one, as it provides the basis for understanding why these two popular or mass organizations opted for a regime change rather than a simple change in government. Equally importantly, it allows us to assess the degree to which these state and non-state actors, operating under a new set of rules, actually believe and adhere to them, or continue to be susceptible to the set of rules ostensibly discarded as being no longer of use or relevant to their needs. This is expanded upon below.

PROFESSIONAL AND BUSINESS ASSOCIATIONS

Complementing the two principal corporatist groupings in the modern sector were the set of professional and business associations whose mandate included the protection and advancement of individual group interests of their members. From the beginning of the First Republic, but especially under the regime d'exception, a range of such groups were created to permit those with similar interests to join together in professional associations. In return for their allegiance to both the regime and government in power, they were given a monopoly over a given domain by becoming its sole representative. This monopoly representation was normally accorded directly by a responsible ministry, through a simple decree (*arrete*) issued by the Ministry of Interior.

To give a bit of the flavor of the corporatist creations of this period, i.e., roughly 1960 to 1990, the more important of these associations included the Association de(s): Sage-Femme Nigerienne (1975), Journalistes du Niger (initially Club des Journalistes created in 1969), Ordres des Avocats du Niger (1976), Professionnelles des Banques et Etablissements Financiers du Niger (1977), Chambre de Commerce, d'Agriculture, d'Industrie et d'Artisanat du Niger (1977), Routieres du Niger (1968), Syndicats des Tailleurs, Artisans et Confectionneurs (1981), Nationale des Anciens Combattants et Victimes de Guerre (1963), and Chefs Traditionels du Niger (1975).

An indication of how successful the state was in channeling their interests and limiting their participation in national governance was their virtual invisibility in the overt political or economic life of the country. Given that these organizations represented several important professional and economic sectors, i.e., business, finance, commerce, traditional chiefs, the country's lawyers, journalists, etc., it struck the assessment team as significant that no mention was made of them by respondents in terms of their being serious actors in Niger's young democracy. The obvious conclusion is that having adequately kept their end of the clientelist bargain by muting member participation, they became totally discredited in the eyes of both members and the society in general. The tremendous proliferation of new groups in this category of associational life since 1990 demonstrates that the old associations had little credibility.

ASCRPTIVE-BASED ASSOCIATIONS

Ethnicity, gender, age, caste, and region of birth are attributes over which people have no choice. They serve as the primary affinities around which most people have traditionally associated. Although religion can be considered a preference and, therefore, changed, in a country that is roughly 98 percent Muslim, it is treated here as a "born-to" trait. Ascriptive-based cleavages are particularly sensitive in most countries -- and no less so in Niger -- and, thus, have historically posed the greatest of all dangers to state dominance, if not political stability. The first three regimes of the post-colonial era handled this situation by either forbidding associational formation, corporatizing it, as in the domains discussed above, or ignoring it all together.

While a very limited number of mutual-aid, friendship and cultural associations were officially recognized during this period, all groups with even a hint of ethnic or regional identification were denied such recognition and were, in fact, considered illegal under Nigerien law. Traditional social status and caste were an area that successive governments preferred to ignore since it touched on social distinctions between nobles, freemen and slaves, and since these governments depended on the high status actors for political support (despite the fact that many in the Diiori regime were of modest social standing). Gender, age and religion were a different matter altogether, and the state recognized monopoly groups for each.

The Association des Femmes Nigeriennes (AFN) was formed in 1975 as an outcome of the International Year of the Woman. The Mouvement National de la Samaryia (MNS) was officially recognized as part of the Societe de Developpement under the Second Republic (1988), although the Samaryia as a mass youth organization was started under SAWABA in 1957, was suppressed under the Diori regime, and rehabilitated under Kountche in 1975. The Association Islamique du Niger (AIN) was formed in 1974, just at the beginning of the regime d'exception. These were mass or popular organizations, and like the UNC and territorial administration, penetrated to the lowest levels and farthest corners of the country carrying the message of the centralized state. Like their counterparts, they were well organized and financed, with significant funding coming from foreign donors who saw them as a means for achieving either development or spiritual objectives. In their prime, these three organizations were able to channel member interests in ways that placed few demands on the reigning government, effectively limiting participation in national affairs to little more than obligatory shows of support on national holidays or during the visit of a state dignitary. What they were most successful in doing, however, was to prevent exactly the types of conflict that are associated with these cleavages.

By the arrival of the Second Republic, limited resources began to take a toll on their effectiveness and, hence, their legitimacy in their members' eyes. By the end of the National Conference, all three organizations had been discredited and today play no meaningful role in national or local governance matters. While it is true that these corporatist organizations were responsible for limiting popular participation and hence stunting national development, it must also be recognized that they did, in their own fashion, make a number of important contributions as well. The Samaryia, for instance, was responsible for mobilizing youth and their families for a massive program of school construction under Kountche. The AFN provided rural women throughout the country with access to credit, skills-training and functional literacy -- most for the first time in their lives. It also succeeded in establishing a new Ministry of Family and Women's Affairs, and, finally, was responsible for initiating and pushing forward the Code de la Famille. Through the AIN, numerous welfare activities were undertaken by Imams and Marabouts in mosques throughout the country. At the time of the transition, at least, memory of these good works had been overwhelmed by the abuses of the corporate structures.

Two other sectors of associational life, development NGOs and civic and human rights organizations, were virtually absent in organizational form throughout Niger's authoritarian era and are thus of little relevance to this discussion on the evolution of the corporatist state. Suffice it to note here, however, that the few development NGOs that did exist during the period were international in origin and were grudgingly allowed to set up operations under the Kountche regime, primarily as a result of the 1983/84 drought. Their actions were severely circumscribed: they could work with and through government services. This meant undertaking project activities within the administrative framework, ending with the village as the unit focus of their efforts. Organizations which promoted civic participation in national governance, including those with a human rights orientation, while not outright forbidden under existing statutes, were clearly understood to be outside the accepted rules of the political regime.

c) The Legacy of State Corporatism on Civil Society

The underlying principle of civil society is the coming together of people in voluntary association to advance a shared interest or address a common need. A vibrant civil society -- one in which organizations are involved in matters of local self-governance as well as participation in the larger context of national governance -- is predicated on the density and diversity of associational life at all levels, but particularly at the local community level where the majority of a country's people live and interact. We have talked about the nature of associational life in Niger as it has emerged during the first thirty years

of independence. The inescapable conclusion of the preceding analysis is that civil society, as either a concept or a reality, did not exist during this period of Niger's history.

The corporatist model which evolved had the sole purpose of limiting popular participation -- what has been increasingly been referred to as "departicipation" -- in any aspect of governance, whether in the national political arena or at the local level. The principal difference between modern state corporatism in Niger and traditional community clientelism was the fact that the latter permitted a significant degree of voluntary associational life, while the former was dedicated to eradicating it.

How has this history affected the growth of associational life in the Third Republic? The remainder of this section looks at the more important of corporatism's effects.

THE LOST ART OF VOLUNTARY ASSOCIATION

The act of voluntarily associating together is a learned behavior. The underlying normative values of voluntary association are trust and reciprocity. One gives up a degree of personal autonomy based on the expected rewards of participating in the group. For this to happen, a significant degree of trust must exist in order for individuals to make the calculation that their interests can be achieved in a larger associational setting. Such were the calculations made by people entering into traditional forms of association, including such institutions as the *tonline* and *samaryia* (traditional age-grade youth association). Corporatism, however, was based on involuntary association, using patronage to coopt elite personalities who in turn assured the allegiance of their clients in structured mass organizations. The result: the art or habit of associating together in common endeavor has, for the most part, been lost in the Nigerien setting and must be relearned.

THE LOSS OF GROUP SOLIDARITY

Traditional voluntary associations were above all expressions of solidarity among members, whatever their basis of identity and affiliation. Solidarity implies "horizontal" linkage, both between people and groups who have shared interests. Before vertical integration, i.e., federating, can take place for the purpose of aggregating common interests and advocating shared objectives, horizontal linkages between primary level units must occur. Such linkages are based as much on shared values (solidarity) as they are on shared interest (personal or group gain). Corporatism reversed this natural order by imposing a limited set of top-down, hierarchical structures that linked individuals and groups vertically to central state power. In the process, horizontal linkage and group solidarity were effectively killed.

THE LACK OF PERSONAL INITIATIVE AND ACCOUNTABILITY

People undertake initiatives and take responsibility for their outcomes within a group setting when they feel free to participate fully in all aspects of group action. This took place in traditional Nigerien voluntary associations when groups were relatively small and homogenous, and where the traditional structure of power relations operating within the larger society was absent. As noted previously, the imposition of the village as the basic unit of social, political and economic interaction within the context of the larger corporatist edifice constructed by the state effectively shut off not only voluntary association but widespread participation in matters of local concern. The result: the inhibition of most individuals, and particularly women and lower castes and classes, from taking personal or group initiatives, and the loss of any sense of responsibility for the outcome of their decisions.

In constructing a new democratic political order in Niger, civil society has been accorded, in principle, an important, if not equal, role in national governance matters. The concept of civil society is made manifest through the range of voluntary associations pursuing a combination of individual, group and public interests. As discussed immediately below, a major transformation has taken place in Nigerien society with a proliferation of associational types that is without precedent in both numbers and variety. The diversity and, what we might call, density of voluntary associational life are essential preconditions to civil society being able to play its role in a system of democratic governance; they are, however, insufficient conditions to ensure it. What is required to complement these preconditions are (i) a cluster of normative values that we associate with the concept of "civicness," that is, trust, reciprocity, inclusiveness and public spiritedness; and (ii) a set of personal qualities that include taking initiatives and assuming responsibility for one's actions. These are precisely the values and qualities that the Nigerien state stifled through the corporatist model. The question that we continue to pursue in the following sections is whether the new political context is capable of fostering these values and qualities within emerging civil society organizations.

3. The Emergence and Dimensions of Civil Society

a) Background and Summary

The system of unequal power relations, the basis of Niger's clientelistic patronage system, or state corporatism, worked fairly well until the convergence of two critical events: the drastic fall of uranium prices and the second great Sahelian drought (1984-85). In retrospect, we can view the formulation and the formal establishment of the Société de Développement as an effort by the state to forestall the collapse of state corporatism by tightening its grip on society through calls and exhortations for a renewed sense of national discipline and purpose. By the time of its institutionalization under the banner of MNSD, the first cracks in this monolithic edifice were beginning to show. The arrival of a second wave of international development NGOs during and after the drought, while overtly non-threatening, did lay the basis for the emergence of an indigenous NGO movement. By the end of the 1980s, the UNC cooperative structure was virtually dead, leaving little more than the shell of its former grandeur and a number of cooperative and development bank failures in its wake.

b) Emerging Patterns in Modern Associational Life

This section provides an analysis of the key trends and patterns in associational life which first began to emerge during the Second Republic and came to full bloom with the advent of the National Conference. The analysis is conducted at two levels: (i) the formal level including those organizations, normally, but not exclusively, urban-based, which have received legal recognition from the Ministry of Interior under the laws currently in application; and (ii) the informal or primary level, normally rural-based associations, involved in some form of local self-governance. As one set of comparative points, this analysis looks at and contrasts emerging associational life -- essentially, the seven years covering the period of political liberalization to the present (1987 - 1994) -- in terms of the three characteristics noted above that defined associational life: (i) the art of associating together; (ii) the capacity for horizontal linkage or solidarity; and (iii) the ability for personal and group initiative and integrity.

(i) *The Density of Associational Life*

Civil society is predicated on large numbers of diverse voluntary associations. What is important is not so much what these organizations do, but the simple fact that they exist. In an environment that enables

associational life, the assumption is made that the greater the number and diversity of voluntary associations, the greater the number and diversity of expressed interests and opinions, hence, the smaller the likelihood than any particular one will come to dominate. In a similar vein, when individuals belong to a number of such associations, articulating and representing different group interests, it is more likely that values and attitudes derived from ascriptive characteristics will lessen in intensity, decrease the societal cleavages, and make for a more tolerant and inclusive society.

Associational Life at the Formal Level

The most notable finding to appear from a review of emerging Nigerien civil society is the tremendous proliferation of associational life that has taken place at all levels of society. According to documents provided by the Ministry of Interior, there were, as of the end of June 1994, over 560 registered associations of various categories (e.g., NGOs, cultural and sports associations, labor unions, religious organizations, civic and human rights groups, professional and business associations), both international and local. The following provides specific findings for this period:

- Of the 560 associations registered between August 1960 (Nigerien Independence) and July 1994, 346 have been officially recognized by the MOI since the start of the National Convention in July 1991, that is, 61 percent of all associations were registered in the past three years. Over 95 percent of those registered during this same period were indigenous Nigerien associations.
- From November 1987 to July 1991, the regime of Ali Saibou (referred to here as the period of political liberalization preceding the transition years from the National Conference to the successful conclusion of multiparty elections), an additional 91 associations (17 percent of the total) received formal GON recognition.
- Virtually all of the remaining 113 associations registered between 1960 and 1987, fell into one of the following categories: international NGO, international religious organization, indigenous sports, cultural or social club, or government-created corporatist entity (AFN, AIN, ACT, Chamber of Commerce, etc.)
- Of the 144 associations that have received NGO status with the Ministry of Finance and Plan, 55 are international and 89 are indigenous; over 75 percent of the international NGOs were recognized between 1984 and 1988 (during and after the drought); all 89 indigenous NGOs were recognized between 1988 and 1994, with only 10 accorded legal status prior to the National Conference.
- All six Nigerien Islamic associations (the AIN excepted) were formed during or just after the National Conference; of the 15 civic and human rights organizations, all but three were formed during or after the National Conference, while the remaining were formed between 1987 and 1990.
- Although proscribed by current law, one of the most dynamic sectors of post-National Conference growth has been that of the Associations des Ressortissantes or those people coming from a particular region but resident in another part of the country.

- Somewhat surprising has been the relative dearth of women's associations formed since the National Conference; of the dozen or so that have received formal recognition, the majority are found within the professional and business communities with only a few new women's NGOs.
- Of particular interest has been the "regularizing" of legal statutes for the set of corporatist organizations set up by successive authoritarian regimes to manage Nigerien society. Such organizations as the UNC, AIN, ACT, AFN, the USTN and the Samaryia created by government decree in the mid-1970s, were legally reconstituted during and immediately after the National Conference, although retaining considerably reduced credibility in most cases.
- During the first six months of 1994, only 29 new associations were recognized by the GON, significantly down from the average of 100 or more recorded during 1991, 1992 and 1993.

All categories of Nigerien associational life have experienced phenomenal growth over the past seven years, and particularly since 1991. In 1987, for instance, there were no indigenous NGOs; today there are nearly 80. Prior to 1991, there were no indigenous civic or human rights organizations; today there are over 15. These were important areas of modern day associational life that simply did not exist prior to the Second Republic. While it is evident that the pace of new association formation is now leveling off, this should be looked at as a normal occurrence, following decades of social suppression. Putting aside for the moment the nature or qualities of these new associations, we would also expect to see a pattern of sudden deaths and continual rebirths as people regroup around new interests, or simply exercise their right to associate or not.

Associational Life at the Informal Level

Informal associational life takes place at both the local level among rural people, but equally so, and often overlooked, within the informal private sector in urban settings. Because informal rural associations and urban micro-enterprises do not normally have any legal standing or organizational infrastructure, their nature and pattern of development is often difficult to discern, if not understand. Through our field visits, discussions with a wide range of informants, and review of a large number of donor (project) studies, it soon became apparent that the same phenomenon of proliferation that had been witnessed in formal associational life was also taking place at the informal level. It must be noted, however, that much of our findings and conclusions, in this regard, are "notional," based on specifically cited or reported cases and generalized into a larger trend. As expanded upon in the recommendations section of this report, the need for additional study into the scope and dimensions of this dynamic domain of voluntary association is a must for USAID programming in each of its priority development sectors.

The Rural Milieu: In rural areas, much of the new associational growth centers around production activities, both agricultural and pastoral, and includes prominently the planning and management of local natural resource use. With the failure and discrediting of the UNCC/UNC and its attendant credit institutions, i.e., Caisse de Credit Cooperatif (CCC) and Banque de Developpement Rurale du Niger (BDRN), a yoke inhibiting voluntary associations was lifted from the shoulders of most rural producers, resulting in an increase in voluntary formation. What is beginning to emerge today, in many cases with the support of a significant number of international NGOs (e.g., Clusa, Woccu, IRED, 6S, Swiss Aide), is the voluntary creation of smaller, more homogenous "groupements" around natural affinities (e.g., gender, caste, age) rather than around artificially created geographical or "project" units. Where imposed cooperative structures have regrouped or federated, the larger structure has been discarded, with members

reorienting their relationships and priorities to reflect their own interests as opposed to that of the central state.

An example of the former, i.e., newly created affinity associations, include the growing number of newly formed local credit union groups (*groupement mutualistes*), women-owned and run in many cases, under both Woccu and Clusa credit and cooperative ventures. The latter case of existing groups throwing off or, at least, questioning the legitimacy of imposed federations, include the numerous "groupements mutualistes villageois" (GMV) formed to operate the increased number of improved irrigated agricultural schemes (*amenagement hydro-agricole*, or AHA) (e.g., Birin Konni, Dogon Douchie, and Jiratawa). These are vertically joined to the centralized state through the Organization Nationale d'Amenagement Hydro-Agricole (ONAHA) but with growing frequency are by-passing this government service and dealing directly with a number of state agencies and private economic operators.

An entirely new genre of local association has recently emerged as a result of the new Rural Code to manage various local resources found in the public domain. The Rural Code has not only provided a legal context -- however unclear and imprecise at this point -- for the formation of new local level organizations involved in the self-governance of local resources, it has also served as a catalyst for their formation. While water resource for use on irrigated rice fields have to a large extent been covered under ONAHA schemes, smaller decentralized water points will continue to be a resource that will benefit from and lend itself to group formation under the Rural Code. The two greatest domains of potential resource self-governance pertain to Niger's remaining forests and rangelands. It is the forests, however, which have been the primary locus of local association formation due to their multiple uses, (e.g., firewood, agriculture, livestock grazing, medicinal uses, home construction, etc.) and the fierce competition among local contenders for their use.

It is extremely important to note a distinction between those local self-governing associations that were started under a variety of donor and NGO-financed projects between roughly 1987 and 1990, and the relatively newer efforts that are starting out as a result of the initiatives of rural resource users. The principal problem, as identified by a number of donor/NGO evaluations with land-use planning and management projects such as Guesselbodi (USAID), Hamadide (KFW/Germany), Goroubassouga (Lutheran World Relief), Baban Rafi (Danida/CARE), and La Ceinture Verte de Niamey (UNSO), has been the imposition of a cooperative model that was essentially based on the failed UNCC/UNC system.

Although these were donor/NGO-financed activities, and were thus not linked into a central state institution, their structure essentially substituted "the project" for the UNC system. The basic unit of management in each case was the cooperative, which regrouped anywhere from five to nine "groupement mutualistes," each one based on the village. In short, donors used villages for "administrative convenience" in the same way as French colonialists and Nigerien authoritarians, thus masking significant difference within the village setting (e.g., between women and men, chiefs/elites and commoner) and between villages (e.g., between woodcutters, pastoralists and farmers). In spite of the good intentions of donors and the ostensible democratic organization of the cooperative, if the structure was distorted to begin with then the outcome was predestined.

A different model has begun to emerge under such projects as the World Bank-financed "Energy II" project covering a number of classified forests in Tillabery, Zinder, Maradi and Tahaoua. The fundamental principles of these land use management efforts are: (i) subdividing villages by either smaller territorial unit or by common interest (e.g., women food and medicinal gatherers, mixed group thatch gatherers, wood cutters, herders, etc); (ii) membership to the smaller management units, i.e., Marche

Rurale, was made a voluntary choice for those concerned; and (iii) a juridical statute provided for under the Rural Code provides land security for members. While problems clearly remain with the Marche Rurale, they appear to be on the way to resolution, and have thus provided new economic opportunities, a more sustainable use of natural resources, and, equally important, a forum for conflict resolution among and between different categories of resource users.

Finally, it should be noted that a number of traditional associations have either continued to flourish, such as the tontine, or seem to be making a come-back, including the traditional security association, the Yan Banga. While there are a number of serious concerns to be raised regarding the latter (as noted earlier), their mere presence is a further indication of the health of associational life in rural Niger.

The Informal Private Sector: By the late 1980s, the state's capacity to maintain its virtual monopoly over economic life was at a end. The formal economic sector was primarily the public sector, whether viewed as the civil service or state-run parastatals. With the successive loss of the peanut and uranium industries in the 1970s and early 1980s, few productive, wealth-creating economic activities remained. What private sector did exist, was subject to onerous rent-seeking and taxation from state elites and fonctionnaires, and to a judicial system with little capacity or inclination to defend such rights as the sanctity of contracts. Operating within a rapidly deteriorating economic environment, survival became the overriding principle for most businesses and "exit" from the formal sector became the option of choice for a large number of smaller and medium-sized enterprises.

By the time of the National Conference, government capacity and will for controlling the growth of the informal sector had dwindled to little more than sloganeering. In much the same way that the period saw a flowering and proliferation of associational life and the private press, it also witnessed the creation of all manner of micro and small-scale enterprise. In fact, one can question whether the most dynamic sector of the economy should in fact be considered informal. While job creation and income generation generally centered on commerce, trade and services and not truly productive activities, in the survival conditions of the time, it has meant the difference between maintaining a livelihood and sinking into further poverty for thousands of Nigeriens.

(ii) Capacity and Internal Governance Structure

While it is important that voluntary associational life establish itself in Niger, sheer numbers and diversity do not translate into a capacity for civil society to play its role in a system of democratic governance. As noted in the introductory section to Part IV, among the wide range of associational forms that make up civil society, only a small number, what we have termed civic organizations, actually engage in civic action, that is, the supply and demand of good governance. In this section, we look at the supply-side of the equation in terms of both the institutional capacity of civic organizations to undertake civic action, and the nature of their internal governance structure, including linkages to members or clients. What we are looking at specifically is the capacity for democratic self-governance among both formal and informal civic organizations. If such organizations cannot govern their affairs in line with the principles of democratic governance, it is unlikely that they will be able to achieve their chosen missions. In the case of informal rural associations, this is where people first come together in common association and ultimately learn to practice the rudiments of democracy and good governance; if it is not gotten right at this level, it is unlikely that the larger society will develop the norms and values of civic culture.

Institutional Capacity

As noted in the preceding section, except for labor and student unions and a few professional and business associations, virtually all other civic organizations, i.e., development NGOs, human rights groups, women's associations, and religious bodies, were formed during the last two to four years. The vast majority of these entities operate with only the voluntary labor of their members, no permanent office space, transportation, etc. Financing for whatever activities they undertake comes primarily from membership fees (*vente des cartes*) which are quite modest. Because of the general lack of resources, the vast majority never move beyond the receipt of the decree providing them with legal status. A small number are able to undertake a limited activity, normally small-scale, localized and with little impact. Among this group, a very few are able to do something of worth and catch the eye of a donor, thus providing themselves with seed money to expand their capacity and gain a degree of organizational permanence. Since everyone loves a winner, other donors looking for a good investment take the risk and ultimately a recognized fixture of society is born. The problem with this scenario, which is hardly unique to Niger -- although it comes about 10 years later than that of its neighbors -- is that it is unsustainable in financial terms without continued donor support.

The two principal non-union civil society actors in today's governance process are NGOs and civic and human rights organizations, including a number of women's groups which fall within each of these two larger categories. Virtually all of the Nigerien NGOs and human rights groups that are ongoing concerns today have had some type of close relationship with an international NGO that later led to either bilateral or multilateral funding. Most NGOs, to the extent that they undertake civic action, do so as a component of their normal development programs which target local organizational development in a given sector. Civic and human rights organizations do not normally work directly with local organizations, but rather operate more in a watchdog capacity or work through NGOs to reach the local level. There are perhaps a half-dozen of the latter with any appreciable permanence or capacity, while there probably two dozen Nigerien development NGOs that have programs that actually reach rural people. In both cases, management capacity is rudimentary and technical skills are only slightly better. The likelihood that more than a few of these organizations would meet USAID registration requirements, and thus be eligible for direct grant funding, is extremely low.

Internal Governance Structure

Whether labor union, NGO or human rights organization, all civic organizations act in an intermediary capacity linking member or client needs and interests at both national and sub-national levels with state institutions at all levels. For this reason, the degree to which they practice internal democratic governance is important. Equally important is whether non-federated civic organizations, in particular, involve clients in the identification, formulation, and execution of their programs. It is often assumed that voluntary associations in civil society are by definition democratic or, at least, more democratic than their counterparts in the state. This is a myth, particularly in a country that has no recent history of democratic practice and only isolated examples in traditional life.

Labor Unions: The labor union movement is the only true membership-based organization which has aggregated base groups into higher levels of association culminating in a national apex body. One does need to question, however, the accountability that the structure provides to members, as well as the representiveness of their interests vis-a-vis government, given that for most of its history it was a top-down, corporatist organ limiting member participation in favor of the state's interest. In our discussions with USTN members in Maradi, Zinder and Niamey, there seemed to be general consensus that members

had input into national level decision-making and that the apex body seemed to be operating in the general interest of all affiliates and their members. This is in spite of numerous comments from a wide range of respondents, including members at the regional level that a majority of the USTN affiliates, as well as the apex body itself, have been closely aligned with one or more parties in the AFC since the formation of the new government a year ago. What appears to be militating against party domination of these union bodies is the major disagreement between them and government over fundamental issues of union rights. The one area where the unions are not representative of member interests is in terms of women's participation on executive governing committees. There are, for example, only three women on the USTN's executive committee out of a total of 21 members. Compared with the USN, which has no female on its executive council, it is a major promoter of women's participation.

NGOs, Civic and Human Rights Groups: Each of these civil society actors is what could be considered "public interest" organizations in the sense that they were started by a small group of individuals who identified an area of need and started an organization to address it. Their governing boards are essentially self-appointed, and in many cases there are only enough members to fulfill the minimum requirements spelled out in the concerned legal statutes. A significant percentage of these organizations, especially the NGOs, have been formed by former civil servants for a range of reasons, not all of them consistent with principles of non-profit, volunteerism and the public interest. The very real impression that is received is that many of them are one-person operations, with little member participation, designed primarily to advance individual rather than group or client interests. Virtually all these groups are urban-based, primarily in Niamey, and elite-led, at least, in comparison to the rural people they have identified as their primary target group.

Many appear to lack processes for strong linkages to their clients and real input into the types of activities that are developed on their behalf. If any accountability exists among NGOs and human rights organizations, it is most likely stronger to the donors that support them than to their clients. Given the lack of experience that most of the staff and members of these organizations have in the area of participatory development, and reinforced by the high number of former fonctionnaire among them, their approach tends to be hierarchical, centralized and project oriented; this latter aspect, a function of donor requirements. In short, NGOs, in particular, seem to be replicating the same patterns found in the government services which automatically reduce client participation and call into question their principles of accountability, responsiveness and openness.

Women's Organizations: The two principal women's organizations, AFN and RDFN, are the closest to mass-based or popular organizations outside of the labor union and student movements. The AFN, which is verging on implosion at this point, was set up as a corporatist institution. Once the organization became discredited and lost its government backing there was little to keep the majority of its members from leaving except for the fact that they might not be welcomed elsewhere given their previous identification with MNSD. One also sees the same pattern being replicated within the RDFN. It too is trying, and in a hurry, with some government and significant donor support, to become a national organization in scope with representation all the way down to the village level. Our interviews with RDFN members in Maradi and Dosso indicated serious governance problems in terms of decisions being taken at the national level with little or no participation from branch offices.

The AFN and RDFN are perhaps the most elite-led of all civic organizations, which is understandable given the lack of any organizational base at the local level and the lack of participation of most women outside the village or small group context. It does call into question the approach and strategy of these two organizations, which places greater emphasis on creating an organizational structure, than on the

reasons that women should find it in their interest to become members. While the types of issues that the two organizations are pressing are important ones, they seem to have less immediate relevance for the majority of women whose primary concern is ensuring the health, education and general welfare of their children.

It is worth repeating here that while the general picture of civil society capacity and democratic practice leaves much to be desired, it is not atypical of the stage of development in which these organizations find themselves. There are also a significant number of Nigerien NGOs, human rights organizations and a couple of smaller women's organizations that have made real contributions to the political as well as economic and social lives of rural and urban people; they serve as functioning models to which others can aspire. Finally, as will be discussed in greater detail below, there are a dedicated cadre of international NGOs resident in the country that have provided invaluable support, moral as well as financial, that should have a continuing impact on the quality of this sector.

Islamic Associations: Religious organizations are the exception to the above pattern of civic organization capacity. The six new Islamic associations formed since the start of the National Conference have several characteristics in common, that is, adequate funding, good internal organization, and most importantly, a network of linkages -- the village Mosque and local Marabou -- that connect them with virtually every village in the country. They could be considered a mass organization in the sense that the vast majority of Nigeriens are Muslim and belong, through their Marabous, to one or the other of these associations. While their internal processes may not be democratic, in terms of effectiveness according to their defined objectives, Islamic associations are perhaps the most impressive of all civil society organizations. Their ability to shape fundamental policies and law, as witnessed in the struggle over wording in the 1992 Constitutions concerning the separation of church and state, and the killing of the Family Code, are strong evidence of their strength among the organizations of civil society.

(iii) The Politicization of Associational Life

The third major pattern to have appeared within civil society over the past three years has been that of the politicization of a large swathe of newly emerging and voluntary associational life. While political partisanship has been largely identified with modern forms of Nigerien associational life, our discussions with rural respondents indicate that the phenomenon seems to be increasingly prevalent among several important segments of rural organizations as well. Much of the current literature makes a clear distinction between political society and civil society. While political parties are considered to reside within the realm of voluntary associations that make up civil society, because their basic principle of organization is to contest and gain political power, i.e., capture the state, it divides them from non-political associations whose objective is to influence national governance from outside the political system, i.e., to ensure state accountability by the non-state.

In the Nigerien context, this conceptual distinction is being played out in a variety of ways, and is of real importance in understanding current political dynamics. The following discussion provides a review of the more important examples of political-civil society interaction, and the impact it is having on the continued development of democratic governance in Niger -- specifically, whether the corporatist model practiced during most of modern Nigerien history is being replicated in the new era of multiparty politics.

General Observations on the Politicization of Civil Society

Although a bit simplistic, the best way to understand how modern civil society development has been affected by multiparty politics is through the cleavage which developed at the time of the National Conference between those elite-led social forces supporting the Parti Unique and those arrayed against it. Supporters of MNSD, in addition to security forces, executive branch officials and at least the upper rungs of the civil service and territorial administration (préfets, sous-préfets and chiefs), included commercial and business interests that had lived off servicing the public sector for the better part of 35 years, and the principal corporatist organs that have historically played the role of structuring society to serve state interests, i.e., the UNC, AIN, AFN, Mouvement de la Samaryia, and professional and business associations such as the Chamber of Commerce and Ordre des Avocats.

Aligned against the MNSD were an array of pro-democracy forces initially led by an activist labor union movement, especially the UNTC and the National Union of Nigerien Teachers (SNEN); and militant students represented by the then clandestine USN. With the lifting of the "de facto" ban on the freedom of association, including political party formation, by Ali Saibou in April 1991, a wave of formalized, legally recognized organizations came into being, giving form and subsistence to the spirit and force of the popular pro-democracy movement. Thus, the majority of civic and human rights organizations, women's groups, newly created business and professional associations and NGOs that were formed during and after the National Conference were, at least in spirit, anti-MNSD, if not exactly sure which of the new political parties they were for.

While again an oversimplification of a very nuanced political scene, it can be stated with some accuracy that at the time of the presidential and legislative elections in 1993, political orientation and voting behavior among civil society organizations was largely a function of their perception of "place" in this newly evolving order and not on any particular political ideology -- not that political parties were overly clear in the enunciation of individual policies or an overall program platform. The political "losers" among civil society were thus the range of associations previously aligned with the MNSD, and the "winners" were those that were either involved in the fight for multiparty democracy or were formed during the transition and thus untainted by MNSD affiliation.

Politicization and Civil Society Actors

There are several important points to note about the extended transition period and the first year of Niger's democratic life in order to understand what has transpired since the elections and the political-civil society alignments which emerged thereafter.

Religion and its Representation: First, was the apparently non-political orientation of the six newly created Islamic associations. While there is some speculation that they were mere creations of the MNSD, the more likely interpretation is that having suppressed more militant forms of Islam under previous regimes, these new organizations represented their own more conservative views and interests that, in some cases, included the creation of an Islamic state. With strong convictions, good organization and significant financial support, there was and continues to be, a far greater likelihood of these associations exerting influence on political parties than the reverse. Since the constitution of the Third Republic proscribed the formation of political parties based on religion -- although the battle over whether Niger was to be considered a secular or Islamic state was resolved in favor of the former, the issue still burns brightly in a number of corners -- Islamic associations view political parties as a means to achieving

their own limited objectives and, most likely, make their calculations of support based on the capacity of who can best further these interests.

Women and their Representation: Perhaps the two most disenfranchised groups in historical terms have been women and rural people -- the obvious corollary is that rural women have been the most marginalized group in society. It is interesting to note that only one national-level association has been formed since the National Conference that aspires to the representation of women as a popular block. While ostensibly apolitical, RDFN has been, since its initial founding, identified as a counterpoint to the Parti Unique-backed AFN. Whether either one of these two organizations is completely "captured" by either of the two principal political blocs, they have been considered as such as reported by most of our informants and, in today's highly charged political climate, perception is as powerful as reality.

The problem that this presents for the two organizations, as it does for other civil society actors, is that it constrains their capacity to articulate and advocate in the public arena for policies that are in the general interests of their members. For women in general, depending on the good will of men, whether under a one-party or multiparty system, has done little to improve their marginalized position in the political process. For rural women in particular, it is even more serious, as they must, to a large extent, depend on the good intentions of the predominately urban-based elite to represent their interests in the larger political arena. Previous experience has shown such dependence has amounted to very little in the way of concrete benefit.

Herein lies the greatest impact on women's organizations from the politicization of their associations. With a limited number of voluntary associations representing women, failure to produce concrete benefits or dispassionately represent their interests, is likely to lead to further disempowerment and indirectly to invalidate the concept of voluntary association, if not multiparty democracy. In this case, individual women will calculate that going directly to traditional authority figures or to political parties is the only way to ensure some level of redress. In reality, this is little more than a return to the traditional value system based on clientelistic politics.

Rural People and their Representation: Women were at least able to organize themselves, protest and ultimately gain representation at the National Conference. Rural people had absolutely no organizational form, little means for effective mobilization and protest, nor any urban elite group that was willing to advocate for direct representation on their behalf. As a result, rural people ended up with two voting members out of a total of 934. Students and unions feared that the rural elites, i.e., the chieftaincy, merchants, cooperative leaders, etc., would be pro-regime. This became a rationale for excluding them.

Although the Nigerien political system is still in the process of evolving, it is evident that the rural voluntary associations that do exist are still a long way from being capable of aggregating and representing the interests of either farmers or pastoralists. The old cooperative structure of the UNC still exists but is hardly representative of rural interests as discussed above. In fact, it can be assumed that because these structures have become a new locus of political party activity in rural areas -- the backing of candidates for cooperative leadership position by different parties is very much in evidence -- that the party system sees these artificially created entities much in the same way as did the colonialists and subsequent authoritarian regimes that followed, i.e., as administrative conveniences through which to gain and exert control over rural life.

We have previously noted the positive trend over the past two years in the formation of peasant-initiated groups for pursuing common interests. The problem with these new organizations is that they are small, atomized and unable at this point to link together for the purpose of engaging the larger political world.

Ethnicity and Regionalism: The Constitution bans the formation of political parties on ethnic or religious lines, and goes a step further in prohibiting the formation of voluntary associations along ethnic or regional lines. There is little doubt, as noted above and discussed in further detail below, that ethnicity and regionalism do form significant ingredients in the composition of most of the principal parties. There has been little enforcement of associational laws pertaining to regionalism and ethnicity, to the extent that ethnicity corresponds with regional identity. Given the fact that these issues have been more or less expunged from overt political discourse, and that many other factors interact with them and thus complicate attempts at analysis, trying to determine the exact nature of their impact on political party-civil society interaction is difficult and inexact. What can be said, however, is that ethnicity and regionalism are major dimensions in all Nigerien social relations and thus bear close watching for overt manifestation in political and associational life. The most interesting indicator of how these cleavages will play out in civil society in the future, will be the degree to which the many new Associations des Ressortissantes engage in political activities or are seen to be captured by a particular political party versus their declared objective of mutual aid and social development.

4. The Impact of Multiparty Democracy on Civil Society

Niger has moved from a governance system based on state corporatism to one based on pluralism and multiparty democracy. Under the former, there was no true civil society as there was virtually no opportunity for voluntary association. Corporatism, in fact, blurred the distinction of state and non-state by structuring societal interests to conform with state requirements. The advent of a pluralist democracy has initially created the conditions, if not the fact, of a separate civil society capable of balancing state requirements with the interests of non-state actors. The issue, however, is whether political pluralism in the form of partisan politics is retarding the growth and development of an independent civil society, by replacing corporatist organs employed under previous regimes with newly formed political parties that limit societal participation in governance matters at all levels. The following discussion looks at a number of dimensions of this issue and their impact on civil society's capacity for undertaking democratic governance functions.

THE ART OF ASSOCIATING TOGETHER

Democracy's advent included the right of voluntary association. This is a precondition of civil society formation but not of effective societal participation in national and local governance matters. The right to come together in voluntary association does not translate into the ability to associate for common purpose. Effective association requires member confidence and trust embodied in the notion of reciprocity, i.e., giving up personal autonomy in anticipation of a desired benefit derived from group participation. These underlying norms and values were "unlearned" during the authoritarian period in all but the most informal and base level associations; to the limited extent that they were ever permitted and thus learned in traditional life. The art of associating together is a process that is taking place at all levels of associational life, including the institutions of the state, political society and emerging civil society. Traditional values and modes of organization, i.e., hierarchy, personalism, and patronage, continue to intrude into this process but are less of a problem for smaller, informal, local level and homogenous groups than those in the formal modern sector.

Political Parties: Formal associations within civil society are much more susceptible to manipulation from outside forces such as political parties, primarily because they are more visible and organized than their counterparts at the informal level. We have identified during this assessment two additional institutional forces besides political parties -- administrative apparatus of the central state and religious organizations -- which tend to undermine the independence of civil society organizations and hence their capacity to develop new values and behaviors for associating together. Each of these three institutions exhibit similar patterns of organization and norms including personalism and patronage within a form of hierarchical clientelism all for the express purpose of capturing, overtly or covertly, political power or maintaining the current structure of power. Each of these forces as they are currently evolving are showing definite signs of undemocratic behavior. Islamic associations, although technically a component of civil society, operate under a set of internal organizational principles which are inherently undemocratic because, for a number of them, either seizing state power or ensuring its use for religious purposes is their primary objective.

The newly emerging organizations of civil society are at a distinct disadvantage vis-a-vis these forces. In terms of organization, financing, and purpose, voluntary associations are weak, primarily because of their youth and inexperience in undertaking joint activities, but equally so because they are basically defined by a narrow set of group interests which find little means for articulation and representation to decision-makers. This is in contrast to political parties which are organized for the contestation and gaining of political power. Because political parties, in particular, have no real committed membership base within society -- rather operating on principles of clientelism and patronage -- the associations of civil society have come to be seen as a new battle ground for gaining both elite and mass support. As they have within the political party structure, party leaders have aimed at coopting the leaders of formal and informal associations with the intent of capturing their members or clients for partisan purposes.

The two most organized components of formalized associational life, i.e., labor unions and the student movement, appear to be those which have been most susceptible to the influence of political party direction. But other sectors have been far from immune to partisan politics with a significant number of business and professional associations, the two major women's organizations, and even the more important of the human rights groups experiencing the effect of party penetration. The group that seems least concerned with and affected by the machinations of the political parties are indigenous NGOs. We have also noted that partisan politics at the local self-governing level have been increasing within former UNC-affiliated cooperatives and groups associated with various government run irrigation schemes.

The Chieftaincy: In spite of the passage of a framework law on decentralization, one can clearly question the capacity, if not the spirit, of the territorial administration to make it work. For local self-governing associations, the greatest threat to their autonomy lies with the increased powers of traditional headmen and chiefs as mandated in both the Rural Code and decentralization law. Reinforcing this tendency towards hierarchy, is the approach witnessed among a number of development NGOs and civic organizations (e.g., Ridd-Fitila) working at the local level and encouraging voluntary associations to seek resolution to governance matters, including conflicts, through the traditional hierarchy rather than internally or through other non-executive branch institutions. Finally, although proscribed by formal rules, there is a growing perception that chieftaincy itself has been politicized and become a partisan rather than neutral force at the local level, providing another entree for party politics to penetrate local voluntary associational life.

Islamic Associations: Islamic associations have both a natural nation-wide constituency and a ready made entry into society at all levels through the local mosque and neighborhood or village Marabout. In

relative terms, this analysis places greater political power in the Islamic associations -- especially when they join together in common cause as they did to delay debate on (if not defeat) the Family Code -- than in political parties, either individually or in coalition. Their power derives from both temporal suasion as a coherent interest group pressing their interests in the political arena; and on spiritual and moral grounds as the self-proclaimed arbiters of Islam and its interpretation in the Nigerien context. Thus, we prefer to talk of the Islamization of Nigerien politics rather than the politicization of Islam, as is the current thinking.

For a number of reasons, some evident and others still becoming so, Niger's political leaders have preferred not to contest certain issues in the public domain which Islamic leaders have considered religious rather than national governance matters. But Islam's force is not limited to political society or the state, it has had an indirect impact on the effectiveness of voluntary organizations at both the national and local levels. While human rights organizations have condemned actual physical violence perpetrated by Muslim militants against women, such as happened in Zinder two years ago, they and other segments of civil society have been much less willing to question the definition posited by religious leaders of the realms of national life over which religion, not the state or the individual, has jurisdiction. Civil society organizations, given their current capacity, lack support from either political society or the state, can hardly face up to the power, actual and potential, at the disposal of Islam and its associational manifestations.

THE SEARCH FOR SOLIDARITY

Under the state corporatist model, society was structured vertically to the centralized executive. While the executive, through the civil service and territorial administration was able to direct the affairs of state and society, it left the details of the latter to its corporatist creations. From the beginning of the First Republic to the end of the regime d'exception power, the strength of the various corporate structures set up to control society was so pervasive as to leave virtually no crack of light in which autonomous association could grow. We have previously discussed the impact that this system had on group solidarity and the capacity to form horizontal linkages among lower level units, a precondition for vertical, bottoms-up federation. With no voluntary associational life, there was little or no possibility for horizontal linkage, and vertical integration was already preempted by the numerous top-down corporatist organs already in place. The importance of this capacity for horizontal and vertical linkage goes beyond social and economic solidarity, it is the principal means by which civil society actors at whatever level are able to articulate, aggregate and advocate for their interests in the political arena. The question to be assessed at this point is whether the current environment of multiparty democracy has facilitated horizontal linkages and vertical integration as would be expected.

At the Formal Level: Labor unions are the only real form of federation that exists in civil society and has already been discussed to some extent in this regard. It is hard to find other examples of horizontal linkage leading to vertical integration among formal sector civil society institutions. The two women's organizations have attempted to create national federations but the principle used -- not all that different for labor unions or the corporatist model in general -- has been to start from the top-down and initiate horizontal linking at successively lower levels. While it is possible to undertake this approach with urban based workers, it is quite doubtful that rural people, and especially women, can be so structured and mobilized with any hope of true participation in overall organizational governance matters.

Development NGOs have created a form of "apex" organization, Groupement des Association Privees (GAP), which regroups some 36 to 40 different international and local organizations working in Niger.

It is not, however, particularly representative of the community at large as it was initially started by international NGOs (1973/74 drought) and is largely, although indirectly, dominated by them. As there are relatively few indigenous NGO members in GAP, and since it is regarded with a significant degree of resentment by non-members, it is hard to say what the future holds for this organization.

There has been significant growth among professional and business associations representing members of the same profession (e.g., women teachers, young lawyers, taxi drivers, and even a new association for messengers) or economic sector (e.g., transport, commerce, small manufacturers). The problem has come when trying to federate beyond this level for greater advocacy power. There has been no attempt made by the professional associations to federate; and business associations ("Syndicats des Patronat") appear to be blocked because of the uncertainty of the new legal status of the Nigerien Chamber of Commerce, the former and discredited corporatist entity "representing" private sector economic interests.

Among the civic and human rights organizations, there have been some informal examples of horizontal linkages, the most interesting being that between the ANDDH and DLD in which a joint coordinating committee has been set up to undertake mediation efforts among opposition parties and the ruling coalition.

The area of greatest concern, however, is in terms of inter-sectoral alliances or collaboration between the different components of civil society. If we view the principal function of formal civil society as being that of engaging and confronting the state when violations of constitutional rights take place, then we could also expect to see the coming together of different combinations of these various sectors in solidarity to contest abuses of state power. There has been little observable evidence of this phenomenon. Human rights organizations might have been expected to join with labor unions over the new labor legislation that calls into question the right to strike; or perhaps, labor unions and NGOs joining women's groups to protest the abuses women have suffered over the past two years at the hands of Muslim militants in various parts of the country; or all groups in civil society coming together to support private media operators and journalists over abuses, i.e., defamation suits, press freedom. These and numerous other possibilities for inter-sectoral solidarity simply have not taken place. Essentially, it has been left to the private press, as discussed in greater detail below, to take on the state in the public domain.

What are the reasons underlying this inability of civil society actors to establish solidarity both within sectors and between them? Certainly, a great deal of it can be attributed to the general problem related to their lack of practice in the art of associating together; it is difficult enough to work voluntarily in smaller groups, let alone between many such groups even if they share common interests. The interviews conducted during this assessment indicated that the problem was primarily due to the desire of "personalities" leading individual organizations to maintain control over what they considered as their personal fiefdoms. This is consistent with the findings noted above concerning the less than democratic nature of internal organization and the lack of a true membership base among the new crop of civil society organizations. Secondly, political party penetration of many of these organizations has tended to create political cleavages which reinforce old values and habits and ultimately divide organizations along party lines. Finally, in the case of women and other minority groups, there just does not seem to be a commitment on the part of the predominately male run organizations to view the violation of minority rights as a major problem.

At the Informal Level: Many of the problems facing local level informal organizations are similar to those noted above facing formal civil society. At the local level, however, traditional values and forms of associational behavior are much stronger, and tend to discourage the formation of horizontal linkages

among primary level organizations. On the other hand, there is genuine evidence of the capability of a multitude of individual local level groups to associate in an effective way albeit at the smallest unit of organization. The overwhelming reason for these small-scale successes has been due to the long-term association of an enlightened group of international NGOs facilitating rather than directing voluntary associational life.

We came across only one new example of base units, or local level self-governing associations, coming together to form unions and then regrouping into a larger federation. The Mooriben Federation made up of five unions and some 23 groupements mutualistes (GM), covering parts of Dosso and Tillabery Departments, was started under the umbrella of Six S in the mid-1980s and has continued to receive assistance by Innovations et Reseaux pour le Developpement (IREN); both being international NGOs. As noted previously, the presence of the UNC cooperative structure is inhibiting horizontal linkage among many base level units and will need to be addressed in the future. In general though, it can be said that what is needed is time. When individual base level units feel comfortable and confident in their capacity to govern their own affairs and see a value in joining with similar primary units to an achieve expanded set of interests, then such linking and federating will take place naturally as it should.

REBUILDING INITIATIVE AND A SENSE OF ACCOUNTABILITY

It would be incorrect to view the current pattern of associational relations as a mere continuation of previous modes of authority based, hierarchical and clientelistic modes of involuntary association. This is certainly not the case as people are ultimately free to join and quit their organizations when they please. What is of concern, however, is the capacity of newly emerging civic organizations to effectively undertake the role and functions which a system of democratic governance posits for them as members of civil society. The concern is centered around the less-than-democratic processes that these non-state actors are exhibiting internally, and the impact that external forces, particularly political parties, are having on them ... and their weakness in being able to resist these forces. Where this shows up in practice is the degree of initiative that members or clients take in the governance matters of their organizations; and the extent to which they hold themselves, as well as their leadership, accountable for the actions they take. In short, the issue is about participation in self-governance.

There are clearly indications that many formal level civic organizations suffer from what might be called "partisan clientelism" in which political parties are the modern substitute for former state-created corporatist entities. In both cases, the model was used as a means for channeling voluntary associational energy to serve the needs of those at the apex. This clearly has the potential to sap member initiative, undermine leadership accountability, and ultimately call into question the usefulness of voluntary association. The success of this emerging model, depends on the ability of political parties to deliver a minimum level of patronage to their client associations. What mitigates against this model succeeding is the fact that party politics is no longer a monopoly of a single party but rather a pluralist free-for-all; and instead of a single corporatist monolith dominating sectors of associational life, there are a cacophony of voices, each with different interests clamoring for attention and the right to decide how public resources will be allocated and perhaps even taking a hand in managing them ... associational life run wild or the basis for creating a functioning civil society?

It will be interesting to see whether the split that is emerging between the labor union movement and the AFC over differing institutional interests will lead the former to calculate that autonomy from party influence is ultimately the best strategy for ensuring the best interests of labor are served. There will likely come a time in the not too distant future when women will realize that their interests do not lie with

political parties any more than they have within any other male dominated institutions. In fact, one of the most heartening events to take place during the assessment team's field visits was the demand of AFN and RDFN women in Zinder to meet jointly rather than separately. Granted they have suffered more than their sisters in other parts of the country, but it is precisely because of this shared experience that the possibility for joint action can become a reality. Such is the "stuff" of which popular movements are made. The point is to be able to identify and support such opportunities when they do emerge.

C. The Enabling Environment for Civil Society Development

1. Fundamental Law: Freedom of Association

The growth of civil society is subject to and determined by a range of factors including a country's historical experiences, its traditional values and norms, and the machinations of political life, to name but a few of the more important. However, a precondition, although not necessarily a sufficient one, to the emergence and development of a vibrant civil society is a legal context that firmly establishes the overall principle and corresponding rules for free association and assembly. These freedoms are fundamental liberties that are normally enshrined in most constitutions whether the intent is to honor them or not. So it was in Niger except for one problem. Between 1974 and 1989, the Constitution of the First Republic was suspended -- hence, the regime d'exception -- thus proscribing free or voluntary association and assembly. By the time the Constitution of the Second Republic was enacted, the Nigerien state had already liberalized these rights -- hence, the regime de decrispation -- and many new associations were formally recognized during this period.

The pro-democracy movement, that actually began in early 1990, was based on the call for a multiparty pluralist democracy and there was little question that the framers of the Third Republic's Constitution would heed this call and ensure that freedom of association along with other basic liberties became fundamental law. What had been a gradual but steady trickle of legally recognized associations from 1987 through 1990 became a flood under the tutelage of the National Conference and the succeeding three years of transition and Third Republic, as was noted above.

A set of enabling legislation (the Law of Associations), including ordinances and decrees dating from 1984 (Ordonnance 84-06 of March 1, 1984) and subsequently modified in both 1991 (Ordonnance 91-006 of May 20, 1991) and 1994 (Decree 92-292 of September 25, 1992) provided the modalities for the application of the fundamental law. The Law of Associations governs the formation and activities of youth, student, sports and cultural, religious and welfare associations, and unions of associations (covered under 84-006); human rights organizations (covered under 91-006); and development NGOs (covered under 92-292). A review of this enabling legislation and discussions with concerned officials in the Ministries of Interior and Finance and Planning, as well as the officers of a number of Nigerien associations, leads us to state that the content of these "ordinary" laws are consistent with constitutional intent and that their application has been rigorously adhered to.

In fact, from this analyst's experience, Niger's Law of Associations, as amended, is one of the more progressive in Sub Saharan Africa. In spite of the prohibition on associations based on ethnicity and region -- somewhat understandable given the country's history -- it provides for a separate NGO classification with rather liberal provisions (e.g., exemptions on the payment of taxes and duties) that would be the envy of NGO communities from Benin to Botswana. Its requirements for registration are not particularly onerous or cumbersome, and the normal delay in receiving legal status (issued by the Ministry of Interior) is less than three months. While NGOs are obliged to provide detailed plans of

work in addition to that required for normal registration, they also are accorded several important benefits that other association types do not receive. The law stipulates that after official registration an annual report be submitted to the MOI (Ministry of Finance and Plan for NGOs) detailing program activities and financial status for the year gone by. This does not appear to be respected by many associations. In summary, Niger's Constitution and executing laws pertaining to freedom of association provide the necessary enabling environment for associational growth and consequently, for that of civil society as well.

2. Companion Laws Pertaining to Cooperatives, Credit Unions and Local Self-Governing Associations

While the Law of Associations covers a wide range of voluntary organizations involved in welfare and development activities, it does not govern the activities of a number of important local organizations geared towards the needs of rural producers and resource users. Cooperatives, credit unions and a variety of self-governing associations have recently been formed as a result of the enactment of the Rural Code to manage natural resources and generate off-farm economic activity; with others likely to form as a result of the newly enacted decentralization laws that are potentially capable of providing local people with the right to plan and manage a range of public services (e.g., health, primary education, etc.) as part of decentralized local administration. This section looks at the laws (or lack of them) governing associational life in these spheres of social and economic activity, and the impact they have on impeding or facilitating local self-governance.

a) Cooperatives and Credit Unions

Not surprisingly, Niger has never had a law governing cooperative and credit union activities. The UNCC/UNC cooperative structure was a monopoly corporatist structure leaving no room for any other form of autonomous grassroots cooperative initiatives. Government run banking institutions, BDRN and CCC, were the principal, if not only, providers of credit to rural producers until they went bankrupt in the late 1980s. As a result, there was no need for either governing rules or registration procedures related to these rural sector organizations. In 1992, the Ministry of Agriculture and Livestock was specifically mandated (Decrees 92-027 and 92-028 of January 17, 1992) to register primary or pre-cooperatives (*groupements mutualistes*) and unions of these primary units (*cooperatives*). These decrees superseded laws (Ordinances 89-010 of April 1989 and several decrees passed in 1991) related to cooperatives and credit union formation but tied closely to the UNC system. Since this time, numerous *groupements* and cooperatives have been registered independent of the UNC structure, but not any level higher than that of the individual cooperative.

Several cooperative draft laws have been circulating since 1992, but none has yet reached the floor of the National Assembly, although we are told that it may not be long before this takes place. The draft (written with the assistance of Clusa and the ILO) most likely to be voted on, does contain the necessary ingredients to ensure the development of an autonomous cooperative movement. Specifically, it makes direct reference to cooperatives as members of civil society, democratically organized in principle, with both a legal personality and financial autonomy; it provides for both producers and consumers, urban and rural, and mentions producers working on improved irrigation schemes; and accords a number of benefits primarily related to exemptions on the payment of taxes and fees. Most importantly, the draft law no longer requires formation of cooperative bodies according to fixed administrative units (e.g., village, *arrondissement*, etc.), what we have previously identified as the principal constraint to cooperative success.

Credit unions (*mutuelles*) have never been treated as a distinct category from cooperatives. With Woccu's assistance, a new draft law has been written which provides for the separate classification of credit unions. Of particular note, Clusa and USAID have been able to convince the Ministry of Finance that credit unions should not be subject to the same provisions that govern the banking sector, which would severely circumscribe their capacity for mobilizing savings and providing small-scale credit for rural people. In essence, it amounts to a non-bank financial institution law. At this point, however, the draft law has not moved out of the Ministry of Finance and it is not known when it will. It should be noted at the same time, however, that the new Orientation Principles of the Rural Code provide for the formation of agricultural savings and credit associations (Chapter III, Title II, Articles 145-148). Since there are now procedures for registration and legal recognition, it is assumed that it is the Ministry of Agriculture and Livestock which will serve as the responsible ministry and oversee their operations. There is obviously real potential for confusion and conflict over the competencies and regulations related to the proposed credit union law and the new Rural Code.

b) Other Self-Governing Organizations

Resource Users: Rural economic activity, is to a large degree, a function of the nature and use of a country's natural resources, i.e., land, water, forests, minerals, flora and fauna. The allocation and management of these resources is primarily what the new Rural Code is all about. It essentially sets out to accomplish two tasks: (i) establish ownership (personal or collective) of these resources in order to increase security and thus investment in their improvements; and (ii) provide rules and incentives that will influence behavior leading towards the protection of the resource base. Underlying the Rural Code is the concept of the monetization (*mise en valeur*) of what are essentially "means of production."

The Code as well establishes the right of rural people, as part of civil society (distinct from local government administration), to join in voluntary associations as a means to exploit these resources. Specifically, it enables cooperatives and credit unions made up of farmers, herders and artisans, economic interest groups (*groupements d'interet economique*), NGOs, women's groups, and rural youth groups to undertake economic activities related to resource utilization. The Ministry of Agriculture and Livestock has been given authority over the recognition of such groups through the issuance of a simple written agreement of a verbal understanding (*proces verbal*). Special Land Commissions set up under the Code at the *arrondissement* level must, however, provide their concurrence of the groups seeking legal standing before the ministry will issue the concerned decree.

As we have noted earlier, the Rural Code has sparked the creation of many new self-governing groups and the basis for gaining legal status of many more existing ones. At issue pertaining to the effectiveness of this law in protecting associational rights is the lack of clarity and specificity provided in the law concerning the rights and obligations of these groups vis-a-vis government technical services and the territorial administration. This is to be expected since the law itself is, at this point, a framework of principles rather than a complete body of enabling legislation, as is usual in French legislative practice. The framers of the Rural Code have, however, established six pilot *arrondissements* where the experience gained will aid in elaborating the necessary body of executing laws.

Service Providers: Since the on-set of Niger's economic decline in the mid-1980s, and governments overwhelming role in public service provision (e.g., health and sanitation, education, disaster relief and mitigation), it has opened up a wide range of opportunities for private and/or voluntary groups to undertake these tasks. At this point, however, it appears that such possibilities have been framed within local government responsibilities as detailed in the newly passed decentralization law. Since this law has

for the moment, provided for local government at the arrondissement level, it is unclear how service provision will be undertaken at the lower levels of administration. It is likely that until and if a new level of administration is created below the arrondissement, that government technical services will continue to direct the form and substance of local service provision.

The principal issue is how best services can be provided or delivered at the level where most people live: through local government within a decentralized administrative structure; or by autonomous self-governing associations formed by local people themselves to allocate and manage public resources to address local needs. Left entirely to the former, two outcomes are likely: (i) that a new cadre of local civil servants, many with no ties to or interest in their area of assignment, will be created with predictable consequences; and (ii) existing administrative units (the village or canton), artificially created, will be used as the basis for service provision, which experience has already shown to be of marginal effectiveness.

This does not necessarily have to be an either/or situation and it is quite possible that some combination of the two systems could be created. The two principles which should be kept in mind when examining such possibilities are what will promote the greatest participation of people in the activity; and, the notion of "subsidiarity," devolving responsibility for governance to the level where people are most affected by and interested in the service required. In this regard, both the Rural Code, which deals with autonomous voluntary self-governance, and the new decentralization law must be reviewed to see what possibilities actually do exist for greater popular participation in the realm of service provision.

3. Government Attitudes and Behavior Towards Voluntary Associations

While the ensemble of laws affecting associational life in Niger is generally favorable and enabling for civil society growth and development, many of them still lack adequate clarity and precision which basically leaves them open to interpretation by those charged with implementing them ... principally the executive branch. It is difficult to determine the extent to which concerned GON officials are committed to the basic principles, spirit and letter of these various laws. But it is worth at least making a distinction between those charged with administration and oversight of the Associations Law, i.e., the Ministries of Interior (Direction des Affaires Politique et Judiciaire), and Finance and Planning; and those responsible for the less formally constituted rural groups (and some urban) which are generally covered under the Rural Code and possibly the Decentralization Law, i.e., Ministries of Agriculture and Livestock, and Interior (Territorial Administration).

In general, officials at Interior and Planning were well disposed towards the impact of democracy on the growth of voluntary associational life over the past three years. Because the majority of such organizations are urban-based, they tend to share the same set of values (talk the same language) as the officials responsible for their oversight. Nor at this stage do NGOs, human rights organizations, and women's groups present a very great threat to the established authority of the state. More problematic, we are told, are the religious associations and, to a lesser degree, the labor unions. Because these groups are the elite of civil society and the most organized elements within it, they are the most capable of calling government policies and practices into question, and can thus be perceived to threaten state security. All to say, that it is in the best interests of these Ministries to maintain an open policy with formal civil society institutions.

Government views towards the usefulness of rural associations are largely based on the general attitude of civil servants towards rural people ... in other words, not all that favorable. Both the Rural Code and

the Decentralization Law deal with the fundamental issues of the country's resource wealth (patrimony) and its control. Coupled with the draft cooperative and credit union laws, a whole new genre of rural organizations has come into existence which challenges the old order of elite dominance. It is not unusual, therefore, that there should be some ambivalence in the feelings that the executive branch and allied elites in the political parties, commercial interests, etc., have for an empowered peasantry. To some extent, this explains the conflicting directives found in these laws as concerns rural association rights; it also explains a great deal of the imprecision and lack of clarity in both the Rural Code and Decentralization Law.

More important than attitudes -- in this case negative attitudes -- is the capacity of government to act on them. Both divisions within the Ministries charged with administering the Associations Law, are simply overwhelmed by the sheer numbers of newly formed organizations. Ten minutes in any one of these Ministries would be enough to convince anyone that they pose little threat to the fabric and autonomy of Nigerien associational life. The Ministries of Interior and Agriculture on the other hand, were designed for the purpose of control and still retain this capacity. The impression one gets, however, is that a process has been unleashed and at this point, one wonders the degree to which the will exists to utilize the apparatus that exists. The coming local elections and formation of the new local councils will most likely create more confusion, if not chaos initially, leaving the terrain of rural associations open to those who can organize to take advantage of the situation.

D. An Assessment of Civil Society's Capacity for Civic Action

Having gone from thirty years of authoritarian rule with virtually no voluntary associational life, to a system of democratic pluralism with an emerging civil society, the question becomes what is its capacity to participate in the new order of political life? In the introductory section to Part IV, we defined two broad functional domains which define civil society's role in a system of democratic governance. In the following two sections we assess civil society's capacity to undertake these functions providing us with an indication of the constraints which exist and the possible opportunities for addressing them.

1. Limiting the State's Exercise of Authority

In Part II of this assessment we discussed the provisions of the Third Republic's Constitution and the state's adherence to the rules contained therein. While it is expected that the system of institutional checks and balances that are provided for in the Constitution will limit the abuse of authority by any one branch of government, practice, thus far, has been only modestly encouraging. Given the fact that the parliamentary majority has been generally restrained in actions against the government for partisan and coalition consideration -- and that the judiciary, independent though it is, has little effective capacity -- the responsibility for "disciplining" state/executive authority rests with the institutions and organizations of civil society.

How effective is civil society in this role and which organizations are specifically involved are questions which need to be answered. Essentially it is the urban, elite-led civic and human rights organizations, and labor and student unions, that undertake this responsibility. To a large extent, their actions are limited to Niamey, where the majority of them are based, but also where most national decisions about rule adherence are made. Major governmental abuses have primarily related to state incursions against freedom of expression, particularly freedom of the press; human rights violations by the military against civilian populations in the north; the poor living conditions of prisoners; corruption (prebendalism) among government leaders and civil servants; arbitrary arrest and detention at all levels of central administration;

and from the labor unions' point of view, violations of workers rights. Also to be included are abuses perpetrated by different members of civil society against each other, most notably, militant Muslims against women, and the slave practices of some ethnic groups (e.g., Twareg and Fulani), and the stance that government takes towards these abuses.

Major human rights violations are at a relatively low level in Niger, leaving aside the problems in the North. Human rights organizations and civic groups have taken the lead in most of these areas, i.e., problems in the North (DLD and ANDDH), slavery (Timidria), prison conditions (ANDDH), and arbitrary arrest and detention (Ridd-Fitila, Associations des Femmes Juristes). There has been far greater reluctance on the part of these organizations to take on the Islamicists. This has left women's organizations out on their own. There has, thus far, been little reaction by any civic organizations to threats to media freedom posed by a rash of defamation suits brought against individual media owners and journalists. Nor have these organizations made much of an attempt to challenge and hold government accountable for gross incidents of corruption (e.g., the Taiwan Affairs, the appropriate of gifts from Taiwanese banks by Nigerien political parties in both 1992 and 1994). And finally, labor unions, rightly or wrongly, have been virtually ignored in terms of their demands related to recent legislation that limits their right to strike.

The record of Nigerien civic organizations to date has been mixed at best, but in all fairness, they simply lack the capacity to be able to adequately monitor government operations to any significant extent. But there are also areas over which they have some control and have done little in the way of trying to improve them. Primarily, it has been the inability of these organizations to join together to confront government or less "civic" members of civil society (e.g., political Islam, slave-owning ethnic groups) over significant civil or human rights abuses. Forging alliances and collaborating for a single purpose is definitely a major problem among Nigerien civic organizations; it would also increase the effectiveness of the limited resources that are available to the sector as a whole. This is a major constraint, and an area which concerned donors should consider supporting through training and workshops in such areas as strategic planning, conflict resolution, lobbying and advocacy skills, etc.; exchanges with consortia and federations in other countries; and finding local or regional facilitators that can bring these groups together to discuss their difference and find, at the very least, an ability to collaborate on issues that confront the greater public interest for which they stand.

As in most African countries at this stage of democratic development, it is the independent press and donor community that exert the greatest influence on government to exercise its authority in a manner consistent with established constitutional rules.

2. Broadening Popular Participation in National Governance

Democratic governance posits a shared governance function between the state and civil society for the purposes of increasing state accountability, responsiveness, and increased effectiveness in the allocation and management of public resources. This implies an oversight or watchdog capacity, as well as the ability to analyze government policy and new legislation; and in some instances to independently initiate, formulate and propose new ones. There are few civil society actors with a capacity to undertake an oversight function related to government's conduct of business. ANDDH for instance is an advocate for consumer protection but it is hard to assess its record in monitoring government compliance with existing legislation. To the best of our knowledge, there is no organization which provides oversight of government expenditures and the execution of legislation pertaining to a range of public issues.

Participation in determining public policy and new legislation is somewhat better, if only because donors and a few international NGOs have provided a number of Nigerien organizations technical assistance in areas that are of concern to these international partners. Members of several women's organizations sat on commissions that drafted the Family Code; Clusa, through its partner NGO, APOR, was able to significantly influence the drafting of the new cooperative law; Woccu, in collaboration with a number of individual credit unions has provided assistance in the drafting of the new credit union law; the Ministry of Environment solicited input from a number of environmental NGOs; and the National Commission overseeing the Rural Code as well as the Decentralization Commission have solicited input from a wide variety of civil society actors including NGOs, cooperatives, professional associations and business groups. In general though, the success of civil society in influencing public policy has been as the result of donor support and government initiative, often with donor prodding.

Certainly, what is lacking among civil society actors in being able to effectively participate in public governance are a combination of initiatives, structures and general lack of analytic skills. In terms of initiative, it has been the inability to press government for greater participation in those arenas where decision making takes place. We have already identified the various legislative commissions in the National Assembly as a location where civil society could have significant input and perhaps impact on legislation drafting. As private sector associations have virtually no input into the policy making process concerning such issues as trade, investment, taxation, and commerce one could envisage lobbying for the establishment of some type of business council that would bring business leaders and concerned government officials together for discussions and an exchange of views. This is critically important given the nearly defunct status of the Chamber of Commerce. But whatever venue that is chosen or created, civil society organizations still lack any real capacity for policy analysis and formulation to provide credibility to the positions they would propose. These are areas that lend themselves to training and technical assistance, but would also require modest funding to put newly acquired skills to use.

3. Contributing to Democratic Culture and Self-Governance

As de Tocqueville noted about American associational life, voluntary associations serve as schools for democratic learning. For the first time in their history, Nigeriens have the opportunity to learn for themselves what democracy is all about within the context of their own voluntary associations. Our analysis has led us to the conclusion that where this learning best takes place is in the groups and organizations that have greatest relevance to people's daily lives. We have previously discussed the organizations of formal civil society and found that, for the most part, their internal governance structure were far from the democratic norm that de Tocqueville found in studying American voluntary associations. What he was most likely describing were the smaller, less formal community or affinity based groups found throughout our own society. The equivalent in Niger is also located at the local level where the majority of people live and work. While there are literally hundreds of these groups emerging throughout the country, their capacity for a form of self-governance which is democratic is in the earlier stages of development.

Although basic principles of democratic governance can be taught and behavior modified accordingly, true learning, and the development and internalization of democratic values, takes place slowly and within an environment which is mutually reinforcing. As such, it is not something that can be imposed from above, even by other well-meaning civic actors or even by a committed government; this has been the previous pattern of dealing with rural people and it will not work any better because Niger is now functioning as a multiparty democracy. The building blocks of democracy and citizenship, as well as development, are the local voluntary associations that are created for people to address common needs

and interests. It is at this level that we believe the true potential for constructing a Nigerien democracy rests, and where committed long-term support should be directed. Building a democratic culture is a generational process and one that is best undertaken during the course of activities which have a direct bearing on peoples daily lives.

The external pressures against adhering to democratic rules and norms found within the local milieu are extremely strong. They come from a variety of sources found within the larger environment. Some of them are institutional, i.e., political parties, technical and administrative services, religious associations, all of which view rural people as objects to manipulate for their own set of interests. Many of these forces, however, are attitudinal -- intolerance, distrust, obedience to authority, a lack of initiative -- and emanate from traditional patterns of association which mitigate against the development of civic culture. What we have found in our discussions with these organizations is that to overcome these negative influences from the external environment has required the presence of a benign and supportive force which can buffer these emerging values and provide the space for them to be nurtured. In most cases, rural people have identified the presence of international NGOs as this benign and supportive force. This is an important point and one that underlies many of the recommendations made in the closing chapter of this report.

4. The Capacity for Self-Governance

Public governance functions take place at all levels within society and can, and often do, take place outside the boundaries of the formal institutions of the state. Wherever use of public resources is involved, or public services provided, public governance takes place. Numerous examples have been provided in preceding sections demonstrating that within civil society -- or outside of the state's administrative services -- self-governance among voluntary associations has been a steadily increasing phenomenon. Before rural people can actually participate in a broader range of governance matters at higher levels of political life, they must be able to do so in areas over which they have a degree of control and which are of direct interest to them. The practice of self-governance is little more than three years old in Niger. It is hardly surprising, therefore, that the capacity to effectively manage local affairs is weak. But as we have noted above, the opportunity to do so exists, and to a larger extent is supported at this point by an enabling legal environment. Building capacity in such a situation is based on and should be measured by incremental increases in a range of fundamental organizational, technical and strategic skills. Providing assistance in amounts that promote incremental learning and that lead to small but positive gains in this setting will be the real challenge for external assistance. Again we see international NGOs and the small core of Nigerien NGOs that are emerging as the best strategy for making this happen.

V. AN ANALYSIS OF INSTITUTIONAL DYNAMICS AND BEHAVIOR: LINKAGE MECHANISMS

Beyond intermediary associations and in some important ways beyond civil society itself, are a set of actors who perform linkage functions. These institutions, which are not technically part of civil society are invaluable to a democratic system because they monitor the performance of government, publicize inept policies or abuses of power, transmit to the political authorities the views of key constituencies, and, if needed, mobilize resistance to an incompetent or repressive regime.

Three primary types of linkage institutions may emerge as a country enters a stage of political liberalization. The first type is explicitly political, such as political clubs and parties. For conceptual

reasons it is preferable to think of parties as discrete from civil society, since their principal task is often to take control of the state and to rewrite the rules of the governance game. As liberalization proceeds, civic-minded associations and economic interest groups often become politicized, identify with a particular, usually opposition point of view, and may become an important element in an electoral or revolutionary party movement.⁷ If parties do evolve in this manner, they have the potential for providing linkages between civil society actors and the state. All parties, however, are not linkage institutions: if they represent only the power struggles of narrow elites, factions of the ruling elite, or mere personalities, they are not. The character of parties must, therefore, be closely analyzed to determine whether in fact they can and do play a linkage role.

A second type of linkage actor is the media, which, while functioning as a business enterprise, or the expression of an interest group (such as a religious group) or even political party, can play a critical role in monitoring government performance. The media can pose questions that, prior to the successful completion of a democratic transition, are difficult for any other civil society actor to pose and publicize as effectively.

Still a third type is represented by fora -- thought of as a neutral space -- that bring together a variety of interests (which are not necessarily political), either with one another, or with representatives of political institutions such as parties, officials of the executive branch, legislators or judges. State officials may intend such fora to enhance "management," yet the forums open channels for influence and potential civil empowerment and may begin to strengthen valuable mechanisms for managing conflict peacefully.

Linkage institutions play two distinctly different roles in different contexts. The usual concern of political scientists is for the "aggregation of interests," that is, the negotiated and reformulated demands of groups in a pluralistic society. Without this process of demand modification and coalition building, the demands of many groups in a fully mobilized society may well overwhelm and compromise governance capacity at higher levels of the political process. Such excessive demands from urban interest groups, unaltered and uncompromised through negotiation with other (rural) groups, are part of the African dilemma. In Africa, emerging from decades of authoritarian rule, another aspect of this problem is prevalent: the absence of means by which most people can be informed of, and can participate in policy processes and outcomes. Here linkage institutions are vital for associating people as citizens in political affairs beyond those of their communities or sub-regions, thus creating a sense of nation and of national process.

A. Parties as Linkage Mechanisms

How well do Nigerien political parties function to enhance democratic governance today? In answering this question, we will consider three potential governance roles they can play as linkage institutions:

- as a mechanism for grouping and reconciling political demands;
- broadening of political participation and effective representation of people in decision making process;
- as a channel for political education of the mass of people and as channels of information.

⁷ An excellent example of this is the transformation of civic groups in Madagascar into the political movement called the Forces Vives which eventually won the election of 1993.

1. The Representational Function

The political landscape in Niger today is characterized by a proliferation of political parties. As of August 1994, there were 17 parties in either the ruling coalition, the AFC (Alliance des Forces de Change) or the opposition. Of these five were non-parliamentary parties (parties which had no elected deputies in the National Assembly). The ruling coalition groups nine parties: three large parties (CDS-Rahama, PNDS-Tarraya, and ANDP-Zaman Lahiya), four smaller parties with a few deputies each but with some presumed capacity to mobilize votes (PPN-RDA, the former single ruling party during the Diori period now split into two factions, PSDN-Alheri, PUND-Salama, and UDPS-Amana), and two parties which are essentially personal or non-functional (Nakowa, and U.D.P- Aminchi, a party with no parliamentary seats). The opposition consists of the largest party on the political scene (MNSD-Nassara, the former single ruling party), two much smaller parliamentary parties (UDFP-Sawaba, heir to the banned opposition party of the 1950, and UPDP-Chamoua), a small but highly mobilized non-parliamentary party of the left (ORDN) and a non-functioning Green party (RSV-Nilima).

With this plethora of parties, it should be possible to find a grouping which can represent nearly everyone in the country. It is also true that in many areas as many as nine parties actively campaigned, and a number campaigned in the countryside, bringing to the Nigerien people an unaccustomed political dialogue. Our field work, although not indicative of the entire country, reveals that parties did campaign even in small villages, recruiting cadres to develop a party office and some followers at this level.

The issue of pluralism in representation, however, is less clear. Officially, ethnic, religious and regionally based parties are banned, but a number of parties depend heavily on an ethnic and regional base of voting strength, and employ ethnic or regionalist appeals. This was true of ANDP-Zaman Lahiya, which, while it made an attempt to organize throughout the country, was identified with a personal leader, Moumouni Djermakoye. At the same time, ANDP also attempted to appeal to the Zarma population by warning them that if they did not find a way to be in the next majority, they might well lose all the benefits they had accrued over years of dominance in the PPN-RDA, the Société de Développement, and the MNSD.

Similarly, both CDS and PNDS, despite their pretensions to being national parties, depend heavily on regional (Zinder and Maradi for CDS; Tahoua for PNDS) and Hausa ethnic support. CDS, for example grew out of the merger of three Hausa cultural and self-help associations (AMACA in Zinder, Madallah in Maradi, and one in Tahoua). Its campaign slogan "Quatre fois zero, ca suffit," was meant to appeal to Hausas and non-Zarmas to put an end to a string of four Zarma heads of state. PNDS had its roots in clandestine associations of former schoolmates from the same class or year (the G82, for 1982 graduates for example), tending to orient it more towards appeals to unions of public service workers and "intellectuals." But the PNDS also has its ethnic stronghold in the birthplace of its leader, Prime Minister Mahamadou Issoufou. PUND-Salama and UDPS-Amana are widely considered to be Twareg parties, although UDPS leaders claim to have a nation-wide membership of over 650,000, including many members of other marginalized ethnic groups such as Toubous, Fulanis and Arabs.⁸ For many Nigeriens, then, representation appears to be principally by region or ethnicity, for the collective protection of the group.

⁸ Based on an interview with UDPS Secretary-General Mohamed Abdoulaye Moussa, August 18, 1994.

2. The "Power-Sharing" Arrangement

Above we have already discussed in some detail the nature of power-sharing in terms of its impact on administration. At its core, however, power-sharing is the basis of a political arrangement by which the AFC maintains its victory and rewards its loyalists. At its core, the AFC is a negative alliance, designed to prevent the victory of Mamadou Tandja and the MNSD for a variety of reasons, particularly the desire to alternate those who benefit from the management of the state. For certain parties, notably the Twareg parties (PUND-Salama and UNPS-Amana), the victory of this coalition was viewed as a survival matter, since they identified the MNSD, and particularly its leader Tandja, as their principal enemy. In fact, there is some evidence that Twareg leaders initiated the discussions that resulted in the formation of the alliance, and had a hand in the willingness of the ANDP's leader, Moumouni Djermakoye, to consider this arrangement.⁹ All AFC leaders seem to have agreed that this arrangement could at least serve to hamstring the MNSD should it win the Presidential elections as many believed it would. At the core of the power-sharing arrangement is the quota system, based on principles clearly repudiated at the National Conference but vital to agreement. Among the consequences of striking this bargain in advance of the elections was the reported agreement of some smaller parties to limit their independent campaigns to a few districts while calling upon their members to support other AFC parties in the first round of the Presidential election. This means that it is difficult to estimate actual party strength or electoral importance to the alliance by merely looking at electoral results achieved by each member party.

Having won power, the coalition needed to follow its allocational rules, even though in practical terms this coalition contains too many parties, and parties of too diverse positions to be maintained. The tendency of coalitions to be reduced to a smaller working core has been underway, not in the sharing of spoils but in the actual sharing of power.

3. Parties as Interest Aggregators and Policy Makers

The ruling Alliance (AFC) is a political coalition grouping disparate and even contradictory forces in order to maintain an electoral majority. The logic of this arrangement requires the parties to avoid open policy debates that might compromise the coalition, since on specific issues member parties have somewhat different points of view.

The policy direction achieved by this arrangement is not yet entirely clear. There are, in fact, several levels of coordination. Each party, of course, maintains its own Executive Committee (usually called a Political Bureau). Each presumably develops policy in areas of particular concern to its leaders and members. At the national level, the AFC officially has what one key player has called a "Super Bureau," constituted of representatives of all nine partner parties.¹⁰ In theory, it is this group that determines AFC policy, not the individual parties or the government (the Prime Minister and the Council of Ministers). This body is supported by a second informal institution called the "G15" characterized by some as a policy "think tank," and others as the place where real policy direction is developed. In fact, however, it appears that neither the Super Bureau nor the G15 really deal with hot policy issues, or even with

⁹ Interview with UDPS Secretary General, 8/18/94.

¹⁰ Based on interview data and an interview given by First Vice-President of the National Assembly Sanoussi Jackou, to the newspaper Le Democrate, August 22, 1994.

development issues. Instead, they deal only with those issues which are at the heart of the alliance -- the functioning of the political appointments system and the control of the opposition.

This leaves open the question of where in the current system policy responsibility and accountability really lie. For the political decisions on appointments, policies on contracts and patronage benefits, the "Super Bureau" should be capable of resolving these issues. Its members include, however, the President, the Prime Minister, and the President of the National Assembly, who have little incentive to wash their laundry in front of the leaders of the minor coalition partners. Thus, it seems highly probably that even these issues are largely decided in informal caucuses among the major players. Several key players suggest that the resolution of the motion of censure issues (August 1994) was dealt with by adopting the principle of "consensus," a preferred strategy from the time of the National Conference. There is, of course, no public recourse or means of holding this group accountable for this "consensus" that excluded the views of the opposition and probably those of some coalition members.¹¹ Just as importantly, this implies that the coalition does not aggregate interests beyond those of its principal members.

How do party members therefore have any input into party or alliance policy and actions? In a highly revealing statement Sanoussi Jackou analyzed the decision to vote down the motion of censure in terms that pitched the interests of party leaders and intellectuals (who favored continuation of the alliance and the governance) against economic producers (merchants and farmers) who favored change (Yaro, 8/94). His analysis seems improbable in light of the data we gathered around the country in interviews with party officials at the departmental and arrondissement levels. At all levels, we noted a marginalization of party militants, not only from information and policy but even from the operation of the "chang system" -- the operation of the patronage system. Party members knew little about party positions and generally considered that to be the work of the national parties. What was apparent was their efforts to force those in a position to allocate rewards (generally politically designated administrators, préfets, sous-préfets, mayors) to reward the party faithful with jobs and special privileges. Our field work indicates that in at least some places, national leaders, notably the President, have been appointing people who try to resist this process in the name of better governance and effectiveness. One interpretation of the President's policy of appointing "resisters" is that he is attempting to maintain maximum control for the center in order to maintain the coalition, and possibly to benefit his party nationally. Another form that this has taken is the effective marginalization of alliance coordinating committees at the arrondissement level and above. Open conflicts between these committees and dominant parties in specific areas (such as the ANDP in Dosso) and the party of the President (CDS) were obvious.

How this will change after the "local" elections remains to be seen. What is evident is that the administrators in place fear the loss of control implicit in the elections and the heightened pressure to respond to local-level party leaders. On the other hand, local political activists who are critical to the AFC's electoral victory are insisting on the local elections for precisely this reason. The fact that the government has felt sufficient pressure to announce a date -- the Ministry of Interior had stated preparations would be technically ready by January 1994 -- for the elections, despite the fact that this timing corresponds poorly with the current redrawing of constituencies, confirms that the center both fears and must make some concessions to the base. No one should imagine that these concessions will

¹¹ Sanoussi Jackou's argument that a motion of censure against the Prime Minister was misdirected because he was not the author of the objectionable policies or of their questionable implementation, hardly resolves the question of how political accountability can be exercised.

result in better governance. Instead, these concessions may only carry the "chang system" one step further down, causing still more difficulties around the issues of opposition rights and governmental honesty and competence.

4. Parties as Political Educators

We have already suggested that political parties now have little interest in increasing political information at the base and risking heightened demands around substantive issues. Our field work indicates that the level of political information at the operational level (the arrondissement and below) is extremely limited. In reality, there is no basis on which people can choose candidates, since the names of deputies on lists (much less the list of substitute deputies) were not available at the polling places and did not appear on the ballot. Some rural people had some impressions of some of the people who ran for President, particularly Mamadou Tandja and Moumouni Djermakoye, who were well known actors during the period of the military regime and the MNSD. None of the new candidates of "change" were well known by villagers, even within their particular region. Women knew even less than men. Political parties appeared to do little or nothing to fill this void. People therefore chose parties, not candidates. But on what basis? Our information is limited to what we were able to gather rapidly in a few familiar sites. Information on local perceptions of democracy, of elections and of parties needs to be much more systematic. (See proposal for a Mission funded local-level political knowledge and perception study, in Annex 4). Our data suggests the following patterns:

- many people had some contact with the organizational campaigns of a number of parties.
- parties were not distinctive in terms of their appeals or programs, at least as far as people could remember. (In fact, published national programs did not differ much).
- parties attempted to attract supporters on the basis of how well their organizers spoke; how much up-front money they had to spread around (some had very little); and the promises they made for rewards after the elections. For the most, part promises made involved the provision of additional services (notably in health and education); in the reintroduction of a state-supported agricultural marketing system for some farm products; and in the lowering of specific taxes affecting rural producers (such as animal-drawn carts). At least one party, which many fully expected to win (the MNSD), apparently offered villagers cash rewards of 10,000 cfa if they won. This promise was not universally seen as being credible.
- people voted on the basis of the credibility of these promises, on the affiliation of people they knew, and on the symbolic associations which party names, colors, and images conveyed. In this the CDS was particularly favored by its choice of name (Rahama, a word found in the first line of the Hausa language koran), and its color (a beautiful green, the symbol of Islam).
- following the elections villagers have heard little about what parties are doing to help them, or about the preparation and implementation of laws which might affect them. Knowledge about the Constitution was very limited. Parties did nothing to prepare villagers for this election other than to urge people that their votes were critical to change. Information on the Rural Code has generally not been made available by any source, except in a few pilot areas, and certainly not by parties. AFC parties now appear determined to curtail all discussion of the proposed Family Code. No party has taken an open stand on women's rights in its communications to villagers and the only information about the Code has come from "civil society," principally from the

pronouncements of Islamic groups. In general, in areas visited in Hausa country, it is clear that Islamic actors have far more capacity to communicate information to rural people than do parties, and they do so on a range of issues.

In fact, the most important pieces of political information available to non-literate voters (at least 80% of the population, and perhaps 60-70% of the voting public) have been communicated by individual political actors, often in the service of their own political advancement. National radio coverage of the debate on the motion of censure must have been intriguing and confusing to most non-elites. The coverage of Sanoussi Jackou's speech, detailing the failures and errors of the current government, touched a responsive chord with many people who had seen little progress thus far. But when the person articulating the criticism and his party (CDS) subsequently supported the government against the censure motion, people must have either found the entire process incomprehensible, or just the games of "politicians," who in any case are not held in high regard.

There are, of course, interesting exceptions to the above characterizations. One party, UDPS-Amana, claims to be running an extensive training and educational campaign of its militants, using its own resources. To prepare for writing its party program, it held a series of eight mini-congresses to develop its positions. It also recently undertook a week-long training session of its leadership cadre with its own resources. This party, the only one with a clear alternative governance program of federalism, sees its role as primarily one of long-term education, and knows that for now it has no chance to play a meaningful role in influencing the policies of its AFC coalition partners.

5. The Role of the Opposition

Although the above discussion covers general patterns, including the activities of the opposition at the local level, it is necessary to address the broader role of the opposition in the current party system.

At the national level, the parliamentary opposition has defined its role in almost purely oppositional terms. It tries to limit the patronage system of public sector employment and contracts, and may even be engaged in discouraging its militants and local leaders from paying taxes. The opposition has offered a rigorous critique of the government's performance at all levels, focusing mainly on what it perceives to be the misuse and politicization of state resources, and its nearly total exclusion from new appointments ranging from positions of administrative all the way down to the most modest civil service jobs. It also complains bitterly about being excluded from government contracts. Thus, the bulk of its opposition has focused on its access to patronage, and indirectly on the consequences of political appointments on professionalism in government. The opposition, like the majority alliance, is totally incoherent in any ideological and policy sense, grouping the MNSD, or conservative corporatist party associated with Kountche, Saibou and the Société de Développement, with the UDFP-Sawaba, a presumptive leftist party, ORDN, an avowedly leftist party, and UPDP-Chamoua, a party of Hausa intellectuals in personal conflict with the CDS. Given its nature, this alliance can be nothing more than an oppositional group. Yet, ironically, given its own close association with the dictatorship, its lead party, MNSD, now bases much of its criticism on the AFC's failure to follow the letter of the law and the Constitution, and postures as a leading advocate of the rule of law. This position lacks credibility, particularly since the opposition evoked Article 6 of the Constitution (the duty of citizens to engage in civil disobedience) to justify its destructive demonstrations on the anniversary of the President's inauguration.

This resulted in the detention and release of a number of MNSD leaders and militants; since then the opposition, and particularly MNSD, have begun to pursue a more conciliatory policy, involving the

acceptance of a governance role in National Assembly commissions. The primary position of MNSD, however, continues to be one of trying to get its share, rather than promoting specific alternative policies. One element of the opposition, the UPDP, appears to have adopted a policy of continued boycott, refusing to play a role of responsible opposition or junior beneficiary in the current system.

At the departmental, arrondissement and even local level, however, MNSD still has a number of organizational advantages from well-established leadership and networks. Having lost the election, however, these are dissipating rapidly, as MNSD financial backers have suffered huge losses (E.H. Bala Dan Sani, as a notable case in point), while the costs of opposition is mounting rapidly for its merchant-trader backers. If MNSD can not win a number of local and eventually departmental-level elections, it will no doubt lose much of its organizational and financial base. In the meantime, MNSD is doing relatively little to continue to inform its membership of specific policy issues and positions, apart from the publication of its party newspaper (circulation of about 3000).

B. The Independent Media

The independent media has traditionally been considered an integral member of civil society. From a **functional** perspective, i.e., its role in limiting the abuse of state authority through reporting on the state's manner of governance in public life, this is true. From an **organizational** perspective -- the independent media is at best an economic operator organized around the "profit" principle and, thus, part of the private sector -- it is not. It is precisely this conflict -- the public interest (functional) versus the private interest (organizational) role of the media -- that has presented the greatest constraint to its effectiveness as a civil society actor, namely, its economic viability. As discussed below, this general observation is very much at the heart of the problem of Niger's modern-day independent press.

There is a third dimension and corresponding role and function of the independent media in a democratic system which places it in the category of "linkage" institution, the focus of this section. The independent media, including the written press and radio and television, can be considered a network of public communications connecting various institutions of civil society with each other, and between these institutions and those of the state. In the following sections, we will assess the capacity of the media to undertake both the civil society and linkage functions of the independent media under Niger's evolving democratic system.

1. The Independent Media as Watchdog

a) Summary Overview and Background

Under the Regime d'Exception there was no independent media, written, visual or oral. During the period of decrispation, the Saibou government permitted a significant opening for freedom of expression including freedom of the press. In May 1990, the first independent newspaper, "Haske," was established, marking the first time since the beginning of the First Republic that Nigeriens had an alternative to state-owned and run media as a source of news and information. As in other areas of Nigerien life since the advent of the Sovereign National Conference, print media has mushroomed to the point where today there are some twelve independent newspapers which publish on a fairly regular basis, i.e., weekly, bi-monthly and monthly. In addition to these ostensibly independent papers, there are at least four newspapers which serve as media arms of the principal political parties: Le Nassara (MNSD), Niyya (PNDS), Rahama-Tribune (CDS), and Le Zaman-Lahiya (ANDP). There is as well, one privately owned radio station, R & M (radio and music).

The state-owned media is composed of: the "Le Sahel" and "Sahel Dimanche," daily and weekly (week-end) newspapers; "La Voix du Sahel" the national radio station; and "Tele-Sahel" the national television station. The two state-owned newspapers are managed by the Office National d'Édition et de Presse (ONEP), while radio and television fall under the supervision of the Office National de la Radio-Diffusion et Télévision (ORTN). During the National Conference, a Conseil Supérieur de la Communication (CSC) was created (acte fondamental No. 40, November 3, 1991) whose purpose was to ensure equal access by political parties during the presidential and legislative campaigns. The December 1992 Constitution enshrined freedoms of expression and press, and, at the same time, under a separate statute (Article IX), institutionalized the CSC as a permanent and independent fixture of Third Republic with responsibility for guaranteeing the freedom and independence of all media forms, public as well as private.

b) Capacity to Engage the State

The capacity of the independent media, and particularly the press, to confront the state over issues on the limits of its authority -- specifically the abuse of power -- is determined by a number of considerations including: (i) existing rules and their implementation by the state; (ii) financial viability as defined by the external social and economic context, and internal management practices; and, (iii) human resources as defined by skills and experience of media operators and practitioners. Each of these considerations is discussed in turn below.

(i) *The Enabling Environment for Press Independence*

In the French legal tradition, Niger's civil code contains a libel statute that has indirectly but forcefully impacted on freedom of expression as it relates to reporting on high-ranking government officials. Defamation suits initiated by the government have been a fairly constant backdrop to press reporting over the past two to three years. At least a half-dozen owners/editors, many of them more than once, have been sued, have received fines, and in one case imprisonment, for alleged defaming of state (e.g., military, executive branch and legislative) officials. While many of these initial rulings have been appealed and are still undecided, there has developed a general reticence among journalists and owners to be too direct in their reporting on governmental management of public affairs. This has led to some form of self-censorship, although to the observer of earlier forms of the Nigerien media, the press, and particularly the *Tribune du Peuple*, still appears highly critical.

As noted above, the CSC was established to oversee the media and ensure its independence and freedom, including fair access by political parties, labor unions and other non-state actors to the public media. From its inception under the National Conference and into the first year of the Third Republic, the autonomy and functioning of CSC has been fraught with problems that have been largely state induced. Under the government of the Third Republic, the CSC was removed from its temporary quarters and has essentially been without an office or the finances to cover its running costs. Its permanent establishment has been halted by contestation as to who would represent the non-state sector on the commission itself. Three of seven seats were reserved for delegates nominated by the President, the National Assembly and the Supreme Court. The remaining four seats were to come from members of "civil society." One member was elected by the independent media and the remaining three were allocated to the various unions representing the public media, including the those representing the Ministry of Post and Telecommunications. It was the negotiations for these three remaining constituencies which were the major stumbling block preventing elections and, thus, the seating and commencement of CSC's mandate.

Elections for the three union positions took place in mid-August 1994, during the teams' visit. Because of irregularities alleged by the losers, the confirmation of these three candidates has not yet taken place, and the situation remains in flux. What seems to be underlying this situation, according to a wide number of informants interviewed, has been the manoeuvring by political parties to ensure that "their" candidates were the ones elected to the Commission. Given the fact that government's interpretation of civil society was restricted to public service labor unions, and the fact that state institutions hold three of the seven seats already, one can question the future independence of the CSC once the current impasse is resolved. If one of the principal issues that the CSC will have to deal with immediately is whether or not the defamation law needs revising, then the fact that its control may end up, through indirect means, in government hands, does not bode well for the future role of this important body.

It has been reported to us by a wide variety of voluntary associations, (e.g., human rights groups, women's associations and labor unions), that their access to state-owned radio and television has been denied in a significant number of cases, in spite of their willingness to pay for the air time accorded to them. The labor unions have wanted to be able to present their case to the people of Niger concerning the current conflict, i.e., unlimited strike (greve illimite), between themselves and government, but their requests were denied. A number of women's groups and human rights organizations wanted to air programs concerning their position on the Family Code but were also denied access. At the same time there has been the appearance that Islamic associations have had ready access to both public radio and television, including the symbolic closing of the latter's air time with prayer which many people have interpreted as a violation of the Constitution's provision of church and state.

These three observations of the current implementation of laws and their practice by the government raise concerns that are worth monitoring over the next several months, especially once the CSC is established and operational.

(ii) *The Macro Context and Financial Viability*

Niger's literacy rate in French is somewhere between 10 and 15 percent of the population which thus defines the major parameter for readership of the independent press. The average printing per major newspaper is estimated at around 3,000 copies per issue (it was difficult gaining accurate information concerning individual circulation) meaning that on any given day there is between 20,000 to 30,000 copies in circulation (including the Sahel). Equally important is the extremely low purchasing power of the vast majority of Nigeriens, including those that are French literate. While the average cost of a newspaper is about 200 CFAF, this still represents a significant outlay for a Nigerien worker or civil servant. Although it is certain that far more than the actual number of newspapers printed per issue (most are weeklies) get read, i.e., multiple readers per copy purchased, this does little to increase revenues flowing into the owners of these newspapers. Finally, there is the problem of national distribution, which not only translates into high costs for transportation but in a country as vast as Niger, effectively cuts off a significant portion of potential readership from the market.

These are essentially structural problems, i.e., illiteracy, poverty, and poor infrastructure, over which individual print media owners have little control but obviously affect their "bottom line," and capacity for survival. Where they do have a significant degree of control is over the management of their newspapers as profit making enterprises; and to date the impression is that they have serious problems in this regard. This is in fact no different than the problems found in other businesses in the private sector, but obviously impacts greatly on the quality of the independent media and its capacity to engage the state on behalf of the rest of society.

(iii) *Skills and Experience of the Journalists*

The majority of journalists working for the independent press come from the public or state-owned media, as do many of the owners themselves; many of them are, however, younger than their counterparts in the public media. A significant number also come from the university setting including both professors and students. In addition to a lack of material incentives, (e.g., salary, benefits, necessary tools of the trade), they lack skills and experience in a number of technical journalistic areas including, investigative and economic reporting, political and social analysis, etc. These skills as well as basic journalistic ethics (e.g., confirmation of a fact by at least one other source, permitting the target of a story to comment for the record) would not only improve the quality of coverage, but increase the credibility of individual papers and perhaps even serve as a disincentive to high officials contemplating a suit against a journal that wrote about them.

(iv) *The Politicization of the Independent Press*

While it is normal that papers which are put out by individual political parties should assume their political line, it becomes disquieting when, as reported by a large number of respondents, that the independent press is itself becoming partisan in its reporting ... disquieting but perhaps not surprising given the attempts by political parties to penetrate other non-state institutions. The degree to which this phenomenon is actually taking place (e.g., *Le Democrate/MNSD*, *Tribune du Peuple/ORDN*, *Le Republicain & Al Fazar/PNDS*, *Le Paon & Enquete/ANDP*) is difficult to discern, but we raise it here as a caution and an issue that should be monitored closely.

In this regard, an eye should also be kept open for the possible penetration of the independent media by the religious associations or at least those more militant segments within it. Concern was expressed on a number of occasions about the actual ownership and affiliation of the only independent radio station, R & M, given that ties are likely to exist with the current General Secretary of the Organisation de la Conference Islamique (OCI).

c) Summary and Conclusions

In spite of the constraints to the operation of the independent press as a countervailing force to that of the state noted above, it must be pointed out that among the actors undertaking this function, the Nigerien press has been in the forefront and the most effective sector defending the basic rights that the Nigerien people fought so long to acquire. It is also likely that this will remain the case for the foreseeable future given the weak capacity found in the organizations that make up civil society proper. While there are obviously not many interventions that can be taken concerning the structural constraints and disincentives noted above, the current program being undertaken by USIS provides owners and journalists alike with opportunities for learning which do make a difference and seem to be well received by those who have benefitted from them.

2. **The Media as a Network of Communications**

The media as a means to both keep people informed of issues of national importance and to serve as a source of learning for their new democracy runs hand-in-hand with its watchdog function. This latter role, however, provides Niger's citizens with a direct means to confront government through the ability to determine whether policies that are under consideration serve their interest and, more generally, explain what various components of their democracy (e.g., government structure and responsibilities, the

impact of new laws, etc.) mean for each citizen in the exercise of his or her rights. Here we examine both public and private media, but add a third category, **associational media**, to get at the current and potential role for voluntary associations to play as an important part of the evolving Nigerien communications network.

a) The Public Media

The three public media outlets, i.e., Le Sahel and Sahel Dimanche (newspaper); Le Voix du Sahel (radio), and Tele-Sahel (television), all provide a significant degree of information concerning state operations that is relatively devoid of ideological or partisan content, as is most often found in other African countries at this stage of development. What is lacking is what is not published, if you will, which are items overly critical of government. On the other hand, the two newspapers have on several occasions taken fairly critical stands of the government's handling of certain issues, and certainly their reporting, as well as those of radio and television on the recent National Assembly debate over the motion of censure brought by the opposition was as lively as found anywhere.

The public media, particularly the Le Voix du Sahel, has been the main medium used by voluntary associations and the government for the dissemination of civic education and other developmental messages. As noted above, as long as these messages do not appear to touch on subjects of immediate controversy, (e.g., family code) or by groups which are at odds with the state (e.g., labor unions), then the public media has been an excellent mode of popular communications. Radio broadcasts are made in all major local languages thus ensuring their wide circulation throughout the country. It should also be noted that ORTN has a well equipped studio and trained personnel capable of producing both radio and television programs for whomever can pay for it.

b) The Independent Media

Given the fact that most Nigeriens are not literate in French, the publications of the private press do not afford a very effective means for reaching Niger's diverse and spread out population. What is obviously lacking are daily or weekly newspapers in the major local languages, but given the constraints noted above, it is unlikely that this would be a very profitable enterprise for businesses barely coping with financial solvency. Nor does it appear to date that the single private radio station (R & M) has been used by voluntary associations to disseminate their messages or that the station has the capacity to produce local programs.

c) Associational Media

As we have previously noted, there are a number of human rights and civic organizations which are engaged in a wide range of civic education activities aimed at people residing at the local level. To date, their major means of communications have been through the public media and local language materials that have been developed as part of their training and educational outreach programs. As radio appears to be the most effective means of transmission of educational messages for rural people, consideration could be given to working with a consortium of such voluntary associations to inaugurate a rural radio station to increase the impact, both in terms of scope and coverage, that they are having currently having.

One of the problems that we have observed has been the inability of different categories of civil society to adequately share and disseminate information among and between organizations undertaking similar activities. For instance, USTN, as the apex organization for labor unions, publishes a newsletter once

a year for its members. Other than this, it has no means for broad-based educational efforts among affiliate unions and their members. The NGO community has very sporadic communications between different organizations, with GAP being the only existing entity with such a capacity. It unfortunately only accounts for some 40 members, primarily international, out of a community well in excess of 100. Neither of the two women's organizations have any regular newsletters or other publications that provides information of interest or on educational topics for their wide memberships. Human rights organizations, more than most associations in civil society tend to operate in isolation and thus share very little information with each other or with the wider community of voluntary associations. This is an area of great importance for all members of civil society because it limits horizontal linkage and solidarity and is in general a missed opportunity for further education of these intermediary organizations.

C. Independent and Neutral Fora

A critical problem observed by team members during this assessment was the virtual lack of any independent or neutral fora where different groups within civil society, or between such groups and state institutions, or between the different political parties, could come together to discuss topics of national concern or issues that have generated conflict between groups. The problem has been the result of the growing politicization of society and the lack of trust that this has engendered between different groups. In addition to the growing divisions that have emerged, the fact that such neutral or independent fora do not exist cuts down on the possibility for participation in national and local governance matters. We have mentioned the fact that a number of civil society groups, including associations representing the private sector and labor unions, feel largely left out of policy decisions which affect their members.

The recent conflict between opposition parties and the government are an example where a civil society group, the Association of Traditional Chiefs, was able to intervene and facilitate a dialogue between the two parties that significantly decreased the level of tension that had built up. There is a continuing need for such efforts at conflict resolution, as well as, bringing groups together to increase participation in national life. Good examples of divisions which exist between civil society groups are those between both RDFN and AFN, several of the human rights groups, between the religious associations and several civil society groups, and between international and local NGOs. Those between government and civil society include labor unions and government, students and government, private press and government, and a number of minorities and government. There are, as well, a range of conflicts between different social groups at the local level, primarily over resource use, (e.g., pastoralists versus farmers, land disputes between family members, traditional owners and users) which are likely to increase in number as a result of the Rural Code and a decreasing resource base. The need for mechanisms that can provide these "linkage" functions are in great need and merit support.

There are a number of existing institutions or organizations which could serve in this linkage function and several others which could be encouraged to be created. As noted earlier, the several commissions of the National Assembly offer a focal point for bringing together different segments of civil society and government during the course of public hearings on various government policies and legislative initiatives. Consideration could also be given to setting up an independent commission along the lines of a National Business Council bringing together government and the associations representing the private sector. Certainly, encouragement needs to be provided for members of the newly created CSC to undertake its responsibilities in an independent and non-partisan manner.

While it is far from clear whether the Association of Traditional Chiefs is a non-partisan body, their increased importance under the country's new democracy argues for targeting it for assistance that would

enhance its role as an arbiter of major social and political conflicts. What most informants told us, however, was the importance of finding individuals which are recognized within society as being above the day-to-day political machinations that have become so much a part of current social and political life. How to identify such individuals and bring them together in an organized manner remains to be seen.

VI. SYNTHESIS AND RECOMMENDATIONS: GOVERNANCE IMPLICATIONS AND A STRATEGIC APPROACH

In this concluding chapter of the assessment, we provide a synthesis of previous findings and conclusions in terms of governance implications and a strategy for strengthening democratic governance institutions and processes, and a set of recommendations that flow from the preceding analyses and suggested strategic approach. Section A provides a synthesis of governance implications; Section B undertakes a summary review of other donor activities that support different aspects of Nigerien democratic development as a means for better focussing USAID/Niger's strategy; and Section C lays out a strategic approach and corresponding recommendations for a Mission program supporting a process of democratic governance within the framework of its newly formulated country program goal.

A. Continuity and Change: Action Tendencies for Political Behavior in the Third Republic and Governance Issues

In this report we have examined 1) the informal working rules of political behavior in Nigerien society and the 2) institutional dynamics (the formal rules and institutional arrangements, and degree to which political actors adhere to them). This section summarizes the tendencies we see developing, thus far, both as changes in behavior responding to new incentives and constraints, and as continuity. It goes on to suggest how these tendencies translate into governance issues of importance to a donor like USAID as it seeks to assist the people of Niger in their pursuit of sustainable development. Finally, it offers recommendations in those areas which emerged as most important to USAID/Niger following our discussions with Mission level senior management, project managers and foreign service nationals.

Action Tendencies

1. Constitutional limits are beginning to affect political behavior in Niger by influencing political discourse mainly among urban elites.
 - a. The openness of expression and the growing openness of associational life are new developments in Niger, worthy of note. Coupled with a vigorous media, they enhance the potential for limiting the exercise of state power in arbitrary manners. Respect for human rights, at least outside of the North, has grown markedly.
 - b. Public accountability through the operation of electoral processes has characterized Niger as never before, although electoral processes have yet to evaluate the government's performance, even through local government elections.
2. Political participation and the basis of authority in Niger have changed only marginally.
 - a. Personal power is still important, although it may be declining as parties subsume politicians.

b. For many, the basis of power is not yet democratic, as the traditional authorities (elected indirectly from an ascribed pool) have been able to retain and even expand their domain of power.

c. Mass mobilization and awareness of political issues and of rights is still extremely low, particularly in rural areas.

d. Civil society has been expanding at a rapid rate, under conditions much more favorable to its growth and development, but has yet to find much of a civic or public advocacy voice, apart from a few urban organizations. Meaningful participation above the local level has been thwarted, thus far, by the lack of linkages and building common bonds. To a significant degree, communications still heavily follow individualistic or patronage based lines.

3. The principal findings of the report bear on governance.

a. Structurally, the Nigerien state is still highly centralized following the logic of hierarchy. Thus far, decentralization has only just begun to emerge as a significant possibility.

b. The dual political norms of coalition government, power share and benefit allocation to the winners, have fulfilled one important role -- they have given Niger a government which has affectively alternated power with the former ruling MNSD. In constructing the coalition, however, several tendencies were exaggerated which pose governance problems, notably

i. The near total exclusion of a very large segment of the Nigerien political class (mainly associated with the former ruling party) from power and from benefits of incumbency (appointments, government contracts, etc.) Exclusion has been carried so far in fact that it threatens the security of this group and may put into question the probability that any major opposition group will be willing to play by democratic rules in the future.

ii. Symptomatic of the politics of exclusion and the failure to extend power-sharing, until very recently to the MNSD, has been the willingness on the part of the opposition to violate constitutional norms, such as calling for civil disobedience, even for violent disobedience in ways clearly not intended in the Constitution.

iii. As a result, governmental personnel at all levels have been selected on partisan rather than on professional grounds.

iv. Competition among various partisan associations at various levels of the system, has rendered policy making difficult and effective implementation nearly impossible. Incentives for civil servants to perform effectively, or to follow orders in a policy-oriented chain of command, have all but broken down.

v. Locally, party competition has turned politics largely into zero-sum warfare, making it even more difficult to negotiate and implement local development projects.

In brief, while enormous progress has been made in modifying the worst governance abuses of earlier regimes, tendencies to follow democratic principles, to limit centralized power, to participate in non-hierarchical and patronage based ways, are still very embryonic. The potential for independent

representative legislative and judicial action is there, but thus far has been stymied by lack of resources and by the logic of coalition. For many, both leaders and followers, the logic of following the new democratic rules has not yet become as strongly entrenched as the logic of replicating old behaviors in formal democratic dress. If the tendencies and incentives to more fully incorporate the meaning as well as the form of democracy cannot be expanded soon, Nigerien democracy, as a serious effort to restructure power relations and to create the basis for legitimate authority in pursuit of public interests, will be at risk. Without greater incentives to pursue democratic governance, a number of USAID's program initiatives at the sectoral and local level will quickly reach their limits.

If the structure of Nigerien society remains so centralized it will seriously limit the role which parties and associations can play in improving policy outcomes and voluntary compliance. When even civil society institutions are so centralized that the apex bureau has a monopoly of funding, decision-making, etc., the incentives at the top to be responsive to ordinary members are weak. When the ordinary members acquiesce or exercise their "exit" option, their potential contributions and initiatives are lost. Problems in Dosso are different from those in Tahoua, but the centralized structure will not pick up the differences and encourage local solutions. Members will not learn how to make their voices heard and how to deliberate over the allocation of resources. In our view, the centralized structure is not a place to learn democratic governance unless it has well-enforced rules about member participation.

The norm of centralized structures also has governance implications for decentralization -- will it mean genuine local autonomy or mini-centralized states at a lower level? Real decentralization gives locally elected authorities control over revenues and expenditures, and gives voters recourse if the authorities do a poor job of delivering services. It is not clear that the new decentralization law allows for the formation of local authorities from the bottom to deal with the problems local people face in a way that overcomes their distrust of authorities to date.

Decentralization also raises the issues of what local units are meaningful for what kinds of activities. There has been an assumption on the part of the state and the donors that "the village" is the unit for base-level activities; in our view this is misguided for several reasons. Many villages are divided into factions, many activities focus on groups within the village or on activities bounded by other principles, the users of a particular well, for instance. One governance implication of decentralization is that it should free both ordinary people and donor projects to look for the appropriate grouping rather than the state-dictated one. Another implication is that the decentralization law and the Rural Code must be complemented by legislation that protects the rights of people to organize new forms of associations.

B. Current Donor Support for Democratic Governance

The challenge of using foreign assistance resources to encourage better governance faces all the bilateral donors. Assuming that a country where better governance has been achieved is one in which more economic development (possibly with fewer aid resources, or at least, with more funds applied directly to development objectives) can take place more easily, all the bilateral donors should have an interest in better governance. What we found in our interviews with representatives of bilateral donors in Niamey was generally shared perceptions of the way that the democratic transition is affecting the implementation of projects. We also found that other bilateral donors do not see themselves as specialists in macro-politics and are dealing with the changes in the political environment in an ad hoc way. While recognizing that donors will continue to have different development objectives and philosophies, it would seem to make sense for donor representatives to develop a somewhat systematic political optic for two reasons: 1) to make more conscious strategy decisions about their own activities in relation to the political

environment, and 2) to think about how to use their influence with the government to curtail abuses of power (as defined by the Nigerien Constitution and laws), to protect the open public realm and to encourage the development of better governance practices.

One point made by almost all the donor representatives is the lack of a common understanding by Nigeriens about what democracy means; another is that party politics now affects their projects at all levels in a completely new and complicating way. One representative described the difference in the process of arriving at a contract for a local-level project. Before, a contract for a village reforestation project would involve the donor, the village, the sous-préfet and the Ministry representative. Now, the parties to the contract also include the canton level chief and political party representatives, and the donor has discovered that, in order to avoid paralysis at the implementation stage, all parties must be present at all meetings. They must all agree on the roles and responsibilities of each party at each stage. This can be achieved with a lot of discussion, but the process now takes up to a year instead of a few months. Since administrators and chiefs can effectively be loyal to different political parties, and since neither has a firm basis of popular support, implementation of projects can be complicated.

The ways in which this politicization will affect mass participation are as yet unclear. But most donors would agree that without the means to attract genuine mass participation, the outcomes of development activities will be severely compromised, particularly in an era in which local participants are being asked to fund more of the activities themselves. This is apparently true at both the local administration and ministerial level. As one donor said, at the local level participation isn't a choice, it's a necessity. The transaction costs of negotiating and implementing projects have apparently gone up; if the results of a more participatory process are good, it might indicate more local empowerment, but it is too soon to tell whether what's happening isn't capture of resources by local political actors for political, rather than development, purposes.

A number of donors supported the national elections and are prepared to support local elections in various ways, and almost all are supporting the decentralization process, either directly or through pilot projects to test the principles contained in the Rural Code framework. Most also have local-level micro-projects. The Belgians will begin a major study in mid-September on the effects of decentralization ministry by ministry. Donors do not appear to be as concerned as they should be about whether decentralization will be carried out as a coherent process and how it fits into the overall political environment. If decentralization is carried out poorly or if it contributes to the politicization of the management of public resources, it will not be the good thing that decentralization is normally assumed to be.

Most donors are concerned with the empowerment of women, directly or as part of large projects with multiple objectives. Their concern would seem likely to bring them eventually into conflict with the Muslim fundamentalist groups, although no donor now reports overt problems from fundamentalists. It may not be in the best interests of Nigerien women to be so explicitly a point of contention. It does seem sensible for the donors, individually or collectively, to think about strategies for explaining to the government and to Nigeriens in general that support for women's empowerment is a fundamental part of achieving health and development objectives.

The new Nigerien NGOs are a source of hope and hesitation for most donors. Many of the new NGOs in Niamey appear to be composed of civil servants who have been pushed sideways by the new government's appointments. Sorting out the serious and capable from the large number of NGOs requesting funds is a problem for all, and no donor appears to be working with more than a small number of Nigerien NGOs. SNV, the Dutch cooperation agency, has a project that will work in four cities

(Zinder, Maradi, Tahoua and Tillabery) to stimulate the formation of NGOs by supplying legal and management advice. The best-funded NGOs working in the political arena are the human rights and legal education groups. A number of public works and agriculture projects are being implemented by the private sector rather than state agencies; as one donor said, this is a change to a new relationship between citizens and the state.

One of the problems donors face is avoiding the NGOs that have partisan objectives; we heard about small projects that were used for partisan purposes after completion and the worry that donors feel about being involved unintentionally in such ventures. Again, formally or informally, collectively or individually, donors need a strategy and a set of criteria for dealing with new NGOs. Providing a service that helps NGOs to prepare proposals, manage themselves and network with other NGOs may be an appropriate project for a donor. Supporting some NGOs is vital for building civil society networks; limiting the amount and type of funding -- funding feasible activities rather than institution building -- may be a prudent way for donors to proceed.

Some donors are betting on the success of the democratic transition in Niger by increasing their levels of funding; for most, particularly for the two multi-laterals interviewed, the World Bank and the European Community, the level of funding is independent of political events within Niger. Some major projects concern institution building within the government, which is affected by the change to a democratic form of government. German technical cooperation has been working with the legal framework, and the World Bank is exploring the possibilities of a project focussing on commercial law. USAID has already provided money to publish and distribute up-to-date volumes of the Court of Appeal's decisions. GTZ funded the publication of a compendium of law in 1990, which now needs to be updated. For most donor representatives the major areas of concern -- institution building, environment, agriculture, infrastructure, etc. -- are not perceived to be directly affected by the change to a democratic system. Donor representatives are as concerned as individuals with the political environment but are not always connecting the implications of the political environment to their projects. One donor representative who said, "We're not here to tell them how to run their country, but to adapt to the situation," is closing down a twenty-three year old project because it has not achieved sustainability in all that time.

As well as funding for legal education and human rights groups, funding for the independent media is seen by several donors as an important and appropriate way to support the democratic transition. The Canadians have brought in a series of journalists to advise journalists on-the-job and through seminars about the appropriate role of an independent media and the techniques of information collection. A problem for both the media and donors is paucity of information available from the government. One donor representative mentioned the need to confirm government requests for funding by carrying out studies to provide the necessary information that cannot be found in government documents. No donors mentioned that their projects can be sources of reliable information on which Nigerien citizens can base discussions of public policy and assessments of government performance. Donor pressure on ministries to publish information, as well as greater access to donor studies, could contribute to more informed citizens and better investigative reporting. Donor support for independent Nigerien think-tanks could also provide citizens with analysis of events and policies.

In sum, donor funding and donor assumptions about the transition to democracy and about what funding is appropriate will powerfully influence the course of events in Niger because it is so aid-dependent. If decisions are reactive and ad hoc, the donors will lose many more opportunities to support better

governance than if decisions are made on the basis of a common understanding between government and donors about what is important in order to build democratic governance practices.

C. A Strategic Approach to Supporting Democratic Governance

In this section we begin to narrow the assessment focus to a set of general recommendations for governance improvements that are consistent with both our preceding analysis and with our understanding of the Mission's current project portfolio, as well as the efforts that are presently underway in formulating a new country program strategy that will define USAID/Niger activities to the year 2000.

Having been requested to review and comment on the newly proposed strategic objective (SO) for democratic governance, as well as the activities which have been financed under Section 116(e) of the Human Rights and Democracy fund, we have framed our general recommendations in terms of a modified D/G SO (to that proposed by the Mission) and a corresponding set of programmatic (project) outcomes (POs) which cut across the development sectors currently being supported. This discussion is found in C.1 below. In order to provide tangible content to this approach, we then look at on-going projects, as well as those under design, and provide more specific suggestions as to how the Mission could increase project effectiveness through addressing the priority governance issues and implications highlighted in the preceding synthesis section. Before commencing these discussions, we first present a brief review and summary of our principal conclusion regarding where USAID should strategically focus its governance support.

1. Promoting Democratic Governance from the Ground Up

Promotion of democratic governance is often viewed as something to tag on to a Mission's activities, at best, a set of activities that may help to stimulate or reinforce some part of an emerging national democratic process, but that does not seem related to USAID's fundamental development tasks and specific strategic objectives. In this study we have argued for a concept of democratic governance that is embedded in the way people at all levels of society -- at the local self-governing level as well as the central state -- manage public resources. We have identified a number of governance patterns and trends in Nigerien society, within central government, in proposals for and actions to decentralize government, and in the broader society. This analysis has led us to a number of conclusions about where the opportunities exist and where the most serious constraints are to be found.

Nigerien society today still bears the marks of a highly centralized state which, while appearing powerful relative to civil society, is nonetheless limited in its capacity to govern Nigeriens in a creative and responsive way that promotes public welfare. We note three major asymmetries in power relationships and expressed as gaps in Niger's governance pattern, all of which affect the evolution of more democratic and effective forms of governance:

- gaps within authority patterns of the central state, i.e., between executive power and the professional and technical bureaucracy on the one hand; and between executive power and deliberative (legislative) and adjudication (judicial) processes on the other. These gaps create uncertainties about the legitimate use of the executive branch authority and create substantial inefficiencies in the way government operates. They are particularly worrisome given the long history of executive domination of other central state institutions. What we would hope to see in the emerging context, therefore, is an increase in independence and autonomy by both the National Assembly and judiciary vis-a-vis the executive as a means of bringing balance among

state institutions and, thus, decreasing the abuse of authority by any one of them. In fact, this power shift has begun to take place.

- gaps between central and local government which limit the effective decentralization of authority and the appropriateness of governance decisions. As local government has been little more than an extension of the central state (through the territorial administration) under previous regimes, we would expect to see a true devolution of political authority to local assemblies as provided for under Niger's newly passed decentralization law. In terms of democratic governance reform, limiting central state authority should provide a concomitant broadening of governance participation by these decentralized and, in principle, autonomous bodies. At this point, it is too early to definitively comment on the degree to which political devolution to the arrondissement level is being realized.
- gaps between state power and the people, or civil society. These gaps limit the effective devolution of authority, the growth of self-governance, the emergence of a private sector that is not tightly associated with state business, and the representiveness of democratic institutions and their perceived utility to people to further their own interests. As we have noted throughout this assessment, democratic governance implicitly posits a shared role in decision making for civil society, and in newly formed democracies, relies on non-state actors to both ensure state compliance with the new democratic rule structure, as well as in the practice of these rules in their own voluntary self-governing associations. While there is little doubt that a true civil society has emerged in Niger, its capacity to undertake civic action, and thus promote democratic governance, is still relatively limited.

Nigerien civil society has emerged from a period of near-total repression into a very promising era of rapid growth. The absence of effective voluntary associational life in Niger was a conscious result of a governance strategy of central control and patronage relationships to organize power. At the same time, Nigerien society, organized almost entirely in an hierarchical pattern, failed to develop norms of inclusiveness and local accountability. Since people had very little opportunity to exercise self-governance, they had few democratic habits or habits of local initiative. This left the country without an effective means of self-governance, and in practical terms, without useful partners for development projects in many cases.

These gaps in associational life and civil society development not only compromised broad-based economic growth and environmental management, they resulted in only the most marginal involvement of the vast majority of Nigeriens in public decisions. The era of democratization has changed that! Opportunities now exist that greatly expand the effective power of Nigeriens over their lives; eventually they should be able to play more significant roles in the development activities which directly effect their welfare and in the broader political system. For the moment, political parties contribute little to this empowerment of most of the people. The media, while a very bright spot in the national-level democratic discourse, has yet to serve the rural mass well.

Based on this analysis, how should USAID/Niger prioritize its actions in the area of supporting democratic governance? Our study identifies a number of opportunities in specific areas, but for us the overwhelming need and opportunity is in supporting associational life, particularly local-level associational life. In opting for this priority, we are conscious of several issues:

- a strategy which focusses on local associational life requires a long-term development commitment. Payoffs and measurable results will come in the medium term, but the changes in Nigerien society which this strategy implies will need many years to mature fully. USAID's role in these changes, however, need not be for the entire period. If we think and plan strategically enough, we will be able to play a catalyst role for processes which can proceed at much lower levels of external support;
- USAID's program depends heavily on local level governance and involvement for its success. Choosing to emphasize local associational life and broadened participation in governance matters at this level is fully compatible with the goals and objectives which the Mission has already adopted. Not only does this make good development sense, but the argument can, and has been made that for democracy to succeed, it must first be practiced at the level where most people live, within the organizations with which they are most familiar, and around activities that have a demonstrable impact on their daily lives; and,
- supporting local associational life does not restrict one to working at the local level, or even exclusively in a sectoral project mode. Clearly, the conditions under which associational life may develop will continue to be influenced by national politics and behaviors, and by national rules. As the recommendations in the following two sections demonstrate, actions beyond the local level are critical to enhancing the capacity of local associations to practice democratic governance, and thus merit a significant degree of support.

We want to emphasize that what we have proposed here is a way of looking at "democracy support" that links it to an overall approach of promoting empowered participation throughout Nigerien society, primarily by supporting rural voluntary associational life. This activity may be useful in general to support democracy, but it can be viewed strategically as a vital part of this more focused orientation. On the other hand, it provides a strong argument for why it does not make sense to focus all of USAID/Niger's democratic governance strategy or activities on "civic support" -- broad-based civic education or simply focussing civil society support on those formal organizations that directly engage the state -- and legislative or judicial institution building. Without a viable and growing associational life at the base and a growing horizontal network of these associations, there is little reason to "do democracy" for most of the people of the country. For most people, democracy will have meaning and relevance related to particular functions and interests that they attempt to pursue in order to improve their lives and those of their families.

2. Why a Strategic Objective for Democratic Governance

a) A Matter of Principle and Pragmatism

The Mission's newly formulated program goal is cast in terms of creating an environment for and increasing empowered participation among Nigeriens at all levels as a means of promoting sustainable improvements in their social and economic welfare. From our perspective then, the entire program's success can also be portrayed in terms of progress made in promoting a system of democratic governance. Clearly, it is unrealistic to treat the types of governance issues inherent to this goal statement as critical assumptions, particularly expressed as end states. The question is whether USAID/Niger has the capacity to contribute to governance reform in limited but critical ways that are linked to the success of its overall program. If it does not, there are serious questions about the viability of the entire program.

Raising support of democratic governance to the level of a strategic objective demonstrates in concrete terms not only the Mission's commitment to a set of principles, but to delivering on them as well. In the sense that a D/G SO becomes a component part of a new Mission CPSP, then it becomes part of its obligations and an important indicator in measuring future program success. While it is obviously much easier for an assessment team to make such a recommendation than for a Mission to accept it, it is also our honest conclusion that the risk is a worthy and attainable one; and is intimately tied to the overall program outcome.

b) The Thrust of a D/G Strategic Objective

Our conclusion is that broadening participation and the basis for voluntary association, which, at a minimum, implies the capacity for some meaningful action outside the control of the central state, makes the most sense at this stage in Niger's evolving democracy. While we seriously considered that support to the soon-to-be-elected local assemblies and governments within the framework of the new decentralization law might constitute the major thrust of a D/G SO, we felt for a number of reasons that it was far too premature at this point target support to "decentralization." In general, it is our assessment that the mandate and authorities for the proposed local assemblies have not been made entirely clear, thus casting doubt on their potential effectiveness. This is particularly true as the nature of the assemblies' revenue base, and hence operational capacity, has not yet been defined.

It is also our belief that the current level of local government (the arrondissement), specified by the recently passed decentralization law, is still too far removed from the majority of people and their actual needs and problems to play the type of role in promoting local development that is consistent with USAID program and project needs. While the future intent may be to descend another level to the municipality or commune, this possibility is still many years away at best.

As the implementation of decentralization programs in other African countries (e.g., Senegal, Mali, Madagascar) have recently demonstrated, the costs -- human and material -- in terms of capacity building are considerable and beyond the means of most donors or groups of donors to support.

Finally, given the issues noted above, as well as the lack of a proven commitment on the part of the national government to support an effective decentralization program, we believe that a focus on strengthening voluntary associational life and emerging civil society at the local level would also play a crucial role in providing a means to keep new locally elected governments responsive to local needs. This corresponds to the same role that is posited for civil society at the national level. One could also envisage the possibility of local governments and local civil society organizations making common cause vis-a-vis central government as a means of ensuring that the "gap" in power relations, as noted above, between the central state and decentralized local government finds a new equilibrium that is consistent with the tenets of democratic governance.

USAID/Niger's current democratic governance strategic objective is:

Increased Awareness of and Active Commitment to Democratic Principles of Governance.

We think this SO should be re-formulated for the following reasons:

- (i) The SO does not clearly connect to either participation or empowerment, major emphases of the Mission's new country program goal; and,
- (ii) It does not make clear which aspects of democratic governance are most critical for USAID to support in order to increase the effectiveness of its current and proposed program portfolio.

The assessment team thus proposes the following modification to the Mission's SO:

To expand empowered participation on the part of all Nigeriens, particularly with regard to their capacity and opportunity to undertake self-governance, and to participate in the political process beyond the local level.

c) Preliminary Observations

We have broken this SO up into a number of discrete project outputs (POs) which form the basis of our general set of recommendations. We have attempted to avoid compound POs so that the impact and measure of each will be clear. It is our belief that the POs listed below are amenable to measurement and have accordingly given a few preliminary ideas for possible indicators.

We believe that this SO is intimately tied to the Mission's overall goal, and that it addresses both the concerns of those involved at the sectoral and project level, and those concerned about trying to influence the broader macro environment. We also believe that this SO starts from where Niger is at now, in terms of our analysis, and offers some significant promise of assisting in promoting both a more effective governance structure and a more democratic one (over the long term).

We have not attempted here to work out how exactly USAID/Niger can best undertake the activities under the proposed SO and POs, although we think that they address issues of vital importance to the four principal sector activities (Natural Resource Management, Health and Population, Micro-enterprise Development-Credit and Cooperatives, and Disaster Mitigation).

We would like to stress again that the SO we propose and the corresponding set of POs outlined do not address all the constraints and opportunities identified in our analysis, nor advance all the possible recommendations which flow from them. Rather, we have developed the following set of recommendations based on our understanding of the Mission's desire to increase the impact of its **current and proposed** programs and projects. USAID/Niger may want to weigh how some of the additional issues raised, but not recommended for consideration, might either fit into the SO and POs proposed here, might better be handled by other donors, or might be the subject of another activity which is projectized.

Specifically, we refer to the absence, at this point, in recommending a discrete program of assistance for state institutions, particularly the National Assembly and judiciary. While the following recommendations do propose some very limited support to these two state institutions, it is only insofar as it contributes to the strengthening of voluntary associational life and emerging civil society, primarily at the local level. Although it has been our understanding that the Mission does not want or anticipate a stand-alone, multi-component D/G project as undertaken by USAIDs in other African countries, we believe that our analysis, including the conceptual approach used, provides the necessary data and analytic framework to fashion an activity which includes support to the state sector. With this in mind, we now turn to the set of project outputs-cum-general recommendations which support our proposed strategic objective.

3. Program Outputs and General Recommendations

In reviewing each of the six proposed project outputs (POs) which follow, we provide a discussion in terms of (i) the purpose being addressed; (ii) the set of activities and implications arising from the recommendation; and (iii) a brief summary of possible impact measurements.

P.O. 1: Increase the density of voluntary local associations

Purpose Addressed: In and of itself, an increase in both the numbers and diversity of associational life is a condition to be valued in the development of a pluralist democracy. Civil society's landscape should be populated by a wide range of associational forms that have a multiplicity of interests and a range of capacities. Some will pursue narrowly defined group interests, others may, over time, identify their own interests with those of the larger community within which they operate. Density and diversity in associational life provides individuals with a choice among competing interests and thus decreases the possibility of cleavages building up around single issues or affiliations which are often found to be sensitive or contentious. It also helps to ensure that no single voice within civil society comes to dominate those of others thus, promoting pluralism in views and opinions, and in general, the civic norms of tolerance and inclusiveness.

Whether or not the kind of proliferation in associational life being witnessed in Niger directly contributes to improvements in democratic governance, it is a necessary condition to the emergence of a strong and vibrant civil society which does have such a function. We thus view this outcome as a prerequisite for all further democratic governance development in Niger, both in relationship to the Mission's portfolio and our broader analysis of the possibilities of promoting long-term D/G in Niger. Our analysis shows that:

- these types of associations are growing rapidly in the current context -- at the local as well as national levels;
- they constitute the most promising partners at the local level for development actions of all kinds; and,
- they are still weak and inexperienced and do not yet constitute the critical mass required for a participatory development strategy, and for the emergence of a vital process of rural development based on private sector micro-enterprise-based growth.

Activities and Implications: The actions required to achieve this PO are within the current Mission portfolio: to maximize the formation of and work with voluntary local associations in health, including family planning extension, credit and credit management, natural resource management, and disaster mitigation. While increasing the density of voluntary associations is to be encouraged as discussed above, there are obviously a number of "operational" problems that must be dealt with as a result. The primary issue concerns the ability of USAID, or any donor for that matter, in selecting good investments among the many new associations, NGOs, etc. that have and continue to enter the civil society arena. The second issue concerns the means (mechanism) for providing assistance to these small-scale, local level and non-USAID registered associations. The final issue, discussed in more detail below, centers on the nature of assistance to be provided.

In the first two cases, we believe that an NGO intermediary, or several intermediaries, as is currently the practice, offers the most realistic means of identifying and providing such assistance. In addition to U.S. PVOs, such as CLUSA and WOCCU, we recommend that the Mission explore relationships with other international NGOs, such as IRED and Canadian Solidarity for the Sahel, to serve in this intermediary role. One could also envisage the new fund to be set up under ASDG II and possibly the disaster mitigation activity as being managed by a U.S. PVO intermediary with responsibility for the identification of local level partners; providing them with a combination of financial grants, technical assistance and training; and undertaking grant monitoring and evaluation responsibilities.

Measuring Impact: This should be a fairly straightforward undertaking. We can simply count the number of new associations supported through USAID-financed activities, and, over a period of time, ascertain the total number of survivors. To do this, a good base-level associational inventory must be done (we have proposed such a Nigerien-led study in Annex 4 of this report). It might also be possible to count the total number of associations of these types because of the presumption that there will be some synergism and spontaneous associational formation as a result of USAID interventions.

P.O. 2: *Increase the capacity of these voluntary local associations to manage their affairs in a way which broadens participation and which increases the accountability of leadership and members.*

Purpose Addressed: PO 2 refines the notion of democratic governance to three basic principles: a) self-governance capacity; b) broadened opportunities for participation; and c) leadership accountability. Niger's blossoming base-level voluntary associations are very early in the development of internal management capacity and working rules for inclusion, exclusion and resource control. This PO addresses the basic need of Nigerien society for a growing democratic governance base by focusing efforts on fostering the capacity of voluntary associations to undertake the specific governance functions associated with the expansion of rural economic interest groups for credit and savings, the extension of health and family planning service, and environmental action. Strengthening local voluntary association capacity thus achieves these multiple democratic governance objectives through a holistic approach, in which learning democratic principles and good governance norms are undertaken in familiar surroundings and in relation to activities which have a direct bearing on people's daily lives.

Activities and Implications: To achieve this objective USAID should focus in all its work with local associations, including primary cooperatives, credit unions, NRMs, user groups, and possibly base-level health management units, either directly or through PVOs/NGOs on capacity building and skill transfer. Capacity building is a long-term effort and should not be thought of in narrow terms of financial management and accountability, as important as they are. Two other principal capacity building dimensions in addition to administration and financial management are: (i) strategic planning and management looking at among other issues, internal governance structure, long-term planning and sustainability; and (ii) technical expertise in such sectoral pursuits as micro-enterprise both on-farm and off-farm activities, natural resource protection and management, and primary health care provision and management.

Because USAID does not have a comparative advantage in working directly in these areas with local level associations, the responsibility will fall primarily on U.S. and international NGOs. USAID will need to look closely at the capability of its partners in this regard to ensure that they, in fact, have the skills and capability to perform this intermediary capacity building role. In this regard, it might be useful to make a distinction between those NGOs which are operational -- undertake their own programs directly at the

local level, such as Africare and CARE -- and those which are technical and management assistance providers, such as WOCCU and CLUSA, which work through and support voluntary associations at the local level. The premise is made that the priority concern of the former group of NGOs is with ensuring the successful implementation of their own programs which places capacity building of local organizations as a secondary priority.

Measuring Impact: Capacity building or institutional development is no longer considered an open-ended process or domain. Particularly in the area of indigenous NGO capacity building, a great deal of work has been done by USAID and U.S. PVOs to establish benchmarks and indicators for measuring the effectiveness of capacity building interventions. It should not be difficult, therefore, to establish a set of management skills and practices, and internal rule designs and enforcement practices on which data could be collected from a sample of associations. The baseline study discussed above could also be used to establish the starting point for local associational capacity.

PO 3: *Increase opportunities for Nigeriens to participate in the democratic governance process beyond the local self-governing level by promoting horizontal information sharing (among local associations) and by encouraging the formation of horizontal networks and secondary level associations.*

Purpose Addressed: Horizontal association is a prerequisite for effective growth in the capacity of voluntary associations beyond the local level and for participation in the political process in ways that enable members to defend their associational interests, to engage in democratic processes and, eventually, to assume responsibilities in the area of civic action, including policy formulation and advocacy. Our study reveals that in Niger horizontal networks and associations are in their most preliminary stage. Increasing collaboration between primary level associations, as a means to advance common interests, and encouraging a natural process of federating into secondary level organizations to increase their capacity to engage in governance matters beyond the local level, marks a true maturation and development of civil society. The promotion of networking and federating will not only accelerate the sharing of information and lessons learned relative to USAID's sectoral interests, but will constitute the basis for the growth of rural-based civil society.

Activities and Implications: Attainment of this PO will in many cases require an additional perspective for project managers, whether USAID officers, institutional contractors, or PVO cooperators. It will require that some resources be committed to assisting with these networking activities -- initially through visits between primary associations at the local level, then through a series of conferences and workshops within the sector concerned. It will also require the funding of some training about forming higher level associations which can probably be carried out by PVOs like WOCCU, IRED or Six 6, which are already active in parts of Niger. When the density of functioning associations in specific sectors reaches a critical mass, it may be useful to program some funding to support exchanges between associational unions or umbrella groups in neighboring countries, such as the CCA-ONG in Mali or the Federation of Non-government Organizations (FONGS) in Senegal. One of the major conclusions of our analysis is that the previous corporatist structuring of associational life in Niger not only inhibited horizontal linkages from developing internally, but also isolated Nigerien voluntary associations from their counterparts in the subregion who, for the most part, have built up far greater experience as civil society actors. Thus, our recommendation that both internal and external networking figure prominently in a Mission strategy.

Measuring Impact: Here again measurement should not prove overly difficult. Possibilities include: (i) the number of exchanges or contacts that take place between Nigerien voluntary associations, including

the number of exchanges initiated by local associations themselves; (ii) the number of exchanges that take place between Nigerien voluntary associations and counterparts within the subregion; (iii) the existence and frequency of written or other media-communicated information across groups, particularly looking at the increase in "associational" media forms that develop; and (iv) the increase in the number of secondary associations that are created from horizontal collaboration among primary level associations and their various stages of institutional development.

PO 4: *Increase opportunities for Nigeriens to participate in democratic governance matters by expanding the knowledge of local level association leaders and membership concerning their legal rights and obligations; and those of intermediary specialized civic organizations that work to advance the interests of local self-governing associations.*

Principle Addressed: This PO promotes civic education, but civic education targeted to specific legal and political rights, and processes of functional utility to potentially interested associational members. With the relatively rapid accession to a pluralist democratic system, Nigeriens have witnessed a corresponding proliferation in new laws which, among other legal areas, govern the nature, formation, and operations of voluntary associations. In conformity with the overall strategic focus recommended in this assessment, it is our belief that civic education interventions should be supported that target the specific needs of local self-governing associations as they relate to legal rights governing the operations of their development activities.

Broad-gauged or generic civic education programs that deal with such themes as the nature of a democratic system, the substance and provisions of a new constitution, or universal human rights norms probably have little relevance to the immediate needs and interests around which most local voluntary associations are formed. To support those more specialized and formal civic organizations that have been established to limit the states exercise of authority, and specifically its abuse of power, continued use of 116(e) funding would complement the types of local association support recommended here.

Activities and Implications: As USAID works through its projects with associations in specific sectors, it should consciously incorporate into its projects this kind of educational information focused on understanding rights, laws and processes pertaining to the groups' primary goals and orientations such as the establishment and management of rural credit and savings institutions; the establishment and management of decentralized health services and health resources; and the creation of local level associations involved in the management and development of actions to deal with environmental degradation, such as forestry and irrigated agricultural resources.

USAID actions should not only support this kind of targeted civic education for members, but it should consider as a corollary measure enhancing the analytic capacity and communication skills of members of the private, associational and public media, including rural newspapers run through literacy service; rural radio if and when it develops; regionalized government radio; NGO, labor union, cooperative and human rights organization newsletters; and, national and regional press reporters who may be interested in short-cycle training on coverage of law and legal rights specifically on these issues (rather than on the whole rural code, family code, decentralization law, associational law, etc.). This kind of civic education programming could get into electoral promises and electoral choice issues in specific domains as well.

Measuring Impact: This PO will primarily be measured in terms of outputs, (e.g., number of training activities undertaken by intermediary civic organizations with primary level associations; the number of media articles that deal with specific sectoral legal issues or associational rights) but with decent base

level data, it would be possible to measure increases in knowledge and understanding in areas of specific rights at the level of different population groups.

PO 5: *Improve opportunities for democratic participation in voluntary associations by improving the legal basis for the growth of local-level association life.*

Principle Addressed: Creating a legal or enabling environment which favors associational formation at all levels is the objective of this PO. Specifically, we are proposing discrete assistance to concerned state institutions and agencies that are responsible for the drafting, passage, execution, and interpretation of laws pertaining to the legal environment which promotes associational growth. While our analysis portrays and concludes a relatively favorable legal environment related to formal association and NGO registration and official recognition at the national level, this particular PO, as part of our overall strategic approach, targets the local associations and their legal rights and obligations which are just beginning to be defined under such laws as the Rural Code and decentralization law.

Activities and Implications: We propose a set of activities to deal with issues that have emerged as constraints in our analysis, and which do not all fit neatly in to specific sectoral portfolio, activities or concerns. These include:

- Support the refinement and passage of specific legislation concerning the standing and viability of local voluntary associations at levels below the arrondissement where the current decentralization law ends.
- Support for harmonizing various laws governing associational rights, and in particular the rural code provisions, with laws affecting associations in the codes on forestry, water, livestock, cooperatives, and credit unions.
- Support for improving knowledge of associational laws on the part of judges and, particularly, justices of the peace. The specific activity we propose is modest: support the timely publication of these laws and Court of Appeals decisions, and the delivery of sufficient copies to relevant judicial officials.
- Specific support could be considered to increase the capacity of parliamentary commissions to deal with public (civic actor) input on legislation that affects associational rights in a variety of ways.

As this set of activities is essentially geared towards supporting the work of state institutions, a means will need to be found (outside of the several sectoral portfolios) to provide assistance as discussed in our report or as new needs are identified. Certainly the ASDG II project managed by IRG is a bilateral project that would lend itself well to this type of assistance, and in fact, appears to be engaged in similar activities already.

Measuring Impact: Here the impact must be measured in terms of the development and promotion of the formal rules and their harmonization, not in terms of their direct impact on associational proliferation (see above). A study of perceived problems and constraints, as part of a follow-up to the base-line associational inventory, could provide some impact data at the level of the effect of legislation.

Indicators would again involve measuring specific outputs by those state institutions which are responsible for some aspect of associational law. Specifically, one could look at the number and types of laws related to associational formation, rights and obligations that are drafted, modified, passed and interpreted by any one of the state institutions involved. In terms of true impact, looking at the number of new associations that are created as a result of these laws, as well as the governance authorities which the associations are given under them, could also be a useful measure of USAID-financed support.

PO 6: *Improve opportunities for democratic participation in voluntary associations by supporting the capacity of the informed public (organized in associations with expressly civic purposes) to have some influence on the deliberation and application of these laws.*

Principle Addressed: A pre-requisite to the development and maintenance of associational rights is a growing demand for those rights with some groups performing a watchdog function over the law's creation and application, and over the general maintenance and development of a rule of law culture. This cannot be done solely or even primarily by the kinds of associations and members we have been discussing above. It requires a growing set of civic actors. Ideally, primary level associations which regroup around shared interests and needs into higher level regional or national federations (e.g., cooperatives, credit unions, water user and logger associations) would undertake this advocacy and lobbying function for their local level members. However, given the low level of horizontal linkages and vertical federation, these tasks will continue, for the foreseeable future, to be undertaken by development NGOs and other civic organizations. There is also an argument to be made that formal, primarily urban-based, civic organizations are best placed to provide a government oversight function, build contacts with officials in both the executive and legislative branches, and promote laws which benefit all civil society actors, and not just the sectoral or special interests of individual groups.

Activities and Implications: USAID should continue to support such civic actors as human rights groups, associations of lawyers and legal experts, and urban-based development NGOs that wish to get involved in issues of rights of citizens to popular choice and enhanced government accountability, free expression, as well as freedom of association. It should at the same time, pursue activities which support the creation and capacity building of higher level federations as proposed in PO 3 above. Again, this activity implies a significant role for US and international NGOs in terms of their work with primary level associations, and promoting horizontal linking and federation building. While a direct role in lobbying government agencies for more favorable associational laws (e.g., Clusa and the cooperative law; WOCCU and the credit union law) is not an ideal role for foreign organizations, in the absence of local capacity, this appears the only viable alternative for the moment.

The type of assistance suggested in both POs 5 and 6 is what people think of as classic democracy support. It can be handled by a special fund such as Section 116 (e) Democracy and Human Rights or it can be considered as a cross-cutting activity affecting a variety of sectoral projects that requires a separate source of funding.

Measuring Impact: At a very basic level, the easiest means for measuring impact of USAID support would be to look at the number of advocacy and lobbying contacts that occur between NGOs and civic organizations with concerned agencies of the state. Next, a means for determining whether these actions have actually led to the drafting and passage of relevant legislation; or, whether civic organization oversight of the state's enforcement of current legislation leads to interventions being taken to curb state abuse of authority when its actions are found to be inconsistent with the intent of a specific law.

The Specific Issue of Women:

Many donors now target their associational and organization activities specifically at women and there are good historic reasons for doing so, and good evidence from field experiences to confirm the wisdom of this approach in terms of its outcomes.

The question is how should this be handled in USAID/Niger's SO and POs. There are two options: (i) attention to women can be handled as a specifically separate PO, or it can be embedded in all of the POs noted above (mainstreamed). We have opted for recommending the latter course, although this means that a special effort must be made to assure that women are free to organize, that their organizations will get the targeted attention of projects and not simply pass through "village development committees" which are invariably male run. In some instances, such as the CLUSA credit cooperative scheme, women are already a targeted group. Efforts to extend health and family planning services below the Rural Dispensary level should also carefully target women as a separate activity.

4. Framing and Dealing with Critical Assumptions

A problem confronted in the current Program Planning document (June 8) is that critical assumptions are not always stated in terms that are realistic and evolutionary. Instead, they sometimes appear to confuse desired outcomes of a process (sometimes a long process) with necessary conditions. What is required are minimum conditions and positive trends, not fully mature and developed democratic governance behaviors which are the desired end of program or project outcomes.

a) Planning Assumptions at the Goal Level and in Terms of Other Strategic Objectives

Political Stability Assumption: The current PPA takes as a high-level assumption political stability. A better way to frame this critical assumption might be to say: *"The regime continue to permit and expand politically accountable government, and permit and expand legally sanctioned opportunities for participation in governance."*

Population and Health: Given the current ambiguities in the government's position on decentralization, it would be better to say that: *"The government permit and take steps to expand opportunities for meaningful decentralization of the management of health resources at lower levels of the territorial administration, including a growing willingness to permit decentralized management of cost recovery."*

Agriculture and Natural Resource Management: The blanket commitment to implementing the entire Rural Code may not be realistic or operational. Perhaps it is better to say: *"That the government manifest a willingness to legislate and implement legislation specifically relevant to settling land tenure and land use conflicts."*

b) Some Tentative Critical Assumptions of our Proposed Project Outputs

P.O. 1: That the government is willing to permit the legal emergence and recognition of NGOs and a variety of rural voluntary associations whose purposes do not violate democratic and constitutional principles and rights.

P.O. 2: That local technical assistance and training expertise in the area of capacity building for local associations exists or can be created with external assistance.

P.O. 3: That there be a sufficiently well-developed local associational life to support and be interested in horizontal linkage, information sharing, and the recognition of common problems and opportunities; and that the government permits these kinds of meetings.

P.O. 4: That local specialized civic organizations have or can acquire the capacity to develop and extend information concerning the legal environment that most affects the creation and operations of local voluntary associations. This would include the interest and capacity of private, associational and public media to be able to report on such legislative initiatives.

P.O. 5: That the government be willing and politically able to develop and introduce these specific types of enabling legislation; that the government permits civic groups to undertake this kind of civic education; that a sufficient number of Nigerien NGOs and civic groups be interested in undertaking this type of civic education.

P.O. 6: That within the non-state sector there exists an interest and capacity to: (i) formulate new policies and draft legislation -- both program sector specific and those which take the larger view of associational life -- and to advocate for their adoption by government; (ii) to be able to analyze draft legislation proposed by the government, and to make known to government and advance the views of interested civil society actors concerning these proposed laws; and (iii) initiate legal suits against government when existing legislation are not being adhered to. Underlying these assumptions is the expectation that all three branches of government demonstrate a willingness to open the policy, legislative and judicial arenas to non-state actors, something that current laws do not always require or permit.

5. Specific Recommendations Based on Governance Implications

USAID/Niger Project Portfolio and Democratic Governance Issues

In the process of preparing the Strategic Approach and Recommendations section, the assessment team reviewed project descriptions and met with project officers and senior management from USAID/Niger intensively from August 18, to August 23, 1994 to determine what governance issues had emerged from the implementation of existing programs, and which could be anticipated from newly planned ones. This exercise was undertaken in order to ensure that the assessment recommendations were responsive to Mission needs which centered on the "cross-cutting" dimension that democratic governance principles and approach should play in the design and implementation of Mission programs and projects. The following is our best understanding of these issues:

SIMILAR GOVERNANCE ISSUES ACROSS THE PORTFOLIO

We noted that in the four areas of USAID's concentration on projects explored, the governance issues are very similar. Globally they involve:

- (i) Organizational, interministerial and accountability issues at the level of national government.
- (ii) Limited policy formulation and adoption processes among national actors, including political parties and coalitions.

- (iii) Issues of decentralization involving the devolution of authorities and rights, and of governmental competence and accountability at the lowest administrative level (mostly the arrondissement at this point).
- (iv) Issues of local level organization below the arrondissement level. Issues of effective participation, inclusiveness, and management capacity at this level.
- (v) Issues of political relationships at all levels including the level of "local government." (Conflicts for partisan reasons between administrators and elected councils, and between members of unions and other professional associations and local level authorities).
- (vi) The use of "traditional" authorities in local governance.
- (vii) The viability of village-level administration as a level of effective voluntary local governance.
- (viii) The devolution of local revenue collection and management functions to lower level politico-administrative units, versus centralization and the "caisse unique" principle of financial management.
- (ix) Issues of clarifying legal mandates in national legislation where there are serious authority gaps, confusion about which rules pertain, lack of harmonization of principles and rules among various codes, and the use of framework or orientation laws without sufficient amplification to make the rules clear.

In the section below, we discuss how a number of these governance issues have come up in one sector, health, and then in a much more summary fashion how similar issues pertain in cooperatives and micro-enterprises, natural resource management and disaster mitigation.

GOVERNANCE IMPLICATIONS IN SECTORAL PROGRAMMING

Each of the four program areas will be discussed in terms of the general governance issues described above.

a) Health Support, Family Health and Demography

(i) Complexity of interministerial relations and policy reform

Multiple Ministries, i.e., Health, Finance, Plan, are responsible for dealing with program and project conditions precedent, causing delays and excessive complexity. Before the Third Republic, some Ministries could cause delays but had limited interest in doing so. In the current era of multi-party politics, where different Ministries can and are composed of different political parties, dealing with multiple Ministries is even more difficult and should be avoided if at all possible.

(ii) Internal accountability of health ministry

This issue may be resolved or addressed through the appointment and proper functioning of an Inspector General for the Ministry of Health or by making an independent body responsible for oversight.

(iii) General resistance to the "privatization" of the health system

USAID should consider running a national workshop for health providers and pharmaceutical suppliers to deal with the issue of privatization and access assurance. In reality, a certain amount of Niger's medical supply is already in private hands, as is a good portion of health service supply (modern and traditional healers, etc). The concerns about quality and access, cost and reliability of health services should be publicly addressed so that key actors can start moving toward more widely accepted policies. It is likely that the more local the management of this issue, the less resistance there will be to privatization.

(iv) Accountability and participation

The option which the GON has taken for cost recovery through the indirect method needs to be monitored carefully, given the history of distrust, and particularly financial distrust, of government administrators by the local population. The possible effects of politicization of local government management in councils and council executives elected by political party slates also bears watching.

(v) Clarifying legal mandates

Under the current pilot test for cost recovery, the Project was able to get an Arrete (31 August 1993) needed to establish a structure and to allow for decentralized management of funds and their deposit in a local Postal Savings Account. This Arrete took a long time to obtain, is fairly complex and covers only the pilot period in a few test arrondissements. As the GON opts for a general system for cost recovery, similar legislation must be put in place nationwide. It will need to be brought up to date to deal with the new structures envisioned at the arrondissement level, and eventually at the level of the "local assembly" to correspond with a new lower level of local government and the new health structures at the regional level which are not currently in the decentralization law.

(vi) Decentralization and participation

In its new design (Population and Health), USAID should consider building in conditionality and technical support to encourage the establishment of local (post administrative level) governments with powers to manage local resources more closely to the people, and perhaps with authority to work with rural dispensaries.

The Project should work for permanent legislation which will make it possible for rural dispensaries to have some financial management capacity in association with the tutelage of the new level of local government, and for a similar arrangement at each level of local government up to the departmental or regional level.

It should consider associating new local government councillors in health and financial management so that this does not mainly become a matter for central government representatives (sous-préfets, etc). It should consider helping the GON set up a health committee in the arrondissement council and new lower level councils, with some training of these councillors and executives in local health finance management as a way to do some general capacity building at this level.

Particular attention should be given to how the population should be involved in health management issues. The pilot Arrete did not involve elected representatives of the population at each appropriate

level. An effort should be made to do this, and particularly at the lowest level of functioning local government possible.

(vii) Decentralization and administrative hierarchy

The rules concerning how much taxing authority local governments will have, and for which specific areas, are not clearly spelled out in the decentralization law. If at all possible, USAID should assist through this project to help make these authorities clear, to maximize the taxing authority of local governments, and to maximize budgetary and financial control over locally raised revenues. This involves carefully reviewing with national government officials the operation of the "caisse unique" principle, and whether more authority for retaining and managing a portion of local tax revenues can be developed.

(viii) Issues of extension below the rural dispensary level

The primary issue is that of effective local governance and self-governance. The best that one can expect in the current decentralization system is that the level below that of arrondissement will be created and made operational. Villages and the old UNC level cooperatives have no official local governance roles or powers. USAID should work with the GON to develop as flexible a notion of decentralization as possible, including and recognizing the role of special districts within local government to provide a framework for dealing with real associational participation below the post administrative level. These de facto units do not have to have full legal recognition as local governments if they are not excluded from forming themselves as groups who can negotiate with and deal with local government. Review of the Rural Code, new Cooperative and Credit Union laws should be undertaken to determine whether associations formed under them have legal standing to manage some aspects of local level health care.

(ix) The base-level unit of local health management

If the new project wishes to get below the rural dispensary level, it should be very wary of accepting as a given that villages are viable units of local self-governance. Villages have had no recognition as local governance units, and we argue that they are often not effective units of anything more than administrative convenience. The project should explore working with voluntary associations, particularly groupings and federations of voluntary associations as they emerge, as units for participation in health education, training and health service organization (as an alternative to the "village" health worker or health team). An alternative would be to make certain that local-level associations are represented on "village" health committees so that there can be an expansion of participation, particularly by women and other local minorities who might well be associated for a variety of purposes but excluded from "village" management.

Special care must be taken when "villages" are asked to undertake self-taxing for the payment of a local health para-professional or the replenishment of a "village" pharmacy. Limited local level survey data shows reluctance to take on financial and managerial tasks at this level.¹² Since there is no legal

¹² See Zinder Department, DDS, " Resultats de l'Enquete d'Opinion effectuees du 4 au 13 mars 1992 sur l'auto encadrement sanitaire dans l'arrondissement de Matameye." There is a serious need for additional base-level survey work on local associational life and health management (see Annex 4 of this report for a survey proposal).

authority for taxation at this level, and the notion of the "village" as a viable local government unit is questionable, USAID and the GON need to explore other approaches.

(x) *The use of PVO/NGO health intermediaries*

Niger can be considered to still be in the phase of experimentation in this area of local service management and financing. Much of this experimentation will have to be undertaken by international NGOs, perhaps partnered with Nigerien NGOs, who should be encouraged to explore a variety of local-level intervention strategies beyond the usual adoption of the "village" as the appropriate unit.

(xi) *Role of traditional authorities and local health management*

In our report we argue that traditional authorities (above the level of village headman) have become more and more involved in economic and social development activities. There are real issues of democratic governance involved in perpetuating this trend. As non-elected (except in the most recent cases, and then only by headmen) officials, they can be understood much more as representatives of national power than as local governance agents. In addition, many are now involved in political party activity (all officially deny this for legal reasons). Using traditional authorities to help organize local level services, particularly where local taxation (including de facto, as in expectations of collective support for a health worker) is involved, is a dubious governance strategy in an era of increased democratization. Village headmen may or may not be viewed as having widespread village support. They should thus be treated no differently than other traditional authorities because, generally, they are leaders of local-level factions or representatives of a single dominant village-level lineage group.

b) Cooperatives and Micro-Enterprise Development

(i) *The legal framework*

There has been no change to the current cooperative law on the books since the beginning of the era of political liberalization. The current law dates to 1989. A draft law is under consideration. A new law is needed which gives cooperatives true autonomy. There is no comprehensive law governing credit unions, and this is very much needed to facilitate the growth of credit beyond the commercial banking system. Given the limited capacities and non-localization of commercial banks, a fully legal credit union system is vital to stimulate rural production and savings.

(ii) *Cooperative association structures and higher level organization*

The UNC system of officially mandated cooperatives is still legally in place, attached to the Ministry of Agriculture and Livestock. Historically, the integration of cooperatives into national government has proven to be a very poor idea for cooperative management, assets and viability. There is no apparent reason why this structure should persist. Where the UNC or ONAHA continue to manage irrigated agricultural activities, USAID should consider urging their privatization, perhaps with technical assistance as needed. For village level cooperative credit and marketing, the UNC system is effectively dead, and many of its important duties, such as providing convenient low-cost marketing mechanisms for rural production are moribund. In the current context, it makes no sense for this structure to be involved in

marketing in any national way. The persistence of UNC in legal terms preempts the terrain for more economically viable forms of organization of specific cooperative functions.

The most serious problem that the persistence of the UNC system seems to pose is its constraint on other forms of cooperative federation. This point should be carefully investigated, since horizontal linkages and the vertical federation of cooperatives will be an important development for Niger's rural production and credit structures, with potential importance as a rural interest group.

(iii) *Base-level organization*

In the past, the UNC system was based on a mixture of presumed voluntary (but in fact administratively-designated associations like the GMV) and quasi-voluntary, top-down organized associations around an improved natural resource (GMP). Both structures are in considerable disarray if not totally defunct. The current rules governing rural associations leave unclear the legal standing of a variety of flexible localized voluntary associations with an economic vocation, such as GIEs (groupements d'interet economique). These rules should be clarified, since associations of this type can constitute single-purpose economic associations which can complement cooperative structures and multiply the number of types of local economic associations.

(iv) *Multiple credit models*

Currently, USAID/Niger is supporting at least three different models of credit and savings through various projects managed by U.S. PVOs. These are somewhat inconsistent in terms of their incentives and rules, and local management and governance implications. USAID should synthesize these experiences, looking for evidence of sustainability, local participation and capacity building, and should select one or more models for widespread promotion which employ similar approaches and have similar governance implications, subject to comments and acceptance by the Nigerien people (not just government) in specific contexts. The same type of association may not, for example, be suitable to both pastoralists and sedentary farmers, but the general associational principles can be similar. What is probably most important is the avoidance of the message that this round of credit will be like so many earlier ones: poorly managed, with low expectations that repayment will be required, and with little in the way of local-level member resources at stake.

(v) *The time frame for cooperation credit and savings support*

USAID should, in reviewing its experience in this area and in designing follow on activities, consider the following: credit and savings development will have a long-term commitment, broadly promoted with deepening managerial skills, and gradual movement toward federation over the next 10-20 years. If the process does not reach a critical mass of associations and capacity before support is withdrawn, the development of the next step may be seriously retarded. Being involved in this sector appears to be very high priority, but requires a long-term commitment. It is our conclusion that it is only now that cooperative and credit union movements have the opportunity to move beyond small-scale, and in most cases, isolated organizational set-ups. It is, therefore, recommended that in the coming design of its new enterprise development program, the Mission consider looking for ways of keeping both CLUSA and WOCCU active in this programmatic sector.

c) Natural Resource Management Activities

(i) *Central control*

At present, the national executive has a virtual monopoly over policy analysis and evaluation. This limits both the range of issues and solutions discussed as it effectively limits public input. It would be desirable to increase public participation by strengthening the capacity of national parliamentary commissions to discuss natural resource management issues, eventually extending this analytic capacity to local government commissions.

Central control in the form of tutelary authority will tend to stifle local consideration of NRM issues and solutions, and needs to be reduced. The Rural Code states that local government units may constitute authorities to control activities of local groups in this area. If such authority is in fact authorized, central control in these areas should be limited.

(ii) *Appropriateness of local partners-actors*

The tendency has been to view local governments as the only legitimate local actors. USAID should explore the possibility of working with self-governing jurisdictions in such areas as watershed management and forestry management. These units may or may not correspond with territorial authorities. They will often be associations that group people from a number of different territorial units around a common interest -- often related to a natural resource use.

(iii) *Legal issues*

Laws governing the use of natural resources and their management are still very vague and may well be contradictory in different codes. USAID needs to focus on which areas of law are of greatest importance to its natural resource management activities and then work to support clarification these specific rules, rather than trying to support and implement an entire code such as the Rural Code. In some cases the broader code does not provide a means of resolving conflicting rights (herders versus farmer use rights, for example). A good deal must be done to harmonize the Rural Code with other specific codes as well. We also need to clarify specifically what Article 138 of the Rural Code means about consulting the population before undertaking development projects. The nature of this consultation should encourage the population to be increasingly involved in analysis, evaluation, rules setting, and rule enforcement, not just in influencing the design.

(iv) *Conflict management mechanisms*

No matter how well defined the rules are, there will be serious and persistent conflicts over natural resource use, and USAID can contribute to help reinforce mechanisms for dealing with such conflicts in a peaceful manner. One way would be to involve users in an evaluation of existing methods of resolving disputes and draw general lessons for adjudication or mediation. Rules also have to be clearer, and more widely available to mediators and judges. Civil administrators, including newly elected officials will need some training in how to deal with such use-right conflict issues. In general, strengthening municipal government and increasing local participation should help to deal with these conflict and management issues.

(v) *Amending legislation*

USAID should consider introducing conditionality in its NRM programs around the fleshing out of Title I Chapter 3 of the Rural Code on the financial standing and autonomy of rural groups, and should encourage a process whereby applications for recognition will be considered to be automatically approved if not acted upon within a specific time.

(vi) *Participation and regional knowledge*

USAID needs to think more about involving local populations through their associations in all aspects of NRM through the promotion of self-surveys, development of simple manuals in local languages to enhance the knowledge base, and networking with other groups, including elsewhere in the Sahel.

d) Disaster Mitigation

Once the disaster mitigation fund comes on line, there will be the need to find ways to conduct small-scale disaster mitigation projects, many of them connected to natural resource management and credit issues. The problems here are similar to those discussed above. The core questions involve local authority and capacity, and the selection of viable local partners. Since a great many small and discrete activities may result from the use of the fund, it is important to conduct an associational/organizational inventory survey which would permit the contractor to have a deeper awareness of the options in making grants and in undertaking activities. Such a survey could be conducted in a self-study and self-analysis way, which would broaden local participation from the outset. (See recommendation in Annex 4 for survey).

6. Operationalizing Democratic Governance within the Mission and "Marketing" the Logic of Democratic Governance and Sustainable Development

If the Mission adopts D/G as a cross-cutting objective, the USAID staff will need to thoroughly understand the logic of the D/G SO and POs for two reasons:

- so that they can integrate the principles into their work of managing and implementing projects; and
- so that they can communicate to the people they deal with in the GON, other donors, others involved in project implementation and other Nigeriens why these principles are important for their projects and for sustainable development in general.

The D/G SO will need to be "marketed" carefully; if it is not, there is the risk that people will assume that the US is either interfering or trying to promote an American model. The USAID staff must be able to articulate in a consistent way why they are pushing for specific changes or using participatory methods or choosing to support some activities and not others. They should be able to explain why certain macro-political tendencies support better governance and others threaten the success of their projects. They need to be able to recognize a governance problem or opportunity when it arises. If they are charged with being anti-government, they need to be able to show how what they are doing is pro-democratic governance.

Many Nigeriens told us that one of the great needs is to educate the "politicians" in the rule of law and the principles of democratic governance. Our analysis of political behavior at the national level proves them to be accurate in their assessment of a need. The question is what can the US country team usefully and appropriately do. The team recommends two strategies: 1) making a commitment to take advantage of opportunities as they arise, and 2) taking the time to talk regularly within the country team about the macro-political environment and the effects on D/G, and deciding whether there are specific issues that should be addressed, and how. The first strategy does not require more than the training recommended above and a small budget for seminars.

If USAID staff have a good understanding of the D/G principles, they will have opportunities to talk with their contacts in government. The Embassy and the Mission Director carry the burden of policy dialogue on D/G topics. USIS Worldnet programs and seminars can play an important part. In Ghana, USAID supports a local think-tank that holds weekly non-partisan discussions on current policy topics for government figures, senior civil servants, local experts and members of Parliament; perhaps one of the human rights groups here could play the same facilitating role. If not, the country team should find an appropriate means to bring senior people together in an informal and non-partisan setting.

The second strategy requires time and discipline but it fits well with the management-by-objectives or strategic management requirement to consider at regular intervals what external factors should be analyzed as potential opportunities or threats. The action plan that follows can include how to communicate to others the logic of the analysis and the reasons for relating project specifics to the macro-political framework.

These recommendations flow from our assumption that projects will have a greater chance of achieving their objectives if the project managers and the country team do what they can to make the larger political arena more enabling, both by pushing for certain specific changes in laws, procedures, etc., and by persuading people that movement in the direction of democratic governance is instrumental: when certain elements are in place, Niger will be a better place to live.

ANNEX 1: SCOPE OF WORK

**IMPROVING DEMOCRATIC GOVERNANCE FOR
SUSTAINABLE DEVELOPMENT**

AN ASSESSMENT OF CHANGE AND CONTINUITY IN NIGER

FINAL REPORT: OCTOBER 27, 1994

Article I - Title

DEMOCRACY AND GOVERNANCE ASSESSMENT OF GUINEA

A. BACKGROUND

During the First Republic, 1958-1984 under President Sekou Toure, Guinea was virtually isolated from the rest of the world and its centralized economy caused its once dynamic agriculture sector to regress to subsistence production. Politically Guinea became a one party state based on democratic centralism and socialist principles centered around the personality of Sekou Toure. When the First Republic was ended by a military coup in 1984, it left an onerous legacy: an economy in shambles, including its once prosperous agricultural export sector, other rural sectors reverted to a subsistence mold, private sector activities and initiatives practically destroyed, development of autonomous voluntary associations and local initiatives stifled, absence of a legal framework to solve institutional disputes, poorly trained human resource base that could not manage the economy nor the government bureaucracy, no confidence in public institutions and administration. This situation caused the dissolution of Guinean institutions.

Since the advent of the Second Republic following the military coup in 1984, Guinea has undergone radical institutional changes. The Second Republic ushered in political and economic liberalization. The new government entered into an economic and financial structural adjustment reform program with IMF/World Bank which transformed the banking and monetary systems, reduced state interventions, privatized or liquidated most state enterprises and sharply reduced the size of the civil service. These reforms set the stage for a boom in trade, an expansion of the informal sector in Conakry and a revival of agricultural production. Despite these successes, the reforms have not created a business climate that attracts foreign and large-scale domestic private investment. High transaction costs, bureaucratic delays, corruption, poor telecommunications and inadequate transport infrastructure remain constraints to expansion of the formal sector. The informal sector, however, is booming without government involvement.

Despite macroeconomic and administrative reforms and progress towards improved legal and regulatory systems, the institutional and legal foundations are not yet established to sustain a liberal economy. Constraints to implementing

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administrative and economic reforms include: the dissolution of Guinean institutions during the Sekou Toure years; the lack of precedent for an economy based on titled property, contractual relationships and court adjudication; and the bureaucratic inexperience and inadequate management qualifications of the vast majority of its civil service.

As was done during the colonial era and the First Republic, most institutional reforms of the Second Republic have been initiated from above with little popular consultation thereby gaining very little deep popular support, particularly among groups that have lost ground economically.

In the political realm, the regime has made considerable progress despite initial procrastination in establishing national democratic political institutions. Formation of political parties is now legal. The constitution approved in 1990, commits Guinea to democratic government, and calls for a democratic regime to be installed by 1995. Municipal elections took place in 1990. In December 1993, Guinea held its first free and open presidential election. The legislative round of elections is scheduled for December 1994. The government is concentrating on reorganizing the territorial administration from the ground up. Within its decentralization program, the government is replacing centrally run subprefectures with popularly elected local government, Rural Development Commiteetes (CRDs) in the rural areas and municipal councils in the urban areas. Despite these achievements, the standards of management, performance and integrity in government have been deteriorating from the early years of the First Republic through the present Second Republic. Current prevailing norms are having a negative impact on the expansion of the Guinean economy, the distribution of its benefits and the creation of a stable society with mass participation.

B. PURPOSE OF THIS ASSESSMENT

The purpose of the assessment outlined below is to provide USAID/Guinea, as well as other members of the country team with a more comprehensive understanding and analysis of the democracy and governance situation in Guinea as of late mid 1994. At the most general level the objective of this assessment is:

. to assist USAID/Guinea and the country team to improve their capacity to help the Guinean people in their pursuit of sustainable economic development and empowerment, while furthering democracy and creating a system of effective governance.

More specifically, the assessment is intended to

. provide data and analysis which will be useful to the mission in the formulation of its new country strategy (CPSP) in 1996;

. identify constraints to progress in both economic development and the further political democratization of Guinea society and government;

. suggest, through this analysis, areas of long-term support through which existing USAID/Guinea projects and programs might be capable of helping to, remove specific governance and democracy constraints identified;

. suggest a conceptual approach through which USAID/Guinea might, should it so decide, identify new project activities to further democracy and good governance in Guinea as a contribution to its achievement of sustainable development.

Article II - Objective

Following the development of a strategic approach to supporting democracy and good governance both at the Agency level, and in the Africa Bureau, this assessment shall concentrate on the following issues:

. the growth of democracy and governance based on rule of law, on assurances of basic human rights, and on a legal and regulatory environment compatible with the development of commercial and non-commercial life independent of government;

. the growth of institutions of government which are effective, accountable and responsive to public needs and demands;

. the growth of a vigorous civil society, and of its capacity both to meet the needs of the Guinean people and to effectively express these needs to the holders of governmental authority.

. the growth in capacity of the Guinean democracy and good governance to resolve conflicts peacefully.

Article III - Statement of Work

1. Within the broad objectives and focus of this assessment, the Contractor shall provide the following information, including, but not limited to:

- . governmental structures and processes, including:
 - the organization and functioning of the executive,

- the bureaucracy and civil service,
 - structures of decentralized administration,
 - the legislature,
 - the judiciary
- . legal underpinnings
 - informal legal norms,
 - constitutional law,
 - framework laws,
 - implementing legislation,
 - pre-existing decrees
- . institutions of civil society, including:
 - unions
 - youth groups, formal and informal, including notably student associations,
 - employer and trade associations,
 - producer and commercial associations,
 - political parties,
 - professional associations,
 - religious and cultural associations
 - grass-roots non-governmental associations.
- . linkage structures - formal and informal structures by which civil society attempts to meet with, bargain with and communicate with state actors.
2. Provide an analysis and evaluate the state of the following processes:
- . functioning of the electoral system for free, fair and competitive choice processes and determine the constraints on higher rates of participation in elections (IFES has done some of this already. This assessment should fill in the gaps);
 - . evolving relationship between different legal codes -- non-formal, commercial, criminal, administrative, and how they are being integrated into a single legal "regime";
 - . development of governmental transparency and mechanisms for dealing with corruption;
 - . capacity of the executive branch to make and implement coherent policies;
 - . strategies which the government has been evolving to gain legitimacy and maintain a functioning coalition, and the effects of these strategies on economic policy formulation and implementation;

- . capacity of the executive branch to meaningfully decentralize public administration and to be more responsive to non-state actors at each level of administrative organization;
 - . capacity of the legislature to initiate law, to debate and modify law proposed by the executive, and to represent constituency interests;
 - . capacity of the judicial system to efficiently render fair, impartial judgements relatively free of political influence and executive pressure;
 - . capacity of civilian political actors to regulate and control the coercive services, and to reduce the use of extra-judicial force against citizens;
 - . capacity of citizens to publicly express themselves in public meetings and in media without undue regulation and state-sanctioned coercion,
 - . capacity of non-state associations, including commercial interests, to freely associate, and to gain or increase their ability to communicate with and interact with government.
 - . the impact of proliferating non-state associations and interest groups on social solidarity, on coalition formation, and on policy coherence specifically with regard to economic policies;
3. The consultants will include in the assessment any other analytical issues deemed important to the realization of the objectives of this assessment.

METHODOLOGY

- A. Participation in a pre-Assessment team planning and briefing review in Washington, D.C. for the team leader and for other U.S. based members of the team. This review will be with the appropriate units Agency concerned with Democracy and Governance issues including the Africa Bureau, with the Guinea Desk and the U.S. information Agency, and with the Africa Affairs Bureau of the State Department.
- B. The team will review background documents.
- C. U.S. members of the team will undertake field work consisting of two trips of four weeks each in Guinea.
- D. The entire team will participate in a team planning and

briefing review in Conakry, to be facilitated by the Program Officer and the Democracy and Governance Advisor at USAID/Conakry. The team will meet with relevant U.S. government representatives from A.I.D., State, USIA, as well as with several key members of Guinea government, the media, and the NGO community during this review process. At the end of this review (no later than end of week 1), the team will present a detailed work plan for fieldwork to be conducted during the remainder of the first trip, and a draft outline of the report they envision preparing. This report will be discussed with the mission.

E. The team will conduct reconnaissance in Guinea to provide detailed information of the topics and processes indicated above.

F. At the end of week 4, the team will submit a preliminary draft report of findings and issues, and will provide an oral briefing for USAID/Guinea and the Embassy.

G. The second trip will refine the study in accordance with reactions, recommendations, and requests by USAID/Guinea and AFR/ONI/DG following the study of the initial trip report. At the end of two weeks the consultants will prepare a draft revision of the initial trip report, addressing issues and matters as directed by USAID/Guinea and AFR/ONI/DG. A copy of this draft will be transmitted electronically to Washington, D.C. for review by AFR/ONI/DG. By the end of the 4th week, consultants will leave a final completed report in English. A translation into French of a summary of the interim report (including findings, conclusions and recommendations) will be submitted to USAID/Guinea within two weeks of the conclusion of the first trip. A translation into French of the final report will be submitted to USAID/Guinea within two weeks of conclusion of the second trip.

H. The Contractor will provide necessary word processing, computer, editorial, translation and secretarial support services, as well as transport necessary to fulfill all tasks outlined above.

I. Consultants will brief USAID and Embassy personnel on a weekly basis.

Article IV - Deliverables

Phase I

End of Week One: A detailed work plan for field work to be completed during the first visit, and a draft outline of the report to be delivered at the

end of the first field visit.
End of Week Four: A preliminary draft report of findings and issues supplemented by an oral briefing for USAID/Guinea and the Embassy. A French version of the summary, findings, conclusions and recommendations.
End of Week Six: Reactions, recommendations and requests by USAID/Guinea and AFR/SD following receipt of the study preliminary draft report shall be transmitted to the Contractor not later than two (2) weeks.

Phase II

End of Week Two: Two (2) weeks after receipt of comments from USAID/Guinea and AFR/SD on the study preliminary draft a draft revision will be made of the initial trip report addressing issues as directed by USAID/Guinea and AFR/SD.
End of Week Four: Two (2) weeks after receipt of USAID comments as described above a final completed report in English will be delivered.
End of Week Eight: Four (4) weeks after USAID's acceptance of the final completed report in English a French translation of the final report will be delivered.

ARTICLE V - TECHNICAL DIRECTIONS

Technical direction during the performance of this delivery order will be provided by Robert Shoemaker AFR/ONI/DG, pursuant with the contract.

ARTICLE VI- TERM OF PERFORMANCE

A. The effective date of this delivery order is September 12, 1994 and the estimated completion date is December 18, 1994.

ANNEX 2: INDIVIDUALS AND ORGANIZATIONS CONTACTED

**IMPROVING DEMOCRATIC GOVERNANCE FOR
SUSTAINABLE DEVELOPMENT**

AN ASSESSMENT OF CHANGE AND CONTINUITY IN NIGER

FINAL REPORT: OCTOBER 27, 1994

INDIVIDUALS AND ORGANIZATIONS CONTACTED

INTERVIEWED IN NIAMEY

U.S. GOVERNMENT AGENCIES

Huso, Ravic, Deputy Chief of Mission, US Embassy, Niamey

Patterson, Ken, Director, Peace Corps

Stanton, Shirley, Public Affairs Officer, United States Information Service

United States Agency for International Development:

Aboudcar, Souleymane, Democracy and Governance Liaison, Project Design Office

Amadou, Seidou, CLUSA Project director

Anderson, Jim, Director

Collins, Cathy

Djibo, Hadiza

Iddah, Sidi Mohamed. Acting head of NEPRP

Merritt, Gary, Program Officer

Miller, David

Oumaraou, Ibrahim, ASDG Development Specialist, NRM

Nissly, Curtis

Puffenberger, Katherina

Simmons, Keith

NON-GOVERNMENTAL ORGANIZATIONS

Aissatou, Mme Sadou, Secretart General, Association Femmes de Niger (AFN)

Allagbada, Elaine, President, Association Femmes Juristes (AFN)

Ayouba, Ibro, Secretary General, Syndicat des Agents de Douanes (SNAD)

Barry, Mme., Treasurer, GERDDES

Bayaert, Mariam, President, Rassemblement Democratique Femmes Nigerienne (RDFN)

Changari, Moussa, Former Secretary General, Union Scholaire Nigérien

Djadah, Abdoulaye, Secrétaire-Général, Chambre de Commerce, d'Agriculture, d'Industrie, et d'Artisanat

Djibril, Abarchi, Vice President, Association Nigérien pour le Defense de Droits de l'Homme (ANDDH)

Gaoh, Oumarou, Executive Secretary of Action pour le développement Rurale Intègré

Godfrey, Mike, Director, Care International

Kamaye, M., President, Group des Association Privée (GAP)

Mayaki, Ibrahim, Secretary General, Union Syndicale des Travailleu Nigérien (USTN)

Mayer, Joan, IEC Advisor, University Research Corporation

Niandou, Chaibou Zada, Journalist, Voix du Sahel (ORTN)

Pare, Benjamin, Conseiller en Gestion, Innovations et Reseaux pour le Développement (IREDD)

Selle, Boukary, Director, Clusa/Apor

Senou, Joseph, President, Ridd-Fitila

Sidifou, Chief Garba, Secretary General, Association des Chefs Traditionalls

Simmons, Reggie, Representative, AFRICARE

Winterbottom, Bob, Chief of Party, International Resource Group (IRG)

Women's Sections from Anasi, Islamic Association

Yatouba, Soulaye, Secretary General, Mooriben Peasant Federation

Yenekoye, Josphe, President, Démocratie, Libérte, Développement DLD and Dean of the Faculte des Lettres et Sciences Humaine, Universite de Niamey

Younoussi, Boukary, Secrétaire Général, IRED

DONORS:

Andreoni, Eddy, Director, Italian Cooperation

Cliche, Andre, Director, CIDA (Canada).

Deschuytener, Guy, Regional Director, Belgian Cooperation

Dossou-Yovo, Paul, Senior Clerk, World Bank

Fall, Bagnan Aissat, former Minister for the Promotion of Women's Affairs during the Transition, currently technical assistant for IFD Project, PPOAF/FED women's projects, Niamey

Fall, Aissata Bagnan, Director, Fonds European de Développement, Women's NGO Project

Moestrup, Sophia, Resident Representative, DANIDA.

Rothweiler, Wilfried, Advisor, European Community (FED)

Schlechter, Marguerite, Acting Director Swiss Cooperation.

Sorby, Robert, Mission Director, French Aid (FAC).

Verhoeven, Angelique, Acting Director, SNV (Netherlands Development organization)

MUNICIPAL GOVERNMENT, NIAMEY

Barry, Dibata, Commissariat du Police de Niamey

Idi, Manou, Secrétaire Général de la CUN, Communauté Urbaine de Niamey (CUN)

GOVERNMENT OF NIGER

Diollo, Yacine, Village chief in the Canton of Tamou, Niamey

Gana, Mai Mai, High Commissioner, Haut Commissariat à la Réstauration de la Paix

Idrissa, Esther, Secrétaire Général, Ecole Nationale de l'Administration (ENA)

Laya, Dioulde, Director of the Center for Research on Oral Traditions, Niamey

Maigana, Mainassara

Mamadou, Baba Omar, Director du Travail et de la Sécurité Sociale, Ministère de la Fonction Publique, du Travail, et de l'Emploi

Ministère Chargé de la Reforme Administrative et de la Décentralisation

Mamane, Mounkaila, Directeur de la Reforme Administrative

Mamane, Moussa, Directeur de la Décentralisation

Ministère de l'Interieur

Ido, Daouda, Directeur de l'Administration Territoriale

Missoufou Maazou, Directeur des Affaires Politiques et Juridiques

Secrétariat Général

Bonkoula, Aminatou Mayaki, Director, Journal Officiel

Larwana, Ibrahim, Director, Legislative Service

Moutari, Moussa, Secrétaire Général du Gouvenment

Yansambou, Idrissa, Director, Archives Nationales

NATIONAL ASSEMBLY

Amadou, Hama, MNSD Deputy and Secretary-General, President of the Parliamentary Opposition Group, and 3rd Vice President of the National Assembly, Niamey, 8/4/94

Bazoum, Mohamed, 2nd VP of the National Assembly, PNDS party

Djermakoye, Adamou Moumouni, President National Assembly, ANDP party, Niamey

Oumarou, Issa, Assistant Director, Legislative Division

INTERVIEWS: MARADI AND ZINDER FIELD TRIP

Maradi

Ali, Doulaye, Regional Deputy Director of Agricultural Service

Amadou, Dan Azomi, Secretary-General to Mayor of Maradi

Boutaré, M., Percepteur in Tibiri Market

El Hadi, Maraka, Secretary-General of Syndicat des Commerçants, Tibiri, also President of MNSD in Tibiri

George, Françoise, Regional Director, Administrative and Financial Division of Health Service

Kané, Salou, Mayor of Maradi

Malé, Idi, Préfet of Maradi

Mourou, Daouda, ANDDH, Maradi

Moussa, Ibrahim, Deputy Secretary-General, SNEN, Maradi Region

Nogogo, Agada, Provincial Chief Tibiri, Maradi

Sabi, Ibrahim, Secretary for Negotiations and Conflict, USTN, Maradi

Salifou, Ibra, Secretary-General, USTN, Maradi

Salifou, Mahamane Mamane, Deputy Treasurer, SNEN, Maradi

Salifou, Makobo, Sous-préfet Guidan-Roundji

Tanakara, Banoa, DLD, Maradi

Zinder

Abani, Abdiul Karim, Secretary General of MNSD-Nassara, Zinder (Businessman)

Abani, Mala, Head of Credit Service for CLUSA project, Matameye

Abdou, Elhadji Sanoussi Tanimoune, Information Secretary of the Syndicat des Commerçants, Maradi, CDS party

Abdou, Maman, CDA, Matameye

Abdou, Moutari, Substitute for the Procurer of Zinder

Adamou, Issoufou, PSBD-Alheri, Zinder (teacher)

Adamou, El Hadi, Judge of Instruction, Zinder

Agada Nagogo, Provincial Chief, Tibiri, Maradi

Albert, Françoise, ex-village level trainer for CLUSA, Matameye Arrondissement

Alfari, Daouda (MD), Chief of Health Service for Zinder

Alhassane, Elhadji Adamou, President of the Islamic Association [NRC]

Ali, Doulaye, Deputy Director of Agricultural Service, Maradi

Alzir, Elhadji Abdou, General commerce and RDA party

Amadou, Aboubakar Sanda, Sultan of Zinder

ANDP-Zaman Lahiha: Section du Zinder

Asadeck, UDPS-Aman, Zinder (Postal and Telecommunications worker)

Association des Plantons et des Manoeuvres: Matameye Section

Aziri, Elhadji, PPN-RDA, Maradi

Ba'azou Limam, Tibiri, Maradi

Bachir, Maman, Justice of Peace for Magaria and Matameye

Baitou, Abba, Literacy service, Zinder

Balarabe, Abdourahim, Sous-Prefet of Matameye alla, Tarno, Prefet of Zinder

Banao, Tankare, DLD, Maradi

Baro, Laouali, President of the Opposition Group and member of UDFP-Sawaba party, Maradi

Baturé, percepteur at the lorry park and MNSD party member in Tibiri, Maradi

Barmou, Salaou, Former Minister PTT, MNSD, Maradi

Boubé, Mamane, Judge of Instruction, Zinder

Bouza, Elhadji Abou, President UDFP-Sawaba, Tibiri, Maradi

Bukar, Hassan, Literacy Service, Zinder

Chaibou, Ali, UDPS-Amana, Zinder (Postal and Telecommunications worker)

Chila, Maman, UDFP-Sawaba, Zinder (businessman)

Chirme, Yacouba, CDS, Matameye

Dalla, Issia, CDS, Matameye

Dandanno, Marafa, Merchant and president of the MNSD in Tibiri (Maradi) & Secretary-General of the Syndicat des Commerçants in Maradi

Djibo, Ibrahim, UPDP, Zinder (businessman)

Djibo, Moustafa, PSDN Alheri, Maradi

Dodo, Nourou, CDS, Matameye

Dorego, Mao Bachire, ANDDH, Maradi

Ganda, Ousmane, Merchant, UDFP-Sawaba, Maradi

Garba, Hadi, RDFN, Maradi

Gilbertson, Charles, Representative of WOCCU, Caisse Populaire Project, Maradi

Georges, Françoise, Director of Health Service, Maradi

Gombo, Isaka, State Nurse, Matameye Dispensary

Halili, Badawi, CDS, Zinder (teacher)

Hamani, Hauwa, President of AFN for 20 years in Mokko, 8/9/94

Hassane, Barka, 1994 graduate of the Ecole Normale in Zinder, active in USN, Tibiri (Maradi)

Hussani, Moussa, ANDP, Matameye

Ibrahim, Moussa, SNEN, Maradi, PNDS party

Ibrahim, Omarou, substitute for the Procurer, Zinder

Innu, Inna, (Queen of Gobir) and 11 women in the AFN, Tibiri (Maradi)

Inoussa, Ibrahim, Village Trainer for CLUSA in Dadin Kowa (Matameye)

Innousa, Mahman, Association Nigérienne pour l'Apel de la Solidarité Islamique (ANASI), Maradi

Inoussa, Oumarou, PNDS, Zinder (teacher)

Issa, El Hadji Amadou, ANDP, Matameye

Issa, El Hadji Maman, MNSD, Matameye, (businessman and farmer)

Issa, Mahamane, PNDS-Tarraya, Maradi

Issoufou, Mata, CDA, Matameye

Issoufou, Oumarou, PPN-RDA Presidential candidate and AFC Coordinator, Niamey

Kouano, Mani, ANDP, Zinder (farmer)

Mada, Moussa, CEG teacher and CDS secretary general, Tibiri, Maradi

Magaji, Mahman, SNEN, Maradi

Mahmane, Abdou, Former mayor of Maradi, MNSD

Maigoshi, Ilyassou, President ADDH, president Association Parents d'Eleves, organizer of a footballers association, president of the local NGO Promotion des Activités Rurales et des Initiatives de la Base, a member of the CVD in the Société de Développement, and head of the PPN-RDA Jeunesse during President Diori's regime, Tibiri

Malé, Ide, Préfet of Maradi

Makobo, Salifou, Sous Préfet of Guidian Roundji

Maman, El Hadj Issoufou, CDS, Zinder (Businessman)

Maman, Ibrahim, CDS, Maradi

Mamane, Abdou, Merchant and president CDS

Mamane, Sani, PNDS, Matameye

Mani, Garba, PPN-RDA, Zinder (farmer)

M'araaz, Malam, Association pour le Rayonnement de la Culture Islamique (ARCI), Maradi

Mensah, Delphine, Founding member of RDFN in Maradi

Mohamed, Moustafa, UDPS-Amana, Maradi

Morou, Daouda, ANDDH, Maradi

Moudi, Moustapha, PPN-RDA, Zinder (Franco-Arab Counsellor)

Moussa, Association pour le Développement d'Islam au Niger (Adini Islam)

Moussa, Abdoulaye Mohamed, Secretary General of UDPS-Amana

Musa, Oumarou Diallo, SNEN (Syndicat National des Enseignants du Niger): National Matameye Section

Nababa, Narouna, CDS, Matameye

NaGwama, Elhadji Adamu, Muslim cleric, Tibiri (Maradi)

Nassarou, Sani, PNDS, Zinder (teacher)

Noma, Musa, UPFP-Sawaba, Matameye section (Tailor)

N'Toma, Imam, Association Islamique du Niger (AIN), Maradi

Oumarou, Mahmane, Nakowa, Maradi

Sabih, Ibrahim, Secretary General for Negotiations and Conflicts, USTN, Maradi

Sadikou, Noustapha, ANDP, Zinder (Secretary General of the Red Cross)

Sahi, El Hadj Mamza, Literacy Service, Zinder

Saidou, Ibra, UPDP, Zinder (Health Dept Worker)

Salao, Kane, Mayor of the Municipality of Maradi

Saley, El Haji, PSDN-Alheri (businessman)

Salifou, André, President Niger National Conference, President HCR during the Transition, UPDP-Chamoua Party

Salifou, Ibrah, Secretary General of the USTN, Maradi

Seybou, Abdoulaye, PNDS, Matameye

Souley, Harou, CDA, Matameye

Soumana, Abdoulaye, ANDP, Zinder (Promotion Economique)

Susse, Stephen, Chief Procurer for Zinder

Turai, Gonda, PNDS, Tibiri (Maradi)

Uban Dawaki, Amadou, CDS, Maradi

Wagae, Adamou, Head of Literacy Service for Matameye Arrondissement

Yacine, CDS, Zinder (Mining and Energy Service)

CDS-Rahama:

Section du Zinder (Department)

Section du Matameye (Arrondissement)

Section du Dadin Kowa (Village in Matameye)

MNSD-Nassara:

Zinder Section

Matameye Section

Dadin Kowa village branch

PNDS-Tarraya:

Section du Zinder

Section du Matameye

Section du Dadin Kowa

PPN-RDA:

Section du Zinder

PSDN-Alheri:

Section du Zinder

UDFP-Sawaba:

Zinder Section

UDPS-Amama:

Zinder Section

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UPDP-Chamoua:

Zinder Section

Agricultural Service, Maradi

Association Nigérienne pour l'Unité et la Solidarité Islamique (ANUSI), Maradi

Bankole, Emilien, Juge de Paix (Juge au Tribunal chargé des affaires coutumières, civiles et commerciales), Tribunal de Tillabery

Chief of Maradi

Dawaki, El Hadji Mamane Uban, Chief of Canton of Safo (Maradi)

Diallo, Mayor of Tillabery

Hassane, Amadou, Secretary of Information ANDDH, Tillabery branch

Health Service, Maradi Department, Matameye Dispensary

Humarou, Ahmed, ANDDH President, Tillabery branch

Ibra El Hadji, Kaoura, Section Chief for Kantche

Justice of Peace for Magaria and Matameye

Literacy Service (Alphabétisation), Maradi (Department)

Ministry of Interior, Préfect of Maradi

National Assembly, Souley, Boukari, official translator

Préfet of Zinder

Sanda, Bukari, Sultan of Zinder

Sani, Sarkin Dawaki, Canton Chief of Jiratowa (Maradi)

Sous-Préfet of Matameye (Zinder)

NGOS ZINDER

Presidents of AFN and RDFN and 40 members

Chetima Kabima Mamadou, Secretary General, Chamber of Commerce, Zinder Branch

Christian Lund, Sociologist, Roskilde University, Denmark

Guir Guir, Advisor to Union Regional des Coopératives (ILO)

President, Union Regional des Coopératives (URC)

NGOs Maradi

Abdou, Sani, Administrator, CARE International

Agalger, Agalli, Section President, Timidria

Chaoueye, Abdou, Secretary General, Association des Réssortissants de Maradi (MADALLA)

Clusa Jiratawa Women's Credit Union (five members)

Idi, Hailima, Women's Credit Program, CARE International

Primary School Teacher, Jiratawa

INTERVIEWS: DOSSO FIELD TRIP

Abba, Dan Dibi, CDS, Dosso

Abdoulaye, Moussa Mlle, and 17 other women involved with the CLUSA cooperative in Fabidji

Abdouramane, Bouli and 17 other women with the Opposition Coordination in Dosso (MNSD and Sawaba parties)interviewed in Niamey

Adamou, Amadou, Secretary-General, USTN, Dosso (livestock service)

Alfari, Moumouni, Assistant to the CLUSA cooperative, Fabidji

Amadou, Boubacar, USTN, Dosso (health service)

Amadou, Yacouba, USTN, Dosso (forestry service)

Aouta, Djermakoye Abdou, Provincial Chief, Dosso

Badamou, Hamidou, CDS, Dosso

Baha, Hassane, CDS, Dosso

Balarabé, Issa, ANUSI (Islamic Association), Dosso

Boubacar, Abdou, Co-ordinator of the AFC group in Dosso, ANDP

Cheick, Hamidou S., President of the Tribunal, Dosso

Djigo, Saley, ANDDH President, Dosso branch

Djibo, Salmo, AFN Dosso

El Hadj Abasse, Syndicat des Transporteurs, Dosso

El Hadj Hima Zara, Syndicat des Transporteurs, Dosso

El Hadj Moussa, housing construction entrepreneur

Harouna, Soumana, LNDH Dosso branch

Ibrahim, Adamou, Adini (Islamic Association), Dosso

Ide, Adamou, President des Syndicat des Transporteurs des Voyageurs, Dosso

Idi, Garba, CDS, Dosso

Idi, Hassane, USTN, Dosso (health service)

Issaka, Abdou, PPN-RDA, Dosso

Kaka, Nameoua, Secretary-General to Préfet of Dosso

Mahamadou, Saidou Sidou, USTN, coop affairs Dosso (Health service)

Mahamidou, Djirbrina, Deputy Secretary-General, Dosso (teacher)

Maidawala, Bahari, SNEN, Dosso

Moussa, Abdoulaye, PNSD, Dosso

Moussa, Amnadou Oumarou, school teacher, MNSD

Moussa, Elhadji Ishaka, ARCI (Islamic Association), Dosso

Moussa, Mayaki, AIN (Islamic Association), Dosso

Moussa, Soumana, ANDP, Dosso

Naroua, Zabérou, Director of the school and paralegal in Fabidji, Dosso

Nazori, Chekarou, member Syndicat des Entrepreneurs, Dosso

N'Gangueuye, Saidou Harouna, Regional Secretary-General, Syndicat National des Conducteurs de Niger (SNCN)

Ousmane, Mohamed, DLD Dosso branch

Samna, Aboubacar, DLD President, Dosso branch

Seynia, Issa Ka, Percepteur, Dosso Market

Tadhea, Mounkaila, Regional Literacy Service, Dosso

Teli, Ama Garba, representative, MNSD Youth section, Dosso

Yacouba, Amadou, President of the Coordinating Committee for the Opposition, Dosso

Yansambou, Boubakar, Mayor of Dosso

Yayé, Abdoulaye, Director of the primary school and RIID-Fitila parajurist, Mokko (Dosso)

Yero, Siddo, Member, Syndicat des Entrepreneurs

Political Parties: Opposition

Aboukarim, Issaka, UPDP

El Hadji Saley Quali, MNSD

Gado, Garba, MNSD

Kona, Abdou Garba, MNSD, Dosso

Mamane, Moussa, Sawaba

Seydon, Salifou, MNSD

Seyni, Bolmey, MNSD

Seyni, Moussa, UDFP

Sidi, Mahamane, UPDP

Tinni, Ayouba, Sawaba

Yacouba, Amadou, UPDP

Yagadji, Mme. Mariana, MNSD

Zarafi, Oumarou, MNSD

Militants from all three parties- 45 people signed list

ANNEX 3: BIBLIOGRAPHY AND REFERENCE DOCUMENTS

**IMPROVING DEMOCRATIC GOVERNANCE FOR
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ANNEX 3

REFERENCE DOCUMENTS

- Abba, Soulemane, "La chefferie traditionnelle en question", Politique Africaine No. 38 (June 1990): 51-60.
- Adji, Souley, "Logiques socio-communautaires et mutations socio-politiques," unpublished paper commissioned for the ARD Assessment of Democratic Governance in Niger, August 1994.
- Adji, Souley, "Logiques socio-communautaires et loyautés politiques en afrique: Essai d'analyse de la construction de l'état au niger," Doctoral dissertation, Université de Bordeaux II, Section de sociologie, July, 1991.
- Adji, Souley, "Aspects et dimensions de l'integration politique du monde touareg," unpublished master's thesis.
- Adji, Souley, "Etude sociologique sur la vie de l'AHA de Birnin Konni: 1985 ONAHA-CRD-Tahoua, Recherche complementaires sur le périmètre irrigué de Konni, 1990.
- Adji, Souley, "Les successions politiques (Legal successions: L'Exemple du Niger).
- Amani, Ali, Commission Nationale des Elections: Edition 1993. Niamey, 1993.
- Amuwo, Kunle, "Military-Inspired Anti-Bureaucratic Corruption Campaigns: An Appraisal of Niger's Experience," The Journal of Modern African Studies, Vol. 24, No. 2 (1986),: 285-301.
- Anon. "Le Niger: L'Ere de Nouveles opportunités," Construire l'Afrique. No. 20. December 1993/February 1994: 89-194.
- Barbedette, Loic et Ouedraogo, Josephine, "Place des Organization du Monde Rural dans l'Eclosion Associative au Niger." Niamey, Associations Internationale Six S, Octobre 1993.
- Blair, Harry and Gary Hansen, "Weighing in on the Scales of Justice," USAID Program and Operations Assessment Report No. 7, USAID, Washington DC, 1994.
- Carlier, Marielle, "Etude et Recherche Documentaire sur les Associations de Defense des Droits de l'Homme au Niger." Niamey, IRED, Juillet 1994.
- Cao, Quan and Silcox, Stephen, "Mid-term Evaluation of the Niger Rural Organizations Development Project." Washington, D.C., Chemonics, March 1993.
- Charlick, Robert, Niger: Personal Rule and Survival in the Sahel, Boulder, CO: Westview Press, 1991.

CILSS, "Problematique de la Décentralization et Gestion des Ressources Naturelles au Niger." Niamey, Comité Permanent Inter-Etat de Lutte Contre La Secherresse au Sahel, Juillet 1994.

Darbera, Richard and Hall, Robert, "Local Public Finance and Institutional Reform in Niger," Burlington, VT: ARD, April, 1992.

Decudras, Pierre-Marie, 'L'aide internationaux". Politique Africaine, No. 38 (June 1990): 87-96.

Economic Intelligence Unit, "Country Profile 1994-95: Niger and Burkina Faso. London, 1994.

Gervais, Myriam, "Les Enjeux politiques des ajustments structurels au Niger, 1983-1990", Canadian Journal of African Studies, Vol 26, No 2. (1992):226-249.

Graybeal N. Lynn and Picard Louis A., "Internal Capacity and Overload in Guinean and Niger," Journal of Modern African Studies, Vol. 29, No. 2 (1991): 275-300.

Gregoire, Emmanuel, "Le fait économique Haoussa", Politique Africaine, No. 38 (June 1990); 61-67.

Gregoire, Emanuel, Les Alhazai de Maradi (Niger): Histoire d'un groupe de riches marchands sahéliens, Paris: Orstom, 1986.

Hardy, Benjamin H., Maurice Seri Gnoleba and Mori Diane, "Niger Economic Policy Reform Program: Evaluative Assessment." Report for USAID, Amex International, Inc., Washington DC, 1992.

Harouna, Seyeni, "Diagnostic des ONG Nigerienne: Rapport Final." Niamey, Projet Solidarité, Canada, May 1992.

Horowitz, Michael, et al., Niger: A Social and Institutional Profile. Binghamton, N.Y.: Institute for Development Anthropology, July 1983.

Ibrahim, Jibrin, "Political Exclusions, Democratization and the Dynamics of Ethnicity in the Niger Republic," unpublished paper, June 1994.

Iddal, Sidi-Mohamed, Rapport de l'Etude sur l'Association Commerciale Nigérienne. Niamey, August-October 1990.

IMF, Niger - Request for Stand-by Arrangement, Feb 1994.

I.R.A.M., Projet de formation et d'appui aux entreprises artisanales du Niger, NER 88/01A:Evaluation Socio-Economique. February 1990.

IRED, "Rapport du Forum National des ONG Nigériennes." Niamey, IRED, April 1992.

Magagi, Abdou, "Situation de l'Union des Groupements Paysans de Tillabery." Niamey, IRED, September 1991.

Magagi, Abdou, "Suivi de Gestion de l'Union des Groupements Paysans de Tera." Niamey, IRED, September 1991.

Maiga, Amsou Amadou, "Rapport de Synthèse du Séminaire Atelier sur le Bilan et les Perspectives de l'Emergence des ONG Nationale." Kollo, IRED, February 1994.

Maidoka, Aboubacar, 1993. "La Constitution Nigérienne du 26 Decembre 1992," Revue Juridique et Politique, No. 3 (Sept 1992).

Miles, William, "Hausaland Divided," 1994.

National Democratic Institute for International Affairs, Coordinating Observers to the 1993 Elections in Niger. Washington D.C.: NDIIA, 1993.

Ngaido, Tidiane, "Implementing the Rural Code: Perceptions and Expectations in Rural Niger." Madison, Land Tenure Center, November 1993.

Niandou-Soulay, Abdoulaye, 1994. "The Constitutional Crisis of April 1993," unpublished paper.

Pare, Benjamin, "Compte Rendu du Séminaire sur l'Emergence des ONG Nationales." Dosso, IRED, May 1990.

Robinson, Pearl, "Anatomy of a Neo-traditional Corporatist State," Comparative Politics, 24,1, October 1991, pp. 1-20.

Robinson, Pearl, "The National Conference Phenomenon in Francophone Africa," to appear in Comparative Studies in Society and History.

République du Niger, Assemblée Nationale, Règlement Interieur (Resolution No. 001/AN/PBA du 4 mai 1993), Niamey, May 1993.

République du Niger, Commission Nationale des Elections.

République du Niger, Département de Maradi, "Evaluation à mis parcours du Programme Integré des Services de Base d'Aguie, 22 April 1994.

République du Niger, Département de Zinder, DDS, "Resultats de l'enquete d'opinion affectuée du 4 au 13 mars 1992 sur l'auto-encadrement sanitaire dans l'arrondissement de Matameye," Mars 1992.

République du Niger, Bureau Central du Recensement, Recensement Général de la Population 1988: Analyse des Données Definitives, Rapport de Synthèse. Niamey, February 1992.

République du Niger, Code de la Famille. Niamey, January 1993.

République du Niger, Conference Nationale: Cahier des Charges. Niamey, N.D.

République du Niger, Constitution du 26 December 1992, Niamey, 1993.

République du Niger, Ministère de l'Agriculture et de l'Elevage, Comité national du Code Rural, Les Textes d'Avant-Projet (T.A.P.) de Loi-Cadre du Code Rural, Niamey, Edition Provisoire, n.d.

Ministère de la Fonction Publique et du Travail. Recueil des Principaux Textes Relatifs à la Fonction publique de la Republique du Niger, Niamey, 1993.

République du Niger, Ministère de la Justice. Code Civil, Niamey, 1993.

République du Niger, Ministère de la Justice. Code des marches publics du Niger, Niamey, 1993.

République du Niger, Ministère de la Justice. Code Penal, Niamey, 1993.

République du Niger, Ministère de la Justice. Recueil de Textes de Procedure, Niamey, 1993.

République du Niger, Ministère de la Justice. Nouveau Code du Commerce, Livre I, Niamey, 1993.

République du Niger, Code du Travail, Niamey, 1962.

République du Niger, Ministère des Finances et du Plan. Annuaire Statistique, Edition 1992-1993.

République du Niger, Ministère du Commerce, des Transports et du Tourisme. "Journées de Rencontres entre l'Administration et Le Secteur Privé sur les Conclusions de la Table Ronde sur le Secteur Prive," Niamey, June 8-10, 1993.

République du Niger, "Séminaire Atelier sur Le Bilan et Les Perspective de l'Emergence des ONG Nationales au Niger," Kollo, Ministère des Finances et du Plan, February 1994.

République du Niger, "Repertoire des Organisations Non-Gouvernementales au Niger," Niamey, Ministère des Finances et du Plan, Groupement des Aides Privee & USAID/Niger, 1994.

République du Niger, "Note d'Information: Atelier - Bilan et Impact de la Mise en Oeuvre du Code Rural," Niamey, Ministère de l'Agriculture et de l'Elevage, August 1994.

République du Niger, "Program Nationale de Gestion des Ressources Naturelle." Niamey, Ministère de l'Agriculture et de l'Elevage, Juin 1994.

Raynal, Jean-Jacques, "Les institutions politiques du Niger," Sepia, Sait Maure, 1994.

Raynal, Maryse, "Les institutions judiciaires du Niger," French Ministry of Cooperation and Development, Niamey, 1990.

Raynault, Claude, "Trente ans d'indépendance: réperés et tendances", Politique Africaine, No. 38 (June 1990):3-29).

Rivieccio, Jean-Pierre, "Concept de Reforme administrative et programme d'évaluations des Besoins: Le Cas de Niger," Revue de l'Ecole Nationale d'Administration du Niger. (June 1986), 1-42.

Rivieccio, Jean-Pierre, "Administration et Processus d'Evaluation des Besoins: Le Cade Niger," Revue de l'Ecole Nationale d'Administration du Niger, No. 3.

Robert, Dieter, Les attributions des membres du gouvernement et l'organisation des ministères au Niger. Niamey, Provisional version, May 30, 1989.

Robert, Dieter, Profil administratif au Niger. Niamey, December 16, 1991.

Robert, Dieter, Quelques Donnees administratives et institutioinnelles concernant le Niger. Niamey, August 10, 1989.

Sidikou, Hamidou Arouna. "Les Associations Pastorales et la Gestion des Ressources Naturelles Au Niger," Niamey: Université de Niamey, report for the Commission of the European Community, Direction Générale du Développement, March 1994.

Souley-Niandou Aboulaye, "Ajustement structurel et effondrement des modeles ideologiques: Crises et renouveau de l'Etat Africain," Etudes Internationales, 2, June 1991, 265-276.

Tankoano, Amadou, "La Revision de la Constitution du 24 Septembre 1989 et l'Evolution du Régime Politique Nigérien."

Tchouso, M., "Pratiques coopératives paysannes: AHA et autosufficance alimentaire au Niger-- le cas de N'Dounga II," Memoire, 1989.

Toh, Kiertisak, "Niger's External Debt: Legacy of Uranium-led Growth Strategy," Eastern African Economic Review, Vol. 3, No. 1 (1987): 27-41.

Tinguiri, Kiari Liman, "Crise économique et ajustement structurel (1982-1988)," Politique Africaine, No. 38 (June 1990): 76-86.

USAID, evaluation of Village Law Project (cable 7/26/94).

USAID/Niger, "Summary: ASDG II: Mid-Term Evaluation," Niamey, USAID/Niger, June 1994.

USAID/Niger, "Presentation des Projets d'Amenagements Forêtiers au Niger," Niamey, ASDG II, October 1993.

USAID/Niger, "Rural Organizations Development Project (683-0260): Final Project Proposal (CLUSA)," Niamey, USAID/Niger, 1989.

USAID/Niger, "Agriculture Sector Development Grant II, Program Assistance Approval Document (683-0257); Project Paper (683-0265): Volumes I & II," Niamey, USAID/Niger, 1990.

Vengroff, Richard, Niger M.A.P.S. Informal Sector Survey, Niamey, USAID/Niger, June 1991.

Yaro, Malam, "Si on nous dupe nous voterons la motion, declare le 1er Vice-president de l'Assemblée nationale," Le démocrate, August 22, 1994, p. 3.

ANNEX 4: SUGGESTED OUTLINE FOR A BASELINE ASSOCIATIONAL SURVEY

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OUTLINE FOR A BASE-LINE ASSOCIATIONAL SURVEY FOR NIGER

Justification: There is a need for base line data on associational life and local political participation for a variety of monitoring and evaluation functions. A correctly conducted survey can itself generate and enhance local participation.

Areas to be Covered:

1. Inventory local-level associations in a number of sites around the country to identify density, variety, organizational basis and organization capacity (See as an example, Sidikou and Charlick, "Local Organizations in the Niamey Department," USAID/Niger, 1985, and Ohio State University survey of local credit and savings facilities and associations, 1985). Special attention must be given to discern women's associations and informal networks.
2. Inventory the experience of rural people with multiparty politics; presence of political parties and socio-demographic base; descriptions of electoral and campaign processes; brief survey of political and institutional awareness and understanding (with gender as an important variable here).
3. Identification of local perceptions of political and civic rights issues, particularly as regards credit and NRM.
4. Identification of local perceptions of health services (formal and informal) and of issues related to supporting para-professional workers.

Approach and Methodology:

The study would be organized and carried out by Nigeriens using researchers from IRSH, locally recruited interviewers following model developed in 1985 Niamey Department Survey. One expatriate would be employed as a consultant to a Nigerien principal investigator to work on design, training, administration, and analysis issues, and to assist in data processing and preparation of report. The research team would select approximately 10 villages per department for study, based on a stratified sample taking into consideration a number of variables. The team would then recruit two local participants, one male, one female in each research site for the organization of a self-study guided by and supplemented by the enqueteur.

The study should be conducted during the dry season 1994-95 (December through February).

Costs will be estimated in conjunction with IRSH researchers in Niamey and Maradi. International travel and per diem will be kept to a minimum through this method, and generally costs will be far lower than for an equivalent expatriate consultant conducted study.

Uses of the Study: The study results should be published and widely made available in Niger for use by technical ministries, university professors and students, and NGOs, as well as by donors. Sessions should be organized to discuss the methodology and the results with people as a way of enhancing civic education, and participation in particular development activities (such as health service and NRM). A prime use of the study, however, would be as baseline data to be used for evaluation and monitoring, particularly Annual Program Impact and specific Mission projects. A method could be established in the conducting of the study to assure relatively low cost and easy follow up.

ANNEX 5: RESTORING THE PEACE AS A GOVERNANCE ISSUE

**IMPROVING DEMOCRATIC GOVERNANCE FOR
SUSTAINABLE DEVELOPMENT**

AN ASSESSMENT OF CHANGE AND CONTINUITY IN NIGER

FINAL REPORT: OCTOBER 27, 1994

RESTORING THE PEACE AS A GOVERNANCE ISSUE

The government of the Third Republic faces the on-going problem of the rebellion in the North. Although on the streets of Niamey and in the everyday lives of many Nigeriens the rebellion does not appear to be a pressing concern, it does present the regime with a number of significant governance issues.

First, it consumes valuable resources, both in terms of the military engagements and loss of materiale (in late July, for example rebels destroyed a fuel dump in Agades containing 40,000 liters of gasoline), and in terms of personnel.

Second, it raises questions in the mind of the population about the effectiveness of a regime that can neither defeat the rebels nor maintain the minimum level of security in the North needed for the return of normal economic activity. All major roads north of Tanout and Tahaoua are considered so insecure the vehicles can only pass in escorted convoys.

Third, it raises questions not only for Tuaregs, but for other ethnic minorities as well, about the willingness and ability of the regime to deal seriously with issues of minority rights.

Fourth, it stresses relationships in the governing coalition which contains two parties (PUND-Salama, and UDPS-Amana) which openly support minority rights and highly decentralized governance structures, including the possibility of federalism.

Recognizing the importance of the conflict, Prime Minister Issoufou declared in his Government's program of May 1993 that the settlement of the rebellion was the top priority. A truce followed in June, but broke down when one faction, the FLAA under Ag Rissa Boula, repudiated it.

Armed attacks started up again in January 1994, leading to the reopening of talks in Ouagadougou, Burkina Faso in February. In correspondence with this negotiation, the newly formed Coordination de la Resistance Armee (CRA) representing all four Tuareg military groups (FLAA - Front for the Liberation of Air and Azaouak, ARLN- Revolutionary Army for the Liberation of Northern Niger, FLT- Front for the Liberation of Tamoust, and FPLS- Patriotic front for the Liberation of the Sahara), submitted their position paper entitled "Programme-Cadre de la Resistance." This paper provoked sharp public reaction in Niger since it called for Tuareg control over two-thirds of the territory of the Republic in a federal arrangement. Specifically, the CRA called for the creation of "specific autonomous politico-administrative and socio-economic structures managed by their (Tuareg's) worthy sons," with its own budget, technical services and security forces, and at the national level, a government chosen by proportional representation giving the Tuaregs their due weight (CRA, 2/1994: 30).

A second meeting occurred in Paris in March, followed by a third session in Paris in June 1994. In the meantime, armed attacks on government installations and on vehicles and convoys continued sporadically, taking lives and heightening popular dismay and hostility among many Nigeriens. In March 1994 both the opposition and the Alliance (AFC) responded to the CRA's Programme Cadre with sharp criticism and rejection of its proposals, which were interpreted to threaten Nigerien unity and territorial integrity. They called for a resolution of the conflict within the framework of the 1992 Constitution which explicitly forbids a federal system of government. A number of groups supporting the AFC, notably trade unions, attacked the plan.

The government's official response in the form of the "Document de base du Gouvernement du Niger pour servir aux negociations avec la rebellion" was issued in April 1994, and still serves as the basis for the government's negotiating position. It insisted that any resolution would have to be based on the principles of the Constitution -- a unitary, democratic, republican state -- but it added that this would include the principle of "decentralization," defined to mean "une large autonomie de gestion aux collectivites territoriale." It added that there could be a new redrawing of the lines of administrative areas (decoupage) "in order to promote harmonious and equilibrated development of the country, and thus permitting an equitable division of the wealth of the nation among the different regions of Niger" (GON, 4/94: 26).

Following the June 1994 Paris negotiations, the CRA issued a statement in which it backed away from the use of the term "federalism," in favor of terms like "extended decentralization" or "autonomy," and gave the impression that significant agreements had occurred in Paris. The principal points of agreement were said to be redistricting, the principle of administration of territorial collectivities based on decentralization and management by authorities elected by direct and universal suffrage.

On the other hand, the degree of regional autonomy, and the national structure for integrating territorial units remained a serious point of difference. The CRA demanded that regional governments with substantial powers be created and that a National Council of Regions with legislative power be added, requiring an amendment to the 1992 Constitution. The government has not agreed to these points. In late July military action in the Sahara region of Niger picked up again. A subsequent negotiation was supposed to have been scheduled for some time in August to be held in Algeria, but this session may be delayed.

For the purposes of this report, the issue of the rebellion will be dealt with only in terms of the capacity of the government to resolve the conflict in non-military terms. There are three current issues which confront both parties:

1. The Government of Niger is not prepared to proceed with the negotiations before it completes the work of redistricting. This work has just commenced in a special commission. The redistricting plan will only cover the current arrondissement level. The criteria of redistricting will be important. The GON's language in its "Document de Base" frames the issue in terms of harmonious development, which might imply purely technical development criteria. The issue, however, is clearly a political one.

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Niger's top negotiator, Maimagana, acknowledges this, and is considering how the criteria can take into account numerical ethnic predominance. If this were done, it would be possible to devise approximately four arrondissements which would have a Tuareg majority, although the GON's position is clearly that the results of a free election and not simple numerical majorities of population would determine who actually held positions of authority.

2. The issue of redistricting, and the announcement of a plan which would create a number of potentially Tuareg-dominated arrondissements, is going to be potentially politically divisive, and may be difficult for the AFC to manage. As indicated elsewhere in this report, the AFC rarely meets as a policy group because the coalition is so inherently at odds on many policy matters. This issue is a prime case. As a government, the AFC will feel very vulnerable as well to attacks by the opposition and even by factions of the major alliance parties if its redistricting plan seems to go too far toward meeting some Tuareg demands.
3. The CRA for its part has posed demands for administrative restructuring that go well beyond what the government of Niger is currently willing to agree to. (See Illustration I)

**ILLUSTRATION I
ADMINISTRATION DECENTRALIZATION STRUCTURES**

LEVEL	GOVERNMENT	CRA
Local Assembly (Elected)	Not in decentralization Law, except for limited number of communes, but willing to consider converting current administrative post level	Important element for self-governance, below arrondissement level
Arrondissement Assembly (Elected)	In decentralization law this is the current arrondissement level, with an elected executive; no elected executive mentioned in negotiating document	Corresponds to arrondissement level, with elected council with elected executive at this level
Sub-regional Elected Assembly	Is the current Department with an Elected Chief Executive	Corresponds with current Department level, with traditional authorities ex-officio, and elected executive
Regional Assembly	Not in current decentralization discussed as supposed to come in forthcoming law, to have an elected executive	Does not correspond to any existing level but is important demand, with elected governor, with fully executive authority, responsible for security of region.
National Level	No structure discussed	Council of the Regions with legislative power, composed of delegates from regional assemblies, national deputies from the region, and traditional authorities from region. To elect governors of regions.

In principle, there is no disagreement on the need for local government below the arrondissement level, but this was not confirmed in the recently passed decentralization law. The decentralization law does however deal with the demand for elected arrondissement-level executives. The new law does not specify the regional level of local government either, although it is discussed in the Nigerien negotiation document. The GON's regional government differs markedly from that envisioned by the CRA, since the region will be directed by a governor appointed by the state and holding many of the powers the CRA wants to see in the hands of the elected governor. Finally, the GON envisions no Council of Regions, a second house of parliament which would require a constitutional amendment.

Politically, it will not be easy to meet the basic requirements of the government's plan: local government below the arrondissement, and effective regional government above the Department. Both will involve significant power struggles within the AFC and with the opposition over control of various levels and coordination among levels. The Tuareg position on the inclusion of non-elected officials at various levels (notably traditional chiefs) will also require serious rethinking of the government's position, which insists that all officials in councils be democratically elected.

Currently, the Chief Negotiators for the GON and the President of its National Assembly, see the CRA's position as still embodying federalist principles and constituting a maximalist strategy.¹ They see the process of decentralization as a long term evolutionary process. They may be prepared to accept a redistricting plan which puts some local governments (arrondissement level) in the hands of a Tuareg majority, but are not likely to go beyond this for the time being. The super-regional government which the CRA envisions is still far removed from the mentality of central control and tutelary authority, and from the sense of political readiness or maturity expressed by some top-level GON representatives. As for the CRA, while they clearly have moved away from the most troubling language, their demands still ask for governance changes that will not currently be accepted by the GON. It remains to be seen whether they are prepared to accept a step-by-step approach towards more decentralization of authority over time.

In the meantime, the CRA has its own political difficulties trying to reconcile divergent views in its negotiating position. At least one faction may not be willing to accept a step-by-step approach, and may refuse to go beyond the federalist structures implied in their June position paper. There is one additional factor in the equation, although currently it is not a powerful one. Tuareg political parties of Niger (PUND and UDPS) argue for a moderate transitional approach while trying to create the climate for the acceptance of federalist principles. The difficulty of their position is that they must be very circumspect about pushing too hard for it as members of the AFC. Above all, their position brings up fears of all kinds of ethnic and regional demands which national political leaders see as highly threatening to the survival of the central state, and of their interests in controlling it.

¹ Based on interviews conducted 8/18, and 8/23, 1994.