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CUSTOMARY MECHANISMS FOR CONFLICT RECONCILIATION AND RESOLUTION:

AN ASSESSMENT OF CUSTOMARY LEGAL STRUCTURES IN TAHOUA AND TILLABÉRI

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TABLE OF CONTENTS

List of Acronyms.....	iv
Executive Summary.....	v
Context and Purpose of the Assessment.....	v
Methodology.....	v
Results.....	vi
Assessment Question #1.....	vi
Perceptions of the Change over the Past Decade.....	vi
Customary Conflict Management Mechanisms.....	vi
Types of Conflicts Managed by Traditional Chiefs.....	vii
Assessment Question #2.....	vii
Assessment Question #3.....	viii
Lessons Learned and Recommendations.....	ix
Conclusion.....	x
Introduction.....	1
Methodology and Assessment Limitations.....	2
Analysis and Results.....	3
1. Societal Models of Conflict Management.....	3
1.1 Traditional Societal Model.....	3
1.2 Western Societal Model.....	4
1.3 Land Structures.....	5
2. Analysis of Information Related to a Hybrid System.....	7
2.1 Dynamics of Change in Customary Mechanisms.....	8
2.2 Customary Conflict Management Mechanisms.....	12
2.3 Functional Dynamics and Respect for the Legal Framework.....	18
3. Key Lessons Learned and Recommendations for Better Conflict Management by Customary Chiefs.....	23
3.1 The Land System at the Heart of the Conflict Management Problem.....	23
3.2 Chiefdom and Security Conflicts.....	26
3.3 The Necessary Move Beyond the Auxiliary.....	28
General Conclusion.....	30
Annex 1: Travel Report.....	32
Annex 2: Summary of Literature Review.....	41

LIST OF ACRONYMS

AAP	Agent, Actor, and Partner
CMA	Central Modern Actors
CNCA	National Fund of Agricultural Credit (<i>Caisse Nationale de Crédit Agricole</i>)
CSO	Civil Society Organization
DSF	Defense and Security Forces
JSR	Justice Sector Reform
KII	Key Informant Interview
LASDEL	Laboratory of Studies and Research on Social Dynamics and Local Development (<i>Laboratoire d'Études et de Recherche sur les Dynamiques Sociales et le Développement Local</i>)
NCCU	Nigerian Credit and Cooperative Union
NGO	Nongovernmental organization
NMA	Neo-Modern Actors
NMDS	National Movement for the Development Society (<i>Mouvement Nationale pour la Société de Développement (MNSD)</i>)
PELA	Peace through Evaluation, Learning, and Adapting
SFCG	Search for Common Ground
SG	Secretary General
SSR	Security Sector Reform
UNCC	Nigerien Union of Credit and Cooperative (<i>Union Nigérienne de Crédit et de Coopérative</i>)
UNFPA	United Nations Population Fund
UNICEF	United Nations International Children's Emergency Fund
USAID	United States Agency for International Development
VE	Violent Extremism
VEO	Violent Extremist Organizations

EXECUTIVE SUMMARY

CONTEXT AND PURPOSE OF THE ASSESSMENT

The United States Agency for International Development (USAID) requested a qualitative study on customary conflict management structures in the Tahoua and Tillabéri regions of Niger in order to strengthen non-violent conflict management systems in the region. The study and its results will assist USAID in the design of a capacity-building component for the Strengthening Customary Conflict Resolution Mechanisms project in the targeted areas of Tillabéri and Tahoua. Additionally, the findings and recommendations of the study will inform the development of objectives and activities for the Improving Access to Customary Conflict Resolution Mechanisms program.

A key inspiration for this study was the concern that a lack of justice or poor access to justice may drive an increase in tensions, especially in fragile security environments. The Sahel region specifically faces immense challenges and must provide a roadmap toward addressing the demand for justice. This demand is understandably fueled by fears of large-scale inter-community conflict and the ideological exploitation of youth by extremist groups.

METHODOLOGY

To carry out this assessment, a literature review was first conducted to better understand the underlying concerns of the assessment questions. PELA, implemented through International Business and Technical Consultants, Inc. (IBTCI), then deployed the assessment team (Team) to the field. The Team of three: a socio-economist Team Leader and two judges (with support from a logistical assistant and driver), then conducted approximately 100 interviews in a two-week period, traveling over 10,000 km (6,000 miles), between August 30 and September 11, 2019. The Team conducted key informant interviews (KIIs) with 84 people in 17 departments in the Tahoua and Tillabéri regions.

Assessment participants came from modern and traditional justice administration systems operating in the geographic areas of interest. For assessment purposes, the modern justice administrators were divided into two main sub-groups, the Central Modern Administrators (CMAs) and the Neo-Modern Administrators (NMAs). The CMAs included three subgroups: governors, prefects (representatives of the Head of State reporting to the Ministry of the Interior), and judges (reporting to the Ministry of Justice). The NMAs included local elected officials (mayors and municipal councilors) and representatives of civil society organizations (CSOs). In total, the Team interviewed 62 modern authorities (governors, prefects, judges, mayors, and CSO members). Twenty five came from Tahoua and 37 from Tillabéri; among these, three were female.¹ The Team also interviewed 22 traditional justice administrators (canton chiefs, chiefs of Fulani groups, and chiefs of Tuareg groups), ten in Tahoua, and 12 in Tillabéri. Although the assessment examined changes underway at the level of traditional customary conflict management mechanisms, it did not address the larger social concerns that affect conflict prevention and management nor did it capture defendants' perceptions of the role and impact of chiefdoms on conflict prevention and management processes.

¹ The female key informants, all based in the Tillabéri region, were the Prefect of Tillabéri, the Secretary General (SG) of the prefecture of Say, and a nongovernmental organization (NGO) representative in Abala-Filingué.

RESULTS

ASSESSMENT QUESTION #1

What is the current state of conciliation practiced by traditional authorities in targeted areas? Identify the volume of disputes handled, the quality of mediation, and the successes and challenges that customary authorities face in performing these tasks.

PERCEPTIONS OF THE CHANGE OVER THE PAST DECADE

The traditional chiefdom in Niger has undergone significant changes, often dictated by political and institutional interests. For this assessment, the traditional “chiefdom” is defined as large, organized societies and loose alliances based on cultural or religious alliances. While societies where chiefdoms operate lack statehood, they tend to have conflict resolution mechanisms and a loosely centralized decision-making process. The modern “golden age” of the traditional chiefdom—when chiefs had the most power over judicial processes—took place after the constitutional crisis of 2009 and during the military emergency in 2010. Since then, perceptions of the chiefdom have changed.

A preliminary factor of this change was the adoption of the communalization plan, which essentially converted the jurisdiction of tasks and activities (previously carried out by traditional chiefs) to municipalities, identified according to regions and districts.² This forced chiefs to adapt their processes and behaviors to accommodate public arenas and newly established rules. A second factor affecting the perception of the traditional chiefdom came during the constitutional crisis of 2009, which extended the presidential mandate beyond its previous constitutional maximum (Tazartché period). The (more local) NMAs blamed traditional chiefs for supporting this amendment, while the regional-level CMAs took a more measured response, saying there was no tangible evidence of traditional chiefs’ involvement in the Tazartché process. Finally, community security and the way in which traditional chiefs viewed that security was another vital influencer. In Tillabéri, for instance, the lack of security experienced by the traditional chiefs was reportedly a cause of concern; respondents indicated that chiefs tend to see the militarization of localities and departments as a way to counter rebels and protect themselves. In Tahoua, however, leaders reportedly did not feel as threatened and were rather more willing to make active and effective contributions to conflict prevention.

CUSTOMARY CONFLICT MANAGEMENT MECHANISMS

When resolving intercommunity and intra-community conflicts, a range of actors (traditional chiefs, civil servants, development partners) can be involved. Traditional chiefs in the Tahoua region, for example, are active in the settlement of large numbers of disputes, sometimes exceeding 50 or 60 per day. By contrast, the monthly volume of disputes handled by traditional chiefs in the Tillabéri region is less than ten a month. This contrast may be explained by the seemingly increased access to modern justice in the Tillabéri region and this region’s proximity to the large administrative center of Niamey. In short, the number of disputes managed, or at least brought to the attention of traditional chiefs, is higher in Tahoua than in Tillabéri. Similarly, the volume of complaints received by the CMAs is lower than those presented to traditional chiefs, although the submission of disputes to the chiefs does not necessarily

² In 2004, Niger territory was constitutionally divided into 266 communes, each headed by an elected mayor. These public entities carried the responsibility of administration of regions, departments, and communes and in many cases, elected new mayors in the place of traditional chiefs.

give them the opportunity to judge or resolve conflicts. This is particularly the case with land disputes, which are managed by a joint mechanism involving several stakeholders.

TYPES OF CONFLICTS MANAGED BY TRADITIONAL CHIEFS

Traditional chiefs tend to manage the following types of conflicts:

- **Local conflicts as minor offenses** that occur in both Tahoua and Tillabéri: Under the criminal justice system, local offenses are registered by traditional chiefs before plaintiffs are referred to the gendarmerie (law enforcement) or to the modern courts.
- **Intra-community conflicts involving witchcraft, divorce, adultery, and castes** (though this is rare): It is worth noting that the chieftom intervenes in numerous cases concerning witchcraft. Related disputes are strictly a matter for the traditional chieftom and are rarely adjudicated in the modern courts, except in cases of gross poisoning.
- **Intercommunity conflicts between different ethnic groups** living in a given territory.
- **Land-related conflicts**, which occur regularly: Traditional chiefs (despite their deep knowledge of land issues) do not intervene in these conflicts, but get involved solely for the registration and referral to the modern courts.

In addition to the above-mentioned authorities, the literature review and KIs revealed that traditional chiefs also have intervened in the management of more political conflicts.

ASSESSMENT QUESTION #2

What is the relationship between customary and formal jurisdictions? Assess the extent to which traditional authorities understand and respect the legal framework governing the role of customary authorities in access to justice.

The assessment revealed three, concurrent models of justice for Nigeriens:

1. **Various customary models** that are fluid, open to negotiation, and offer alternative opportunities for appropriate solutions;
2. **The Muslim normative model derived from Koranic law**, based on conceptual categories which, when not considered to be “customary,” may not address the specific problem or need for the proceeding;
3. **The model inherited from the colonial period**, established to guide the acquisition, use, enjoyment and disposal of property.

At first glance, the relationship between customary and formal jurisdictions appears to be a hybrid—an unusual, multifaceted system based on trial and error that moves between models with seemingly little sense of direction or coherent plan. However, on closer inspection, these legal practices interact as fluctuating mechanisms that change as their environments change. For example, as land structures become less clear, traditional chiefs (who have lived on tithes, slave catches, big trade, agriculture on large plots of land, and free labor) need more and more resources to operate financially and survive as institutions. This need makes them vulnerable to political misadventure (despite an obligation of discretion) and undermines their reputation and capacity for action. When it comes to complying with the legal framework, traditional chiefs appear to remain within their legal bounds since no central administrator has reported rules violations against them. Chiefs even seem complacent in their “auxiliary” role anticipating that (in the end) it will eventually benefit them (one way or another).

“We are auxiliaries, but we capitalize on all the experiences of executives who rarely work here for more than three years. We support each director to better carry out his mission, to sort out the essential from the superfluous for effective success. When he refuses to follow our recommendations, we wait until he leaves, while taking care to minimize any damage that his inexperience could cause. All in all, when everything goes well, it is better for our community and ourselves—when there is a failure, it is up to us to save the day.”

—A customary chief in Tahoua

KII respondents indicated that the relationship between traditional chiefdoms and the CMAs is functional and is often discussed as an inescapable or indispensable system. Aside from a few isolated cases where chiefs refuse to interact with one another, respondents believe that traditional chiefs are playing their part well within the agreed-upon limits. For justice to remain independent, it is reportedly necessary to limit interactions to this level.

When the Team analyzed relationship dynamics across all actors in the sample, they found that the functional relationships among the chiefdoms and prefects, governors, and judges were maintained, effective, and interactive. The CMA interviewees, however, reported that they fear an infringement of powers and stated that they have dynamic, unavoidable, and functional relationships with the traditional chiefs. These relationships revolve around the record of legal proceedings that all traditional chiefs transmit to the competent authorities and around the security-related information or other important information that they communicate to the central administration, such as transactions over land, court cases, etc. Chiefs also prepare action plans with development partners, and raise awareness of (and mobilize for) development activities.

ASSESSMENT QUESTION #3

What are the approaches and procedures used by the different levels of traditional chiefdoms in conciliation? Define a classification of reconciliation mechanisms and their functioning at each level, from sultanates to village chiefs and tribal chiefs.

The assessment revealed that disputes involving personal injury or death are excluded from the mandates of traditional courts and transmitted directly to the modern courts. Following a complaint concerning minor offenses (and depending on the severity of the complaint), traditional chiefs in the two regions use the same approach, favoring conciliation and agreement between complainants of the same community or of neighboring communities. These approaches include conciliation between the plaintiff and the defendant in the privacy of the chief’s office; a plaintiff’s hearing before the customary court and then a defendant’s hearing; testimony and confrontation of the litigants in public; the convening of a college of elders, including the Cadi or Sarkin bori; or a judgment ceremony referencing the Koran or a traditional healer. If conciliation is unsuccessful, the plaintiffs take an oath on the Koran if they are Muslim; if they are not Muslim, they submit to an animist test of drinking a mixture known for its mystical strength.

The conciliation process is procedural, however, and rarely requires a plaintiff’s oath in the event of non-agreement between the parties. Both regions employ the conciliation approach at varying rates, depending on, among other things, the nature of the offense and the personality and availability of the customary chief. However, implementation of this conciliation process is rather complex in the larger cities, such as Tahoua City, Birni-N’Konni, Téra, or Tillabéri, and may explain the increased number of modern judicial cases in the larger cities.

LESSONS LEARNED AND RECOMMENDATIONS

The following main lessons emerged from the assessment:

- **Land issues—most often the subject of fierce struggles between different spheres of power—are at the heart of conflict management.** All the actors interviewed, including CSOs, recognized the power of traditional chiefs in resolving land disputes. Relying on traditional chiefs remains a common practice for geographical and cultural reasons. Article 15 of Ordinance No. 28 of March 30, 1993, on the status of the traditional chiefdoms Niger, states that the traditional chief shall act as a conciliator. It is interesting to note that from a simple conciliation function, the traditional chiefdom has emerged as the center of a system, and even modern judges recognize its power.
- **Erratic political and institutional reforms, in addition to trust in tradition or the illiteracy of rural populations, have given increased power to traditional chiefs.** For example, the reform of January 28, 1975, in the context of the droughts of the 1970s, indirectly strengthened the power of traditional chiefs, and many did not hesitate to take over vast fertile lands under the pretense of reform and at the expense of the populations.
- **In light of great security challenges and the failure of purely military solutions, the traditional chiefdom may contribute to the management or prevention of security conflicts.** Some customary chiefs in Tahoua and Tillabéri, for example, recognized the possibility of their involvement in the management of large-scale conflicts. In this capacity, the canton chief of Tahoua City recalled the underground role that he and his association played in negotiations during the rebellions. On a smaller scale, intercommunity conflicts in a canton are co-managed by the canton chief and the leader of the Fulani or the Tuareg group.
- **The conciliation process of traditional chiefs has yielded convincing results and prevented a large number of conflicts in the Tahoua and Tillabéri regions.** Beyond conciliation, traditional chiefs take steps to prevent potential conflicts. For example, traditional chiefs regularly organize information and awareness-raising meetings, which allows them to collect the information they need for decision-making. Within traditional conflict management mechanisms, this preventive aspect appears to be the main asset of traditional chiefs. Indeed, it may be a chief's intimate knowledge of and related intelligence in a community that allows traditional mechanisms in managing security conflicts to operate effectively.
- **The customary chief is officially defined as a deconcentrated auxiliary agent based in tradition.** However, the status of chief remains ambiguous with the title of Agent, Actor and Partner (AAP) of development. The customary chiefdom may be transformed into a more formal structure in view of the means at its disposal, but the following steps should be taken:
 - Make a national inventory of all the skills available within the chiefdom;
Classify competencies and propose them in the form of a national consultative structure. The Subcommittee on Education, composed of traditional chiefs, former teachers or pedagogues, might be the basis for any national decision. Other sectors could be internally organized and the association's office could make agreements or contracts with the national structures concerned;
 - Formally involve chiefdoms in national mediations; and
 - Find the ways and means to move out of the auxiliary system toward a more formal arrangement.

CONCLUSION

Customary mechanisms for preventing and managing conflicts remain relevant. Conflict management mechanisms—each coming from two different realities (customary versus contemporary)—overlap and interact depending on the issue that needs to be addressed. That is, a traditional model that can seem obsolete to some continues to interact with an erratic model that is modestly modern. The contemporary model receives tacit support of the administration (inherited from colonization), but is limited by financial constraints. The traditional, customary model is entangled in processes that are auxiliary in nature. In principle, a canton chief acts as an intermediary between the canton population and the central administration. In reality, the power erosion of traditional leaders is not the main issue, as change is inevitable. Rather, the main issue behind the interaction of these two models concerns the context of insecurity and the inability of the modern model to curb this problem.

INTRODUCTION

With a view to strengthen non-violent conflict management systems in Africa, the United States Agency for International Development/Niger wanted to conduct a qualitative assessment of customary conflict resolution structures in the Tahoua and Tillabéri regions of Niger. To this end, USAID/West Africa (USAID/WA), through its Regional Peace and Governance Office (RPGO), tasked the Peace through Evaluation, Learning, and Adapting (PELA) Task Order (TO) with conducting the assessment. This Niger Customary Law Assessment adopts the premise that the lack of justice or poor access to justice may inevitably cause an increase in tensions in fragile security environments. The Sahel region, faced with inextricable challenges, must respond to the high demand for justice, the absence of which may not only lead to large-scale intercommunity conflicts (as in some neighboring countries), but may also serve as a breeding ground for ideological exploitation of youth by extremist groups.

The modern justice system, in spite of major progress and positive results, falls short of the population's needs and expectations and seems to focus more on “judicial justice” than on prevention. The traditional structures of conflict prevention and management are hence called upon to play a major role in the security and safeguarding of Sahelian countries facing extremist threats. However, customary legal structures appear to be outdated and inadequate due to a dual interaction: their supportive role—defined during colonization and maintained by postcolonial authorities—and the dynamics at play within these customary structures.

This assessment seeks to analyze a customary justice system that is severely neglected and attempting to change in hopes of improving its response to the challenges of human security in the context of extremist threats—challenges that the modern administrative and judicial system is unable to address due to a lack of means. The concept note of the project, “Access to Justice and Prevention of Violent Extremism in Niger,” makes several references to the 39th Annual Forum of Parliamentarians for Global Action. This forum was held in Milan from November 27 to 28, 2017, and adopted the “Milan Plan of Action on the Prevention of Violent Extremism and Mass Atrocities.”³ While seeking to avoid idealizing traditional conflict management mechanisms, the plan of action assesses these mechanisms' legitimacy, their ability to operate, and their relevance in meeting the security needs of West African populations in the current socio-political context.

The main goal of this assessment is to analyze the customary justice system, particularly its discourses and practices, and in light of the modern administration in Niger (judges, governors, prefects, mayors, and associations). This approach will help to determine whether the customary system falls within the realm of the ideal/mythical or if it remains endowed with a real capacity to prevent and manage conflicts—even if this means that improvements and adaptations to the existing, customary system are necessary.

State support to revitalize traditional models of justice is not clear. For example, in November 2012, the State held a consultative meeting with a wide range of stakeholders addressing the role of customary models of justice and related progress, challenges, and needed improvements. The State later revisited this topic in November 2018 at the meeting of the Consultative Framework. These meetings were more akin to advocacy and strategy sessions to finance modern projects and also enshrined the supportive judicial roles that the traditional models of justice have played. In these two major meetings, no reference was made to revitalizing traditional conflict management mechanisms.

³ For the full text, see <https://www.pgaction.org/pdf/Milan-Plan-of-Action.pdf>

This assessment analyzed the social, political, and economic relationships within the Nigerien justice administration system. To initiate the analysis, the assessment team (Team) conducted a literature review covering both internal documents as well as documents from other sources, as listed in Annex 2. The assessment also relied on a social analysis from traditional leaders on the customary model of justice and also considered opposing perspectives offered by actors working in the modern justice administration system. In addition, the Team conducted key informant interviews (KIIs) using a heuristic approach to identify recurrent and verifiable themes (and perspectives).

METHODOLOGY AND ASSESSMENT LIMITATIONS

The PELA Team, consisting of a socio-economist Team Leader and two experienced judges (supported by a logistical assistant and driver), carried out this qualitative assessment. The Team traveled over 10,000 km (over 6,000 miles) and conducted 84 KIIs over a period of two weeks. The methodological framework is based primarily on systemic investigation. How do you analyze an ever-evolving system? How do you choose relationships between elements at the same level and between levels? The conceptual analysis framework of the issues studied takes into account the tutelage or expected supportive role of traditional chiefdoms underlined extensively by studies conducted by the Laboratory of Studies and Research on Social Dynamics and Local Development (LASDEL).

This assessment Team used a dynamic approach to analyze: 1) the process and forces of marginalization of traditional chiefs (relegated to a supportive role), and 2) the reproduction of homeostatic forces of adaptation and resilience for an effective contribution to conflict prevention and management in a deleterious security context. Further, this assessment reviewed the customary socio-legal system (particularly the history of the ongoing change), setting the stage for the preparation of, or even transition to, an in-depth, quantitative study of social changes that have an impact on conflict prevention and management. In other words, findings from this assessment could inform a second assessment (survey, quantitative assessment) of the perceptions of the actors directly concerned (i.e., the litigants) on the role and impact of chiefdoms on conflict prevention and management.

After defining a socio-historical topography of traditional chiefdoms in Niger, the assessment found a strong resilience within the traditional justice model of the chiefdom. From a strictly legal perspective and based on the work of the Paris I University Laboratory of Legal Anthropology, Etienne Leroy questions the links between national legislation and local land rights.

The assessment population is distributed in 24 departments in the regions of Tahoua and Tillabéri. The Team was able to visit 17 departments and to interview 84 actors. (See Table I and Annex²1.)

Region	Traditional Authority			Modern Authority				
	Canton Chief	Leader of Fulani Groups	Leader of Tuareg Group	Governor	Prefect	Judge	Mayor	Civil Society
Tahoua	7	2	1	1	6	6	6	6
Tillabéri	8	2	2	1	9	9	9	9
Subtotal	15	4	3	2	15	15	15	15
Total	22			62				

For the region of Tahoua, due to a high concentration of chiefdoms in certain major cities, the assessment focused on six of the eight departments in the region (Tahoua, Birni-N’Konni, Madoua, Keita, Illela and Abalak). The Team did not visit the locations of Malbaza and Bouza because of the strong similarities of these chiefdoms with those of Birni-N’Konni, Tahoua, and Madaoua. Due to security concerns (and a high risk of attack), the Team also avoided the locations of Tassara, Tchintabaraden, and Bagaroua. The Team also selected the Abalak department in order to conduct the assessment in at least one red zone per region. Further, to include a representative sample of the diverse types of chiefdoms, the Team selected the following localities: Bangui, which has a Fulani group whose recent incident spread around the world; Birni-N’Konni, which has a Fulani group leader in addition to a canton chief; and Abalak, which, though in the North and red zone, has a Tuareg group. This allowed the Team to interview 22 canton chiefs (noting that, in nomadic communities, a group leader is the equivalent of a canton chief), and 25 modern administrators including governors, prefects, judges, mayors, and head representatives of local nongovernmental organizations (NGOs) or international NGOs, such as Transparency International in Bangui.

In the Tillabéri region, only three departments or major settlements, namely Ayorou, Banibangou, and Ouallam, were not visited as escorted convoys were reportedly targeted by heavily armed terrorists and bandits; for example, military intelligence confirmed the attack on and theft of a vehicle from an International Red Cross convoy. As in the Tahoua region, to conduct the assessment in at least one red zone and ensure a diverse representation that includes nomadic groups, the Team selected the two communes of Bankilaré and Abala (not to be confused with the Abalak department in the Tahoua region).⁴ In nine of the departments or major settlements in the Tillabéri region, the Team interviewed 37 administrators and 12 canton chiefs or their representatives. The three female administrators (namely, the prefect of Tillabéri, Secretary General (SG) the prefecture of Say, and the representative of an NGO in Abala) were from the Tillabéri region.⁵

ANALYSIS AND RESULTS

I. SOCIETAL MODELS OF CONFLICT MANAGEMENT

Issues related to justice, the rule of law, and mechanisms for conflict prevention and management remain linked to institutional or political questions. A plurality of rationales, including rationales that are sometimes contradictory, prevent any efforts to adopt a specific framework. Without embarking on a discussion or reflection on post-modernity or post-democracy, it is worth noting that Niger has voluntarily entered a process of deconstructing one paradigm and constructing a new one. To better understand the reality of the traditional mechanisms of conflict management in Tillabéri and Tahoua, the Team studied social archetypes and models that are rooted in land structures.

I.1 TRADITIONAL SOCIETAL MODEL

The traditional model revolves around cosmogonies and myths that guide systems of organization. A wide range of these myths and conceptions in the world have structured the traditional environment,

⁴ A Fulani group leader was kidnapped in Abala, in the Tillabéri region and had not been heard from. Given this, the Team interviewed his representative and his son. A few hours after the Team’s departure, this same department was subject to another smaller attack. Though the Team did not face any attacks, the fact that another convoy was attacked a few hours after the Team’s departure, serves as evidence for the military intelligence security recommendations and Team’s exclusion of the three departments or major settlements of Ayorou, Banibangou, and Ouallam in the red zone.

⁵ In the region of Tahoua, the only female prefect of Madoua was represented by the SG of the prefecture.

and sometimes shaped current societal models. The following discussion delineates some of their characteristics.

1.1.1 Status Takes Precedence

Like a God who is both creator and facilitator in traditional thought, an order is generally expected to fulfill functions to guide people. Familial or social roles determine the status of individuals. The prevalence of different statuses and hierarchies requires a complementarity: in West Africa, an existing system characterized by making jokes serves to bridge these differences.

1.1.2 The Koran and Hadith

Islamic logic is based on the Koran and Hadith. The connection between the two social worlds (traditional and Islamic) was outlined in the ninth century and has since evolved intermittently, sporadically, and globally. The age and depth of this link has led Islam to assimilate many traditional structures, which have in turn characterized Islam as the first tradition.

1.1.3 Islamic Statutory Model

Islam has been able to offer avenues that enable the preservation of magic rites through religious sects and traditional familial characteristics, like polygamy, which has remained intact. Islam has adopted and reinforced the notions of groups in spite of their differences. While in traditional society, the first person consists of the group, in Islam, the Koran is the primary authority, followed by the community of faith. In Islam, groups are maintained and developed with reference to the Koran, and particularly to the person who masters it best, hence the pivotal role that holders of Koranic knowledge play. In summary, like a God who is facilitator of things and beings, the model of traditional customary justice involves an order, or law, that must fulfill a set of functions that guide people and is reflected through the familial and social roles that determine an individual's status: function takes precedence over being.

1.2 WESTERN SOCIETAL MODEL

In the image of the one single God (or church) external to the world that God created and governing sovereignly by the uniform constraint of his laws, the State, through law, plays a similarly commanding role.

1.2.1 Search for Similarities

Western societies, dominated by an omnipotent God, and the myths of reason, anthropocentric thinking and secularism, propose that, at birth, in a state of nature, individuals enjoy all the benefits that freedom and ownership may provide. Then, each of these individuals give up a part of their freedom to live in society. This pact results in a competition of similar and equal individuals (legal equality).

1.2.2 Breaking Away from Feudalism

In eighteenth century Western societies, the tendency was to standardize the status of individuals, make them interchangeable and dissociating a monetized labor force exchangeable in the marketplace. The logic of the West was geared towards strengthening similarities, and the search for similarities presupposes an order that can be imposed by force (police, prison). While this order is that of the law, this force is that of the church, and then, that of the State with the advent of secularism.

1.2.3 Contractual Logic

In contrast to traditional societies, in Western societies contractual logic prevails. Under this logic *law* rather than *status* governs and organizes social relations. Moreover, it is this contractual (legal) logic that

juxtaposes with traditional logic, strongly rooted in Muslim logic. In the West, the reference to societal models does not account for models of operation that are legally rooted in land structures.

I.3 LAND STRUCTURES

When discussing current land structures in Africa, Paul Matthieu speaks about transitioning from: “complexity to confusion, from flexibility to uncertainty and the rule of arbitrariness.”⁶ This state of affairs renders interactions between local laws and modern legislation more complex and affects power relationships between the State and local chiefdoms and between local chiefdoms and local populations, etc.

I.3.1 Traditional Land Structures

In the traditional societal model, land is feminine. Like women, land stands between life and death and embodies the beginning and the end. Land symbolizes growth and consumption, representing two opposite aspects of existence: life and death, sowing and harvesting, space and spaces. From this perspective, land is perceived both as an internal and external space; it takes on a multitude of dimensions depending on the groups involved and is part of a paradigmatic surreality.⁷ This paradigmatic surreality can be seen as a magnetic field or socio-cosmic space (i.e., the domain of God and ancestors) that reflects the image of both socio-physical space (ecological and economic) and social space (ethnicity, culture, organization).

These latter social spaces always boil down to a socio-cosmic dimension, which encompasses all spaces. From this perspective, physical space grows and shrinks, adopts different shapes, appearing either as one integrated totality or a mosaic of diversity, depending on the circumstances. However, it tends to be perceived as distributed hierarchically, with a multipolar dimension, based on the primacy of union or the collective, with an ultimate return to the original center (socio-cosmic space).

In precolonial (West Africa) societies, space is not a measurable dimension. In these societies, space and society are one, both situated in a timeframe governed by the cycles of seasons. It is worth noting that in this context land access, structure, and management is based on a multiplicity of rules and codes underlying the organization of land tenure systems. A list of such rules and codes, including means of access to land resources, follows:

- Space opened by wars, exodus, and famine;
- Community property through the clearing of land by the founding populations, who impose extensive control over the land;
- Land resources held by the whole community, whereby the community exercises an usufructuary⁸ right on a given territory. Though well defined, this type of right did not exclude the access to the territory by others when the hosting of groups was negotiated;
- Land not subject to transaction, accessible only through a loan or a grant permitting the right of use. The principle of complementarity makes it possible to have a group of new occupants. The second group of occupants must accept the conditions of the former occupants. The

⁶ Matthieu, Paul, Pierre-Joseph Laurent, and Jean-Claude Willame. 1997. “Démocratie, Enjeux Fonciers et Pratiques Locales En Afrique: Conflits, Gouvernance et Turbulences En Afrique de l’Ouest et Centrale.” In *L’Harmattan. Cahiers Africains/Afrika Studies*. Belgium, Brussels and Paris, France: Institut Africain, CEDAF and L’Harmattan. <https://www.editions-harmattan.fr/index.asp?navig=catalogue&obj=livre&no=10849>.

⁷ Dr. Ahmédé YAHAYA-ADAMOU, *Le foncier au cœur de la problématique de Gestion de l’environnement au Nigeria et au Niger*, Laboratoire de Changement Social & Développement, Université des Sciences et Technologie de Lille I, 1999.

⁸ The right of one individual to use and enjoy the property of another, provided its substance is neither impaired nor altered.

exceedance, acceptance, and renunciation introduce a change that requires a sacrifice through a marriage exchange, complementary exchanges through a manure contract, etc.;

- Land structures placed under the control of the master (where the master is not the owner, but rather an administrator of the common heritage) and who ensures land management under the supervision of the elders;
- A right of all to all lands and after the allocation of lands;
- Each individual becomes master of his land;
- Land tenancies governed by family law (close family or family by marriage with an inalienable right through transfer by inheritance);
- Access to land, even to a small field, falls within the rights of the basic social unit;
- The transfer of land takes place mainly by inheritance; and
- The flexibility of community land-use regimes that include limiting the transfer of land from one to another.

In these endogenous models, land is an integral part of social systems and its legitimate use is determined by alliances, birth, residence, or social status. As Etienne LeRoy expressed, land is viewed as a constellated space organized hierarchically and following an ideal representation of how that space should be structured.⁹

1.3.2 Land According to Islam

The expansion of Islam in Africa was aimed not only at the conversion of pagans but also at their submission to religious leaders' political authority. The lands of defeated territories became the property of the Muslim State. The authorities used part of the land under owner occupation, but most of it was divided into parcels granted by long-term or quasi-property leases to local leaders. The private holding of land became possible if owners paid property taxes in one of two ways.

1. By paying ten percent of the harvest (known as Zakat payment) among Muslims or
2. By Kharj, that is, paying between 25 and 50 percent of annual production (known as a Kharj payment) among non-Muslims.

These two basic rules find root in the Koran, which asserts that land belongs to God. Man must use it to feed himself. When land is in its natural state (uncleared) it belongs to everyone.

To own land, it is necessary:

- To be the first occupant, and occupation must be observable by land development work either through clearing, building houses, fencing, or planting trees; or
- To buy the land; or
- To acquire the land by cession of a third party;

The loss of ownership occurs when the land is operated by another operator for at least ten consecutive years, unless the second operator is related to the first operator: "The land belongs to those who cultivate it."

⁹ Etienne LeRoy, *Caractères de droit foncier coutumier*, Encyclopédie Juridique de l'Afrique, Tome 5 : Droit des biens, Les Nouvelles Editions Africaines, Abidjan, 1982, pp 71-80.

In short, the land system in Islam remains a normative structure that is sufficiently extensive to divide relationships within a system; property rights are conditioned by development.

1.3.3 Land According to Western Logic

The interpretation of “space” changed with the development of measurement instruments, the construction of maps (dating to the sixteenth century), the beginning of capitalism, and the consequent questioning of the feudal system. After this, space was viewed as a support on two bases:

- Support for property rights on a heritage basis;
- Support of a centralized power on a national and political basis.

The new approach of capitalism imposed representations of freedom, equality, and fraternity. Also, a radical modification (of space) occurred through the reform of communal villages in 1793, and the transformation of property rights in 1804 eliminated feudal rights. These reforms distinguished between the value of the *holders* of space and of space *itself*:

- Space was perceived as a link endowed with attributes akin to those of an individual: a space that is measurable and inscribed in the *ideo-spaces*, and
- Individual objectified and neutralized, as space with an exclusive and absolute property right.

As long as it is recognized, the right to own property exists independently of the right to use property. As property rights have become inviolable and sacred, individuals cannot be deprived of property, except in the case of public necessity, which needs to be legally established and is conditioned on just and prior compensation.

It is at the level of land structure that the impact of social organizational structures on resources is clearly visible. Land ownership includes not only the land, but also encompasses water, vegetation, minerals (such as natron), and wildlife management.

2. ANALYSIS OF INFORMATION RELATED TO A HYBRID SYSTEM

The conceptual framework described above shows that three (conflict resolution) models are available to Nigerien litigants:

1. Diverse and varied customary models that are fluid, open to negotiation, and that offer many perspectives for finding appropriate solutions;
2. A Muslim normative model that is derived from Koranic law, based on conceptual and fictitious categories, which, when not assimilated to custom, may seem insufficient to address the issue of change and the need for justice;
3. During the period of instability and adaptation, colonization introduced the system of acquisition of property in the sense of *usus-fructus-abusus* (i.e., the right to use, enjoy, and dispose of property).

The result is a hybrid—an unusual, multifaceted approach—that moves between these models with seemingly little sense of direction or coherent plan. However, the observation and analysis of legal practices indicate that traditional mechanisms no longer exist; rather, mechanisms that are in flux or changing are in place. These traditional mechanisms are severely undermined, land structures are rather vague, and traditional chiefs (living on tithes, slave catches, big trade, agriculture on immense land, and free labor) need more and more money to maintain their material and social status. This makes traditional chiefs vulnerable to political adventurism (despite an obligation of discretion), which in turn,

undermines their capacity for action and even leads to their rejection by the same population that they are meant to oversee.

2.1 DYNAMICS OF CHANGE IN CUSTOMARY MECHANISMS

Customary mechanisms are not static and were in the process of evolving and maturing (traditional synthesis) when colonization shook the way society operated.

2.1.1 Elements of Contemporary History

The colonizers believed that their models were superior to the perceived backward indigenous system and implemented the policy for strengthening control over land and labor. Between 1899 and 1901, the implementation of a legal regime gradually took place. The first step was to turn vacant and unmanaged land into state property by granting legal ownership to those who complied with the rules of legal power.

The Transformation of Vacant and Unmanned Land into State Property

- The Decree of July 24, 1906, reorganizes land ownership regimes in the settlements.
- The notion of "indigenous chief" is used in Lieutenant Governor Jore's 1917 Circular.
- The Decree of October 8, 1925, establishes a method for constituting land rights.
- The Decree of July 26, 1932, a supplement to the previous measure, reorganizes the regimes of land ownership and consecrates private property.
- The Decree of May 20, 1955, in AOF and AEF with the national system integrates and affects the other vacant lands without owners for the needs of the colony (regime unassailable by registration).

To ensure their existence and sovereignty, the new independent states maintained the colonial legal structure. Some provisions were made through the following laws:

- Law 62-07 abolished the payment of the tithe and placed the entire territory under the ownership of the State. This resulted in the abolition of the chiefdoms' lands and granted property rights to those who cultivated the land. It also reversed the tithe as proof of ownership, but did not automatically grant property rights; the holders were not allowed to sell, lease, or distribute land to their heirs since the granted parcels had to remain undivided and within the family.
- Law 62-07 distinguished two categories of actors: responsible actors (traditional chiefs) and irresponsible actors (majority of peasants) against whom limitations were imposed.
- Law 61-5 of May 26, 1961, set the northern limit for agriculture, distinguishing between agricultural areas controlled by the canton chiefs and pastoral areas controlled by groups. In addition, a pastoral modernization area remained where no cultivation was tolerated.

The period between 1960 and 1974 of the First Republic observed an ambivalence towards chiefdoms: chiefdoms were relied upon to establish a state while peasants were being organized into cooperatives. The rural peasant organizations had the objective of instilling participatory development, resulting in the freedom and emancipation of peasants. As a result, it was a progressive approach that placed the chiefs in the background.

The double discourse of the 1974 regime which was established through the legal mechanisms listed below, caused some confusion:

- Order No. 11 MI/DAPA of June 5, 1974, on the reorganization of chiefdoms in Niger (JORN of June 15, 1974, pp. 410-412).
- The regulation of January 28, 1975, ordering the transfer of responsibility for conflict resolution to the canton chiefs or traditional chiefs. In other cases, the previous owners, whose land was removed and entrusted to peasants through the law of 1961, were the arbitrators in litigations.
- The Circular of the Ministry of the Interior N12/MI/SG of April 24, 1980, which attempted to clarify the situation by reassigning administrative authorities the responsibility of managing conflicts and distributing lands.
- The Presidential Decree of June 18, 1987 (87-077), which regulated the movement of pasture and defined the procedures for settling conflicts. This decree granted control to canton chiefs over all land, including pastoral lands.

The period of emergency questioned the progressive orientation of the previous civil regime and enshrined the politicization of the traditional chiefdoms. With strong membership in the State party, the National Movement for the Development Society (NMDS, *Mouvement Nationale pour la Société de Développement*), the canton chiefs became eligible for inclusion in the National Assembly of the Second Republic. As such

- The traditional chiefdom was defined as a form of political-administrative organization that governed pre-colonial societies. Neutralization of traditional chiefdoms through the 1991 national conference introduced debates between the progressives (who considered chiefdoms a threat against democracy and wanted them reduced to a symbolic existence) and advocates of the traditional model (who saw it as a mobilizing force of the rural masses for the development). There also is, however, some consensus around neutrality that would allow chiefdoms to regain their respectability and credibility, which different regimes had long compromised.
- The Act No. 24/CN of November 3, 1991, on the charter of political parties, placed traditional chiefs among public persons (such as the army or judiciary) bounded by the obligation of discretion.
- The Ordinance No. 93-28 of March 30, 1993, on the status of the traditional chiefdom of Niger, was a consecration of the chiefdom by law: there was a shift from a decree to an ordinance and a shift from the Council of Ministers to the National Assembly.

Traditional chiefdoms thus remained an institution of the Republic and statutory issues continue to fall under the authority of the National Assembly, as do all the major bodies of the State. Customary and traditional communities are thus integrated hierarchically into the national administrative system and placed under the supervision of administrative districts. In terms of contribution, the customary chief is defined as an Agent, Actor and Partner (AAP) of development.

2.1.2 The Institutional Actors Present in Tahoua and Tillabéri

As discussed earlier, the powers granted to customary chiefs by the administration have undergone changes in line with the socio-political contingencies of Niger. The activities that chiefs were responsible for included: general police, rural police, roads, hygiene, justice, and tax collection (Article 7 of Order No. 35 of 1936). The canton chiefs sometimes carried out administrative, judicial, police, and financial activities (collection). On this last point, the 1955 text strengthened the powers of the village chief in tax-related matters. Today, most of these activities are allocated to traditional chiefs, always upstream or in support of modern structures, which retain these leaders' vague role as the AAPs of development.

The following section addresses the question: What activities could traditional chiefs undertake in the face of a modern administration that is more specialized in an area of jurisdiction, such as justice, in the regions of Tahoua and Tillabéri?

In summary, the target populations in the Tahoua and Tillabéri regions have similar characteristics:

- In Tillabéri, the region functions in a very uncertain security environment with dominant red zones. Security-related events include: a double assassination in Inatès (a leader of a group and his successor); the mysterious kidnapping of a group leader in Abala; a dozen terrorist attacks recorded over the last two years; and armed and unarmed robberies. In Tahoua, the security threat exists, but the region has never experienced a significant attack (on ideological or political grounds), with the exception of banditry (cattle theft) in areas in the far north and highway robbery or trafficking along the southern border with Nigeria.
- The heightened security threat in Tillabéri explains the absence of the appointed canton chiefs in localities in the region. Of the nine departments or major settlements visited in Tillabéri, only five appointed chiefs were interviewed: four canton chiefs were interviewed in their respective localities in Imanan (or Bonkougou), Hamdalaye, Say, and Torodi, and the chief of Tondikandia was interviewed in Niamey. In the other five departments or major settlements in the Tillabéri region, only the chiefs' representatives were interviewed. According to the canton chief of Torodi, the absence of the appointed leaders in their localities is due to security reasons. As the representatives of these chiefs explained, however, other factors may have contributed to their absence, including medical evacuations in Bankilaré and Kollo, and the proximity of these towns to Niamey (where all the chiefs have a main residence). In contrast, in the Tahoua region, with the exception of the Tuareg group leader of Abalak who underwent medical evacuation, all the canton chiefs and group leaders were visited and interviewed in their palaces, sometimes accompanied by their courtesans.
- Another characteristic of both regions is the effective presence of all central modern actors: governors, prefects, and judges. Three prefects were represented by their Secretary Generals (SGs), notifying the mission of the reasons for their absence. In all locations visited, judges (presidents of the courts) were present in their localities. In both regions, however, the NMAs were over-represented by deputies, municipal councilors, or a municipal receiver (as in Kollo).

For the purpose of this assessment, modern actors were classified into two major groups:

- 1) **Central Modern Actors (CMAs)** that have been present in Niger for over 60 years and include governors, prefects (representatives of the Head of State under the Ministry of the Interior), and judges who, though reporting to the Ministry of Justice, are at the center of any administration. Although they are at the heart of the administration, these actors rarely exceed three consecutive years in the same locality; in rare cases of prolonged presence, this presence never exceeded five years.

Neo-Modern Actors (NMAs) that have been present for a shorter period of time (since the democratic opening of 1995) and are locally elected representatives (mayors and municipal councilors) and representatives of CSOs. NMAs are typically natives of the localities where they carry out their activities, and their elected or associative status allows them to renew their mandates ad infinitum or to stay in the same locality for a long period of time.

2.1.3 The Perception of Changes over the Past Decade

The issues related to the perception of changes echo those that have already been identified since colonization and focus more on the “golden age” of the traditional chiefdom during the period of military emergency. A reframing of the last ten years condenses the changes into two major events:

- 1) Communalization, ongoing for the past 15 years, gave the town halls an important share of administrative responsibilities, which included carrying out the activities previously performed by traditional chiefs. The boundaries have been clear since the national conference, but the rarely successful and sometimes erratic start-up of the communes has allowed the chiefs to adjust their attitudes and activities as the town halls are in the process of getting set up and operating.

The Tazartché period, or the illegal amendment of the constitution in 2009, drove the perception, wrongly or rightly, that the traditional chiefdom supported the process of amending the constitution. This perception has not fundamentally changed their social status and position.

Table 2 breaks down the different assessment participants by typology of legal actors, region, and event that legitimized their role.

Event	Traditional Chiefs		CMAs		NMAs	
	Tahoua	Tillabéri	Tahoua	Tillabéri	Tahoua	Tillabéri
Installation of Town Halls	2	5	8	12	7	17
Tazartché Period	1	3	1	1	1	14
Other (e.g., Issues of Tax Collection and of Security)	4	9	1	1	2	7

Twenty-five NMAs, out of the 30 interviewed in both regions, observed that the establishment of communes severely undermined the traditional chiefdoms. This perception is more pronounced in Tillabéri than in Tahoua and is of more concern to mayors or municipal councilors. The CMAs recognized the perception of change in the chiefdom following the communal elections. Some actors pointed out that this is obvious given that many prerogatives formerly held by the customary chiefs are persistently guarded by the new mayors. Traditional chiefs who are aware of these perceptions of change keep a low profile.

On the other hand, traditional chiefs stated that they are aware of the regulations and do not oppose the process. A few leaders (two out of ten) in the Tahoua region who responded to the question on the town halls considered it a “non-event” since the regulations are clear. Due to the massive support of political parties for elections, some mayors or councilors appeared arrogant, even rude, when the legitimacy of their offices was in question.

The second event of change pertains to the Tazartché process. According to the NMAs, this was when the customary chiefs were encouraged to support efforts to restore the prior prestige of the chiefdom. This perception is more evident in Tillabéri than in Tahoua. The CMAs seemed more moderate in their comments, pointing out the lack of tangible evidence of the traditional chiefs’ involvement in the

Tazartché process, because of their mandate of discretion. During the Tazartché ordeal, a provincial leader's royal palace was ransacked and burned due to a presumption of collusion, a first in Niger. Such an alleged case could lead to generalizations and in turn have an impact on the traditional chiefdom. According to a canton chief in Tahoua, these are pure speculations, and the incident is closed.

The reference to “Other” in Table 2 above pertains to issues of tax collection—processes in which customary chiefs are only facilitators and which fall instead under the jurisdiction of the village chiefs and, increasingly, the communes.¹⁰ However, this category also pertains to the new security environment. Many interviewed chiefs stressed that they themselves were not safe. For example, traditional chiefs have been killed and abducted, and the most exposed chiefs lack bodyguards. This claim is more prevalent in Tillabéri than in Tahoua. In the Tillabéri region, it was clear that the safety of the chiefs is a cause for concern and that the chiefs perceive the militarization of localities and departments as a means to counter the rebels and protect themselves. In the Tahoua region, the customary chiefs said that they do not feel threatened and only mentioned the situation of insecurity to highlight their availability to contribute to the process of conflict prevention.

2.2 CUSTOMARY CONFLICT MANAGEMENT MECHANISMS

As AAPs of development, traditional chiefs can be mobilized to resolve intra- or intercommunity disputes or local conflicts. Better still, these leaders have been able to mobilize to intervene in the management of conflicts of a much more political nature, as Boubacar Hassan points out:

“By an unexpected turn of events, the weight of traditional chiefs as moral authorities, in the eyes of both the people and the rulers at the top of the State, allows them to settle disputes which normally fall under the responsibility of state institutions... In Niger, for example, missions led by representatives of the highly respected Association of Traditional Chiefs of Niger have helped resolve political crises on several occasions.”¹¹

2.2.1 Volume of Disputes Managed by Customary Chiefs

When asked about the volume of conflicts managed by the customary chiefs, many interviewees said that the number exceeded 50 or 60 a month, amounting to two conflicts per day. (See Table 3.) All the traditional chiefs of the Tahoua region made this claim, which was also confirmed by the region's CMAs. Even the NMAs, who are supposedly hostile to the traditional chiefdom, acknowledged and recognized that the traditional chiefs of the Tahoua region manage a large volume of conflicts.

On the other hand, in the Tillabéri region, the interviewed customary chiefs reported (six out of twelve) a lower monthly volume of disputes, averaging under ten per month, managed by the customary chiefs. For some NMAs (especially representatives of CSOs), the traditional chiefs of the region are overwhelmed by the rural populations' cases, even though those rural populations have more trust in modern justice for the resolution of disputes, no matter how slight.

¹⁰ Cases were mentioned by two leaders from the Tahoua region and one leader from Tillabéri.

¹¹ Art. cit., in BAGAYOKO, Niagalé, N'Diaye BOUBACAR and Kossi AGOKLA. The reform of the security and justice systems in the Francophone space, International Francophone Organization, 2010.

TABLE 3. MONTHLY VOLUME OF DISPUTES MANAGED BY THE AUTHORITIES

Average Number per Month	Traditional Authority			Modern Authority						No. of Conflicts
	Traditional Chiefs			CMAs			NMAs			
	Tahoua	Tillabéri	Total	Tahoua	Tillabéri	Total	Tahoua	Tillabéri	Total	Total
60 to 50	10	-	10	13	8	21	8	1	9	40
50 to 30	-	3	3	-	-	0	3	-	3	6
30 to 10	-	3	3	-	4	4	1	1	2	9
< 10	-	6	6	-	5	5	1	15	16	27

Besides the traditional antagonism between the NMAs and the traditional chieftom, less recourse for traditional justice is available in Tillabéri than in Tahoua. A key question that follows is: Could this situation be linked to the virtual absence of customary chiefs and the over-representation of their representatives during the field visit to Tillabéri, especially given this region’s higher level of insecurity? This preliminary observation must be analyzed in a context that considers other potential factors, including: the historical facts related to the constitution of chieftoms, the greater availability of modern justice in Tillabéri, the proximity to the administrative center (namely, Niamey), the possible erosion of traditional values and of local leaders’ images, and the dynamics of a civil society that is particularly engaged with the NGO, Timidria, in Bankilaré.

2.2.2 Types of Conflicts Managed by Customary Chiefs

When asked about conflicts falling within the purview of the traditional chiefs, many modern actors (such as prefects, judges, mayors, and representatives of CSOs) gave evasive answers, which the Team attributed to these modern actors’ lack of knowledge of such conflicts. Only a few judges or central administrators answered the question, observing that numerous disputes are first brought to the attention of the traditional chief before reaching them. Based on the Team’s cross-checking and deduction, the CMAs reported that they receive about 20 to 30 complaints per month, depending on the time period, and that this number is double for traditional chiefs. In all cases, when quantifying disputes, the traditional chiefs appear to play a more important role since they are the direct arbitrators of conflicts. (See Table 4.)

TABLE 4. THE NUMBER (PER MONTH) AND TYPES OF CONFLICT MANAGED BY CUSTOMARY CHIEFS

Tahoua			Tillabéri		
I. Local Conflicts					
Property Damage	Personal Damage	Other	Property Damage	Personal Damage	Others
10	10	7	7	0	0
27			7		
II. Land Conflicts					
Transaction	Delimitation	Damage	Transaction	Delimitation	Damage
10	10	10	7	7	8
30			22		
III. Intra-community Conflicts					
Witchcraft	Divorce	Adultery	Witchcraft	Divorce	Adultery
9	10	6	3	5	5
25			13		
IV. Intercommunity Conflicts					
Coexistence	Pasture	Culture	Coexistence	Pasture	Crops
10	10	10	5	5	5
30			15		

A synthesis of disputes managed by or at least brought to the attention of traditional chiefs shows that the volume of disputes is higher in Tahoua than in Tillabéri. It should be noted that the presentation or submission of land disputes to traditional chiefs does not grant these chiefs the authority to judge or resolve these cases. For example, for land-related conflicts in Niger, a mixed management mechanism is in place in which each party plays a role with varying degrees of commitment.

Regarding local conflicts, the chiefs continue to rule on minor offenses in both Tahoua and Tillabéri, albeit to a lesser degree in the latter region. According to the interviewed customary chiefs, local offenses fall under criminal justice. Even in Tahoua, the chiefs are only required to register complaints and plaintiffs are redirected to the gendarmerie or the judiciary. Plaintiffs approach traditional chiefs not only to register their complaints but also to seek traditional solutions. There are two options:

- I. Situations of *flagrante delicto*.¹² The chief and elders of the community mediate these cases and have authority to order restitution of stolen property and issue warnings to the offender. When a case reaches a higher level—that of canton chief—the case is transmitted automatically to the gendarmerie. The canton chiefs consistently reject hearings related to property damage since such matters are considered minor offenses that fall within the jurisdiction of the village chiefs or district chiefs (in large cities). In these matters, the canton chiefs usually respect the chiefs’ jurisdiction and, above all, want to protect themselves against accusations of collusion.

¹² In the very act of committing a misdeed. Merriam-Webster Dictionary

2. **Suspicious about a third person.** In these cases, the traditional chief aims to settle the case amicably through reason and the recovery of stolen property. In cases of disagreement, the parties meet the Cadi or the Serkin Bori to swear either on the Koran or manna of the ancestors.

Intra-community conflicts involving members of the same community may revolve around witchcraft, divorce, adultery, and, in rare cases, castes. Disputes related to witchcraft fall strictly under the authority of the traditional chieftdom and are rarely directed to the modern justice system, with the exception of cases of gross poisoning. The chieftdoms in Tahoua and Tillabéri intervene in many cases involving witchcraft, more so in Tahoua.

Also occurring in both Tahoua and Tillabéri are cases of intercommunity conflicts involving violent confrontations between different ethnic groups that coexist on a given territory. The following are examples of such cases that also involve death:

- Lands belonging to Tondikandia have been developed by the Tuaregs of Tagazar since the colonial period, taking into account the declaration of December 18, 1974: “The land belongs to those who cultivate it.”¹³ The land’s loss of fertility, coupled with a strong presence of Tondikandia, led Tondikandia’s citizens to claim that the land belonged to them. In a political context that was characterized by democratic demands, the weakened power of the customary chiefs prevented any effective mediation. One of the judges who participated in this assessment is associated with this case, which is still pending.
- In 1998, the second judge involved in this assessment was working in Téra and witnessed a violent clash between the Gourmantché and Sonrhaï populations over the occupation of land in the village of Doumba, in the urban commune of Téra. Following a routine legal proceeding, the court assigned the disputed fields to the Gourmantché. After the court’s decision and despite the intervention of local law enforcement and reinforcements dispatched from Niamey, clashes resulted in several deaths on both sides. It took the Head of State to resolve the conflict by defining the disputed lands as “no-go” areas. This state intervention undermined the court’s decision, and in turn, frustrated those who had prevailed at court. In the same region, a latent conflict has been ongoing in Bankilaré, a town of the Tuareg Tingueringuedech group. This major settlement has been established on land claimed by the Sonrhaï from the canton of Gorouol.
- More recently, in Bangui, in the department of Madoua, in the Tahoua region, the Team met the victims of a violent massacre (that occurred in November 2016) between nomadic populations and farmers that left 18 or 20 people dead (as reported by the Ministry of Interior and other sources, respectively), 43 injured, and several houses burned down. The Team visited the communities concerned and discussed the case with the customary chiefs, prefects, mayors, and CSO actors. With great emotion and regret, the governor of the Tahoua region described the events, stating that the case is in the hands of the justice system and the crimes will not go unpunished. The mayor echoed this response as a direct victim of the incident; he was physically assaulted, his relatives were killed, and his office was smashed and burned. A representative for the leader of the Bangui group expressed fear of resumed hostilities and revenge if justice was not rendered and significant compensation was not paid. The canton chief of the population who led the reprisals expressed regret for the events, stressing that an investigation was underway and justice will be effective and rigorous. When asked why the two traditional chiefs did not anticipate the events through the usual consultative and preventative process, they admitted that they had agreed to meet more frequently and regularly after the end of the rainy season.

¹³ Head of State Seyni Kountché, statement of 18 December 1974.

However, this tragedy was beyond their consultations and poorly managed political issues (election and control of the town hall of Bangui) undermined their efforts and mediations to resolve the conflict and achieve a peaceful coexistence.

Land-related conflicts are reportedly a recurring concern for all ten chiefs of Tahoua and more than half of those in Tillabéri (seven). The use of traditional mechanisms for land-related activities is not limited to registration and referral to the modern courts. As explained below, the routine use of traditional mechanisms for land conflicts reflects the traditional chiefs' deep, local knowledge of land issues. As a reminder, land conflicts occur between actors within the farming system (e.g., farmers) and actors involved in different farming systems, such as herders.

2.2.3 Procedures of Conflict Management by Traditional Chiefs

This section discusses the procedures or stages of conciliation for settling or managing a dispute brought to the court of the canton chief. Disputes involving personal injury or death are, from the outset, outside the mandate of the traditional court and are directly transferred to the (modern) judicial administration. Following a complaint about minor offenses and depending on the severity of the complaint, traditional chiefs adopt a relatively similar approach to that used by the modern judicial administration. (See Table 5.)

TABLE 5. DISPUTE MANAGEMENT STAGES OF THE CANTON CHIEFS		
Stages	Case of Agreement	Continuation of the Agreement
1. Reconciliation <i>in camera</i> between the plaintiff and the defendant	Agreement between the parties, documents recorded in co-signed minutes, and record registered in the chief's court	<ul style="list-style-type: none"> - Compensation to the plaintiff - Dropping of prosecution proceedings - Summary assessment of loss or damage - In-depth evaluation by a committee
2. Hearing of the plaintiff and the defendant before the customary court		
3. Second conciliation period	Agreement between the parties, documents recorded in co-signed minutes, and record registered in the chief's court	<ul style="list-style-type: none"> - Compensation to the plaintiff - Dropping of prosecution proceedings - Summary assessment of loss or damage - In-depth evaluation by a committee
4. Stories and confrontations of the litigants in public		
5. Testimonials		
6. Request for conciliation between the protagonists	Agreement between the parties, documents recorded in co-signed minutes, and record registered in the chief's court	<ul style="list-style-type: none"> - Compensation to the plaintiff - Dropping of prosecution proceedings - Summary assessment of loss or damage

Stages	Case of Agreement	Continuation of the Agreement
		- In-depth evaluation by a committee
7. Reconsideration of the categorization of the offense		
8. Convening of the Elders Assembly, including the Cadi or Sarkin bori		
9. Judgment ceremony with reference to the Koran or traditional healers	Agreement between the parties, documents recorded in co-signed minutes, and record registered in the chief's court	

This approach is the same in both regions and favors conciliation and understanding among members of the same community or neighboring communities. In the first stage of the proceedings in the traditional court, grounds for conciliation are found between the parties *in camera*,¹⁴ and compensation and damages are made on the basis of mutual agreement. In all cases, a co-signed report and record in the court register are executed. At this stage, the public may be aware of the case, but the details are not officially disclosed in order to avoid tensions and to give the parties an opportunity for forgiveness and conciliation. In general, many disputes are resolved in this initial proceeding through forgiveness or compensation.

If the case is not settled, a second chance of conciliation is offered to the parties in stages two and three. At this stage, the elders or neighbors in the community can intervene by calling for dialogue and agreement. If stages one, two, and three fail, the process is formalized through a public hearing with witnesses and the elders' involvement. If the parties refuse to reach an agreement, the customary chiefs carry out investigations. The traditional chiefs have built an extensive network of information and intelligence over the years and rely on certain notables, often former warriors and experienced marabouts. As holders of ancient and family secrets and with networks of informants across most large families in the localities, traditional chiefs have a deep-rooted, sociological knowledge of their respective communities. This allows them to anticipate and identify the real motives behind actions and to turn hearings into a call for conciliation. If the offender is identified in advance (which is often the case), a chance for conciliation is granted, based on the adage that "a bad deal is better than a good trial."

After several unsuccessful attempts at conciliation, if the dispute does fall within the jurisdiction of customary law (e.g., witchcraft), an assembly, composed of elders, leaders, cadis for Muslims, and sometimes animist religious leaders, is convened to rule on the case. This stage involves swearing an oath on the Koran for Muslims or submitting animists to a test of drinking a mixture known for its mystical strength. Conciliation stages are procedural, however, and rarely lead to an oath in the event of non-agreement between the parties. They are observable in both regions at varying rates depending on, among other things, the nature of the offense and the personality and availability of the customary chief.

While this approach is possible in smaller localities, it is more complex in large cities such as Tahoua City, Birni-N'Konni, Téra, and Tillabéri. This may explain the increased number of modern judicial cases in larger cities.

¹⁴ It is not, strictly speaking, a session *in camera* as the usual members of the court are present. The case is not made public nor given official status, however, so the public cannot influence the outcome.

These stages were confirmed, albeit with less specifications, by all actors of the central administration, except for a few CSO actors. Out of all the interviewees, two or three accused some customary chiefs of manipulating the process to keep themselves busy and enrich themselves. Three CSO interviewees classified the customary chiefs as feudal and powerful manipulators of collective consciousness. The interviewees pointed to the frequency of trials for witchcraft as an example of chiefs' manipulations of the collective unconscious and their desire to extort resources and leverage commitments from the parties. For the customary chiefs, a trial for witchcraft is synonymous with large expenses and a significant input of resources by the parties. These interviewees argued that the number of conflicts that the customary chiefs manage and resolve is a measure of the chiefs' power over their respective communities. However, during the interviews, the chiefs claimed to no longer be involved in witchcraft cases and have refrained from giving permission to use traditional healers, because cases of poisoning (actual poison or virus contamination) are reported and the plaintiffs' pleas are not satisfied. The Koranic oath is also preceded by several conciliations and interventions by family members and neighbors to avoid this final step. Finally, the customary chiefs emphasized the baseless nature of these charges (of extortion and manipulation) by pointing to the possibility of resorting to modern justice.

When all these stages are exhausted, a pause is observed at stage seven to assess whether the conflict falls within the judicial sphere. Some conflicts, such as land disputes, could appear *prima facie* to be innocuous and fall under customary law. However, many unsuccessful attempts at mediation can indicate the complexity of a case and reveal issues of criminal intent. In these cases, a report of non-conciliation is sent to the competent authority.

2.3 FUNCTIONAL DYNAMICS AND RESPECT FOR THE LEGAL FRAMEWORK

According to this assessment's analyses, the traditional chiefs insist on strict adherence to their responsibilities. Each question or request for further information from the Team elicited the recurring response: "this is not under our responsibility." Whether this is a reflection of compliance with or limitations imposed by the law is subject to discussion.

2.3.1 Chieftdom and CMA Relationships

The links between customary justice and formal jurisdictions—especially in light of the legal framework governing the role of customary authorities and access to justice—are somewhat clearer at the level of the CMAs. Table 6 breaks down the type of relationships between customary chiefs and the local central administration by region.

Relationship	Tahoua			Tillabéri		
	Customary Chiefs	Governors/Prefects	Judges	Traditional chiefs	Governors/Prefects	Judges
Functional	-	-	1	12	-	3
Dynamic Functional	10	7	7	10	9	6
Inevitable	10	7	6	9	8	6
Essential	10	7	6	8	7	6

To define the types of relationships between the customary chiefdom and central administrators (governors, their prefects, and judges), the Team tracked the frequency of certain words used in reporting:

- A **functional** relationship is based on purely administrative relationships, such as the simple transfer of minutes and records.
- A **dynamic functional** relationship includes interactions and visits for advice or guidance.
- An **inevitable** relationship is characterized by strong relationships complemented by a plan of action to carry out the activities.
- An **essential** relationship goes beyond the sharing of action plans and recognizes the need to include others inputs in order to carry out one's own activities.

As presented in Table 6, in Tahoua, all ten traditional chiefs stated that their relationships with the central administration are **essential, dynamic functional, and inevitable**. The same was observable in Tillabéri, where eight out of 12 chiefs stated that their relationships with the central administrators are **essential**. All 12 customary chiefs in the Tillabéri region recognized **functional** relationships, at least, and ten characterized them as **dynamic functional**. The four traditional chiefs who did not see an essential relationship with the customary authorities, said this only pertained to their role with judges, not to the governors and prefects.

In both regions, the Team observed a strong and dynamic interaction between the traditional chiefs and their respective prefects and governors. This may be the result of community solidarity, since they all fall under (and have accepted their roles within) the Ministry of the Interior or because they have participated in numerous training and capacity-building activities, facilitating an understanding of each other's roles and objectives. The result, however, is clear: The traditional chiefs' relationships with the prefects and governors exceeds its functional role. Instead, these chiefs, with a few exceptions, were doing their utmost to fulfill their roles as administrative auxiliaries and to create interactive and **dynamic functional** relationships to improve the execution of their offices.

The Team also found a reciprocal view from the governors and prefects concerning the traditional chiefs. All central administrators (prefects and governors) that the Team interviewed recognized the essential role of the traditional chiefs in executing their duties and believed that they are in full compliance with the legal framework. Only three prefects in Tillabéri, particularly the SGs (who have been appointed to political posts and have no administrative experience or training) identified, at least, a **dynamic functional** relationship.

The situation remains slightly different for customary chiefs' relationships with judges: in Tahoua, all the customary chiefs recognized an **essential** relationship with the judges. On the other hand, in Tillabéri, while all 12 customary chiefs viewed their interactions with the judges as purely **functional** (or **dynamic functional** for 10 of the chiefs), four of the 12 chiefs perceived their interactions with judges as **not essential**, but more **dynamic functional** since the roles are clearly defined and each manages his activities in accordance with the legal framework.

In the Tahoua region, only one judge out of seven reported a **functional** interaction with the traditional chiefs and added that he was overworked with numerous non-conciliation reports with offenses that fall under the jurisdiction of traditional conciliation. The judge further explained that he had tried several mediations to reach solutions, but the customary chief in question refused and seemed preoccupied with other issues. In the Tillabéri region, three out of nine judges stated that their interactions with customary chiefs is neither inevitable nor essential but is **functional**. As explanation, they pointed to the local population's spontaneous resort to modern justice because the chiefs accept bribes. The three

judges also noted that proximity to and joint action plans with customary chiefs may undermine their credibility and independence. Also aware of the challenges and numerous cases they manage, the three judges prefer to maintain **dynamic functional** relationships with the customary chiefs. The judges argued that in any case, given their activities in a community rarely exceeds three years, they work to achieve what they can to the extent possible while preserving the credibility of modern justice.

From this same pool of judges in Tahoua, the Team was unable to collect concrete, detailed information on mobile courts; only one judge was aware of the concept of mobile courts and investigated a case with an individual who had reduced mobility. The other judges claimed that they had heard of mobile courts led by the justices of the peace. Given increasing modernization and specialization of the modern courts, both justices of the peace and mobile courts appear to be rare. Some judges, however, have been involved in mixed-hearings for the preparation and issuance of civil status documents. These hearings depend on revisions to the electoral register or the activities of the Office of the High Commissioner for State Modernization and do not contribute significantly to judicial activities. All judges agreed that the restoration of mobile court hearings would make a positive contribution to the legal system, easing the burden on urban courts, increasing access to the courts (especially for litigants with limited means to travel), educating the population, and serving as a deterrent in these times of uncertain security.

In summary, the Teams found that the customary chiefs' and central administrators' relationships are defined as **dynamic functional**, and are often coupled with an **inevitable**, and even, **essential** dimension. In a few isolated cases, the interviewees rejected the idea of an inevitable interaction, believing that the traditional chiefs play their roles well within the limits of the legal framework, which they deem necessary for a more effective, independent judicial system.

Regarding the sub-question on whether the development of essential or inevitable interactions could be a strategy for customary chiefs to regain lost activities and reinsert themselves, the responses were unanimous. All the traditional chiefs reported that the rules are clear and that the aim of their interventions and interests in hearing local complaints are to contribute to the good of their respective communities. They added that the central administrators—endowed with many technical skills—are always present in the area, and that poorly prepared or managed administrative or judicial records end up with the customary chiefs after a few years, often in the absence of the CMAs.

The prefects and governors added that the customary chiefs do not necessarily need to take up lost activities since this would overload them, an outcome of which the customary chiefs are aware. Moreover, according to prefects, many chiefs also are aware of the limits of their skills and that the population is already accustomed to modernity, which seems irreversible. Many interviewed judges also stated that the customary chiefs have nothing to gain from resuming lost activities, at least in the judicial sector. In a few isolated cases, interviewees flagged issues related to money and corruption in the judicial sector. In practice, however, reports of corruption (if there are any) concern only a few, and the monitoring and prevention mechanism for this crime (namely, a hotline) is active.

2.3.2 Chieftdom and NMA Relationships

For the CMAs, relations with the customary chieftdom are more than functional and reflect an ancient culture of collaboration and mutual reinforcement. This, however, does not seem to be the case with NMAs. Table 7 breaks down the relationships between the customary chiefs and the NMAs in the legal administration system.

TABLE 7. TYPES OF RELATIONSHIPS BETWEEN CUSTOMARY CHIEFS AND NEO-MODERN ACTORS

Report	Tahoua			Tillabéri		
	Customary Chiefs	Civil Society	Town Hall	Customary Chiefs	Civil Society	Mayors
None	4	-	-	4	8	-
Limited	2	6	-	4	1	1
Functional	8	-	6	8	-	5
Dynamic Functional	8	-	4	8	-	5

According to preliminary analyses, the Team found an observable tendency of the traditional chiefs to limit their functional interactions and even deny their working relationships with the NMAs. In both the Tahoua and Tillabéri regions, customary chiefs expressed difficulty coping with the new local actors. In the Tahoua region, eight of the ten interviewed customary chiefs recognized the existence of a dynamic functional relationship with the town halls as *ex officio* members of the communal management committees. In addition, land commission meetings result in joint activities with the city councils for the benefit of local inhabitants. However, two customary chiefs acknowledged that their relationships with the town halls were very strained due to the haughty and arrogant behavior of the newly elected officials. They claimed not to blame these new officials, but rather felt sorry for their lack of good manners. The customary chiefs' mandates are regularly challenged, but the mayors hold legitimacy from the political parties that finance them.

Furthermore, four out of the ten denials of relationships concern only CSO actors. Three customary chiefs in Tahoua claimed that they do not even know the CSO actors, and a well-known canton chief explained how he was deceived and defrauded by a CSO actor. The same situation was more acutely observable in Tillabéri, where four out of 12 traditional chiefs said that they do not have any contact with the NMAs (town halls and CSOs) because of their arrogance. One customary chief even called for the ban of the NGO Timidria, which he refers to as a sect, because of its political and subversive involvement in disorder and its calls for violence:

"All these subversions follow an agenda of an opposition party that struggles to accept the rules of the democratic game by confining itself to a sect. The manipulators of youth in the name of a so-called system revolution need to first liberate themselves from their political sectarianism rather than engage our youth in a fictional liberation struggle against the traditional and administrative order. It is quite possible for the NGO to act by bringing projects, mentoring youth in entrepreneurship, mobilizing rural actors against security threats, rather than seeking to overturn a highly developed secular order in favor of a disorder, which we all know where it will lead us. "

—A customary chief in Tillabéri talking about the NGO Timidria

When the Team questioned the NGO representatives in the Tillabéri region to learn more about these charges, the NGO representative argued that the traditional chief representative defends his interests, their NGO has apolitical objectives, and no threat will divert them from their noble mission of liberating the slavery system. It is worth advising that the risk of clashes should be closely monitored, especially given the security context. The prefect of the department recognized that this anomie could lead to

disorder and ensured that his administration would monitor the developments of this situation very closely.

Nevertheless, eight out of 12 traditional chiefs acknowledged that they have functional relationships with town halls during land commission and community meetings, and sometimes are involved in, or at least informed of, major decisions and guidelines.

As for the NMAs' views on their relationships with the customary chiefs, it is worth noting that the CSO actors in the Tahoua region have very limited relationships. They said they are aware of the power and influence of the customary chiefs, but prefer not to deal with them because the CSOs fight for the interests of the underprivileged, while these chiefs are perceived as corrupt. A representative of the NGO Timidria in the Tahoua region went further, accusing the chiefs of wanting to govern the populations as they did in the feudal era (slavery system). He added that he would have to forgo his commitment to freedom and progress in order to dialogue with the customary chiefs.

This apparent rupture of contact with the chieftom is more evident in Tillabéri, where 8 out of 9 CSO actors said that they have no relationships with the chieftom. One exception was noted: A CSO representative in Abala-Filingué (the one woman out of the 15 CSO actors interviewed in Tahoua and Tillabéri) said she sometimes worked with the group leader concerning development activities, assisting in the drafting of plans, and carrying out certain administrative tasks. The situation is much more nuanced when it comes to relationships between the customary chiefs and town halls. As for the prefects and judges, though not inevitable or essential, these relationships remain functional, even dynamic functional in both Tillabéri and Tahoua.

2.3.3 Compliance with the Legal Framework

In analyzing and defining the relationships among the actors in this assessment, the Team found that dynamic functional relationships, at least, are maintained and nurtured. All judges, prefects, and governors stated that they have functional, dynamic, and even inevitable relationships with the traditional chieftom. These relationships revolve around, among other things, the minutes (of land transactions, court cases, etc.) that all customary chiefs transmit to the competent authorities, any security or important information they communicate to the central administration, the preparation of action plans with development partners, and mobilization for and public awareness-raising of development activities. While the prefects, governors, and judges reported effective and interactive relationships with the customary chiefs, some CMAs expressed a fear of an infringement of powers.

When considering compliance with the legal framework, no central administrator reported any violations by traditional chiefs. Moreover, the assessment findings indicated that the customary chiefs take pleasure in the strict respect of their tasks and duties, knowing that everything will be to their advantage. A customary chief in the Tahoua region said it this way:

“We are auxiliaries, but we capitalize on all the experiences of executives who rarely work here for more than three years. We support each director to better carry out his mission, to sort out the essential from the superfluous for an effective success. When he refuses to follow our recommendations, we wait until he leaves, while taking care to minimize any damage that his inexperience could cause. All in all, when everything goes well, it is better for our community and ourselves, [but] when there is failure, it is up to us to save the day.”

—A customary chief in Tahoua

3. KEY LESSONS LEARNED AND RECOMMENDATIONS FOR BETTER CONFLICT MANAGEMENT BY CUSTOMARY CHIEFS

Societal models and the customary chiefdom's history of subjugation to modern institutions (addressed earlier in this assessment) indicate a capacity for resilience within the chiefdom and even for strengthening the chiefdom's power and capacities. By pursuing the colonial policy of subjugation, postcolonial states reinforced the customary powers of the chiefdom. Moreover, in the early 1990s, when a new development paradigm emerged, mistakes and errors allowed customary chiefs to regain undisputed power, mainly through land management mechanisms. A key question that follows is: Could the power of the customary chiefs, which is reinforced by the failure of modern institutions and by the success of the chiefdom in managing land issues, be applied in other social spheres in the context of security?

3.1 THE LAND SYSTEM AT THE HEART OF THE CONFLICT MANAGEMENT PROBLEM

Land tenure reflects the relentless struggle over legitimacy between the State (modernity) and customs (tradition), between former metropolitan and colonized societies, between independent states and customary authorities, and between customary authorities and local populations.

All the interviewed actors (including CSO actors) recognized the power of traditional chiefs in resolving land issues. The use of customary chiefdom remains a common practice due to geographic and cultural accessibility. However, as stated in Article 15 of Ordinance No. 28, of March 30, 1993, on the status of the traditional chiefdom of Niger, the traditional chief plays a conciliatory role. Moving from a simple conciliation function to becoming the center of a system where even modern judges recognize this power is a challenge.

3.1.1 The Weight of Custom

According to Christian Lund, the coexistence of legal tenets that are both flexible and rigid reflect the relations of social hierarchy.¹⁵ They have mixed characteristics: customary rights of use, Islamic rights more or less integrated with the former, and property rights promulgated by colonial power and relayed by independent states.

As the above analyses shows, fewer disputes are managed by the courts because of the cumbersome procedures inherent in modern justice and, above all, the court's inaccessibility to many rural actors. The moderately significant recourse to modern justice in the region of Tillabéri must consider its context, such as: the high transactions of fertile land and proximity to major centers such as Niamey; the influence of wealthy traders and usurers who offer large amounts of money to dislocate families; and land near cities, which falls within the oversight of the land register and town hall. Disputes are typically brought before modern justice to secure transactions. Interventions by customary chiefs are rejected, as they attempt to reconcile the parties, help young people keep the family property, etc. In short, for conflicts related to rural damage, issues of coexistence between farmers and herders, and the prevention of rural disputes, the customary chiefs of the Tillabéri region play the same role as their counterparts in Tahoua.

Most leaders in both regions point out that land commissions (like modern justice) are less equipped to deal with the social problems that are innate in land systems. The chiefs tend to be strongly involved in such social matters and carry out the activities of other technical executives and judges for the gain of social tranquility: "When everything goes wrong, it is the fault of the customary chiefs and when things

¹⁵ Lund, Christian, *Law Power and Politics and the Rural Code in Niger*, International Development Studies, Project Paper, Roskilde University, 1994.

go well, we are ignored and accused of all evils.” At this level, many leaders say they are overworked and would welcome logistical support in terms of vehicles, computers, and capacity building so that they can more effectively carry out their activities.

Overall, the customary authority is reportedly the most necessary for the resolution, prevention, and management of conflicts in rural areas. The CMAs recognize that the rural population has greater confidence in the ability of the customary chiefs to settle land disputes. The interventions of customary chiefs result in great success and are rarely questioned. Some failures are observable around the high demand for land; the bypassing of chiefs; the political interventions of rural parents; etc., but these do not affect the recourse to custom: “While modes of access to rural land are still largely based on ancestral norms, socio-economic changes and the emergence of new rules create conditions of precariousness and vulnerability for the less fortunate social groups that are not represented in land management and regulation bodies.”¹⁶

3.1.2 The Influence of Reforms

The rural populations’ confidence in tradition and/or their illiteracy have strengthened the power of the traditional chiefs over land tenure systems, though erratic reforms have unarguably given them unchallenged power.

Colonization in Africa identified more or less structured systems for managing communities, including the great empires and sultanates. For its expansion, colonization entered into alliances and agreements with “indigenous,” “customary,” or “traditional” chiefs, resulting in an institutionalization of the structure. To effectively implement the colonial system, allied or submissive chiefdoms were strengthened by the creation of other chiefdoms based on the need for territorial coverage. Traditional systems of power management were dismantled or reconstructed in other ways, and others were artificially constructed and reinforced, always with the rationale of supporting the administration of indigenous populations. After colonization, traditional systems used the new order to restructure, create a mechanism of devolution, expand, and gain favored lands.¹⁷

Pursuing the colonial strategy of reducing the power of traditional chiefs, the First Republic regime attempted a form of “soft containment” of the traditional chiefs’ power by abolishing the tithes and bringing into the government the representatives or sons of traditional chiefs. In addition they established rural support structures, such as the Ministry of Human Development, the Rural Peasant Organizations, cooperatives for the self-development of rural populations, and the Nigerien Union of Credit and Cooperative (UNCC, *Union Nigérienne de Crédit et de Coopérative*), established in 1962 and known throughout Niger under its acronym UNCC. Even in the favored jurisdiction (i.e., land systems) of customary chiefs, the justice of the peace or its representative (administrator, district commander, or sub-prefect) were the main arbitrators of disputes. By promoting organized rural cooperatives that were independent of so-called non-progressive structures the leadership capacity of local chiefs was reduced.

This erosion of traditional power was interrupted by the military regime of 1974, which transferred the competence of conflict resolution to the canton chiefs or traditional chiefs on January 28, 1975. The rural management structures (Rural Animation, UNCC, National Fund of Agricultural Credit [CNCA, *Caisse Nationale de Crédit Agricole*]) were dissolved in favor of the development society, which strengthened and increased the traditional chiefs power. Some cases settled by the justices of the peace were taken over by chiefs concerned with restoring their power. In other cases, administrators

¹⁶ Boureima Alpha, Gado. 2000. “Instances d’arbitrage et Itinéraires de Résolution Des Conflits Fonciers Le Boboye (Niger).” *Le Griot* VIII. <http://people.ucalgary.ca/~taarn/LeGriot/article7.pdf>.

¹⁷ Rothiot, Jean-Paul. 2001. “Une Chefferie Précoloniale Au Niger Face Aux Représentants Coloniaux, Naissance et Essor d’une Dynastie.” *Cahiers d’histoire. Revue d’histoire Critique*, no. 85: 67–83. <https://doi.org/10.4000/chrhc.1747>.

continued to play the role of justice of the peace. In this situation of confusion, some customary chiefs wanted to regain their power and some administrators wanted to implement the policy of “the land belongs to those who cultivate it.”

Intentionally or not, colonization, like the First Republic of Niger, strengthened the institutionalization of the chiefdom, and its capacities and prerogatives. The colonizers used traditional structures to more effectively establish themselves and to progressively isolate a system for the advent of a dynamic Republic. The process of modernization of the rural masses, still embryonic and partially installed, slowed down in 1974. The military regime, while strengthening the power of the customary chiefs in rural areas, exploited them in the context of a single party.

As a result, at the Sovereign National Conference, the customary chiefs were the target of attacks, and some plans called for the dissolution of the chiefdom, which would be replaced with communes in order to promote decentralization. As it was during colonization, the chiefdoms adopted a low profile, submitting to the service of the sovereign people. Consequently, the traditional chiefdom emerged stronger from this ordeal, with the added benefit of gaining national recognition of its role as the guardian of tradition. Political vicissitudes (alternating military and civilian regimes) did affect the traditional leaders, but did not adversely affect their power.

3.1.3 Niger Rural Code and Traditional Power

The famines and droughts of the 1970s revived the importance of land resources and revealed infertile lands. The reform of January 28, 1975, indirectly strengthened the power of the traditional chiefs, and many did not hesitate to get their hands on vast fertile lands to the detriment of the population. In legally acquiring these lands, these customary chiefs protected themselves from possible challenges and strengthened their economic and land capital. The rural code, with the market ideology that underlies it, has gradually spread to rural areas, and led to many land transactions for the benefit of the richest in these areas.

Traditional chiefs with enormous land resources saw their powers strengthened due to their status.¹⁸ The guiding principles of the Rural Code (Ordinance No. 93-015 of March 2, 1993) referred to Law No. 62-11 of March 16, 1962, concerning procedures to be followed for the settlement of disputes. These specified that judicial procedures must be preceded by an attempt of conciliation before the customary authorities. Furthermore, the outcome of this conciliation must be recorded in a report and in an ad hoc register and must never be called into question.

In a comparative study of the Nigerian and Niger rural codes, Yahaya-Adamou pointed out that:

“The legal logic would be roughly summarized as a reference to the customary rights of societies based on strict practices stemming from more or less esoteric knowledge and on a new reading of the codes of the colonial states of Nigeria and of Niger. This is how uniform and generalized models for all countries, inspired by the configuration and legal institutions of other countries, seem to impose themselves in land legislation... Already, the dosage of different possibilities is carried out only at a theoretical level and does not establish bridges between a macro level (configurations and wishes) and a micro level (practice on an individual scale). This lack of dialectic between levels is reinforced by the constituency of an aggregate inventory characterized by the absence of a master pattern other than the real desire to codify.”¹⁹

¹⁸ The status of the traditional chiefdom of Niger (Ordinance No. 93-028 of March 30, 1993) strengthens the power of conciliation of the traditional chief in civil, commercial, and customary matters.

¹⁹ Dr. Ahmédé YAHAYA-ADAMOU, *Le foncier au cœur de la problématique de Gestion de l'environnement au Nigeria et au Niger*, Op Cit.

Thus, as the customary chiefs presided over these mandatory conciliatory proceedings, they were in an ideal position to interpret the Rural Code. This enabled them to strengthen their powers, especially given their vast land holdings and their strong economic positions in the rural areas. In addition, the frequent mobility of administrators and other technical staff of the Rural Code and land commissions strengthened the control and grip of the customary chiefs over the entire land system. When the central administrators do not need to associate themselves with the customary chiefs, they prefer to perform minimal services and depart gracefully. This may be the reason why almost all the interviewees recognized the inevitable nature of the customary chiefs in managing land disputes.

The force of power balance or counter-power held by locally elected officials and some CSO activists does not seem to worry the traditional chiefs. Because these officials are not members of the chiefdom, they have limited power over land management. For example, they have jurisdiction over parcels located near cities (but even this land can be bought by chiefs or the chiefs' allies) and they have jurisdiction to recover rare municipal or commercial taxes. These taxes are subject to the internal management and investigation of the structures of the Ministry of the Interior. During the Team's visit, many town halls were reportedly run by state-designated delegates, as the process is in its infancy. As for CSOs: they are mainly focused on fundraising, so remain a marginal force in the face of the power and capacity of the traditional chiefs.

In short, the traditional chiefdom remains an essential force in managing rural land systems. It derives its strength from its community and its traditional role has been reinforced by various attempts to subjugate it to the public authorities and by the failures of modernization and reform. Even though the traditional chiefdom is somewhat affected by the changes in Niger's ideologies and institutions (due to various internal upheavals), the chiefdom emerges with greater power at each instance. The traditional chiefdom will continue to expand its durable power, given the failure of modernity, and in a few years will be transforming practices into inevitable statutes.

3.2 CHIEFDOM AND SECURITY CONFLICTS

In an online article published on October 14, 2019, Lori-Anne Thérroux-Benoni and Baba Dakono questioned the influence of extremist groups on conflicts in the Sahel:

“In this conflict, the Islamic State in the Greater Sahara exploits the frustrations and desire for revenge of the Fulani people by offering them support against the Daoussahaq. As for the Daoussahaq, they can rely on the support of the Azawad Salvation Movement—mainly composed of Daoussahaqs—which would benefit from the support of the Malian, Nigerian, and French armed forces in the fight against terrorism.”²⁰

This discussion, at a highly probable level of hypothesis, offers an opportunity to analyze the current risk, and above all, to anticipate and prevent aggravation. The issue lies in how to prevent and anticipate conflicts when the Sahelian states are struggling to build a structure to fight terrorism and armed conflicts in the region. Reinforcements through better-equipped international structures fail to handle the situation favorably. In light of the disarray and failure of purely military solutions, it is possible that customary chiefdoms could contribute to the management and/or prevention of security conflicts. This is a legitimate source, as military solutions tend to ignore the historical, societal, and regional contexts

²⁰ Thérroux-Bénoni, Lori-Anne, and Baba Dakono. 2019. “Les Groupes Terroristes Attisent-Ils Les Conflits Locaux Dans Le Sahel?” *Institute for Security Studies (ISS) Today*, October 14, 2019. <https://issafrica.org/fr/iss-today/les-groupes-terroristes-attisent-ils-les-conflits-locaux-dans-le-sahel>.

of the relevant countries. Niagalé Bagayoko and Fahiraman Rodrigue Koné also argued that a financial argument would be in favor of an approach using customary mechanisms.²¹

3.2.1 Security Conflict Management

With respect to the management of ongoing conflicts, it is difficult for customary chiefs to legally intervene. Disputes involving bodily injury or physical harm are not under the authority of customary law and are dealt with directly by the judicial system. The customary chiefs could intervene through the transmission of minutes, but that is a limited role. Even in the case of reconciliation or trials between opponents, their presence is not necessary. In large-scale reconciliations, as in the peace agreements following the rebellions in Niger, their contribution to the process was purely symbolic. Nevertheless, they could have played a significant role in the process of negotiating and appeasing the warring camps.

Some of the customary chiefs in Tahoua and Tillabéri recognized the possibility of involvement in the management of large-scale conflicts; the canton chief of Tahoua City explained how he and his association played an underground role in the negotiations during the rebellions. On a smaller scale, intercommunity conflicts in a canton are co-managed by the canton chief and the leader of the Fulani or Tuareg group. This coordination between the canton chief of Madaoua and the Fulani group of Bangui has vitally prevented mass killings, calmed the camps, and called for tolerance. Although the judicial case is ongoing and justice will likely be served, the customary chiefs of the canton will continue their regular meetings in order to help the justice system and prevent possible reprisals.

Further, the regular meetings of customary chiefs at the departmental, regional, and national levels of the traditional chiefdoms are opportunities for managing ongoing conflicts. In addition, the missions led by the Association of Traditional Chiefs of Niger have helped to resolve political crises.

3.2.2 Conflict Prevention

As seen in the data analysis, steps taken by the customary chiefs follow a discursive, procedural logic. This process has yielded positive results and contributed to avoiding a large number of conflicts in the Tahoua and Tillabéri regions. The role and efforts of the customary chiefs in pre-emptive peace and security measures for the prevention of conflicts is unclear, however.

All the customary chiefs regularly organize information and awareness-raising meetings. This allows them to collect new information that is adjusted and updated to contribute to decision making. These meetings take place frequently during crucial periods (e.g., beginning and end of the rainy season). When asked about security threats, all the interviewed customary chiefs mentioned regular, sometimes informal meetings with the central administration depending on the severity of the information. These meetings are typically followed by a convening of the local assembly to recommend resolutions.

Sometimes local arrangements are made to prevent conflicts, for example:

- Faced with an increase in conflicts related to land transactions, the canton chief of Torodi imposed a form of moratorium on land loans. This local decision, which is illegal, significantly reduced field-related disputes. Gradually, the economic reality (high demand for land in the locality) confirmed that the loans had stopped; the owners then developed their own land or sold it based on modern legal procedures.

²¹ Bagayoko, Niagalé, and Fahiraman Rodrigue Koné. 2017. "Les Mécanismes Traditionnels de Gestion Des Conflits En Afrique Subsaharienne." Research Report 2. Montreal, Quebec, Canada: Centre FrancoPaix en Résolution des Conflits et Missions de Paix, Université du Québec à Montréal (UQAM). https://dandurand.uqam.ca/wp-content/uploads/2017/06/Rapport_Recherche_2_FrancoPaix.pdf.

- Chiefs of the regions in Tahoua and Tillabéri acknowledged that they have instructed all the village chiefs to report any foreigner in the community and to follow his actions. The canton chief of Birni-N'konni pointed out that this process contributed to the dismantling of a network of dealers by the police.
- The customary chiefs' knowledge of a problem and its sources can help prevent abuse. For example, all the chiefs have acknowledged that they cannot control abuses committed at a lower level by village or neighborhood chiefs (some chiefs administer more than 200 villages); disputes can take on disproportionate proportions. Informational meetings are, therefore, held, and rural actors are allowed to denounce their local chiefs in cases of abuse. It is a form of local and internal democracy in the canton.

The preventive aspect of traditional conflict management mechanisms seems to be a primary asset of the customary chiefs. Indeed, knowledge of the communities and local intelligence could undoubtedly help traditional mechanisms of security conflict management on a purely operational level.

3.2.3 Chieftaincy and Chiefdom

Officially defined as a deconcentrated auxiliary agent but of a traditional nature, the status of the customary chief remains ambiguous. Appointed through a customary process and recognized by decree, the chief is labeled as AAP of development and benefits from some subsidies depending on his official level.

Zucarelli's analysis of colonial relations stated that colonization has intentionally committed itself to dismantling traditional structured chiefdoms and that it would be dangerous (for the colony) to keep them.²² On the contrary, colonization encouraged support for their destruction and the creation of new, even artificial, cantons. Despite the continuation of the process of deconstruction/reconstruction and the institutionalization of the traditional chiefdom, an overriding unease remains with chiefdoms varying in their power, influence, and capacity for action. Studies insist and show that the current chiefdoms are the product of colonization and are all defined by their auxiliary nature.

A reclassification according to the influence of the chiefdom, its economic weight, geographical size and, above all, historical weight (resistance or lack thereof) would be helpful. This is very possible, since some small or artificial chiefdoms are aware of their limits and influence and would benefit from being categorized in a coherent system. Chiefdoms with a high capacity for action and influence are limited by the auxiliary process and their containment in a system that brings them to the level of artificial colonial chiefdoms. In other words, for the chiefdoms that have those characteristics, it is necessary to decolonize the structure and endow them with real capacity for action. Those with minimal characteristics could be supported and helped to fully play their development role. Whether going in this direction, even if doing so is necessary to energize a structure capable of large-scale action, is possible and soluble in a Republican context, and whether the various actors of modernization would accept a reconfiguration/reconstruction of a national structure that each regime attempts to subject to its social project, remains obscure.

3.3 THE NECESSARY MOVE BEYOND THE AUXILIARY

In his circular of August 15, 1917, Governor Van Vollenhover explained:

²² Zucarelli F., « De la chefferie traditionnelle au canton : évolution du canton colonial au Sénégal : 1855-1960 », Cahiers d'Etudes Africaines, 1973, vol. 13, n°50

“The chiefs have no power of any kind because there are not two powers in the circle, the French authority and the indigenous authority, there is only one! Only the commanding officer of the circle commands... The indigenous chief is only an instrument, an auxiliary of transmission.”²³

In an effort to standardize a more complex reality and subjugate it for its own sake, postcolonial states and politicians manipulated the traditional chieftdom as they saw fit. In the end, however, when the various failures of modernization appeared, traditional chieftdom reemerged as a bulwark.

On the one hand, customary chiefs have been frequently used to implement poorly designed and roughly executed societal projects and models—and they end up being abandoned if they fail. On the other hand, there is a challenge to break away from this “auxiliary” approach, objectively assess the strengths and weaknesses of traditional leadership, and integrate it into well-thought-out societal projects.

On a strictly legal level, where the customary chiefs excel in relieving the modern courts, it is possible to formalize their role through judicial bodies. Today, there are nearly four hundred judges for all of Niger, representing a ratio of one judge for 40,000 inhabitants. In the optimistic scenario of a doubling of the number of judges by 2070 with the same population of 20 million (no increase), this will be far from the United Nations standard of one judge per 20,000 inhabitants in the next 50 years. Further, a point worth considering is whether popular support for modern justice will follow if high illiteracy rates persist. A pilot intervention could be initiated to identify the ways and means to revitalize customary justice and integrate it into the courts.

In terms of ongoing communalization, instead of granting a small space for customs and aggravating tensions between the customary chiefs and mayors, the rules should be clarified. There could be an exclusion from any activities unless elected, or a precise redefinition of the roles and activities of customary chiefs within the communes, on condition that there is no obligation of involvement in ideological or electoral mimicry and that the administrative division is adapted to the cantonal configuration as much as possible.

Indeed, like unilateral military or technical approaches, customary chiefs alone cannot manage or prevent large-scale conflicts. The public authorities must seriously reconsider the issue of traditional customs from a new, more dynamic perspective. This would necessarily overcome the colonial dichotomy that decision makers seem reluctant to abandon. Because the 21st century faces many challenges, all forces and structures must be used to effectively play their part in development. The intellectual elite and policymakers need to update their vision with respect to the change of goals and challenges. Originally, the colonists sought to subjugate the customary chiefs in order to assert their authority, and if the political decision-makers in Niger continue to do so, this will inevitably lead to anachronism. The time of domination and submission of the populations is past, and for the fight for development, security, and the securing of lands to succeed; the effective mobilization of all forces is necessary.

3.3.2 A High-Range Mobilization Force

The involvement of customary chiefs in the transmission of messages of peace and security is already a reality. It is this perspective that some international institutions, such as UNICEF and UNFPA, have understood. They have relied on customary mechanisms to implement their programs and activities in rural areas. By signing memoranda of understanding and collaboration with moderate customary and religious associations, these institutions have succeeded in changing key behaviors in less than two decades. For example, programs have increased the rate of school enrollment and retention for girls in

²³ TIDJANI ALOU Mahaman, Op Cit, page

rural areas and also have reduced the rate of early marriages. The awareness-raising activities carried out by the canton chief of Illéla (in the Tahoua region), sometimes supported by local law enforcement measures, have reportedly been successful in the canton: no early marriages have been observed for nearly five years. Today, many girls have reached the age of marriage but are unable to find husbands and vocational training mentoring measures have not followed.

Behavioral change interventions conducted in partnership with UNICEF and UNFPA result in better outcomes. In addition to the discreet control and even informal profiling of alleged extremist groups, the customary chiefs rely on moderate imams to preach about non-violence themes in mosques on Fridays and on local radio stations. This approach is confirmed by all the canton chiefs in Tahoua and some chiefs in Tillabéri. They maintain that they have been committed to this goal for the past decade, and no terrorism-related incidents have been observable since. Within a concerted and broader framework, customary chiefs could be used effectively for the (underground) management and prevention of large-scale conflicts. The establishment of a concerted platform delineating the specific activities to be carried out would satisfy customary chiefs, who are only concerned with social tranquility.

3.3.3. A Necessary Internal Evolution

The customary chieftom, despite its transformation and adaptation, fails, unlike the other bodies subject to the obligation of discretion (army, magistrate), to achieve a formal internal change and become part of a sustainable development dynamic. It still reportedly drags the burden of its auxiliary nature and is unable to break from its instrumentalization by successive political regimes. While a regime uses the chieftom to establish its hold in rural areas, political parties use it as an intermediary for invocations of success. However, the chieftom constitutes a force, which is perhaps unknown, but lies in its assets: strong representation of intellectuals, relative rejuvenation of the structure, internationally proven and demonstrated successes in terms of behavior change, and capabilities of resilience to strong shocks such as at the national conference.

The customary chieftom itself can initiate its transformation and orientation and become a force in the structures since it has the means to do so, through the following steps:

- Make a national inventory of all the skills available within it.
- Classify competencies and propose them in the form of a national consultative structure. The Subcommittee on Education, composed of traditional chiefs, former teachers or pedagogues, might be the basis for any national decision. Other sectors could be internally organized and the association's office could make agreements or contracts with the national structures concerned.
- Formally involve chieftoms in national mediations.
- Find the ways and means to move out of the auxiliary system toward a more formal arrangement.

GENERAL CONCLUSION

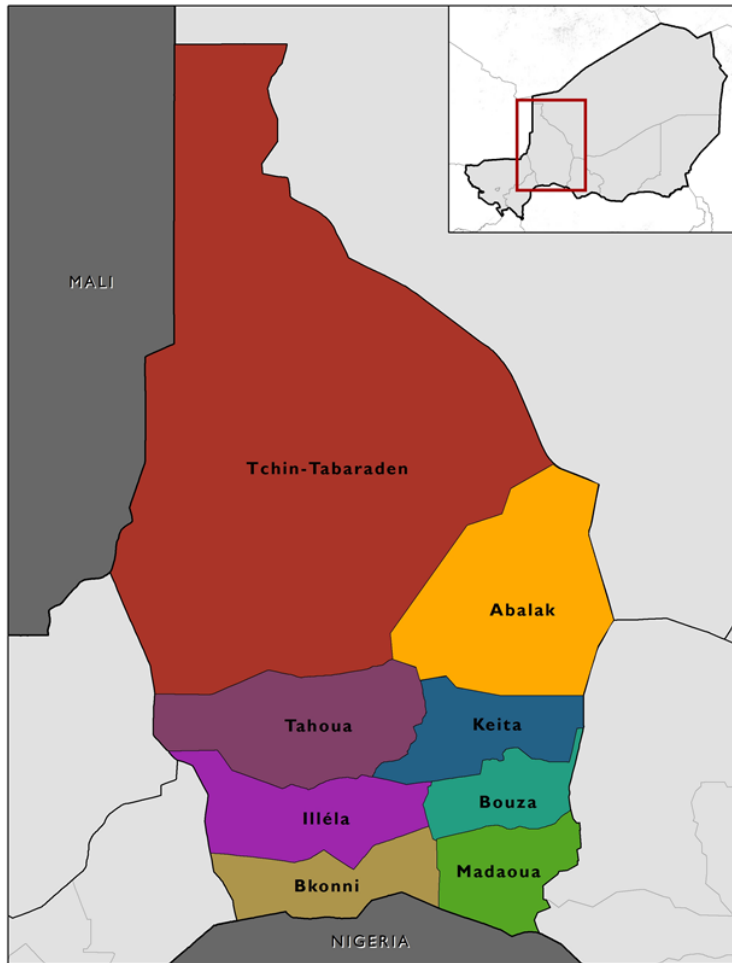
Customary mechanisms for preventing and managing conflicts remain relevant. Conflict management mechanisms—each coming from two different realities (customary versus contemporary)—overlap and interact depending on the issue that needs to be addressed. That is, a traditional model that can seem obsolete to some continues to interact with an erratic model that is modestly modern. The contemporary model receives tacit support from the administration (inherited from colonization), but is limited by financial constraints. The traditional, customary model is entangled in processes that are auxiliary in nature. In principle, a canton chief acts as an intermediary between the canton population and the central administration. In reality, the power erosion of traditional leaders is not the main issue,

as change is inevitable. Rather, the main issue behind the interaction of these two models concerns the context of insecurity and the inability of the modern model to curb this problem.

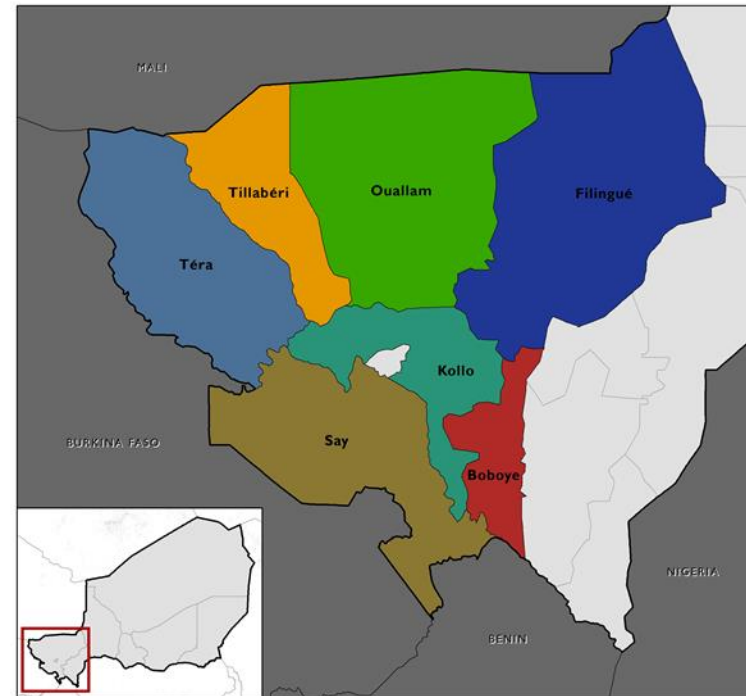
ANNEX I: TRAVEL REPORT

THE DEPARTMENTS VISITED

Tahoua



Tillabéri



REGION I: TAHOUA

HE Mr. Governor Moussa Abdourahamane, interviewed on September 1, 2019: 96974567 OR 90575687

Key Location	Prefects	Mayors	Local NGOs	Judges	Traditional Chiefs	Interview Date
<u>Department of Tahoua</u>	Prefect of Tahoua	Mayor of Tahoua Abdou City. O. Dodo: 91189642	ISTP Chairman: Kadri Andillo: 98757381	None	1. Canton Chief or Serkin Tahoua: Honorable Elhadj Mahamadou Moussa also known as Addou: 96469576 2. Leader of Fulani group of Tahoua: Honorable El hadj Amadou Dey: 96982449	September 1, 2019 See Mission order of SG signed
<u>Department of Abalak</u>	SG of Prefecture, Roumar Mansouroune: 96185767	SG of the Town Hall, Ahmed Almoustapha: 96490278	Timidria NGO, regional leader Tahoua Moussa Mohamed: 96651747	Trial Judge: Judge Mahamane Bachir RABIOU: 96465746	Representative of the Tuareg Group Leader, Habiboulaye Mohamed: 91717912	August 31, 2019 Mission order signed
<u>Department of Illela</u>	Prefect, Saadou Boureima	Deputy Mayor: Mahamadou Aboubacar: 97202355	President of NGO Network: Abdou Hassane: 96597244	President of the Court of Instance: Judge Husseini Sani: 96403102	Canton Chief or Serkin Ader: Honorable Elhadj Yacouba Habibou Oumani: 96976225	August 20, 2019 Mission order sent

REGION I: TAHOUA

HE Mr. Governor Moussa Abdourahamane, interviewed on September 1, 2019: 96974567 OR 90575687

Key Location	Prefects	Mayors	Local NGOs	Judges	Traditional Chiefs	Interview Date
<u>Department of Kéita</u>	SG of Prefecture, Abdoulaye Zaihana: 96264783	Deputy Mayor Mohamat Oufagui:	KAJAC NGO, Gado SUMAILA: 97450471	President of the Court of Instance, Judge Ali Salifou Kane: 97376665	Canton Chief or Serkin Keita: Honorable Amataza Mahamane Rabo: 96578785	September 1, 2019 Mission order signed
<u>Department of Madaoua</u>	SG of Madaoua Prefecture, Lawali ADAMOU: 88229476 or 91352019	1. SG of Madaoua Town Hall, Amadou Salah: 95500429 or 96982894 2. Town Hall of Bangui, Mayor Oumarou Mahamadou: 96894728	Coordinator of the NGO Network, Ali Douka: 96491626 2. Representative of Transparency International in Bangui, Yahaya Dan Tani: 97794349	President of the Court of Instance, Judge Zakari Ibrahim: 96520659; Email: issar92@yahoo.com	1. Canton Chief or Serkin Gobir Toudou: Honorable Mahamadou Manirou Magagi: 96967729 2. Leader of Fulani group of Bangui, Honorable Ousmane Ibrahim known as Mainassara: 96641397 or 96555539	September 2, 2019 Mission order signed

REGION I: TAHOUA

HE Mr. Governor Moussa Abdourahamane, interviewed on September 1, 2019: 96974567 OR 90575687

Key Location	Prefects	Mayors	Local NGOs	Judges	Traditional Chiefs	Interview Date
<u>Department of Birni N'Konni</u>	SG of Birni N'Konni Prefecture, Tahirou Hamed: 97838882	Town Hall of Birni N'Konni, Mayor Soumaila Ousmane: 96551587	Anti-Corruption NGO, Seydou Abdoulaye: 96463138	President of the Court of Instance, Judge Ali Koine: 96965773	1. Canton chief or Serkin N'Konni: Honorable Sardauna Mamane Sani: 96219949 2. Leader of Fulani group of N'Konni: Honorable Mamane Barthe: 96597859	September 3, 2019 Mission order signed

All departments or major settlements except three: Malbaza, Bouza (both with strong similarities with Tahoua, Madoua, and/or Birni-N'Konni), and Tchintabaraden (which was advised against by the Governor due to insecurity)

REGION II: TILLABÉRI

SG of the Governor, Mr. Kimba Mounouni Seydou, interviewed on September 5, 2019: 96964854 or 85669091; Email: seydoukimba2014@gmail.com

Key Location	Prefects	Mayors	Local NGOs	Judges	Traditional Chiefs	Interview Date
<u>Department of Tillabéri</u>	Prefect of Tillabéri, Mrs. Houa TANIMOUN: 91614865 or 98657530	Town Hall of Tillabéri, Mayor Morou KABOYE: 96996744	CCOAD-SG of the NGO Network: 96079424	President of the Court of Instance, Judge Moussa HAROUNA: 96898216	Canton Chief of Tillabéri, Namaro absent for health reasons	5 September 2019 Mission order signed
<u>Department of Kollo</u>	Prefect Mr. Saadou Oumarou: 96970105	Town Hall of Kollo, Receiver, Alfari ABDOU: 94444405	NGO Fawakoye, Mr. Oumarou Niandou Ali: 96884771	President of the Court of Instance, Judge Mahamane Souley Zabeirou	Canton Chief of Hamdalaye, Honorable Mayaki Oumarou Tahirou: 96974010 (Encountered only on September 9, 2019)	September 5, 2019 Mission order signed
<u>Department de Téra</u>	Tera Prefect, Mr. Halidou Hamadou: 96368882 or 94341432	Town Hall of Téra, Counselor/Neighborhood Chief, Aliou Niandou: 96609365	ROTAB NGO, Departmental Coordinator, Boukary Oudu: 96403461	President of the Court of Instance, Judge Illa Elhdaj Ibrahim: 96882716	1. Representative of the canton chief of Djagorou, Amadou Boureima Bello: 89013736 2. Representative of the canton	September 7, 2019

REGION II: TILLABÉRI

SG of the Governor, Mr. Kimba Mounouni Seydou, interviewed on September 5, 2019: 96964854 or 85669091; Email: seydoukimba2014@gmail.com

Key Location	Prefects	Mayors	Local NGOs	Judges	Traditional Chiefs	Interview Date
					chief of Téra, Yayé Halidou: 96423168	
<u>Department of Bankilaré</u>	Prefect, Mr. Barmini Kaboye:	Town Hall of Bankilaré, SG of Town Hall Awal Kaman-Kaman: 96590755	-	President of the Court of Instance of Téra	1. Representative of the Tuareg Group Leader de Bankilaré, Mr. Ibrahim Aboki: 96407589 2. Representative of the Tuareg Group Leader of Tingueregedech, Mr. Mohadata GOUMAR: 96407589	September 7, 2019

REGION II: TILLABÉRI

SG of the Governor, Mr. Kimba Mounouni Seydou, interviewed on September 5, 2019: 96964854 or 85669091; Email: seydoukimba2014@gmail.com

Key Location	Prefects	Mayors	Local NGOs	Judges	Traditional Chiefs	Interview Date
<u>Department of Filingué</u>	SG of Filingué Prefecture, Mr. Amadou Mamadou: 96018363	Town Hall of Filingué, Mayor Abdoulaye Elhadj Mainassara: 90054744 or 96468923	Communal Coordinator of ANDDH, Moussa Inoussa: 96468915	President of the Court of Instance, Judge Daouda MAMANE: 96329313	<p>1. Representative of the canton chief of Kourfèye, Abdourahmane HIYA: 996547129 or 90205789</p> <p>2. Canton Chief of Imanan Bonkougou Honorable Goumar Maazou (10 September 2019): 96504518 or 90551068</p> <p>3. Canton Chief of Tondikandia, Honorable Zarmakoye Idrissa Oumarou Kountche (10 September 2019): 98723030 or 96886461</p>	September 9, 2019 Mission order signed

REGION II: TILLABÉRI

SG of the Governor, Mr. Kimba Mounouni Seydou, interviewed on September 5, 2019: 96964854 or 85669091; Email: seydoukimba2014@gmail.com

Key Location	Prefects	Mayors	Local NGOs	Judges	Traditional Chiefs	Interview Date
<u>Department of Baleyara</u>	SG of Baleyara Prefecture, Moussa Seydou: 96531858	Town Hall of Baleyara, SG of Town Hall Mrs. Hadjara Moussa: 96369710	Coordinator of the NGO Network, Agali Issoufou: 99574217	President of the Court of Instance, Judge of Filingué	Canton Chief of Tagazar, Representative of the Canton Chief, Mr. Beydo ALBADE: 96334500	September 10, 2019 Mission order signed
<u>Department of Abala</u>	SG of the Abala Prefecture, Issaka Modi: 96663776	Town Hall of Abala, MP and Mayor Honorable Boubacar Oumarou: 96072717	AMF-Civil Society, Mrs. Fatchima Oumarou: 96462951	President of the Court of Instance, Judge of Filingué Judge Daouda Mamane	Representatives of the Fulani Group Leader of Abala, Harouna Laya and Mohamadou Boubacar: 96022269	September 8, 2019 Mission order signed
<u>Department of Torodi</u>	Prefect of Torodi, Mahamane Habou: 96969183	Town Hall of Torodi, Mayor Ibrahim Djibo: 89701444	SONG /T- NGO Network, President Abdoulaye. A. DIALLO: 95978431	President of the Court of Instance, Judge	Canton Chief of Torodi: Honorable Idrissa Yeroh: 96906094	September 11, 2019 Mission order signed
<u>Department of Say</u>	SG of Say Prefecture, Mrs. Fatouma Amidou:	Town Hall of Say, Mayor Oumarou	CCOD- NGO Network,	Judge Mahamane ALI, President of the Court of	Canton Chief of Say covering the cantons of Djagorou,	September 11, 2019

REGION II: TILLABÉRI

SG of the Governor, Mr. Kimba Mounouni Seydou, interviewed on September 5, 2019: 96964854 or 85669091; Email: seydoukimba2014@gmail.com

Key Location	Prefects	Mayors	Local NGOs	Judges	Traditional Chiefs	Interview Date
	96985181 or 85186068	Soumaila: 96271647	SG Sidikou Bouacar Bello: 96536625	Instance: 96530557	Gueladjo, Tamou: Honorable Cisse: 96973206	Mission order signed

8 out of 10 departments or major settlements surveyed, with the exceptions of Ouallam and Ayorou, due to warnings of insecurity

ANNEX 2: SUMMARY OF LITERATURE REVIEW

Aboubacar, Zakari, Traditional Chiefs and Decentralization in the Region of Tahoua in Niger, *Global Journal of Human Social Science Sociology & Culture* Vol. 13(4), 2013.

This article discusses the relationship between the traditional chief in Niger and the decentralization process. The democratic process established in the early 1990s in most African countries has enabled the establishment of a multi-party system and maintenance of good governance structures. This initiative could resolve the excessive centralization of government powers in African countries. To understand the process of decentralization in Niger, it is crucial not only to examine the democratic context, but also to understand certain historical facts. In addition to the context of democracy, it should be noted that the demands of the armed rebellion (1989) based on federalism led to peace agreements, concluded on October 9, 1994 and on April 24, 1995, between the Organization of Armed Resistance (ORA) and the Government of Niger, to adopt decentralization as a form of governance. The option is full communalization by changing townships (sedentary and area nomads) to municipality status. The municipalities are headed by an elected mayor. The logic is to have these structures become real hubs for local development. However, in the same way as it has been for a long period of time, at the head of the same canton, a leader administers his people according to the traditional mode. These two types of powerful people can create a social conflict if certain rules are not defined.

Bagayoko, Niagalé, N'Diaye Boubacar, and Kossi Agokla. La réforme des systèmes de sécurité et de justice dans l'espace francophone, *Organisation internationale de la Francophonie*, 2010. (*The Security and Justice Systems Reform in the Francophone World*)

Since the late 1990s, the concept of security sector reform (SSR) - which encourages the adoption of a comprehensive and coordinated approach to all reforms undertaken in different sectors (defense, police, justice, parliamentary, and public oversight of security actors, transparent management of allocated budgets, respect for human rights in the performance of duties) - has emerged as one of the main activities for promoting peace and stability. Increasingly, the concept of justice sector reform (JSR) tends to be associated with it.

Bron-Saidatou, Florence and Seyni Souley Yankori. Les terres communautaires...ou terrains de chefferie, terres pastorales, ressources forestières..., *Réseau National des Chambres d'Agriculture du Niger*, 7 April 2015. (*Community Lands... Or Chiefdom Lands, Pastoral Lands, Forest Resources...*)

This article summarizes all legal texts related to land rights.

Gado, Boureima Alpha, Instances d'arbitrage et itinéraires de résolution des conflits fonciers dans le Boboye (Niger), *Le Griot*, Vol VIII, 2000. (*Arbitration Bodies and Means of Land Dispute Resolution in Boboye (Niger)*)

In Niger, the specter of land disputes with their procession of innocent victims has unfortunately become a chronic phenomenon, or permanent fact. In several regions of the Sahel, land resources crystallize numerous conflicts. While modes of access to rural land are still largely based on ancestral norms, socio-economic changes and the emergence of new rules create conditions of precariousness and vulnerability for the less fortunate social groups that are not represented in land management and regulation bodies. In a doctoral thesis supported at the University of Wisconsin-Madison, T. Ngaido optimistically emphasizes the ability of rural Nigerien communities to adapt to the new structures of the Rural Code. According to him, an increase in rural land sales is an indication of an informal land market that will allow farmers to acquire land. The promotion of the Rural Code will thus ensure secure land transactions.

Mathieu, Paul, and Lurent P-J, *Démocratie, enjeux fonciers et pratiques locales en Afrique : Conflits, Gouvernance et Turbulences en Afrique de l'Ouest et Centrale*, Institut Africain-CEDF, N 23-24, l'Harmattan, 1996. (Democracy, Land Issues and Local Practices in Africa: Conflicts, Governance, and Turbulence in West and Central Africa)

From May 2 to 12, 1995, a meeting on "Democracy, Governance, Land Issues, and Local Practices in West and Central Africa" was held in Louvain-la-Neuve, bringing together some twenty researchers, teachers and managers from training institutions in West and Central Africa and Europe.

Mercy Corps, *Vulnerability and Resilience Assessment Initiative to Counter Violent Extremism (VRAI): Final Synthesis Report*, USAID, March 2018.

Although the main objective of the VRAI project is to develop a set of data collection tools, Mercy Corps recognizes that the data collected during the design and testing of these tools are nevertheless important and worthy of discussion. Data collected in Diffa, Gorom-Gorom, and Tillabéri indicate that multiple factors play a role in driving individuals towards violent extremism (VE). These include the perception that violent extremist organizations (VEOs) offer easy access to financial and personal gains, and grievances against the central government that could be exploited by VEOs. In Tillabéri, the resilience identified by the largest number of participants was the presence of inter- and intra-community dialogue, identified by 51 percent of the 207 households surveyed. In Tillabéri, unlike Diffa and Gorom-Gorom, only one vulnerability factor stood out significantly: the ease of access to personal and financial gains, identified by 90 percent of the 207 households surveyed.

Metohin, Frank Noel, *Conflict Assessment for the Project "Batissons Ensemble": Building Mutual Trust and Confidence between Security and Defense Forces, Communities, and Local Authorities in Mopti*, GAO, and Tillabéri, Department for International Development, December 2018.

Since the end of 2016, the security situation in the Liptako-Gourma region has deteriorated sharply, affecting the relationship of trust within communities and between communities and the Defense and Security Forces (DSF). The crisis in northern Mali has weakened the influence of the Malian authorities and their ability to control the illicit activities of armed groups, which is also the case in Niger, making the entire cross-border area unstable. This situation of crisis has encouraged the establishment of armed groups and drug traffickers. Repeated attacks by armed groups and attacks on communities have increased the vulnerability of the population and precariousness of their living conditions. Growing over the years, this situation has led to the displacement of populations from northern Mali to the regions of Niger, in this case to the municipalities of the Tillabéri region. The lack of adapted means and exhaustion of traditional mechanisms of community resilience seem to revive the crisis over time. The region is experiencing growing intercommunity tensions that foster frustration, prejudice, and mistrust within communities and put a lasting strain on the communities' trust in the institutions and DSF.

Mohamadou, Abdoulaye, *Decentralization and Local Power in Niger*, International Institute for Environment and Development, June 2009.

This article analyzes the effects of decentralization on local politics in the canton of one of the departments of south-central Niger, with a focus on the role of two types of actors: the "traditional chiefs" and professionals (senior officials): teachers, customs officers, and union activists from the canton. Despite significant differences in status, both groups play an important role at the local level in their positions or ties with the central government. Both are also concerned about the decentralization of the role of local authorities.

Sindayigaya, Adrien et al., Analyse des déterminants de conflits dans les communes de Tchintabaraden et Tassara, UNICEF, March 2014. (*Analysis of the Determinants of Conflicts in the Communes of Tchintabaraden and Tassara*)

As part of the implementation of the project "Peace and Youth Development in the Tahoua Zone," the United Nations Children's Emergency Fund (UNICEF) in Niger commissioned Search for Common Ground (SFCG) to conduct a study to identify the main determinants of conflict in the project's intervention communities in the Tahoua region. In this context, a study was carried out between October and December 2013 in the two municipalities of Tchintabaraden and Tassara. The study was based on a mixed methodology combining focus groups (11), individual interviews (32), and random sampling surveys with 840 people (511 men and 329 women), with the aim of collecting qualitative and quantitative data. These interviews, focus groups, and surveys aimed at capturing information on the populations' perceptions of conflicts, the actors in conflicts, and existing conflict resolution mechanisms. Finally, a significant part of the research focused on the media and the potential role of the media in social cohesion initiatives.

Rothiot, Jean-Paul, Une chefferie précoloniale au Niger face aux représentants coloniaux, naissance et essor d'une dynastie, Cahiers d'histoire. Revue d'histoire critique ; 85, 2001. (*Precolonial Chiefdom in Niger Facing Colonial Representatives, Birth and Rise of a Dynasty*)

A complex history of the relationships between colonized populations and European power in Africa in the late 19th and 20th centuries is identified through the journey of Aouta (a zealous collaborator reportedly among the French who settled in Niger, and the ambitious author of a project of political and territorial conquest for his own benefit). By making envoys of France believe that they represent the traditional power upon which colonial power must rely upon to impose its domination, Aouta and his successors actually monopolize a chiefdom that they transform profoundly. Demonstrating not only an autonomy from colonial power, but also a capacity to exploit the situation created by it, the dynasty founded by Aouta permanently settles in Niger and survives political developments, independence, and then the democratization process.

Tidjani Alou, Mahaman, La chefferie au Niger et ses transformations : De la chefferie coloniale à la chefferie post coloniale in *Les Pouvoirs Locaux au Niger*, pp. 2 – 27, LASDEL, CODESIRA-Karthala, 2009. (*The Chiefdom in Niger and its Transformations: From Colonial Chiefdom to Postcolonial Chiefdom*)

The current situation of the chiefdom is the product of a long historical process. It owes much to the weak grip of the colonial and postcolonial State on Nigerien societies and the early need felt by the State to establish and consolidate a mediation structure that would link it through its ties with the populations. However, this nationalization of the chiefdom remains constrained by the diversity of the modes of administration of the chiefdom and their characteristics that are, in sum, patrimonial, which limit the scope of this dynamic.