

**Authority and power in local orders**  
Customary authorities, the state, and  
jihadist insurgency in Mali

Gianfabrizio Ladini



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**DISCUSSION PAPER / 2023.02**

# **Authority and power in local orders**

## Customary authorities, the state, and jihadist insurgency in Mali

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## ABSTRACT

Mali is mired in conflict and instability since 2012, when a coalition of secular and Islamist insurgents came close to overtaking the capital Bamako. The magnitude and rapidity of the crisis, together with its ongoing and expanding repercussions, laid bare institutional weaknesses, begging the questions of how governance was delivered before the crisis, and how it has evolved ever since, especially on a local level. The paper traces the evolution of state-customary authorities interaction towards tentative forms of cooperation. It examines how persistent insecurity after 2012, in a context of an ongoing insurgency, put customary authorities in fragile positions in processes and outcomes of local governance. In fact, the crisis brought armed groups as new prominent actors in local negotiations of stability and peace. The role of customary authorities expanded by filling the void left by the state, but it also eroded against the power of armed groups. Customary authorities face peculiar challenges from jihadist insurgents: these actors' revolutionary project aims at replacing the state with alternative forms of order and governance, also by co-opting customary authority in their political strategies through violence and negotiation.

**Keywords:** Conflict, governance, institutions, security and development, jihadism, Mali.

## 1. INTRODUCTION

The 2012 crisis in Mali, when a rebellion came close to capturing the capital Bamako, laid bare the extent to which 20 years of development and security cooperation helped produce “a Potemkin state in the Sahel” (Craven-Matthews & Englebert, 2018). The formal structures of a functioning state were mimicked and carefully communicated, without any link to actual and empirical realities. Development donors had invested heavily in Mali since the overthrow of autocrat Moussa Traoré in 1991. Security actors joined them after 9/11, looking for partners in the “war on terror.” Elected governments applied the liberal playbook of democratisation, liberalisation, and decentralisation, and they entered counterterrorism partnerships and capacity building programmes.<sup>1</sup> The external image of Mali as a reliable partner and a “donor darling” crumbled in 2012. The significance of the crisis lies in the rapidity of its events and in their ongoing and expanding consequences for the country and the region.

In less than 12 months, a secular-jihadist coalition of Tuareg rebels (under the banner of the National Movement for the Liberation of Azawad, or MNLA in the French acronym) and Al-Qaeda-linked movements (Al-Qaeda in the Islamic Maghreb, or AQMI in French; Ansar Dine; and the Movement for Oneness and Jihad in West Africa, MUJAO) took control of north Mali and advanced towards the capital. The army deposed President Amadou Toumani Traoré (known as ATT), accusing his administration of corruption, incompetence, and inability to provide the military with the necessary means for fighting, but proved equally unable to stop the insurgents. The government asked France for help in preventing an imminent takeover of the capital. Backed by the UN, France launched Operation Serval in January 2013 and quickly dispersed the insurgents, who could not compete with better equipped, better trained troops.<sup>2</sup>

A peace agreement was signed in 2015. However, Mali is still mired in conflict, violence, and instability. Jihadist groups regrouped and dispersed after initial defeats, and they were categorically excluded from any kind of formal peace talk. The peace agreement on northern Mali increased autonomy for the Tuareg and brought peace dividends for the elites (in the form of political and economic rents largely sponsored by donors) that, in some cases, trickled down among local communities.<sup>3</sup> Weakened in the north, jihadist groups did not disap-

[1] Ba & Boas (2017); Bergamaschi (2014); Baudais (2015); Craven-Matthews & Englebert (2018).

[2] Raleigh, Nsaibia & Dowd (2021); Wing (2017); Ba & Boas (2017).

[3] Interview, MINUSMA officer, Bamako, 25/06/2022; Ba & Boas (2017); Lankoande (2020); Devermont

pear but adopted a lower profile. Al-Qaeda affiliates also went through internal turbulence. The Islamic State in the Greater Sahara (ISGS) was born in 2015, when the al-Mourabitoun group – the successor of MUJAO – splintered between those who remained affiliated with Al-Qaeda and those who, led by Adnan Abu Walid al-Sahraoui, declared allegiance to the Islamic State. Though it experienced some setbacks, like the killing of al-Sahraoui by the French in August 2021, the latter have emerged as the dominant force in the north-eastern regions of Mali and across the borders with Niger and Burkina Faso.<sup>4</sup>

Another group, the Katiba Macina, appeared in the centre of Mali and achieved remarkable success in penetrating communities and territories. Katiba Macina is now part of the umbrella organisation of al-Qaeda affiliates known as Support Group for Islam and Muslims (JNIM in Arabic). Their successes in the centre helped sustain an insurgency that has escalated and extended within and beyond Mali in the last 10 years, in the Sahel and towards coastal states in West Africa.<sup>5</sup> ACLED figures show a total of 16,741 fatalities in Mali between January 2012 and December 2022, almost 60% of which in the central regions of Mopti and Segou alone. The overwhelming majority of these fatalities occurred between January 2017 and December 2022, or in six years only. Adding to this bleak picture, the year 2022 saw a staggering 202.5% increase in fatalities in those two regions, compared to 2021, from 1,155 to 2,339.<sup>6</sup> These numbers explain this study's focus on central Mali and the Katiba Macina, even though the complex and rapidly evolving conditions on the ground – such as the almost total occupation of the north-eastern region of Ménaka by ISGS as of April 2023 – may soon make this focus already obsolete.<sup>7</sup>

This scale of the 2012 crisis, and its enduring and worsening state of violence, are symptomatic of the disconnection between the *façade* of formal governance structures and the empirical reality of how order is negotiated and disputed. The former included claims to rule across the national territory that failed the reality test in 2012. The latter revealed complex networks of actors, including the state administration, the military and their allies, jihadist movements, militias and armed groups, and customary authorities. In an effort to shed light on these factors and dynamics, this study puts customary authorities at the centre of the analysis. The reason is twofold: on the one hand, the 2012 crisis exposed pre-existing weaknesses of the state in governing communities and territories, making customary authorities a natural entry point in analysing how order was produced *before* 2012 at local level, i.e. among communities where they enjoyed influence; on the other hand, focusing on customary authorities helps understand elements of continuity and rupture in how such order has evolved *after* 2012.

More specifically, the study aims to answer the following questions: (i) What was the role of customary authorities in processes and outcomes of local ordering before the 2012 crisis? (ii) How has the ongoing state of insurgency affected this role after 2012? The literature on hybrid and rebel governance offers precious analytical insights to answering these research questions. In fact, these streams of research look at empirical and contextualised processes where state and non-state actors, including armed groups, negotiate authority, control, and services. I apply this theoretical framework to the case of Mali. My primary data come from semi-structured interviews conducted with key informants in Bamako in June-July 2022, when I met with NGOs, researchers, and public officials. I also examined texts of law, listed at the end of the paper. I used secondary data from opinion polls and survey experiments, from the Armed Conflict Location & Event Data Project (ACLED), and from an extensive literature review.

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& Harris (2020); International Crisis Group (2020); Malejacq & Sandor (2020); Raineri & Strazzari (2022); Okyere (2015); Raineri (2022).

[4] Lebovich (2019); Al-Jazeera (2022).

[5] ACLED (2022); Lebovich (2019); Kwarkye (2022); Raleigh, Nsaibia & Dowd (2021).

[6] These figures are an indication that 10 years of counterterrorism, despite tactical achievements in limiting insurgents' mobility and in killing prominent jihadist leaders, have had limited success against jihadist expansion (Baldaro, 2022; Casola, 2022).

[7] Studio Tamani (2023).

The paper is structured as follows: the next section introduces the theoretical framework on hybrid and rebel governance; the following section shows how state and customary authorities established tentative forms of hybrid governance arrangements, and how the crisis disrupted these forms of cooperation; the next section targets jihadist insurgents not only as a source of violence but also as key governance actors, struggling to replace the state with competing forms of order and rule; the final section concludes, with recommendations for development and security policies.

## 2. CUSTOMARY AUTHORITIES, HYBRID POLITICAL ORDERS, AND REBEL GOVERNANCE

The role of customary authorities in – mostly African – governance processes drew considerable attention among scholars and policy makers in the 1990s and 2000s. Goodfellow and Lindemann (2013) speak of a “resurgence” of pre-colonial, traditional authorities in that period, in processes of “hybridisation” between state and customary institutions. The idea of hybridity emerged to analyse the interaction between formal and informal institutions in a democratic governance perspective, but also for analyses of peace and stability. The limitation in this approach, they point out, is that every situation where state and non-state actors perform governance functions can be labelled “hybrid” by definition, which makes notions of hybrid governance or hybrid political orders too broad to retain explanatory power. This lack of clarity is especially problematic where formal and informal institutions interact in contexts, like Mali, characterised by conflict and violence. In these circumstances, the analytical focus goes beyond the factual recognition that the state interacts with non-state actors, specifically by examining the conditions around their relations, and how such relations respond to violence.

Reflecting similar considerations, Meagher, De Herdt and Titeca (2014) propose four elements in assessing the analytical and policy value of hybrid governance frameworks: first and foremost, hybridity concepts should help understand *actual and empirical dynamics*, and not serve normative and functionalist concerns; second, those concepts should allow an extended focus on *international actors*, including aid agencies; third, they should help assess how *legitimacy* is constructed and contested; fourth, they should focus on *divergent processes and outcomes*, where hybridity results in stability and accountability, but also in instability and corrosion of public authority.

Informed by these discussions, “hybrid governance” and “hybrid political orders” are used in this paper as overarching concepts, a guiding idea in an empirical study of how order, stability and services are produced, delivered, and contested in Mali by a variety of state and non-state actors, with a central focus on customary authorities. This *empirical* focus stands in opposition to the *façade* of formal governance structures – the “Potemkin state” mentioned above (Craven-Matthews & Englebert, 2018).<sup>8</sup> Targeting customary authorities in an empirical analysis of hybrid governance runs the risk of oversimplifying the processes behind the definition of such authority and its prerogative. In fact, customary *institutions* can be seen as normative systems stemming from the history and collective experience of given communities, and customary *authorities* as representatives of those communities, among which they enjoy

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[8] This specific, *empirical* focus leaves out of the discussion significant theoretical debates on hybrid orders, together with their links to earlier notions of legal pluralism. Those debates followed the democratisation wave in the 1990s and the “war on terror” after 9/11. Also, the paper deals with hybrid governance mainly in its relations with public order, security, and justice. There are of course many other policy areas where the state does not have regulatory monopoly, such as education and trade. Titeca and De Herdt (2011), for example, examine how education is de facto negotiated and delivered in the Democratic Republic of Congo (DRC). Titeca and Flynn (2014) analyse the regulation of informal cross-border trade in north-west Uganda. De Herdt and Titeca (2019) cover a wide variety of sectors where public services are negotiated in the DRC, from human resources and the public wage system to electricity, transport, the police, land governance and conflict resolution. De Herdt and Olivier de Sardan (2015) examine cases of “real governance and practical norms” among West African bureaucracies, in healthcare in Niger and South Africa, in prison governance in Uganda, in water management in Zimbabwe.

some level of influence.<sup>9</sup> However, these definitions only offer a starting point towards complex processes where the identity, power and attributes of customary authorities are constructed and redefined.

In a classic analysis, Mamdani (1996) traces urban-rural divides in Africa back to the colonial period, when colonisers appointed customary chiefs to rule the countryside on their behalf, as long as they responded to their needs for population and territorial control. This policy of indirect rule separated urban “citizens” from rural “subjects,” and put the latter under a form of decentralised despotism sanctioned by the state. In a similar vein, Verweijen and Van Bockhaven (2020) expose biases towards policy and administrative requirements in current definitions of customary authority in central and eastern Africa. These biases, inherited from colonial administrations, informed an understanding of traditional rule as embodied in rigid positions of political leaders or kings, historical representatives of local communities and now in charge of those communities’ participation in public affairs and services.

Both studies underline how the rule and identity of customary authorities responded to power dynamics triggered by colonisation: on the one hand, customary authorities were empowered and legitimised in hybrid governance arrangements, undertaken first with the coloniser then with post-colonial governments; on the other hand, they were also hand-picked and constrained in their jurisdiction and prerogatives, precisely by the state’s policy and administrative needs. The interface function they came to embody between the state and their communities shaped their leverage on local governance and created opportunities not only for community representation, but for despotism and corruption too.

As the next sections will examine more in depth, these points are very interesting in the case of Mali. In fact, French colonisers appointed customary authorities for administrative and control purposes; the post-colonial state initially opposed customary authorities but, since the 1990s, the government has tried to bring them under the law in an interface capacity with local communities. In sum, the colonial administration and post-1991 governments had their own form of hybrid arrangements with customary authorities. While this role empowered customary authorities in local governance, it also exposed them to grievances of corruption among certain groups and made them the target of rebel jihadist movements since the 2012 crisis.

Regardless of their motivations (ideology, tactics, resource extraction, intelligence gathering, recruitment, etc.), rebels’ role in governance should be seen as intimately linked to their challenge to the state. As Mampilly (2011) argues in a seminal work on rebel governance, successful insurgencies are those who develop “counter-state sovereigns,” characterised at the same time by their armed opposition to the state *and* by their capacity for public goods and service delivery, typically associated with the state. Focussing on “jihadist proto-states,” Lia (2015) finds great variations in these entities’ size and capacities, but similarities in terms of both violence and commitments to effective governance. Interestingly for this study, jihadist governance in Mali and the Sahel challenges the notion – quite common in early rebel governance debates<sup>10</sup> – that territorial control is a precondition for the development of rebel institutions and public services. Quite the contrary, jihadist groups in the region exert power and rule in a largely de-territorialised, mobile, and flexible fashion.<sup>11</sup>

In this context, customary authorities become target or stakeholders in rebels’ efforts to regulate civilian life as part of their political and military strategies. Jihadists, colonisers, and central governments seem to share similar reasons and constraints in their engagement with customary authorities: population and territorial control with limited means. There are significant variations and specificities in local governance arrangements with jihadist groups.

[9] Benjamin (2008). On customary authorities in the Sahel, see Centre for Humanitarian Dialogue (2021).

[10] Mampilly (2011); Kasfir (2015).

[11] Loyle et al. (2021); Lyammouri (2021); Rupesinghe et al. (2021); Sandor & Campana (2019).



However, jihadists' constraints explain why customary authorities – as well as other community leaders like women, youth, religious or business leaders – possess some leverage in bargaining local order and rules of behaviour, even if they face threats of violence and structural imbalances of power.

Bouhel and Guichaoua (2021), for example, explain variations in jihadist violence against communities in Gao and Kidal, in northern Mali, as different outcomes in negotiations between militants and local communities. The International Crisis Group (2019 and 2021) similarly finds cases where communities were able to ease the application of rigid rules of behaviour inspired by jihadist radicalism, for instance on women travelling alone to markets or in the selection of Islamic judges. Svensson and Finnbogason (2021) examine cases when customary authorities and other community actors tried to resist jihadist impositions. In Mali, Niger, and Libya, Molenaar et al. (2019) find that customary authorities became natural partners in negotiating governance arrangements with jihadist groups. While this new role strengthened their legitimacy in the short term, the authors conclude that this legitimacy is bound to suffer in the long run due to persistent insecurity, and the resulting pre-eminence of armed actors – rebels and state-linked – in regulating local order.

Building on all these insights, the next sections examine the role of customary authorities in processes and outcomes of local ordering, particularly in their relations with the state and, more recently, with jihadist rebels. This will reveal elements of disruption in the aftermath of the 2012 crisis but of continuity too, and it will help understand processes of real, empirical governance behind the *façade* of formal state structures.

### **3. CUSTOMARY AUTHORITIES BEFORE 2012: FROM DUALISM TO TENTATIVE COOPERATION WITH THE STATE**

Central governments in Mali, in colonial and post-colonial times alike, had formal jurisdiction over territories and communities, but neither the resources nor the authority for an effective presence there. This explains why traditional authorities kept performing governance functions before and after independence in 1960, ruling on administrative matters, land and natural resource management, family and religious issues, conflict mediation and dispute settlement. The attitude of the state towards customary authorities varied greatly after 1960 independence: the first post-colonial government of Modibo Keita (1960–1968) and the autocratic regime of Moussa Traoré (1968–1991) had many differences, but they shared rather confrontational attitudes towards customary authorities. These attitudes changed after Traoré's overthrow in 1991, when democratisation and decentralisation reforms paved the way to tentative forms of integration of customary practices under public law.

#### **3.1. From colonial appointments to post-colonial opposition under Modibo Keita (1960–1968) and Moussa Traoré (1968–1991)**

The French organised the whole French West Africa (*Afrique Occidentale Française*, AOF) between 1895 and 1904 and placed the current territory of Mali under French Sudan. Answering to Paris, a governor general was responsible for the colony's administration, divided into 17 districts (*cercles*). Each district was further subdivided in smaller administrative units until the village, managed by French-appointed customary chiefs.<sup>12</sup> Those chiefs were selected through hereditary processes in their communities: their selective appointment by the state responded to the administrative purposes and capacity constraints of the colonial administration. In fact, despite debates on British forms of indirect rule as opposed to French “assimilationist” policies, all colonisers shared the main interest in integrating the colonies in their political economies at the least possible cost. In AOF as elsewhere, local customary chiefs were appointed in an interface function between the colonial government and the local com-

[12] Baudais (2015); Molenaar et al. (2019).

munities because this was instrumental to administration and population control, in a context of limited budgets and staffing.<sup>13</sup>

Despite some resistance and occasional rebellions, the system held until 1945. Confronting decolonisation movements and uprisings throughout its empire, France responded with both repression and reform. The latter brought local tensions in AOF, namely between customary authorities and public officials who could now run for elected office. This embryonic democratisation diminished the power the customary chiefs; their relations with elected officials varied greatly, from cases where the chiefs competed for office themselves to others where they renounced to any political role. Even though they remained unavoidable in local administration and now, also in accessing voters in their community, their role put them in a fragile position: they represented their community's history and values, but they could also be accused of collaboration with the coloniser.<sup>14</sup>

As elsewhere in post-colonial Africa, the new, socialist state – presided by Modibo Keita between 1960 and 1968 – believed in modernisation, industrialisation, and centralised control. It viewed customary authorities with suspicion, as a relic of a feudal past and an impediment to progress.<sup>15</sup> Ideological confrontation underpinned economic policies based on central planning, command and control, with little role for customary chiefs. Opposition to Keita mounted across the country, mainly due to his government's inability to tackle worsening economic conditions and to the growing repression against any opposition. A coup ousted Keita and brought military leader Moussa Traoré to power in 1968. Traoré's rule became increasingly authoritarian and corrupted until he was removed from power by another coup in 1991, with massive popular support. His regime abandoned socialist ideologies, but state law and policies did not formally integrate customary authorities in local governance. Referring to the pre-1991 period, Benjamin (2008, p. 2256) speaks of a “sterile dualism,” or “the coexistence of state law and unauthorised local practices,” particularly when it comes to land and natural resource management.

The neopatrimonial characteristics of the Traoré administration had elements of continuity and change with the colonial administration. Similar to French colonisers, the central government lacked the budget and capacities to extend the administrative reach of the state across the national territory; unlike the French, however, the post-colonial state had a more interventionist policy in a key matter for local livelihoods: agriculture. In a largely agrarian country, this was in fact a key sector for resource extraction.<sup>16</sup> This had two effects that are key to understanding the role of customary authorities in local governance. First, customary authorities were not formally recognised by the state as they used to be under the French, but they kept performing governance functions in their communities. The resulting legal pluralism went beyond a binary logic of state *vs* customary rules, as the latter involved multiple interpretations of traditional, unwritten codes and, ultimately, on who was to uphold those rules.<sup>17</sup> This explains why customary processes of conflict mediation and resolution were essential in the absence of the state.<sup>18</sup> Second, customary practices met not only with the tacit opposition of an under-resourced administration, but also with deliberate disruptions when those practices did not conform to agricultural policies.

The case of central Mali is particularly interesting in this regard. The customary land tenure system in central Mali, called Ardobé, was introduced in the 14<sup>th</sup> century by pasto-

[13] Baudais (2015); Molenaar et al. (2019); Institut Malien de Recherche Action pour la Paix (2015); Craven-Matthews & Englebert (2018). Tracing the evolution of French attitudes towards customary authorities, Baudais (2015) argues that French policy was directed by “needs stemming from the field, reinforcing the empirical character of French colonization” (p. 104).

[14] Baudais (2015).

[15] Meredith (2005); Cooper (2002).

[16] Baudais (2015).

[17] Benjamin (2008).

[18] Centre for Humanitarian Dialogue (2021); Sidibé (2008); Nientao (2020); Camara (2013).

ralist invaders, the Fulani (Peul in French). The Dina theocracy, that ruled central Mali between 1818 and 1893, codified the Ardobé under Islamic law, and the French saw no reason to bring fundamental changes to those arrangements. Land was divided in *leyde* (lots) and allocated to *jowros*, local Fulani chiefs who managed pasture assets, including access rights to subordinate farmers from the Dogon, Songhai, and other ethnic groups.<sup>19</sup> Post-colonial governments disrupted the Ardobé system because they saw it as an impediment to agricultural development: socialist-inspired under Keïta, commercial and neopatrimonial under Traoré.

When a series of famines struck Mali in the 1970s and 1980s, land reform became a key component for food security too. Supported by international development donors, land policies deliberately targeted large-scale, industrial agriculture at the expense of grazing land and transhumance corridors, that Fulani pastoralists had used for centuries to move between today's Senegal and Chad.<sup>20</sup> Fulani's grievances and sense of marginalisation started during this period and constitute a key element to understand post-2012 conflicts in Mali.<sup>21</sup> The President of a Fulani association summarised their grievances as follows: "We are pastoralist communities, and grazing land has been constantly transformed into arable land, with no compensation, while livestock numbers are on the rise. The state does nothing for the herders, only for the farmers, and it actually works against the herders."<sup>22</sup> He referred to today's living conditions and grievances; in his views, however, the current state of affairs reflects a form of structural discrimination against herder communities which, in this analysis, can be linked to land policies favouring industrialised agriculture.

### 3.2. From "sterile dualism" to tentative forms of cooperation after 1991

Since democratisation and decentralisation reforms in the 1990s and early 2000s, the state's approach towards customary authorities has evolved from confrontation and "sterile dualism" (Benjamin, 2008) towards recognition and formal codification of respective roles and competences. Integrating local customary structures under the law became essentially a policy and administrative tool for building a post-authoritarian, democratic state after the fall of the Traoré regime in 1991.<sup>23</sup> Administrative reforms in 1993<sup>24</sup> and 2006<sup>25</sup> created the village, fraction, and quartier as local governance units: the first in rural environments, the second among nomadic populations, the third in urban settings. Village, fraction, and quartier chiefs were given authority in these administrative units: selected through traditional, mostly hereditary processes, their nomination was to be formally certified by local government officials.<sup>26</sup>

According to the 2006 law, customary authorities play an interface function between local communities and the state, and oversee basic service delivery, tax collection and customary conflict resolution. Critical for land access and management, the state acknowledged the role of customary authorities in a Pastoral Charter, created by a 2001 law and operationalised in a 2006 decree, and in local land commissions (*Commissions foncières villageoises ou de fraction*, CoFo), set up and operationalised between 2006 and 2018.<sup>27</sup> Presided by village chiefs, CoFo include other customary authorities, village counsellors, youth, women, occupational guilds representatives. Once a dispute is successfully handled, minutes are sent to a judge for homologation in the public registry. As pointed out by an Undersecretary at the Ministry of Rural Development during an interview, "Land commissions are a hybrid institution of custom

[19] Camara (2013); Nientao (2020); Molenaar et al. (2019); Van Wieringen (2020).

[20] Benjaminsen & Ba (2019); Molenaar et al. (2019); Rupesinghe & Boas (2019).

[21] Cissé (2020); Benjaminsen & Ba (2009), (2019) and (2021).

[22] Interview, Bamako, 28/06/2022.

[23] As mentioned earlier, Verweijen and Van Bockhaven (2020) speak of similar dynamics in central and eastern Africa.

[24] Loi nr. 93-008, 11 February 1993.

[25] Loi nr. 06-023, 28 June 2006.

[26] Benjamin (2008); Molenaar et al. (2019); Centre for Humanitarian Dialogue (2021); Camara (2013).

[27] Loi n. 01-004, 27 February 2001; Loi n. 06-045, 05 September 2006; Décret n. 06-439, 18 October 2006; Décret n. 2018-0333/P-RM, 04 April 2018; Loi n. 2017-001, 11 April 2017.

and law. They are appreciated because they allow people to solve their problems among themselves, and the state formalises their decision. The system is a mechanism for social stability.”<sup>28</sup>

There are varying degrees of appreciation of how well these mechanisms work in practice. Molenaar et al. (2019 and 2021) find a slow and selective application of the 2006 law on villages, fractions, and quartiers; a researcher noted the Pastoral Charter’s implementation gap;<sup>29</sup> local land commissions are generally viewed rather positively.<sup>30</sup> These reforms represented an effort by the state to move away from the confrontational approaches towards customary practices and authorities that, for different reasons, had characterised earlier administrations. These efforts, however, should be assessed not only against their mixed empirical records, but also within the more general context of a largely discredited state. The state’s poor reputation, in fact, helps explain the relevance of customary authorities in local order, particularly in rural areas.

The Afrobarometer (2020) – using a nation-wide sample – finds significant lack of trust in political institutions (the presidency, the National Assembly, political parties, and local authorities), more pronounced in urban areas. In terms of public services, Tobie and Chauzal (2018, p. 9) record a “duality of expectation and suspicion” among respondents, who expect the state to provide security, justice, education, health care and sanitation, but have low levels of trust in the state to deliver these services. Corroborating these findings on poor public service delivery, the *MaliMètre* – an opinion survey active since 2012 – shows that 82% of Malians see corruption in the country as high or very high, in particular among the police, the justice system, health care, customs and the local government.<sup>31</sup> The significant lack of trust in the state helps explain why customary authorities are preferred over public agencies.

Two separate surveys asked respondents who they would turn to in a case of a land conflict: the first targeted a rural population using a sample of 187 villages; the second surveyed approximately 2,000 representatives issued from different communities across the Sahel. Winters and Conroy-Krutz (2021) allowed more than one response: 68% of respondents would refer to the village chief, 60% would ask a friend, only 12% would use the formal justice system. Similar results were obtained by the Centre for Humanitarian Dialogue (2021). They interviewed community representatives from Burkina Faso, Chad, Mali, Mauritania, and Niger: 77% of total respondents chose customary authorities over the state, with a peak of 91% in the case of Mali. Interestingly, the Afrobarometer (2020) records different views on customary authorities among rural and urban respondents: 65.5% of the former see a very influential role for customary authorities in local governance and 64% think this role should increase, against 35.5% and 47.8% of the latter. Also, 68.2% of rural respondent trust traditional leaders a lot, against 48.3% of urban residents.

My informants and other research portray popular dissatisfaction towards the state as motivated by a reputation for corruption at all levels of the administration, with additional grievances on long and unfair proceedings of the formal justice.<sup>32</sup> Particularly worrying, two informants noted how this disillusion fuelled resentment that jihadist groups could manipulate. With messages like “the state works for the money, not for the people. We’re going to get rid of this administration,” the insurgents found many listening ears.<sup>33</sup> This point corroborates the findings of Benjaminsen and Ba (2019) and Zanoletti (2022) on jihadist narratives targeting historical pastoralist grievances, against the state and against sedentary communities favoured in agricultural policies. However, the poor performance of the state as security provider dur-

[28] Interview, Bamako, 22/06/2022.

[29] Interview, Bamako, 08/07/2022

[30] Adam Smith International (2021).

[31] Friedrich Ebert Stiftung (2022).

[32] Interviews, NGOs and researchers, Bamako, June-July 2022; Ba (2016); Ursu (2018); Van Wieringen (2020).

[33] Interview, governance NGO, Bamako, 21/06/2022.

ing the 2012 crisis led to a legitimacy crisis that extended beyond pastoralists, and that put customary authorities once again in fragile positions.

#### **4. CUSTOMARY AUTHORITIES AFTER 2012: BETWEEN A ROCK OF VIOLENCE AND A HARD PLACE IN NEGOTIATIONS**

The 2012 crisis can be seen as a *façade* fall of formal structures of statehood, as state claims to territorial jurisdiction failed the reality test quite spectacularly. The *façade* fall is more than a metaphor: the military and the public administration physically retreated south in the face of the insurgency, leaving communities alone in dealing with the rebels. Feelings of “abandonment” by the state were widely recorded in large-scale research conducted nationwide by the Institut Malien de Recherche Action pour la Paix (2015), and similar notions came up repeatedly throughout my interviews. In the absence of the state, customary authorities were left to fend for themselves and their communities, especially on security matters, conflict management and social cohesion.<sup>34</sup> In a highly unstable environment where the state had “abandoned” the population, customary authorities became the natural interface between their communities and a variety of armed groups, including the military, the rebels, and self-defence militia.<sup>35</sup>

This interface function represents an element of continuity with the role played by customary authorities in local governance, especially under colonisation and in tentative forms of cooperation with the state after 1991. The levels of violence, however, were – and remain – unprecedented. Violence is particularly used by jihadist groups – by those linked to Al-Qaeda under the Support Group for Islam and Muslims coalition (JNIM in Arabic), and by the Islamic State in the Greater Sahara (ISGS) – in political strategies aimed at replacing the state with jihadist forms of order. JNIM and ISGS differ on doctrines, ideologies, and approaches towards civilians and customary authorities.<sup>36</sup> Differences aside, both integrate violence, co-optation, rudimentary and – sometime brutal (e.g. corporal punishments) – service delivery in pursuit of these strategies. As the case of Katiba Macina (affiliated to JNIM) in central Mali will show, customary authorities are specifically targeted in those strategies. The fragile position of customary authorities will emerge in non-aggression pacts they negotiate with the rebels for the very survival of their communities.

These aspects are far from exhaustive for a full understanding of how local orders are negotiated in Mali. Interethnic conflicts, climate change, the spread of small weapons and ethnic militias, traditional and new forms of conflict resolution, human rights abuses, and many other important factors do not feature prominently in the following pages. This notwithstanding, this section offers interesting entry points to trace continuities and disruptions in the role played by customary authorities after 2012.

##### **4.1. Protracted insecurity and jihadist governance**

It is precisely the state of protracted insecurity that reinforces and erodes the role of traditional authorities at the same time: on the one hand, they perform additional governance and representational functions; on the other hand, they interact with armed groups from unarmed positions of structural weakness. As analysed by Molenaar et al. (2019 and 2021), Ursu (2018) and confirmed by informants working in contested areas, the representational function of customary authorities is what makes them partners in negotiating local order and peace,

[34] Molenaar et al. (2021).

[35] As cited above, Bouhleb and Guichaoua (2021) explain different levels of restraint in jihadist violence in Gao and Kidal in 2012 precisely in terms of negotiated outcomes between militants and customary authorities and other community leaders. It is important to note that, while customary authorities enjoy influence through their historical status, they are not the only leaders in their community. Context matters here but business, youth and women leaders do also participate in negotiations with armed groups.

[36] Baldaro & Diall (2020); Lyammouri (2021); Guichaoua & Bouhleb (2023).

but also military targets due to their collaboration – real or perceived – with either the state or the insurgents. Moreover, armed groups – jihadist or otherwise – have eroded traditional forms of conflict resolution because people began to call on them to resolve their disputes: in conditions of widespread insecurity and mistrust, holding a weapon yields quicker results than customary mediation.<sup>37</sup> Speaking of land conflicts, the Undersecretary at the Ministry of Rural Development noted how “armed groups have altered the balance of power” by weakening the authority of village chiefs.<sup>38</sup>

As introduced above, insurgencies typically combine violence and governance in their struggle against the state. For ideological or practical reasons, they aim at creating a “counter-state sovereign” (Mampilly, 2011) capable not only of waging war, but also of delivering services to the population. Jihadist governance in Mali and the Sahel challenges earlier notions in rebel governance literature on territorial control as a precondition for the development of rebel institutions and service delivery. Researchers and my own informants have in fact spoken of “immaterial” forms of governance and control that, as a rule, jihadist groups manage with a light presence in populated areas, mainly through networks of sympathisers, recruits, and informants that they incrementally develop, and which can run deep into communities, families, and households.<sup>39</sup>

Al-Qaeda in the Islamic Maghreb (AQMI), for instance, set up a helpdesk number in Timbuktu in 2012, that locals could call if harassed by the Mouvement National de Libération de l’Azawad or regular bandits.<sup>40</sup> The Katiba Macina (the dominant group in central Mali) administers justice through mobile courts. A legal team come to a village in motorbike, hear the parties, pronounce the verdict in a matter of hours.<sup>41</sup> The rapidity and transparency of the process stands in deep contrast with a state justice perceived as long and corrupted. A researcher also noted how people can ask jihadist groups to intervene in their disputes, in mafia-like processes: “If you owe me money, I can go and speak to them, they take further information to know everything about you, then they come to you asking to pay me back.”<sup>42</sup> There are cases of militants imposing peace among sedentary and pastoralist communities in 2020.<sup>43</sup> NGOs and researchers, interviewed for this study, also said that Katiba Macina brought generators and fuel for electricity in the central region of Mopti, where people used to suffer from chronic power cuts.

Finally, while jihadists do not seem to engage in humanitarian aid directly, they selectively allow NGOs to access areas under their control.<sup>44</sup> Negotiating access occurs typically through intermediaries on the sidelines of public meetings in nearby villages, where the NGOs present their prospective programmes. NGOs tend to emphasise health and nutrition aspects of their interventions, that jihadists can more easily appreciate “because they also get sick.” They can sometime extend their programmes at a later stage to social cohesion topics, that jihadists tend to see as “abstract.” Once access is granted, communication ceases unless NGOs are seen as stepping out of line, “like a sport tournament we organised and we were forced to cancel, which received a categorical no.”<sup>45</sup> The relations with NGOs are far from straightforward and are not immune from killings and kidnappings. Much depends on contexts, type of projects, and strategic interest in providing services to the population, more pronounced in the Katiba

[37] Van Wieringen (2020); Ursu (2018), Molenaar et al. (2019) and (2021).

[38] Interview, Bamako, 22/06/2022.

[39] Interviews, NGOs and researchers, Bamako, June-July 2022; International Crisis Group (2019) and (2021); Kleinfield & Tapily (2022); Lyammouri (2021); Rupesinghe et al. (2021).

[40] Ba & Boas (2017).

[41] Rupesinghe & Boas (2019).

[42] Interview, Bamako, 05/07/2022

[43] Lyammouri (2021); Ba & Cold-Ravnkilde (2021).

[44] International Crisis Group (2019) and (2021).

[45] Interview, humanitarian NGO, Bamako, 05/07/2022. It is worth noting how jihadist role in granting humanitarian access and in allowing or prohibiting certain activities represents a form of *de facto* authority, a sort of claim to rule that, backed by credible enforcement capabilities, cannot be ignored by those living or operating in jihadist-controlled areas.

Macina and its JNIM allies than in the Islamic State in the Greater Sahara (ISGS).<sup>46</sup>

With varying degrees of violence against civilians, jihadist governance aims at countering state claims to jurisdiction. As a representative of a human rights NGO put it, “jihadists are fine psychologists. They want to prove that the state is useless.”<sup>47</sup> They pursue this objective through violence and retribution on non-compliance, but also by co-opting customary authorities in jihadist “counter-state sovereigns” (Mampilly, 2011), as the Katiba Macina have done quite successfully in central Mali.

#### 4.2. Katiba Macina and customary authorities in central Mali

Katiba Macina offers a very interesting case study on the military and political strategies used by a prominent jihadist group, including their relations with customary authorities. Baldaro and Dially (2020) identify two phases in the group’s rise to prominence in central Mali. The first was characterised by assassination campaigns and other acts of violence. The President of a pastoralist Fulani association confirmed this point in his criticism of his community’s collective identification with jihadism: “People forget that Fulani are the first victims of the jihadists. Fulani leaders and marabouts [religious scholars] who opposed jihadist ideas were taken prisoners, killed, or had to move south.”<sup>48</sup>

In the first phase (very roughly, 2015–2017), the group leader Amadou Kouffa – a Fulani preacher from central Mali, who is also deputy leader in JNIM under Iyad ag-Ghaly – appealed to Fulani grievances against the state and associated Fulani elites (*jowros*) to the government as complicit stakeholders in systemic corruption.<sup>49</sup> Once the group achieved hegemonic positions through an initial phase of violence, they started to nuance their revolutionary messages and to engage with traditional elites through more peaceful means of coercion. In the second phase, in fact, the central aim became structuring their political control over the population by co-opting customary authorities in more stable governance arrangements and, in some cases, also by allowing local government authorities to deliver some basic services to the population. This evolution exposed them to the criticism of the more brutal and intransigent ISGS on doctrinal and ideological grounds, and to the defection to ISGS of a key Katiba Macina commander, Abou Mahmoud, in 2019.<sup>50</sup>

Significant differences exist between JNIM affiliates, more pragmatic, and the more violent and maximalist ISGS. In particular, JNIM are more willing to engage with customary authorities and even local government in pursuit of political control, while ISGS rely more on brutal retributions to showcase the danger of non-compliance.<sup>51</sup> Differences are also apparent *within* Katiba Macina and JNIM due to their decentralised chain of command. Districts are grouped under territorial units called *markaz* and put under the responsibility of an *amirou markaz*, a unit leader who, advised by a military commander, a council, and an Islamic judge, exerts authority over the area. The autonomy of each *amirou markaz* from Kouffa’s and JNIM leadership varies, particularly between the Niger Delta – the core of Kouffa’s rule – and the surrounding areas. This helps explain variations in local governance arrangements with customary authorities, and also Abou Mahmoud’s rise in the Serma region – outside the Niger Delta – and eventually his defection to ISGS.<sup>52</sup>

[46] International Crisis Group (2019) and (2021); Lyammouri (2021); Guichaoua & Bouhleb (2023).

[47] Interview, Bamako, 15/07/2022.

[48] Interview, Bamako, 28/06/2022. Interestingly, a researcher noted how Katiba Macina employs sophisticated strategies combining violence and control of market access of books and literature under the objective of “doctrinal domination in the centre” of Mali (interview, Bamako, 08/07/2022).

[49] Benjaminsen & Ba (2019). The authors find that Kouffa’s messages resonated among disadvantaged Fulani groups. In the words of a herder they interviewed: “We have long been subjected to all forms of exploitation by the administration *in complicity with our elites*” (p. 15, italics mine).

[50] Baldaro & Dially (2020); Rupesinghe & Naghizadeh (2021); Cold-Ravnkilde & Ba (2022).

[51] Lyammouri (2021); Guichaoua & Bouhleb (2023).

[52] International Crisis Group (2019). Abou Mahmoud defected in September 2019 and was killed in March

### 4.3. “Survival pacts” between customary authorities and jihadist groups

These differences aside, customary authorities remain the natural point of access to communities for all jihadist groups and across the co-optation–retribution continuum. This role emerges quite clearly in non-aggression pacts between the rebels and local communities. Village chiefs are at the forefront in the talks with the rebels. The latter exchange non-aggression against the payment of the *zakat* (the Islamic tax), the respect of *sharia* (Islamic law) and the commitment to avoid cooperating with the state. These deals can bring some stability and, depending on contexts and circumstances, chiefs can extract some concessions from the rebels. However, they represent temporary “survival pacts” whose weight should not be overstated.<sup>53</sup> A religious leader and a researcher underlined how these agreements are short-term in nature, that they move the violence elsewhere, and that they tend to break down against renegotiation attempts by the jihadists, who push for stricter rules of behaviour.<sup>54</sup> “If the deal says you will pray five times a day, then why don’t you cut your trousers too, and why don’t your women cover more? They go on progressively.”<sup>55</sup>

Speaking of these pacts in the context of ongoing fighting between the jihadists and the military, a representative of a human rights NGO added that “civilians are caught between a rock and a hard place because they can’t prevent the army from entering their villages and they are forced to agree non-aggression pacts with the jihadists. Village chiefs are in the most unstable position because they represent the village in the talks with the jihadists and they are acknowledged by the state.”<sup>56</sup> This structural weakness becomes dramatically apparent when the jihadists move from co-optation to retribution. Symptomatic of these dynamics, on 18–19 June 2022 armed groups – linked to Katiba Macina or ISGS in different accounts – raided Diarrassagou and other villages in the Bankass district, slaughtered village chiefs and 200 people in total.<sup>57</sup> Some informants said the massacre was carried out to avenge the killing of 300 villagers in Moura in March 2022 by the armed forces and Russian mercenaries of the Wagner group, since the village had come under rebel influence.<sup>58</sup> The Diarrassagou massacre, against villages who had not agreed “survival pacts,” is not an isolated event: rather, it is symptomatic of the instrumental role played by local communities and their customary authorities in the political and military strategies of jihadist groups.

These strategies are first and foremost directed against the state, with the aim of replacing its jurisdiction – real or claimed – with alternative, jihadist-inspired forms of order and governance. In building the way towards a future caliphate, jihadists in Mali incrementally remove the state as a governance actor, one village and community at a time, employing a mix of violence, co-optation and service delivery. With important differences between Katiba Macina/JNIM and ISGS, as well as within Katiba Macina/JNIM, customary authorities retain a role of interface between militants and local communities: from a rebel perspective, this role is what makes them key stakeholders to co-opt in jihadist frameworks for local order, which is seen by the military with suspicion and increasingly criminalised by the state.<sup>59</sup> The interface

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2020 by a Malian airstrike. The relevance of his defection is that he brought his lieutenant Alpha Issa and other men with combat experience with him. In Baldaro and Dially’s reading (2020), this reflects a Big Man logic of personal ties, unrelated to ideological differences between Katiba Macina and ISGS. A similar Big Man logic has been used to explain the rise to power of other key figures of violent jihad in Mali, first and foremost the current JNIM leaders Iyad Ag-Ghaly, a northern Tuareg and Amadou Kouffa, a Fulani from central Mali (Ba & Boas, 2017).

[53] Kleinfeld & Tapily (2022); Dahiru (2023); Guichaoua & Bouhleb (2023).

[54] Interview, researcher, Bamako, 03/07/2022; phone interview, religious leader in central Mali, 05/07/2022.

[55] Interview, researcher, Bamako, 03/07/2022.

[56] Interview, 23/06/2022.

[57] MINUSMA (2022).

[58] Interviews, NGOs and researchers, Bamako, June–July 2022; Human Rights Watch (2022). The recent and long-awaited report of the UN Human Rights Office (OHCHR) speaks of “at least” 500 people killed and of others who suffered degrading and inhuman treatment during the Moura operation (OHCHR, 2023).

[59] Guichaoua & Bouhleb (2023).



role, then, features customary authorities in uneasy forms of community representation that can quickly make them primary targets: by jihadists for non-compliance to their demand or agreements; by state-linked forces for their compliance to such demands and agreements.

## 5. CONCLUSION AND RECOMMENDATIONS

The current situation in Mali and the broader Sahel has been described as a hybrid political order in the making, featuring a network of actors and a patchwork of agreements that are highly localised and context specific.<sup>60</sup> This paper focussed on one of these actors: customary authorities. It traced their role in local governance, first in their relations with the state before 2012, then in a context of a persistent and evolving insurgency ever since. The 2012 crisis was used as a symptomatic event that exposed the extent to which formal structures of governance and state claims to jurisdiction were disconnected to empirical realities. The fall of this governance *façade* suggested looking at the role of non-state, customary authorities as other stakeholders in a more empirical processes and outcomes of local ordering.

The study showed how the relations between customary authorities and the state moved from selective appointment under colonialism to confrontational approaches of the first post-colonial administrations until early 1990s. Democratisation, liberalisation and decentralisation reforms undertaken in the 1990s and 2000s tried to move beyond confrontation toward incorporating customary practices under public law and hybrid institutional frameworks. The interface function of customary authorities, between their communities and the state, reminded of their role under colonisation. However, not only did these reforms result in mixed practical outcomes, but they should be seen in the larger context of a discredited state, characterised by a reputation for corruption, and for absent and ineffective service delivery. This is particularly the case locally and among rural communities, where customary authorities enjoy greater legitimacy. The agricultural policies of the post-colonial state alienated pastoralist communities – the Fulani in particular – whose grievances could be captured and manipulated by jihadist groups.

Beside pastoralist groups, the retreat of the military and the public administration against the insurgents in 2012 represented a shock for all communities, who felt abandoned by the state. In the absence of public authorities, customary authorities were left to fend for their communities. They kept playing an interface role for their communities, but now with rebels pursuing heavily ideological political projects. With different approaches and brutality, jihadist insurgents employ a mix of violence, co-optation and service delivery in the creation of political orders inspired by radical Islam. They interact with customary authorities as community representatives across the co-optation-retribution continuum, where existing sources of power and authority are either subverted to induce community compliance or eliminated for non-compliance. Their interaction with the insurgents makes customary authority a target for state-linked forces too. Their role in local governance after 2012 appears stuck between a rock and a hard place: on the one hand, the retreat of the state forced them into an increased role in local peace and order; on the other hand, this role is what makes them political and military targets in a situation of persistent violence.

In future research, improved access to primary source interlocutors from different districts will yield additional nuance to better understand the interface position of customary authorities sketched out here. Differences between Al-Qaeda affiliates in JNIM and the Islamic State-linked ISGS were mentioned, together with intra-JNIM variations. Collecting views from customary authorities on their dealings with these groups is both difficult and necessary to inform development and security policies aiming to protect civilians. Other significant factors are needed to explain local orders in Mali and remained overlooked here, such as interethnic tensions and ethnic militias, human rights abuses, traditional conflict resolution processes,

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[60] Boas & Strazzari (2020).

climate change, gender dynamics, and others. These limitations notwithstanding, a number of general conclusions can be made.

First, the role of customary authorities in local ordering shows disruptions as well as significant continuity. The 2012 crisis is self-explanatory among the former. The levels of violence are unprecedented, and persistent insecurity cannot but affect every aspect of life, including those under traditional practices and institutions. Customary authorities' role suffers because jihadist groups have revolutionary political projects that those authorities are forced to come to terms with. ISGS may be less pragmatic and less gradualist than JNIM, but both see a caliphate ruled by radical norms of behaviour as the final objective. Customary authorities are empowered or eliminated within this governance framework, that jihadists put in place village by village, community by community. This represents an element of continuity with colonial and democratic administrations, both of which defined customary authorities and their prerogatives in line with policy and administrative needs. The insurgents share with the colonial and democratic governments limited capacities and resources for territorial occupation, making customary authorities their natural political interlocutors in the contestation and redefinition of local order. These structural conditions will sustain customary authorities as sought-after actors in local order and peace as well as primary targets of violence.

Second, customary authorities' role in negotiating local order and governance is related to the inability and poor reputation of the state as service provider. The state failed on security in 2012 and has not come to terms with the insurgency ever since; however, the state is also linked to corruption and ineffective governance on other matters, starting from justice and local government. Jihadist success is partially related to their successful capturing of pre-existing grievances, particularly among pastoralist groups. The interaction between the state and traditional elites did not spare the latter from being associated with the government in systemic corruption. Jihadist narratives could then communicate radical Islamic governance in liberating terms. This should advise careful approaches when it comes to state-building policies including customary authorities, as these could eventually suffer from their association with a discredited state.<sup>61</sup>

Third, when it comes to state structures, Mali has known several constitutional reforms, the latest of which was expected to entry into force in 2024. This study suggests that, without serious investment in local consultations, and without a meaningful role for customary authorities, this reform will likely lead to empty institutional shells – to a new *façade*. At best, this will structure a state of ongoing dysfunction; at worst, it will increase opportunities for local capture, enhance centrifugal dynamics with new grievances towards the state, give arguments to jihadist recruiters and propagandists. The state and its international partners should aim at revitalising and expanding local hybrid governance frameworks with prerogatives, budgets, and accountability mechanisms to coordinate separate roles for customary authorities and elected officials. The legitimacy of customary authorities would benefit from the prohibition to run for elected office, which could also help against elite capture of local resources.<sup>62</sup> In a sense, customary and elected authorities could be empowered, financially and politically, as hybrid forms of checks and balances. Options should also be examined to give the local role of customary authorities some form of joint representation at national, central level. The outcome would scale up hybrid governance arrangements between the state and the customary authorities.<sup>63</sup>

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[61] Molenaar et al. (2021); Guichaoua & Bouhleb (2023).

[62] Molenaar et al. (2021).

[63] In this regard, comparisons between Mali and neighbouring Niger may be interesting and useful (Guichaoua & Pellerin, 2018).



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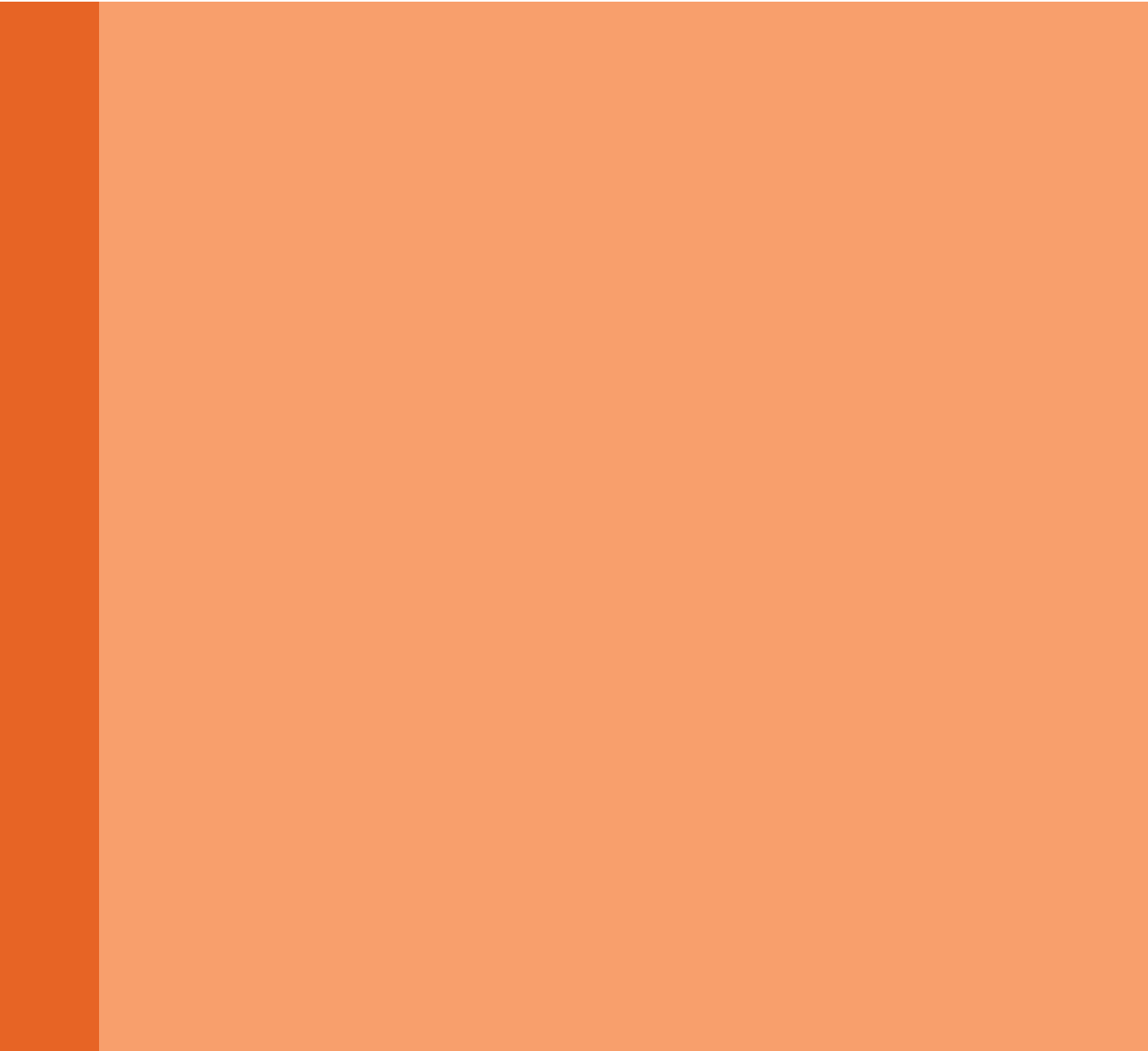
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