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Between cooperation and conflict: tracing the variance in relations of traditional governance institutions and the state in Sub-Saharan Africa

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ABSTRACT

The relationship between the state and traditional governance institutions (TGI) in contemporary politics has recently received increased scholarly attention. Traditional leaders play important roles in elections, public goods provision or conflict resolution in Sub-Saharan Africa. We analyse under what conditions cooperation or conflict emerge between the state and TGI. We contribute to the understanding of state-traditional relations by studying how governments interact simultaneously with varying TGI of different ethnic groups. We compare state-TGI relations for eight traditional polities in Kenya, Namibia, Tanzania, and Uganda, based on extensive fieldwork and interviews with state and traditional authorities, experts and constituents. We study three factors shaping state relations with different TGI: (1) the significance of TGI – both social and organisational – in each country and ethnic group; (2) the institutional similarity of TGI and state; and (3) the integration of TGI – both legal and political. Our analysis shows TGI with social significance and functional organisations challenge the state more frequently. Constitutional ambiguity fosters conflict between TGI and state. For our cases, relations are less conflictive in countries with more democratic governments. The same governments and TGI often simultaneously engage in cooperative and conflictive relations, highlighting that governments rarely pursue uniform policies with all TGI.

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Introduction

In Sub-Saharan Africa, traditional governance institutions (TGI) and traditional leaders (chiefs or elders) are influential forces (Baldwin and Holzinger 2019; Boone 2003; Holzinger, Kern, and Kromrey 2016, 2020; Logan 2013).¹ The relationship between the state and TGI in contemporary politics in Sub-Saharan Africa, and the political outcomes depending on this relationship, have recently received increased scholarly attention. Holzinger, Kern, and Kromrey (2016) provide a review of how scholars study TGI, pluralism of traditional and state

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laws, and related consequences for democracy and development. TGI are important in peace and conflict (Wig and Kromrey 2018; Mustasilta 2019), democratic governance and elections (Baldwin 2015; Baldwin and Holzinger 2019; Baldwin and Mvukiyehe 2015; de Kadat and Larreguy 2018; Englebert 2002a), or development and public goods provision (Acemoglu, Reed, and Robinson 2014; Baldwin 2013, 2014, 2019; Goist and Kern 2018).

We study under what conditions TGI cooperate with the state, and why the state and TGI find themselves in conflict. We contribute to the understanding of state-traditional relations by providing new comparative, empirical insights on how state governments interact *simultaneously* with various TGI of different ethnic groups. Instead of a one-size-fits-all approach, governments rarely demonstrate a consistent policy regarding all TGI in their jurisdiction, sometimes giving preferential treatment to one traditional polity over another. TGI are often not uniform actors either. Various representatives and interests coincide within the traditional polity. In the same issue area – say customary land administration – TGI of one group may seek cooperation with the government, while another ethnic group's TGI are contesting the state. To better understand the variance in state-traditional relations, comparative, disaggregated evidence is required capturing relations of the same government with different traditional polities and across contexts.

We analyse state-TGI relations in a comparative case study framework (Gerring 2007) of eight traditional polities in Kenya, Namibia, Tanzania, and Uganda. Our analysis is based on extensive qualitative fieldwork and 139 interviews with state and traditional authorities, experts, and the population. The information from the interviews allows us to explore nuances of state-traditional relationships, and to probe how cooperation and conflict between governments and TGI of different ethnic groups emerge in varying contexts. We investigate three factors shaping state relations with different TGI: (1) the *significance* of TGI – both social and organisational – in each country and ethnic group; (2) the *institutional similarity* of TGI and state institutions; and (3) the *integration* – both legal and political – in each country. Our analysis shows how TGI with social significance and functional organisations challenge the state more frequently. For our cases, state-TGI relations are less conflictive in countries with more democratic governments. Constitutional ambiguity fosters conflict between TGI and the state. The same governments and TGI often *simultaneously* engage in cooperative and conflictive relations.

Variance of state-TGI relations

The coexistence of TGI and the state in a 'dual polity' (Holzinger, Kern, and Kromrey 2016) requires both actors to interact in elections (Baldwin 2019; Baldwin and Mvukiyehe 2015; Oomen and van Kessel 1997) or legal and constitutional politics (Holzinger et al. 2019, Holzinger, Kern, and Kromrey 2020). Their interaction plays out on various issues, ranging from land administration and property rights (Eck 2014; Takane 2008; Tripp 2004), conflict resolution, arbitration, and community conflict (Ebiede 2017; Fanthorpe 2006; Mustasilta 2019; Wig and Kromrey 2018), legal reforms on gender rights (Muriaas et al. 2019), child marriage (Maiden 2021), education (Busia and Osei-Wuju Adjei 2020), public health (van der Windt and Voors 2020), and various other public goods (Baldwin 2015).

The interaction also plays out on different national and sub-national levels. In some countries TGI are important on a *national level*. Many publics in Sub-Saharan Africa show strong support for the role of TGI (Logan 2013), indicating the nation-wide significance of TGI. The

National House of Chiefs in Ghana or the House of Chiefs in Botswana also exemplify significance of TGI on a national level. The state's regime type may shape how TGI will be treated nation-wide. Democratic governments in Ghana and Botswana may be more integrative towards TGI, compared to autocratic executives. As Holzinger, Kern, and Kromrey (2020) show, the constitutional integration of TGI – ranging from inclusion to outright abolishment of customary governance – also reflects national level state-TGI relations.

The role of TGI also varies on the *ethnic group level*. Usually, the community represented or governed by TGI is ethnically determined: the Kabaka is the leader of the Baganda, the Emorimor represents the Iteso, etc. Different ethnic groups may experience different relations with the state government, because they are different in relative group size (and thus differently important as electoral reservoirs) or because of different historical levels of access to power in state administrations, with some groups featuring more prominently in state governments. Finally, each TGI and ethnic community may organise their polity differently. Some TGI are organised hierarchically and monarchically (the Buganda Kingdom or the Kingdom of Eswatini) while others organise in a more decentralised manner. This might imply different significance of TGI for their constituencies. Given the differently organised traditional polities, individual TGI will differ in their similarity to the state regimes on an autocratic/democratic dimension.

State governments rarely face just one traditional polity in their jurisdiction. While there is often a tendency to focus on the similarities of TGI-government relations across states, Boone has argued in great detail the extent and importance of local variation of the reach of the state apparatus and 'devolution of authority to chiefs' and other rural elites (Boone 2003, 34). This variation is observable today. For instance, the Ugandan government has to date recognised 13 'cultural institutions'. Each traditional polity engages in relations with the state, and each of these relations may play out more cooperatively or conflictive. To understand how the state develops relationships with TGI requires analysing the role TGI both nationally and on the group-level, and the social and organisational variance of TGI, which together shape state-TGI relations.

Depending on how TGI and the state prefer to handle an issue in terms of dividing power between them (say, on land administration), the closer they find themselves on this issue, the more cooperative their relations should be. By cooperation, we mean that state and TGI agree on how to share their authority and responsibilities over an issue, both in terms of rules and practical division. For instance, TGI are permitted to offer dispute resolution on the local level and the state accepts their involvement. By conflict, we mean that TGI and the state are in dispute over the rights and responsibilities on an issue. Frequently, this means TGI and the state are offering a service in parallel, with local constituents deciding who to consult on an issue. The state may issue official land titles over property, but TGI also decide in parallel how to acknowledge ownership of property.

Theory and conceptualisation

We focus our analysis on three theoretical factors which can shape the variance in state-TGI relations across cases: (1) the significance of TGI – both social and organisational – in each country and ethnic group; (2) the institutional similarity of TGI and state; and (3) the integration of TGI – both legal and political. We do not postulate that these three factors are the sole drivers of state-TGI relations. Rather, we recognise that the interaction between

governments and traditional authorities is shaped by *multiple*, context-specific causes – which is why we decide to employ a qualitative design to examine the nuances of the interaction based on thick data. In the interest of a comparative analysis and possible generalisation, we concentrate on those factors which we presume theoretically have the potential to affect state-TGI relations across cases.

The three factors listed above are themselves shaped by particular, context-specific historical path dependencies in Sub-Saharan Africa: pre-colonial setups of TGI, differences in colonial approaches towards TGI, or the treatment of TGI at and after independence, shaping the variance of contemporary politics of interaction. To illustrate, the social and organisational significance of the Buganda Kingdom and Buganda TGI in Uganda today are uniquely determined by how Buganda institutions were organised before colonisers arrived (hierarchically, see Hanson 2009; Kottak 1972), how the Buganda Kingdom has interacted with the colonisers (as an intermediate of British colonisers, see Roberts 1962), how the kingdom was central in Uganda's post-independence government (with Kabaka Mutesa II becoming the first president of Uganda), and the varying cooperative and conflictive relations Buganda institutions had with later governments (ranging from the Kabaka being exiled in 1966 under Obote, to his sons return in 1988). These dynamics will also have affected the similarity of state and TGI institutions, as institutional reforms of Buganda institutions (Englebert 2002b) and Ugandan state institutions happened over time, and personal relationships between the Buganda leaders and government officials may have led to changes in constitutional arrangements regarding TGI. And yet, the three theoretical factors we conceptualise in detail below allow to comparatively analyse three distinct pathways that today shape state-TGI relations across contexts today.

First, the *significance* of TGI on the national and ethnic-group level in a country shapes how TGI can contest the state to engage their demands. We conceptualise 'significance' as, first, the social relevance of TGI at the national level, the importance and legitimacy ascribed to TGI by a country's citizenry overall (see e.g. Logan 2013 on popular support for TGI); and second, at ethnic group-level, the relative population size of the group TGI represent and the degree of their political organisation, which determine the leverage TGI have in their constituency. Relative ethnic group size is a common indicator of political significance (Buhaug, Cederman, and Rød 2008; Montalvo and Reynal-Querol 2005), as larger groups can dominate smaller groups given differences in electoral mobilisation potential. If TGI matter socially both on a national level and in their ethnic group, the state will encounter them. More significant TGI have repeated interactions with the state and may be more likely to find themselves in conflictive relations given the weight they hold in their communities. Table S1 (Appendix) lists each sub-concept and how we capture the concepts empirically, first through desk study and then further through in-depth qualitative interviews.

Second, similarity of the institutions of TGI and the state should matter for their relations. By *similarity* we mean institutional conceptions shared by state and TGI, regarding e.g. the degree of centralisation, mode of leadership, mode of leadership succession, degree of constituency participation, or the degree of checks and balances. Typologies describing systemic attributes of TGI polities have been produced for a long time in the social sciences (Ayithey 1991; Fortes and Evans-Pritchard 1958, Quashigah 1999). More recently, the Economic Commission for Africa (ECA) (2007) has put forward a typology of traditional institutions using classic descriptors of political systems, describing, e.g. consensual TGI as 'largely democratic in their dispensation' (ECA 2007, 9), but also finding that some attributes of traditional

polities, such as the hereditary nature of chieftaincy, make them 'incompatible with democratic governance'. Typologies, categorizations, and attribute lists along similar dimensions exist for political systems in general and African states in particular (Boogards 2009; Lijphart 1968, 1989; Marshall, Jagers, and Gurr 2010).

Our argument on the effects of similarity is inspired by the work of Gerring et al. (2011), who argue that delegation of authority – 'more indirect forms of rule' (380) – is more likely with 'greater stateness' of the governing sub-unit, whereas differences in stateness lead to a more direct form of rule by the state. Similarly, we presume that interactions between an elected state administration and non-similar, hierarchically organised traditional community with hereditary leadership bear more potential for conflict than relations between authoritarian state leaders and similar TGI. Ntsebeza (2005) has described related problems stemming from the coexistence of contradictory setups of democratic principles based on representative government and hereditary traditional institutions for South Africa. Democratic governments should be more prepared to legally acknowledge differently organised TGI, to be responsive to their demands, and to explicitly regulate the coexistence of political institutions. This should ease conflict, as contestation is channelled within existing institutional arrangements. For more autocratic states we expect reverse effects. Yet, playing by democratic rules may also mean for TGI to change exclusionary practices if these are not compatible with individual freedoms and human rights of other citizens, e.g. gender equality. In these cases, democratic norms may also lead to conflict between the state and TGI.

We conceptualise *similarity* as a compound notion made up of a series of sub-criteria. These sub-criteria, selected from the typological literature cited above, are laid out in Table S1 (Appendix), which shows both the conceptualisation and the operationalised interview items to capture these sub-concepts empirically. We include as sub-concepts for institutional similarity: the power structure in the state and TGI polity (high political authority and number of people making decisions), the duration of leadership, the setup and selection of legislative, executive and judicative functions of state and TGI polity, notions of secularity in the polity, the separation of power horizontally and vertically. We probe each individually item empirically *via* the interview items listed in Table S1 to assess the institutional similarity of the state and TGI.

Third, the legal and political *integration* of the TGI within the state structure the relationship. The issues of how to integrate TGI and state institutions constitutionally and legally have been examined by various authors who have put forward typologies of integration and exclusion (Forsyth 2007; Holzinger, Kern, and Kromey 2020; Hinz 2008; Ubink 2008; Muriaas 2011). By legal integration we mean the formal inclusion or exclusion of rights in legal documents (constitutions, laws, administrative regulations) for TGI. We assume the formal coordination of rules and of political action by legal regulation reduces potential conflict. Regulation may take different forms – legal acknowledgement, delineation of competence for TGI, or institutional integration by representation of TGI within state institutions. Regulation may also mean explicit abolishment. That is to say, if a constitution or legal system has specifically abolished TGI (as is the case for Tanzania, where TGI were legally abolished in 1962), this can be considered as a strong policy of exclusion, which is qualitatively different from there being no provisions on TGI in a constitution. We differentiate the levels of legal integration as given in Holzinger, Kern and Kromey (2020): high levels of integration (full integration or TGI functions partially recognised) to low levels of integration (only cultural rights included, explicit exclusion or no integration). Formal rules will likely vary in their

empirical application, which is why we explore the notion of rights consciousness of our respondents (see [Table S1](#), Appendix). Thus, by political integration we mean implementation: how the formally intended integration of TGI corresponds to actual political practice and increased or reduced influence on the ground. TGI which are legally and politically integrated in a country should be more cooperatively engaged with the state. [Table S1](#) (Appendix) again shows the sub-concepts and how we capture the concepts empirically through desk study and qualitative interview items.

Comparative case study design

Case selection

We employ a purposive case selection design often used in qualitative comparative research, selecting cases by leveraging variance in our explanations of interest across observed units (Bennett and Elman 2007; Gerring 2007; Plümper, Troeger, and Neumayer 2019; Seawright and Gerring 2008). Our case selection leverages variance in the theoretical factors mentioned above on the national level and ethnic group-level to explore whether different values and manifestations of the proposed explanations shape differences in outcomes.

Thus, as depicted in [Table 1](#), we selected four different case countries with varying *national-level significance* of TGI. We obtained data on national-level significance for from the Afrobarometer Survey Round 4, the most recent survey data available in 2011 before entering the field a year later. Populations of Namibia, Kenya, and Uganda highly valued their traditional leaders, while the significance of Tanzanian TGI was low.² This selection then helps us explore whether and how varying national-level significance shapes differences in outcomes of state-TGI relations. Second, the four countries also vary in the *regime type*. Selecting on varying regime types allows us to assess how differences in similarity with TGI may affect state-TGI relations, and we use the Polity IV index (Marshall, Jaggers, and Gurr 2010) for selection. For 2009, Polity IV ranked Kenya as the most democratic country of our sample, followed by Namibia. Tanzania and Uganda were categorised as more autocratic. Third, we selected countries with varying degrees of *constitutional integration* of TGI. Here, the differences allow us to explore how different written constitutional arrangements and levels of integration and exclusion shape *de facto* state-traditional relations. Countries were coded as integrating TGI if the constitution in year 2010 refers to TGI, and grants rights and powers (ranging from accepting cultural practices to representation in national councils of traditional leaders). If the constitution featured no references to TGI, countries were coded as not integrating.

Fourth, to incorporate ethnic-group level variance, we concentrate on two ethnic groups in each country, thereby leveraging variation in factors of *group-level significance* and *institutional similarity* (see [Table 2](#)). Selecting ethnic groups that differ in the level of significance of TGI and in how similar these groups' TGI are to the regime type of the state allows us to

Table 1. Case selection – countries.

		Significance of TGI			
		High	High	High	Low
		State regime type			
		Autocratic	Democratic	Democratic	Autocratic
Constitutional integration	Yes	Uganda	Namibia		
	No			Kenya	Tanzania

see whether and how more or less significant and more or less similar TGI can shape the way state-TGI relations play out. The Ethnic Power Relations (EPR) dataset provides data on size and access to power for ethnic groups (Wimmer, Cederman, and Min 2009). Size and power status correlate and thus we selected the largest and a smaller group in each country to capture the variance of group size for comparison. In Kenya, we selected the Kikuyu and Abawanga, in Namibia the Nama and Ovambo, in Tanzania the Sukuma and the Maasai, and in Uganda the Baganda and Iteso. We distinguish four types of traditional polities on the group-level: age set consensus systems, village kinship consensus systems, and absolute as well as restrained chief systems (ECA 2007). As argued in the theory section, we consider the first two types to be closer to democratic polities than the latter, as the power of the leader is restricted and participation in decisions higher in the consensus systems (see also Neupert-Wentz, Kromrey, and Bayer 2022). We selected the ethnic groups to have a similar and a dissimilar ethnic polity to the state's organisation for each country to generate analytical leverage regarding institutional similarity.

Methodology: semi-structured qualitative interviews

We conducted interviews consisting of a semi-standardized questionnaire and an open-interview part. Fieldwork was supported by extensive desk-study of constitutional-legal regulations as well as socio-economic and historical context. Our interview sample includes 139 recorded interviews (with 161 individual subjects) in all four countries (see Table 3). Experts were selected if their work relates to issues of TGI (NGO employees or academics). We also included participants of the local population.³

Country case studies

For each country, we first describe the background of TGI and – given space constraints – only provide a brief historical discussion. Next, we provide detailed interview evidence and

Table 2. Case selection – groups.

Country	Group	Group-level significance		Polity type	Similarity to state
		Size	Access to Power		
Namibia	Ovambo	⁰ .49	Always	Absolute chief system	dissimilar
	Nama	0.05	Never	Village kingship consensus system	similar
Kenya	Kikuyu	⁰ .22	Always	Village kingship consensus system	similar
	Wanga	0.02	Never	Restrained chief system	dissimilar
Uganda	Baganda	0.16	Changing*	Restrained chief system	similar
	Teso	0.08	Never	Age set consensus system	dissimilar
Tanzania	Sukuma	0.16	Never	Restrained chief system	similar
	Maasai	0.01	Never	Age set consensus system	dissimilar

*1965–1969 and 1989–2005 the Baganda were included in power.

Table 3. Interview sample by country and respondent type.

Type	Kenya	Namibia	Tanzania	Uganda	Sum
State	12	11	8	10	41
Traditional	18	11	9	10	48
Experts	6	7	8	6	27
Population	3	5	6	9	23
Sum	39	34	31	35	139

refer to each of the three factors shaping state-TGI relations. We first assess these relations purely descriptively based on the information gathered. The following comparative section then analyzes all explanatory factors as well as their interaction.

Kenya: Kikuyu and Abawanga

Pre-colonial organisation of traditional polities in Kenya was mostly decentralised and clan-based, with few exceptions such as the Abawanga, a small sub-group of the Luhya, who organised as a kingdom. During British colonial administration, the Wanga Kingdom's leader Nabongo Mumia was first utilised *via* 'indirect rule' as 'paramount chief' ruling over several Abaluyia groups, then abolished by the colonisers in the 1920s. In contrast, the pre-colonial organisation of the nine Kikuyu clans was non-hierarchical, with age-sets and lineages on the sub-clan level. Ad-hoc clan councils and committees presided over social issues. British colonial rule ended in 1963, but settling policies led to profound changes especially in the geographical distribution of ethnic groups and ownership of land, disfavoured the Kikuyu, with repercussions still felt today.

In Kenya's 2010 constitution, integration of TGI is not addressed – but there is leeway for local state authorities to engage traditional leaders as assisting agents. Interviewees mentioned the document also defines responsibilities for *elders*. The constitution stipulates devolvement of powers to local level authorities, but elders are not explicitly mentioned. 'Chiefs' and 'assistant chiefs' (local administrators in the Kenyan administrative structure) are allowed to engage individuals they deem trustworthy as community leaders – which can but need not be traditional elders.

As experts and state authorities emphasised (KEN_EXP_01, KEN_EXP_02), the constitution vaguely addresses the promotion of alternative dispute resolution (§67, §159), and regulates community land 'traditionally occupied by hunter-gatherer communities' (§63). The room for interpretation left by the constitution has given state and TGI the opportunity to collaborate. While Kikuyu elders emphasised they felt more recognised by the government (KEN_TRA_01) especially regarding land issues (KEN_TRA_14), Wanga elders felt the state was not doing enough to act on the constitutional regulations concerning land issues and decentralisation plans, as they were not sufficiently involved by the government (KEN_TRA_12). Given history of access of the Kikuyus to the government, this difference in attitude is unsurprising. In light of the constitutional vagueness regarding devolution of powers, both Abawanga and Kikuyu council elders reinterpreted their role and showed us documents of their formalised organisational structure. Traditional elders expressed their wish to receive allowances by the state for their work in the community (KEN_TRA_09).

Many experts and state authorities pointed to the important role elders play in rural communities as power brokers, managers of local conflicts, and land issues (KEN_EXP_01, KEN_EXP_03, KEN_STA_01, KEN_TRA_01), but people 'do not necessarily make their choices based on what the elders have told them', particularly the youth (KEN_EXP_02). 'Village elders' are appointed by the administrative chiefs as quasi-administrators of the state and cannot enter these positions by virtue of their traditional legitimacy alone. They are more part of the state than of the traditional community. For the administrative chief, 'the elder is the eye of the state at the local level' (KEN_TRA_01).

There are pronounced differences between the social significance of Kikuyu and Abawanga TGI, however. Abawanga kingdom elders emphasised the Nabongo's role was apolitical and a matter of cultural heritage (KEN_TRA_10, KEN_TRA_11): 'The Nabongo is not the ruling one' (KEN_TRA_07). Elders of the Kikuyu play a more important role, as one elder described: 'One, you can be a decision-maker. Two, you can be a counsellor, counsel families, young men and ladies. Three, when there are quarrels within the community you can sit down with them as a judge. You can make a ruling with the other elders in land conflicts' (KEN_TRA_14).

The Abawanga Kingdom was re-organised with a portfolio for different members of the Wanga Council of Elders. Yet, some interviewees and members of the council were unsure what their actual assignments involved. The structure at the time of interview was hierarchical with the Nabongo Peter Mumia II as the leader. In the interviews the decision-making process was described as the elders advising and voting for actions concerning the kingdom (KEN_TRA_11), with the king then deciding, mostly following the majority. In its autocratic structure, this can still be considered dissimilar to the state democracy.

While the Kikuyu remain fairly decentralised in their organisation, the Kikuyu National Council of Elders led by a council chairman was established to voice political demands on behalf of the group (KEN_TRA_18). Some Kikuyu elders seemed unsure about the council's authority (KEN_TRA_16). While council elders do not claim to be sole leaders of the Kikuyu, the reformed organisation has been made hierarchical. The National Council and the Chairman, however, were explained to us as purely administrative branches, while the usual decentralised structure remains in parallel, with no elder more important than others (KEN_TRA_18). The establishment of the National Council serves to strengthen national cohesion of the Kikuyu TGI. The National Council mirrors the levels of state administration in a hierarchical manner, and thus might make direct cooperation with the state on all levels more likely and effective. We observe a process of assimilation of traditional and state institutions towards greater similarity.

State-TGI relations are not very conflictive for Kikuyu and Abawanga. The Kikuyu elders expressed satisfaction with the government (KEN_TRA_02) – although the latter at the time of research had only been in office for three months. Surprisingly, some government officials noted Kikuyu elders do not exist anymore. As the existence of the Kikuyu National Council of Elders suggests otherwise, the latter statement is indicative of how unimportant this institution was for high-level administrators. The Abawanga Kingdom does not challenge the state's authority. King Peter Mumia II might have personal quarrels with the state (over the title and profits regarding a weekly market in Mumias) (KEN_STA_07, KEN_STA_11). Yet, his rule does not challenge the state, as he and his elders see their role as primarily cultural. Interviewees of both groups pointed to politicians seeking support of TGI in times of elections (KEN_EXP_03, KEN_STA_07), and to the role politicians have played in mobilising violent perpetrators during the electoral violence in 2007/2008 (KEN_EXP_02).

Namibia: Nama and Ovambo

Namibia's diverse landscape of TGI outlasted German colonialism and South African's Apartheid rule – when TGI were used as local governing agents (NAM_TRA_06). Pre-colonially, northern Kingdoms (Ovambo) possessed land with kings deciding the allocation of agricultural land among community members. The southern headmenships and chieftaincies like the Nama, with their nomadic, segmentary life-style, did not own territory. During colonialism

and the Apartheid rule these differences were fortified with the introduction of European conceptions of property, the expansion of white settlers from the South and the erection of the veterinary cordon fence. Still today, the fence separates southern Namibian private farms, formerly allocated to white settlers, from communal land in Northern Namibia. The northern TGI are therefore more powerful than their southern counterparts.

The legal integration of TGI in Namibia is most extensive in our sample. The constitution acknowledges TGI, recognises customary law (Art. 66(1)) and establishes a national Council of Traditional Leaders (Art. 102(5)). The 2000 Traditional Authority Act is crucial (TAA; replacing the former Traditional Authority Act of 1995), providing the formal recognition of TGI, their responsibilities and functions (NAM_STA_04). Interviewees favoured this act as it 'brings together the different TAs of the country under the same rules' (NAM_TRA_08). So far, 50 TGI had been formally recognised and given financial allowances (NAM_STA_06). The constitution and state law prevail over customary rules, such that rule conflict – with respect to gender representation or traditional sanctions – should not appear in theory.

The formal integration strengthens state control and legitimises TGI. The Ministry of Regional and Local Government, Housing and Rural Development oversees the TGI's execution of assigned powers in the areas of culture, land and customary law (NAM_STA_06). The financial allowances given to the TGI fortify this state control (NAM_EXP_02, NAM_STA_05). However, most representatives of the TGI did not picture themselves as state agents (NAM_TRA_11). They refer to their local importance with respect to culture and land. Moreover, they repeatedly referenced the formal integration to justify their actions (NAM_TRA_08).

All interviewees agreed on high social significance of TGI in Namibia today: 'Traditional authorities is a necessity. It must be there' (NAM_TRA_01). TGI possess a strong authority in peripheral areas and villages, especially regarding the custody of traditions, administration of land, and the jurisdiction of customary law (NAM_STA_08). While the general social significance was highlighted by all interviewees, Nama were less assured about the role of their TGI, and saw their influence in many but not all areas (NAM_STA_01, NAM_EXP_02, NAM_POP_03). The Ovambo meanwhile claimed all-encompassing influence at the local level. There is a clear difference in the organisational significance between the two TGI. While the Ovambo rest in their accepted traditional structure and are proud of their dynasties of kings, the Nama councillors were sometimes unclear about their portfolios, and traditional courts did not seem to exist yet (NAM_TRA_01, _02, _03, _04).

Ovambo seem politically much more relevant than the Nama, because of population size, land issues, and party politics. The Nama are a small group. The Ovambo account for about half of Namibian citizens and thus have leverage in elections. The pre-colonial segmentary lifestyle and the colonial expropriation of land in southern Namibia left the Nama with little land compared to the Ovambo. After independence only those TGI with traditional land could be recognised, transferring the possession of land into a basis of power (NAM_STA_01, NAM_STA_06). The SWAPO government draws on stronger links with Ovambo TGI: 'people in the north will not say something against a SWAPO government' (NAM_EXP_05). While this link was declined by Ovambo TGI (NAM_TRA_08, NAM_TRA_11), experts, local population and local state actors mentioned strong party affiliation and mutual benefits (NAM_STA_08, NAM_TRA_07, NAM_EXP_06).

TGI in Namibia are converging and structural differences between TGI fading. Since independence, the Nama increasingly adopted chieftaincy structures. The chieftaincy structure is determined by the formal integration. The TAA states that every recognised TGI has to

consist of 'a chief or head' and 'senior traditional councillors and traditional councillors' (section 2), adopting a hierarchical model for all TGI (NAM_EXP_02). The regulations for the recognition fit better with pre-colonial kingdom structures than with a segmentary organisation, 'because the ruling party, the majority is Ovambos, so these kingdoms exist and definitely because of that they make provisions for these acts' (NAM_EXP_02). The strongest TGI are chieftaincies (Kavango, Caprivi and Ovambo), and hence invite imitation. This trend towards hierarchical models of TGI is not exclusive to the Nama.

We observe a contradictory development. The state of Namibia is a democratic state – with a dominant party (SWAPO) mainly of Ovambo origin – attempting to legally integrate the TGI; however, it uses the Ovambo's hierarchical-autocratic structures to model TGI, leading to convergence among TGI. The state implements policies making all TGI more compatible with state law and public administration, making them factually part of the state. With the communal land registration policy (NAM_STA_03), and the implementation of community courts (NAM_STA_07) the state aligns traditional spheres of power, land and customary law with state norms. The TGI increasingly assimilate to the state structures.

We do not find TGI in strong conflict with the Namibian state. Minor disputes between the state and TGI are settled within the formal legal framework, e.g. court cases on succession and land issues (NAM_EXP_02; NAM_STA_02,03; NAM_TRA_05,11) and cases of chiefs refusing to cooperate in land development issues (NAM_STA_01,03; NAM_EXP_06,07). There are fewer conflicts between Ovambo and the state, and they are mostly land-related (NAM_STA_11). Since Nama hardly possess customary land, conflicts rarely arise (NAM_STA_01). Rather, the state is involved in succession conflicts and recognition of TGI amongst the Nama: 'They claimed that SWAPO only recognised those [leaders] that were SWAPO-friendly' (NAM_EXP_03). These disagreements between TGI and the state are solved with legal and administrative means (NAM_TRA_09).

This cooperation stems from the extensive legal integration, which comes with financial incentives ('They give us cars': NAM_TRA_08) and the state seeks to co-opt TGI as state agents (NAM_EXP_02). 'The whole idea with buying cars was to buy them [TGI] up. Because if you are not cooperating, you don't get a car' (NAM_EXP_05). The difference in conflict with the state across the TGI can be explained by Ovambo having access to the state: 'SWAPO knows all the chiefs' (NAM_POP_01). Nama are less relevant with a weaker position within the state. The state hence more often intervenes in Nama affairs.

Tanzania: Maasai and Sukuma

The pre-colonial organisation of ethnic groups in Tanzania was mostly non-hierarchical; TGI were organised in chiefdoms or small bands. The approximately six million Sukuma constitute the largest ethnic group in Tanzania who predominantly live south of Lake Victoria. The Sukuma traditionally organised in about fifty loosely connected chiefdoms, without central organisation of the ethnic group. The chief (Ntemi *sing.*, Batemi *pl.*) would be supported and checked by sub-chiefs and elder councillors, even if locally, political organisation would vary. By contrast, the roughly 400.000 Tanzanian Maasai mostly live in the north of the country. They are pastoralists, and several age groups structure their socio-political organisation, with men undergoing stages from warrior to elder with specific functions.

Following independence in 1961, the Nyerere government initiated its socialist reform *Ujamaa*. To tackle tribalism in Tanzanian politics, chiefs' administrative functions were legally

abolished in 1969 (Act No. 53), because chiefs 'were so strong, if we would have left them, then that would have created some divisions' (TAN_EXP_06). The abolishment was largely effective and remains in place today (TAN_EXP_03, TAN_EXP_04, TAN_STA_02). As a senior Sukuma chief explained, to mitigate resistance by chiefs, they were offered posts within the Tanzanian state administration, albeit in geographical distance from their traditional constituency (TAN_TRA_01). Legal recognition of TGI seemed infeasible and undesirable to most interview partners: 'If we go back and give them political roles, we go backwards' (TAN_EXP_02).

The large majority of interviewees emphasised to us TGIs' insignificance. People acknowledge 'chiefs as a name, a legacy, but not as political reality on the ground' (TAN_EXP_03). Contacting a Sukuma chief for assistance is almost 'never' an option (TAN_POP_02). A Sukuma leader confirmed: 'Now, respect has gone down.' (TAN_TRA_01). Sukuma traditional leaders portrayed TGI as somewhat respected but inactive without power (TAN_TRA_03). Respondents, even if dissatisfied with the government, did not see that TGI could perform better than the government. The relative group size of the Sukuma does not give TGI greater influence and political relevance in Tanzanian national or local politics.

Despite the negligible social significance of TGI in national Tanzanian politics, the Maasai constitute an exception to this rule, as Maasai TGI are still highly important (TAN_EXP_01, TAN_EXP_05, TAN_STA_08). Being a minority played out to the advantage of the Maasai with respect to the maintenance of traditional structures. The legal abolishment has not affected Maasai communities as much. The local *Laibon*, a customary and spiritual leader of the Maasai, put it this way: Nyerere, who abolished traditional chiefs, 'now [...] is dead. If he could have abolished [TGI], who would be leading the community now? Also, by that time, there was no radios, there was no way to hear from him. That is why [we] have the leadership' (TAN_TRA_05). The government acknowledges this grey zone, and state administrators highlighted active relations (TAN_STA_01, TAN_STA_03, TAN_STA_08), but Maasai leaders also pointed out they are selective in following state directives (TAN_TRA_05).

The institutional dissimilarity and pastoralist lifestyle have enabled the Maasai to sustain their traditional organisation, as colonisers and administrators were unable to penetrate institutional bonds (TAN_EXP_01). They still practice their age-set system which implies regular change in power, the leader position rotating between the greater families. The *Laigwanan* (Maasai leaders) are supported by elders. Today, the state identifies cooperating traditional representatives among the Maasai with political leverage in their communities. Maasai leaders we interviewed also acted as local government intermediaries assisting state administrators (TAN_TRA_09).

For the Sukuma, decentralised organisation and the agriculturalist and settled lifestyle have made abolishment effective. Attempts to revive the cultural heritage with the Bujora Cultural Centre north of Mwanza had been a mixed success (TAN_STA_06, TAN_POP_01): while a museum was established, interviewees mentioned their frustration with the organisation of the Bujora Conference of Chiefs, emphasising the council's ineffectiveness in developing a substantive agenda (TAN_POP_03). The breakdown of traditional institutional networks makes it extremely difficult for contemporary Batemi to even initiate better organisation, let alone becoming a challenge to state institutions.

There is practically no conflict involving TGI and the state. The outlined legal abolishment, the high degree of ethnic fractionalisation and non-polarization in Tanzania make it very difficult for TGI of one group to influence national politics. Only the pastoralist Maasai generate tensions when grazing their cattle on land owned by others (TAN_EXP_01,

TAN_STA_01). However, the Maasai we interviewed did not point to direct conflict with the state (TAN_TRA_06, TAN_TRA_07). Interviewees repeatedly credited the formal abolishment of TGI for Tanzania's general low level of conflict (TAN_EXP_01).

Uganda: Baganda and Iteso

While several ethnic groups were organised in a non-hierarchical manner (e.g. Iteso), some hierarchical 'kingdoms' inhabited the area of today's Uganda, most prominently the Kingdom of Buganda. The hierarchical organisation of the Buganda Kingdom made its elites the preferred intermediaries to rule the territory for the British colonial administration. Colonialism in Uganda saw many non-Buganda areas governed by Baganda agents, ruling e.g. over the Iteso. Upon independence in 1962, the king of the Baganda, *Kabaka* Edward Mutesa II, became Uganda's first president. A period of instability followed, with Milton Obote abolishing kingdoms in 1966, forcing the *Kabaka* into exile. After the civil war, Yoweri Museveni became president in 1986, and the leader of the National Resistance Army (NRA, as a party renamed as National Resistance Movement, NRM) has remained in office since. In 1988, the current *Kabaka*, Ronald Muwenda Mutebi II, was permitted to return to Uganda.

When taking office, Museveni 'knew that it might be very difficult to rule Uganda without the kingship', as a member of the Buganda royal family and high-level state civil servant related (UGA_TRA_04). The president promised to revoke the abolishment of TGI in exchange for the Buganda kingdom's support of the NRA (UGA_TRA_10). The government introduced the 1995 Ugandan constitution recognising TGI in their role for the community, but banning TGI from partisan political actions (Art. 246). In 2011, the 'Traditional and Cultural Leaders Act' followed, recognising thirteen TGI ('cultural institutions'), which receive a government salary of five million Ugandan shillings monthly. The government sponsors cultural leaders personally with finances for a car, international first-class travel, or paying education fees for biological children. Through this act, the government has extended its control over many TGI, as a leader now 'cannot declare things that are against the state, because he knows he receives money from there' (UGA_POP_06). The Buganda kingdom, however, had sufficient resources to reject financial support from the state. As some interviewees explained, the government has succeeded in politically dividing the TGI of different ethnic groups by making some financially dependent on the state.

Interviewees frequently described the constitutional conception of non-partisan cultural leaders as unrealistic, because 'you cannot say, culture is culture. Culture is politics, it is how you organise society' (UGA_EXP_05), and many constituents 'look to the traditional institution first, before they look at the state' (UGA_EXP_03). Nationally, Buganda-related issues are often sensitive, and the Buganda Kingdom is a relevant political player, because of its size and history, but also because of its economic prosperity and its demand for *federo*, a federal Uganda with increased administrative powers for Buganda. The self-assurance of members of the Buganda administration is significant: 'Uganda cannot survive without Buganda' (UGA_TRA_01). Opposition to the kingdom can have negative effects on political candidates' prospects. As a former presidential candidate put it: 'As a politician, I stay away from them' (UGA_POP_09). Social significance is high and the institution and word of the *Kabaka* is an authoritative force; he 'can influence even by just one statement what happens in the public sphere, in terms of the political arena' (UGA_EXP_03). While TGI are not supposed to be partisan, Buganda officials communicate candidate preferences indirectly (UGA_POP_03).

The Buganda Kingdom resembles a hierarchical and centralised restrained monarchy. The kingdom has a complex and differentiated administrative hierarchy, and mirrors a modern, albeit autocratic state in its political organisation. The Kabaka is supported by the prime minister (*Katikiro*) and about 40 ministries for local government, justice, finance, education, health, women and gender, and even for Buganda affairs abroad (UGA_TRA_02). Kingdom representatives are found down to lowest level of governance in the villages, and sometimes act as double heads both for the government and as the 'Kabaka's man' (UGA_STA_05, UGA_TRA_03). Deputies of the parliament of Buganda (*Lukiiko*) come from Baganda clans or are special representatives of professions and minority groups. They are vetted, selected, and appointed by the Kabaka and his administration (UGA_TRA_01). Buganda has traits of modern democratic states but is in substance similarly autocratic to Uganda itself.

The Iteso socio-political organisation was traditionally acephalous and fairly egalitarian, with small clan units structured along lineages (UGA_POP_06, UGA_POP_07). Since the late-1990s, there have been efforts to centralise the traditional Iteso polity under the wings of the Iteso Cultural Union (established in the 2000s) and the *Emorimor*, who is elected by clan leaders (UGA_POP_06). The office of the *Emorimor* is rotational between clans, but the leader stays in office for life (UGA_STA_07). Representatives of the ICU confirmed they are purposefully emulating Buganda to improve leverage with the state (UGA_TRA_06). The ICU organisation features ministries for several resorts, headquarters in Soroti, and plans existed to start a development foundation (UGA_TRA_06). Yet again, the ICU did not aim to be a full-blown administration. Iteso TGI have also expressed to us their fear that in case the government gives in to *federo* demands, poorer regions of Uganda might be cut off from an economically powerful autonomous Buganda region including Kampala (UGA_TRA_06, UGA_TRA_07).

The ICU has been built in reaction to the Cultural Leaders Act to generate stronger representation of Iteso interests. Its social significance within the Iteso community was reported as rather low. Clan leaders of the Iteso confirmed that even though the *Papa Emorimor* was supposedly their head, 'in reality this is not the fact. He is lacking grass root support' (UGA_TRA_08). A long-term goal of the ICU is to establish the *Emorimor* as a spokesperson for the Iteso (UGA_TRA_06, UGA_TRA_07). Interviewees saw him as respected, but 'helpless' (UGA_POP_07). Constituents 'attach culturally more to their clan systems, and not to the *Emorimor*. The clan leaders are much more important' (UGA_EXP_02). Political demands were voiced to government representatives, and solutions expected from the president, not from the ICU (UGA_POP_08).

The relationship between the state and TGI varies for different traditional groups and is sometimes particularly strained between the Buganda Kingdom and the government. First, a Buganda minister claimed Museveni has not fulfilled promises to Buganda (UGA_TRA_10). This particularly applies to the issue of former colonial land, which, as Buganda representatives argue, should be completely returned to the kingdom (UGA_STA_05, UGA_TRA_10). Many interviewees have pointed out the potential for crisis and violence intrinsic in the relation between the Buganda kingdom and the government. If the land disputes cannot be resolved, and if the frustration of the general population with the government and the socio-economic situation of the country cannot be reduced, the government might feel more threatened by the kingdom, and the latter more inclined to object to government policies (UGA_EXP_05). Buganda's leverage stems especially from the relative population share of the Baganda, the Kingdom's ownership of large shares of land in central Uganda,

and the ability of the Buganda administration to mobilise effectively (*via* their radio station broadcast) (UGA_TRA_05, UGA_STA_08). All of this has led to repeated conflict between the government and the Buganda administration, with both political and violent tensions emerging. Examples are the events related to the visit of the Kabaka to Kayunga district in 2009 with more than 20 casualties (UGA_TRA_01, UGA_POP_03, UGA_TRA_10), or the burning of the Royal Kasubi tombs in 2010 (UGA_TRA_05, UGA_STA_09).

State authorities emphasised the challenge represented by Buganda. In the eyes of interviewed Buganda authorities, current traditional rights do not suffice (UGA_TRA_09). They demand a federal system (*federo*), in which the political authority of the Kingdom would increase, and the Kabaka would become a state-level constitutional monarch (UGA_EXP_05). As to the relationship between the ICU and the state, there is no conflict. The Emorimor was seen as the ‘puppet of the president’ (UGA_EXP_02). The centralisation of Iteso traditional organisation and integration with the Ugandan state has meant more state control. This reduced the potential for conflict between TGI and the state.

Comparative analysis and discussion

The four discussed country cases provide evidence on the theoretical factors shaping conflict and cooperation between TGI and the state. Our comparative framework allows us to leverage cross-country evidence. Regarding the *social and organisational significance* of TGI, there is much evidence that greater significance overall means a higher potential for TGI contestation of, and conflict with, the state. There is divergence in how the traditional polities in our sample developed organisationally over time. While the Maasai have maintained their TGI, the Buganda Kingdom and Ovambo possess neo-traditional state-like apparatuses, the Iteso, Nama and Kikuyu attempt to centralise, and the Sukuma and Abawanga TGI resemble cultural associations. Contemporary organisation mirrors and affects the social significance of TGI today. We found national significance to be highest in Uganda and Namibia, followed at some distance by Kenya. TGI are insignificant in Tanzania on the national level; yet, there is group-level social and organisational significance for the small group of Maasai. Consequently, we would not expect to see the national government being in conflict with TGI in Tanzania, which is indeed what we observe, and less conflict in Kenya as compared to Namibia and Uganda. TGI which are able to maintain or re-establish organisational significance (Maasai, Buganda, Ovambo) can use the coherence of their governing apparatus to their advantage when interacting with the state. If the ethnic group overall is relatively sizeable and of national political weight, this may give re-organised TGI (the Kikuyu or Ovambo, compared to those of the Abawanga or Nama) leverage to access government for local demands and increase their own organisational significance. On the group-level, social and organisational significance are a precondition for TGI to be able to contest and be in conflict with the state.

On *institutional similarity* between TGI and the state, we can assess comparatively that institutional dissimilarity combined with organisational significance can provide TGI (see Maasai or the Ovambo) with considerable capital regarding contestation of the state, translating into leverage when wresting authority from the state. Dissimilarity by itself, as with the Abawanga Kingdom in Kenya or the Iteso in Uganda, is insufficient if social significance of the ethnic group and their TGI is lacking. Other factors may increase the leeway that comes with dissimilarity – geographic remoteness of the Masai polity, or historical factors having

empowered the Buganda Kingdom economically through land ownership and being headquartered in Kampala. Similarity to state institutions can mean the state has an easier time co-opting and controlling TGI with more co-operative behaviour (Nama, Sukuma). Moreover, our comparative evidence suggests that, if we leave aside the small groups as irrelevant for conflict between the state and TGI, the Ovambo in Namibia and the Buganda in Uganda do not fit the idea that similarity in type of political system helps avoiding conflict between the two parallel systems. Overall, the causal pathway from institutional similarity to cooperation and conflict is complex, with effects co-depending on the significance of each group. We find that the most conflictive state-TGI relations occur in one of the more autocratic states (Uganda), while much less conflict is observed in the more democratic countries (Kenya, Namibia). This could suggest, beyond similarity of institutions, democracies can handle potential conflict with TGI better than autocracies, independent of whether TGI are similarly organised to state institutions.

Finally, regarding how *legal and political integration* of TGI shape cooperation and conflict, only Namibia supports the idea that strong integration reduces conflict, as significant TGI have low-level tensions with the state, peacefully managed by the legal and administrative system. Tanzania with an exclusionary approach displays little direct conflict between the state and TGI. Uganda, with a constitution integrating 'cultural institutions', constitutes a case exhibiting the strongest open conflict between TGI and the state in our sample. The Buganda Kingdom is in fact contesting the very constitutional and legal rules the state attempts to apply to them, and contends the constitutional rules do not reflect the political reality and power of the kingdom. Kenya as a country without clear constitutional integration displays much more co-operative relations between the state and TGI. This suggests either strong legal exclusion (abolishment) of TGI, or very strong and non-ambiguous forms of legal integration, tightly knitting the parallel systems together, seem to exert easing effects on state-TGI conflict. Where wiggle room and disagreements over the constitutional rules themselves exist, significant TGI can contest the state and conflictive relations emerge.

Conclusion

Governments rarely show uniform approaches towards all TGI. The same governments and TGI often engage in cooperative and conflictive relations – the state frequently treats traditional polities within their jurisdiction differently. Our analysis indicates how TGI with social significance and functional organisations may challenge the state more frequently. Relations can be less conflictive between the state and TGI in countries with more democratic governments. Constitutional ambiguity fosters conflict between TGI and the state. While the extent to which TGI are related to severe conflict across the four countries is moderate at best, TGI which are able to retain social and organisational significance can challenge the state and act less co-operatively.

The cases of Namibia and Uganda point to state-induced similarity, where the state offers incentives to TGI to re-organise. If TGI assimilate, conflict between the state and TGI may reduce. We find not only a movement towards more 'stateness' of TGI in order to integrate, but also state administrations that 'traditionalize' to incorporate TGI (by accommodating traditional land tenure and dispute resolution mechanisms). In sum, the identified three theoretical factors allow for careful comparison and generalisation of what shapes state-TGI

relations across cases, while acknowledging that other causes and particularities in each case are driving outcomes as well.

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Notes

1. By “traditional” we refer to a mode of legitimization understood and validated through narratives or procedures deemed “traditional” by constituents.
2. Percentage of respondents who trust their traditional leaders “a lot” and want to increase their influence “a lot”: Namibia (39.6; 33.3), Uganda (35.6; 32.7), Kenya (29.9; 37.2), Tanzania (18.9; 17.3); cf. Afrobarometer, Round 4.

3. We use the following interview evidence identification (ID): each ID provides information on, first, the country; second, the respondent group (STA=state authority, TRA=traditional authority, EXP=experts, POP=population); and third, the count of the respondent per group and country.

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