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# Jihadi governance and traditional authority structures: al-Shabaab and Clan Elders in Southern Somalia, 2008-2012

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## ABSTRACT

Based on unique field work in southern Somalia, this article explores how the interrelationship between jihadi insurgent rulers and traditional authority structures fostered local order in the southernmost part of Somalia in the period 2008 to 2012. While the Jihadi insurgent group al-Shabaab's state project was profoundly inspired by jihadi-Salafi ideology when it conquered large parts of South-Central Somalia in 2008–2009, it developed a strategy to cooperate with and co-opt local authority structures. This was partly a pragmatic approach in order to gain control of local institutions and populations. However, utilizing the local clan elders was a practical and cost-effective arrangement through which al-Shabaab could collect material resources, such as money, weapons, new recruits and other local resources. By sustaining the traditional authority structures, al-Shabaab also fostered a degree of trust and legitimacy from the local populations.

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## Introduction

Harakat al-Shabaab al-Mujahideen in Somalia, usually only referred to as al-Shabaab ('the youth'), is one of only a few jihadi insurgent groups globally that has ruled substantial territories and populations over time and continues to do so. The group emerged from a close network of strongly committed Somali jihadi-Salafis,<sup>1</sup> several of whom had fought and trained with al-Qaida in Afghanistan.<sup>2</sup> Throughout 2008 and 2009 it transformed into a dominant politico-military force in Somalia and managed to establish *de facto* state authority in most of the southern and central areas of the country.<sup>3</sup> In

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contrast to many of the clan-based militia groups of the 1990 s and early 2000 s,<sup>4</sup> al-Shabaab has provided relative social and political order to large parts of South-Central Somalia for more than a decade.<sup>5</sup>

Along with Western military interventions and the rise of self-declared Islamic states or emirates in areas such as Afghanistan, Iraq, Syria, Yemen, the Sahel and Somalia, academic interest in encounters between jihadi insurgents and local communities dominated by kinship loyalties and patriarchal orders has increased.<sup>6</sup> Existing literature shows that the quality and trajectory of these relationships varies greatly across the different theatres.<sup>7</sup> Studies of the so-called 'Sunni Awakening' in Iraq in 2006–2007 describes how certain Sunni tribes, who had by and large cooperated with the local al-Qaeda group, later turned and were vital in pushing the jihadi insurgents out of the area.<sup>8</sup> Yet, in several 'tribal' areas jihadi insurgent groups have successfully entrenched themselves for years, and, in a number of cases have managed to establish surprisingly long-lasting social and political orders within their territories of dominance.<sup>9</sup> A puzzle, then, is how the Jihadi insurgent groups, often described as revolutionary and anti-systemic socio-political forces,<sup>10</sup> have been able to navigate pre-existing and often divisive forces of kinship group structures? Based on the Somali case, this paper proposes that successful handling of local kinship structures rests on the Jihadi insurgents' ability to balance strong institutional control with a pragmatic approach to pre-existing local institutions. By coopting instead of dismantling local authority structures, the jihadi insurgents facilitate social and political control, obtain material benefits and generate some level of legitimacy.

The number of studies of non-state armed groups' governance of civilian populations, usually referred to as 'rebel governance',<sup>11</sup> is rising.<sup>12</sup> Yet, in-depth explorations of local mechanisms linked to the role of traditional authorities in the construction and maintenance of 'wartime institutions'<sup>13</sup> in areas ruled by jihadi insurgent groups over time are scarce.<sup>14</sup> This paper supports the view that Jihadi state projects are dominated by young men, not traditional authorities, and that in several respects they can be described as intensely ideological projects.<sup>15</sup> However, the analysis also exposes another vital dimension of these entities: a large dose of pragmatism in the exercise of local governance. Although local traditional authorities are not presented as formal leaders, their roles and functions are profoundly systemized and becomes a vital part of the Jihadi "state's" local institutions. To understand and highlight jihadi insurgents' pragmatic approach to governance is vital for several reasons. Firstly, it provides valuable insight into a little-known dimension of Jihadi insurgent groups ruling territories. Secondly, it challenges the tendency to consider Jihadi groups' as something substantially different from other revolutionary insurgent groups. While the propagated ideological views of Jihadi groups may be important in many respects, this should not mislead scholars into overlooking their insurgent nature, facing challenges

and opportunities similar to other non-state armed actors striving to fight the existing state or world order.<sup>16</sup>

The discussion in this paper rests on unique oral accounts gathered through interviews with individuals who either participated in, were eye-witnesses to or who have extensive knowledge of the events in Lower Jubba province described here. While most interviewees were participants in the events unfolding, some non-participant observers with insight into the local dynamic in the province were also selected.<sup>17</sup> To cross-check the stories of the interviewees, the author has, as far as possible, attempted to triangulate<sup>18</sup> the information obtained by interviewing persons in different positions and from different clans and sub-clans. Where available, written accounts, have been used to assess the reliability of the information. The historical narrative rests primarily on 73 semi-structured in-depth interviews, conducted by the author between 2017 and 2019, with a wide range of interviewees. They include former faction leaders, militia fighters, Islamist leaders, Islamist foot soldiers, politicians, a civil society group, a women's group, clan elders and Somali academics. Several of the interviews in Kismayo were group interviews, varying in size between two to 15 people. The majority of interviews were conducted in Kismayo, some in Mogadishu and Nairobi. A few interviews were also conducted in Oslo. The discussion also draws upon semi-structured in-depth interviews of 18 subjects who were either convicts from al-Shabaab's courts in southern Somalia or had in other ways been closely involved with criminal cases tried in those courts. These interviews were conducted by the author in Nairobi in October 2010, when al-Shabaab exercised considerable authority throughout Lower Jubba.

Kismayo was liberated from the militant Islamist group al-Shabaab in September 2012 and the frontline between the Islamist forces and local security forces lies about 50 km from the city. Except for a few IED<sup>19</sup> attacks and one major complex attack<sup>20</sup> in Kismayo, the local administration, with military support from African Union soldiers, has been able to provide a decent level of security for the population within the zone, making on-the-ground research by non-Somalis possible. During fieldwork, substantial risk-mitigating measures were taken, in close dialogue with local research assistants, in order not to put any interview subjects, the research assistants nor the author, at risk. In light of the still fragile situation in Kismayo and southern Somalia in general, the names of the interviewees are either omitted or replaced with pseudonyms for their own safety.<sup>21</sup>

The first part of the article briefly outlines the subject of interaction between a non-state armed group and pre-existing local institutions in the broader rebel governance literature. The main analysis will explore firstly how al-Shabaab established strong local institutional control in Lower Jubba in the period 2008 to 2009 and secondly how al-Shabaab interacted with and

exercised local governance through local clan authorities in Lower Jubba between 2008 and 2012.

### **Non-state armed groups and pre-existing local institutions**

The emerging 'rebel governance' literature focuses on various social and political orders developing within territories ruled by jihadi insurgents and other non-state armed groups (NSAG).<sup>22</sup> A key finding from this growing body of literature is that territories governed by NSAGs often establish alternative political and social orders with a relatively high level of predictability, both for the armed group itself and for the civilian population within that territory.<sup>23</sup> A NSAG who is able to provide a certain level of social order within the territory it dominates may reap considerable rewards.<sup>24</sup> While use of violence and coercion may often be the primary means to establish initial control,<sup>25</sup> and could even be sufficient for mobilizing a successful insurgency,<sup>26</sup> it could be costly for the armed group in the longer term to fight and suppress local institutions and networks of power. Instead, to find ways to extend its own system of governance and, simultaneously, to manage preexisting societal forces may give the armed group obvious material benefits, such as local taxation, new recruits and trade, and access to social networks and intelligence. By providing social order, the group may also bolster its legitimacy in the eyes of the population under its rule.<sup>27</sup>

For the civilians who strive to survive and make a living within an often fluid and uncertain civil war context, social order and predictability may be a top priority, far more important even than who is ruling and what kind of ideology they propagate.<sup>28</sup> According to David Kilcullen, it is often the predictability inherent in the existence of rules, not the content of the rules themselves, far less the popularity of a given government, that creates the feeling of safety which allows for a normative system to function.<sup>29</sup> As Ana Arjona points out, where a NSAG controls a locality, the relations between the group and the local community is often as one between the ruler and the ruled.<sup>30</sup> In such a context, absence of resistance from the civilian population is not synonymous with active support or sympathy with the NSAG or its ideology. While some forms of cooperation would be needed from the civilian population, Arjona argues that *massive obedience* from the civilians is one of the most vital factors in order to sustain the local orders the NSAG is striving to construct and sustain.<sup>31</sup>

### **The emergence of al-Shabaab's Jihadi 'State'**

When al-Shabaab defeated a powerful clan-based militia and conquered Kismayo<sup>32</sup> in August 2008 as part of a larger Jihadi insurgent coalition,<sup>33</sup> it immediately established a relatively comprehensive administrative

structure, unprecedented in the civil war. On top was the *wali* or governor,<sup>34</sup> the senior officials heading the various offices and a city council or *shura*, consisting of al-Shabaab members from most of the clans in the area.<sup>35</sup> There was an office of justice, an office of *da'wa* or religious education, finance and *zakat* or taxation, and social affairs. The offices in Kismayo and other cities in Lower Jubba were subordinate to and closely integrated into the centralized institutions under emir Ahmed Abdi aw-Mohamed 'Godane', his supreme *shura* council and the executive powers of the major 'ministries'.<sup>36</sup>

Al-Shabaab's form of governance in Lower Jubba corresponds well to Arjona's concept of 'rebelocracy'.<sup>37</sup> The concept constitutes a kind of social and political order emerging within the context of civil war where non-state armed groups intervene broadly in local civilian affairs, i.e. beyond mere provision of security and taxation. Where a rebelocracy emerges, the armed group in power establishes a wide range of rules and institutions to regulate and govern the conduct of the civilian population. Typically, the group provides some kind of mechanism to adjudicate disputes, regulate economic activities and establish rules which regulate the private sphere, for instance how people can dress, sexual behavior etc. Many armed actors also provide and regulate basic services like education and health.<sup>38</sup>

Some of the most notable changes in Kismayo after the Jihadi insurgents came to power was the establishment of a new court and police system.<sup>39</sup> According to Arjona, administration of justice is one of the most important attributes of rebelocracy. Through control of dispute institutions, the armed ruler can penetrate the community, obtain information about its members and networks and control the civilian population. By controlling these institutions, the ruler would not only be the authority who enforces existing regulations, he would be the one interpreting them and creating precedent, consolidating the regulatory system that the ruler aims to establish. By arbitrating local justice, the armed ruler may also increase his legitimacy in the eyes of the local community.<sup>40</sup>

Al-Shabaab's court system, termed 'sharia courts' by al-Shabaab, were a responsibility of religious judges or *qadis*, and heard all kinds of cases, from disputes about grass rights to serious crimes. The police, or *hisbah*, would handle ordinary petty crimes as well as transgressions against the strict moral codes issued by al-Shabaab's leadership. The *hisbah* officers wore their own type of uniforms, different from ordinary soldiers in the al-Shabaab army, *Jabha*, and could punish minor offenses on the spot, often by whipping the perpetrator. The *Hisbah* cooperated closely with the courts and would bring perpetrators of more serious violations to the courts for further trial. In several cases, corporal punishments were executed in front of large crowds. In advance of such displays, al-Shabaab would announce it through loudspeakers and demand that all citizens gather in order to watch the punishment

being carried out. Those who refused to attend would face punishments themselves.<sup>41</sup>

Along with al-Shabaab's strict regulations, heavy-handed enforcement and display of harsh punishments, social order was quickly established in Kismayo and large parts of Lower Jubba. As long as the population adhered to the strict public moral codes and decrees, most would be left to go on with their every-day lives. Several Kismayo residents recall how they could walk freely around town, not being afraid of armed khat-chewing militiamen.<sup>42</sup> 'You could even leave your shop unlocked without fearing that anyone would steal from it', a former Kismayo resident recalls.<sup>43</sup>

### Clan Elders and Jihadi institutions

When the formal state institutions evaporated in Somalia at the end of the 1980 s, the clan institutions experienced a kind of renaissance. As most other networks failed to give sufficient security and provide for basic needs, even urban elites and ardent Islamists fled to the strongholds of their clan groups throughout Somalia.<sup>44</sup> However, the sudden pressure on local clan institutions in Lower Jubba and the rest of South-Central Somalia represented an enormous challenge to the largely localized dispute resolution mechanisms inherent in the traditional system. The level of atrocities that skyrocketed during the first years of the civil war, like mass killings, rape, looting and destruction of property, was unprecedented in Somali history. Hence, the elders were incapable of settling and solving, through customary law, *xeer*, and traditional modes of consultation, all these far-reaching offenses, often conducted by militias from opposing clans groups.<sup>45</sup> Extreme politicization of clan affiliation during of the civil war in the early 1990 s, whereby clan affiliation became the primary denominator for political loyalty, had a negative impact on the clan elders' standing and authority as efficient providers of peace and reconciliation. In many instances, elders threw their support behind politico-military leaders with kinship ties to their own sub-clan, which facilitated the recruitment of militia fighters, and therefore made them partly responsible for violence against other sub-clans.<sup>46</sup>

At the time when the Jihadi insurgents rose to dominance in Lower Jubba in 2008, a complex hierarchy of clan elders within each clan group remained (and remains) intact. The head figure of these entities in Lower Jubba was usually called a *suldan* or *ugaas*. In some of the clans, the senior position was inherited, while in others he was elected among the lower-ranking elders, in Lower Jubba referred to as the *nabadoons*, within the same clan group. The *suldan* or *ugas* was the main authority when dealing with other clans or political entities, such as al-Shabaab. Nevertheless, whenever a dispute arose, it was usually the *nabadoons* who dealt with the case. Only if *nabadoons* on successive levels were unable to solve it would the *suldan* or *ugaas*

get involved. Typical cases within and between clans include everyday questions and disputes related to grassing, land and water issues, killings and injuries, and how to collect and distribute blood money, *diya*. Yet, the clan elders do not exercise unlimited power within the clans and may be dismissed by their clan if they are deemed unsuited to represent the group. The elders should be seen more as the representatives of their clans rather than their leaders,<sup>47</sup> as per Lewis' reference to the 'pastoral democracy'.<sup>48</sup>

When al-Shabaab came to power in 2008, the clan institutions had not been strong enough to establish and sustain a lasting political order in Lower Jubba and were vulnerable to the expanding Jihadi insurgents. Already from day one, it was quite clear that the clan elders did not enjoy much respect and trust from the Jihadi insurgent leaders. When the Jihadis established the new administration in Kismayo, they did not consult and include the elders in the process.<sup>49</sup> Although the city's 42 members shura council largely reflected the clan composition of the area, the seats were occupied by members seen as sympathetic to al-Shabaab, not the acknowledged elders representing the local clans.<sup>50</sup> After the tension between al-Shabaab and Mu'askar Ras Kamboni in Kismayo increased, the situation for the clan elders deteriorated. Al-Shabaab started viewing many of the local elders as supporters of Mu'askar Ras Kamboni. This was especially the case for the Ogadeen elders, whose clans comprised most of Mu'askar Ras Kamboni's members. Over the course of a few months, several elders were assassinated by al-Shabaab forces without fair trial.<sup>51</sup> Among those killed in Kismayo were Ugaas Hashi and Ugaas Sheikh Ahmed, both prominent Ogadeen elders. According to a former al-Shabaab commander active in Lower Jubba at the time, the two elders were killed '(...) because al-Shabaab saw them as secret supporters of Madobe', a Mu'askar Ras Kamboni commander who had just returned to Kismayo after being held in captivity in Ethiopia.<sup>52</sup> Al-Shabaab's willingness to eliminate any opposition from local authority figures, was met with a mixed response from the elders in Lower Jubba. Some decided to flee from Kismayo and the other major towns in Lower Jubba while others decided to stay, hoping to establish a constructive dialogue with their new Jihadi rulers.<sup>53</sup>

The authority of the remaining clan elders was largely challenged by al-Shabaab. The new court and police system took over most of the legal responsibilities. All kinds of legal issues, from land and grassing disputes to killings and injuries, which had been one of the elders' core responsibilities, were taken over by al-Shabaab-appointed *qadis*. The new administration also introduced new forms of punishment, inspired by the al-Shabaab scholars' rogue interpretation of Islamic legal texts. The execution of punishments like stoning, lashing and chopping off of hands and legs were not only terrifying, they represented a clear break with local customary clan law, *xeer*, which in general recommended payment of *diya*, even in the case of serious offenses.<sup>54</sup>

<sup>54</sup> Al-Shabaab's public punishments clearly displayed disregard for local clan



institutions and the authority of the elders, and left little doubt as to who were the new masters. The execution of punishments in public carried with it strong symbolic power. As argued by James C. Scott this kind of activity represents a kind of dramatization of power relations used to achieve *coercive consent* by the subservient population under its rule. The display shows there is no other realistic choice for the population other than obedience.<sup>55</sup>

Early on, al-Shabaab invested significant time and resources on building up and systemizing the education sector across all levels, from early reading of the Quran and schools for children to religious courses for adults. In general, al-Shabaab invested considerably in the reading of religious texts, interpreted according to their extremist views, leaving much time to legitimize the group's *jihad* against the Ethiopians and the Transitional Federal Government.<sup>56</sup> In addition to most children and youth, who had to attend classes by al-Shabaab scholars, religious education was used to 'reeducate' local clan elders. When al-Shabaab seized power in Kismayo, several of the most senior clan elders were required to attend special religious courses held exclusively for them in order to 'guide them on the right path'. The courses consisted mostly of reading of the accepted religious texts. While this 'reeducation' of the elders, turning them into 'better Muslims', definitely made sense within the context of al-Shabaab's larger reform project of Somali society, it was also a way of highlighting who was the primary authority in the area.<sup>57</sup>

### **The pragmatism of Jihadi governance – control and material benefits**

When the opposition from Mu'askar Ras Kamboni and Mu'askar Anole<sup>58</sup> was defeated by al-Shabaab forces in Kismayo in October 2009,<sup>59</sup> there were few realistic political alternatives that could challenge al-Shabaab's authority in the area in the period 2009–2011. The previously unpopular Marehan-dominated government of Barre Hirralle, which was driven out in August 2008, did not longer pose a real threat. Ethiopian forces had retreated from Somalia in January 2009 and the Transitional Federal Government had little reach outside the capital of Mogadishu, and was struggling to defend the city center of Mogadishu from an increasingly fierce offensive dominated by al-Shabaab.<sup>60</sup> Al-Shabaab had transformed and developed into a *de facto* state authority in most parts of South-Central Somalia.

Al-Shabaab's ability to establish new local institutions and interfere extensively with the traditional authority of the clan elders rested largely on its ability to use – or threaten to use – violence. 'Adow', a former al-Shabaab *Jabha*<sup>61</sup> commander, describes how 'peace came with force' in Kismayo. Crime and open resistance were almost eradicated in the city because the local population was afraid of the strict punishments executed by al-

Shabaab.<sup>62</sup> There was little reason to doubt al-Shabaab's will and ability to crush any sign of opposition from its subservient citizens, including the elders.<sup>63</sup>

Regardless of the insurgent leadership's conscious strategy towards local structures and powers, however, ultimately any new social and political order is built on the existing social and cultural fabric. New institutions and practices will thus emerge as a result of continuous negotiations with local systems of order, both during and in the aftermath of conflict.<sup>64</sup> According to a former al-Shabaab executive member, al-Shabaab's leadership was initially planning to sideline traditional clan elders and forge an egalitarian organization that would transform the Somali society.<sup>65</sup> Most of the original al-Shabaab leaders were strongly inspired by jihadi-Salafi ideology<sup>66</sup> and had limited regard for the local clan elders.<sup>67</sup> However, their revolutionary ideas quickly transformed into a more pragmatic approach when faced with the large populations under their rule. According to a former al-Shabaab *Da'wa* commander in Lower Jubba,<sup>68</sup> al-Shabaab's leaders decided to keep the system of elders '(...) because clan elders are important for the community. Without them, it would be difficult to rule the population'.<sup>69</sup> A central factor explaining the changing attitudes towards the clan elders was undoubtedly population control and the avoidance of opposition. In 2009, al-Shabaab faced open resistance from several clans in the Hiiran and Galgaduud provinces in Central Somalia.<sup>70</sup> The same year in Lower Jubba, the rebellious Mu'askar Ras Kamboni insurgents had mobilized substantial support from several local clans, including the dominant Muhamed Zubeyr and Awrmale<sup>71</sup> clans.<sup>72</sup> Realizing the potential dangers of sidelining the major clan authorities, al-Shabaab decided to actively engage with them and turn the existing hierarchy into a loyal system that it could control. As the former al-Shabaab commander 'Adow' points out, al-Shabaab '(...) wanted to keep the system in place in order to deal with the local population. (...) It was a means of securing population control'.<sup>73</sup> Al-Shabaab's approach aligns with Zachariah Mampilly's observation that, in order to mitigate challenges from the civilian population, '(...) rebel leaders must often tap into and even co-opt pre-existing institutions and networks of power'.<sup>74</sup> Thus, instead of dismantling the traditional institutions, al-Shabaab reached out to the elders in Lower Jubba, and demanded that they cooperate with the new administration.<sup>75</sup>

While they did not generally receive formal positions within al-Shabaab's administrations in Lower Jubba, the clan elders were clearly recognized by al-Shabaab's administration as local authorities and representatives of their clan groups. In most of the cases where the senior elders had fled the area, al-Shabaab typically replaced them with new elders, so called 'bush elders'. These elders were appointed by al-Shabaab with the intention of upholding the existing authority structure.<sup>76</sup>

Acknowledgement and cooperation with local clan elders gave al-Shabaab's local administrations in Lower Jubba additional benefits in terms of social and political control, ranging from trivial tasks, such as the passing on of information from the city administration down to the sub-clans of rural pastoralists who spend most of their time outside the villages, to large-scale provision of material goods and money.<sup>77</sup> This is reminiscent of Mancur Olson's famous claims regarding the long-term thinking 'stationary bandit' who increases his taxes by settling down and treating the local population fairly well, in contrast to the 'roving bandit' who plunders the population for short-term gains.<sup>78</sup> In Lower Jubba, there were basically two major categories of taxation demanded by the local administration. One was the annual tax, by al-Shabaab referred to as *zakat*, inspired by the religious obligation to pay a certain percentage of your money to the greater good. *Zakat* was primarily organized by the local al-Shabaab administrations throughout the province and was usually collected during the month of *Ramadan*. The local administrations announced when, where and how much to pay for each family. When collecting *zakat* from the pastoralists outside of the towns and villages, the tax collectors would typically stay at the wells, waiting for the pastoralists to approach with their animals. Although the elders were not responsible for following up *zakat* payments by the people in their sub-clans, they often went along with the collectors to make sure the hand-over of animals occurred without disputes so that they and could intervene to avoid a violent outcome.<sup>79</sup> The other kind of taxation was 'emergency taxes', the so-called *infaaq*, typically demanded by al-Shabaab when they had particular needs, for example before upcoming offensives.<sup>80</sup> When such taxes were required, either in the form of money, goods or weapons, the clan elders acted as important middle-men between the governor in a given town and the local population. Al-Shabaab's local administrators had detailed knowledge of the number of people from the various sub-clans in their area and kept close track of how much they produced, whether livestock or agricultural products. Based on the number of people and the level of production within the various clan groups, the governor would specify a certain amount of money or its equivalence in products. In addition, he usually demanded a specific number of AK rifles, often used by the pastoralists for self-defense. The senior clan elders, i.e. the *suldan* or *ugaas*, were given a time limit for executing the order and collecting the prescribed taxes. As a first response, the *suldan* or *ugaas* would gather the other elders, the *nabadoons*, of their sub-clans and agree on a just and reasonable way to share the burden within their clan group.<sup>81</sup>

In addition to taxation and weapons, al-Shabaab's use of the clan elders proved advantageous to recruitment. As Joshua Barter points out, aspiring rebel governments may gain a number of benefits from working closely with societal forces. While such arrangements may give access to local resources, they may also turn out to be cost-effective ventures, '(...) enabling the rebels

to govern while not diverting resources from the war-making'.<sup>82</sup> In Lower Jubba, as in other parts of al-Shabaab-controlled territories, recruitment mechanisms whereby locals were incorporated into the military apparatus or other parts of the organization were employed in a number of ways, for example through indoctrination and peer pressure in schools and mosques; often clan elders were not directly involved.<sup>83</sup> However, on some occasions, the clan elders in Lower Jubba were ordered to provide a certain number of recruits for enrollment into al-Shabaab's ranks. In a similar way as with the *infaaq* taxation.<sup>84</sup> 'Abdullahi', a senior clan elder in Kismayo, recalls how his brother, who was the clan's sultan at that time, had to bring 200 recruits from his sub clans to al-Shabaab.<sup>85</sup> In such cases, the elders strove to share this heavy burden as equally as possible between the different sub-clans under their responsibility.<sup>86</sup>

### **Jihadi Insurgents, Clan Elders and the question of legitimacy**

The elders interviewed for this article unanimously described their position as very difficult, perceiving themselves as 'marked men'. If the al-Shabaab rulers perceived them to be opponents and a threat to their authority, they were convinced al-Shabaab would not hesitate to kill them; this had happened to several elders after al-Shabaab conquered the area.<sup>87</sup> Ugaas 'Hussein', the top elder within one of the larger clans in Kismayo, describes his position under al-Shabaab's rule as being 'like a chicken in a cage'.<sup>88</sup> The elders' cooperation with the al-Shabaab rulers should consequently not be read as voluntary support or even sympathy with al-Shabaab or its ideology. Rather, as Arjona points out, the relationship between a non-state armed group and the local populations is often one of a ruler and the ruled. Lack of resistance or flight may reflect *massive obedience* by the civilians to the non-state armed group's rule, not active support.<sup>89</sup> When an armed group has a high level of control within a territory, Arjona argues, cooperation is the dominant civilian strategy, as this pleases the armed rulers. Hence, in such instance resistance to an armed group, not cooperation with it, is the quintessential collective action problem.<sup>90</sup> Stathis Kalyvas highlights that in zones of rebel control, civilians tend to collaborate with the group in order to maximize their own security.<sup>91</sup>

The clan elders who decided to stay under al-Shabaab rule did not do so because of deeply felt sympathies or to gain material benefits. They largely stayed because they were expected to work for the clan and to defend the clan's interests. The elders knew that if they fled, al-Shabaab would replace them with someone else without heeding the clans' traditional election mechanisms. A 'bush elder' would exert less authority over and enjoy less respect from the clan, and as a result their clansmen would probably be even more vulnerable to al-Shabaab encroachment.<sup>92</sup> 'Ahmed', a former Mu'askar Ras Kamboni fighter, recalls the situation in Afmadow, one of the larger cities

in Lower Jubba, after al-Shabaab had crushed the rebellion by Mu'askar Ras Kamboni. Three *nabadoons* were killed and several of the senior Ogadeen elders escaped to Kenya. With most of the senior elders absent, al-Shabaab's leaders in Afmadow appointed one of their own soldiers as *nabadoon*, replacing the ones that had left. Although the local clansmen did not approve of the decision, they could do nothing about it, due to fear of retribution.<sup>93</sup> Several elders from Lower Jubba who escaped to Kenya recall how people from their clans involved in disputes reached out to them on the phone asking them to mediate on their behalf, ignoring the 'bush elders' operating in their area. A number of cases were settled in Kenya after discussions between elders who were located far from the actual events within al-Shabaab territory.<sup>94</sup>

Although the clan elders and many other residents in Lower Jubba were clearly critical of al-Shabaab's use of coercion, strict rules and harsh punishments, the level of order and predictability that came with al-Shabaab control was profoundly appreciated.<sup>95</sup> Besides improved security, a Kismayo resident, 'Gardheere', whose son was an al-Shabaab fighter in Kismayo at the time, hails the improved public moral that had emerged in Kismayo, as well as the al-Shabaab qadis, whom he assessed to be much better compared to the kind of justice often enforced through the power of the gun by various militias preceding al-Shabaab.<sup>96</sup> Apparently, al-Shabaab's authority did not only rest on coercion and violence alone.

To what extent al-Shabaab enjoyed legitimacy in the eyes of the population in Kismayo and the wider province is obviously difficult to measure. Legitimization processes are complex and a rebel ruler may increase its legitimacy in relation to the civilian population within its territory in a number of ways.<sup>97</sup> However, in addition to providing security, law and order, rebel rulers may also secure legitimacy through cooperation with or co-optation of preexisting societal forces, signaling an acknowledgment and appeal to established cultural codes, norms and practices.<sup>98</sup> Following this argument, al-Shabaab's cooperation with or co-optation of the traditional authority structures would likely foster some level of legitimacy from the local populations, although the clan elders themselves did not perceive al-Shabaab as legitimate rulers. By cooperating with al-Shabaab's administration, the elders indirectly increased its legitimacy in the eyes of the population the elders strove to protect. 'Adow' emphasizes the importance of the clan system to the inhabitants of Lower Jubba, even under the time of al-Shabaab rule: '(...) the clan system had been there for a long time and people respected the clan elders (...). The clan system could give them [al-Shabaab] some kind of trust among the population.'<sup>99</sup> According to several former al-Shabaab members, al-Shabaab's leaders understood the importance of the elders in the eyes of the local population in Lower Jubba and therefore allowed them to keep some of their former roles.<sup>100</sup> For example, al-Shabaab soon transferred some

legal powers back to the elders. Although the *qadis* were without doubt the formal authority in all criminal cases and open disputes, elders from the clans of the involved parties were often allowed to participate in court. In some cases, elders were summoned to serve as witnesses to the trial, sitting beside the victim throughout the procedure. More important was perhaps the involvement of elders in discussions about the level of *diya* to be paid by the perpetrator. In some instances, the *qadi* would determine who he found to be guilty of the charge, while he left it to the elders of each sub clan of the parties involved to negotiate the level of *diya* and make sure the perpetrators' sub-clan complied. When the elders reached an agreement, they would tell the *qadi* who heard the case to register the decision. There are even examples from Kismayo where the *qadi* allowed the family and elders on each side in killing cases to meet and settle the dispute according to *xeer* rather than through court procedures. As long as both sides agreed on the case, the *qadi* would not intervene.<sup>101</sup> It is, however, difficult to conclude to what extent such practice was formalized, or whether it took place on a more *ad hoc* basis. There are nevertheless indications that involvement of elders in court cases increased with time.<sup>102</sup> However, in more serious cases, such as those involving capital punishment, the elders didn't play any role at all.<sup>103</sup>

## Conclusion

Al-Shabaab's emerging Jihadi 'state' institutions were largely a construct and synthesis of reformist ideas and a continuation of preexisting clan institutions. In a sense, this is not surprising, as all armed groups, regardless of their conscious strategy towards local structures and powers, negotiate with (pre) existing forms of order in one way or another. However, al-Shabaab's state project shows how a Jihadi insurgent group, deeply inspired by Jihadi-Salafi ideology, developed a strategy to cooperate with and co-opt local authority structures. This was partly a pragmatic way to gain control of local institutions and the populations. However, utilizing the elders was also a practical and cost-effective arrangement through which al-Shabaab could collect material resources, such as money, weapons, new recruits and other local resources. Although it is difficult to measure the al-Shabaab rulers level of legitimacy in the eyes of the local population in Lower Jubba, sustaining the traditional authority structures probably earned the local jihadi insurgent administration a degree of trust and legitimacy. The elders' position was obviously challenging, and they often found themselves caught 'between a rock and a hard place'. However, they could, to some extent at least, continue to serve their people and uphold some level of authority within their communities. Behind all the fear, atrocities and violence experienced by most communities under the rule of al-Shabaab, the synthesis of two seemingly opposed political systems constructed a remarkably stable and functional political and social

order within the context of the Somali civil war and continues to do so in several provinces in South-Central Somalia even today.

## Notes

1. Maher, *Salafi-Jihadism*, 11; and Meijer, "Introduction," 24–25.
2. Hansen, *Al-Shabaab in Somalia*; and Marouf and Joseph, *Inside al-Shabaab*.
3. Lia, "Understanding Jihadi Proto-States."
4. Menkhaus, "Somalia"; and Kapteijns, *Clan Cleansing in Somalia*.
5. Hansen, *Horn, Sahel and Rift*, 169–184.
6. See for example Lia, "The Jihadi Movement and Rebel Governance,"; Dawod, "Iraqi Tribes in the Land of Jihad"; Brandt, "The Global and the Local,"; Collombier, "Sirte's Tribes Under the Islamic State,"; Kilcullen, *Out of the Mountains*; Anderson and McKnight, "Understanding al-Shabaab"; and Martinez and Eng, "Struggling to Perform the State".
7. See for example Cigar, "Al-Qaida, the Tribes, and the Government"; Martin, "Kto Kovo? Tribes and Jihad in Pushtun Lands"; Hüsken, "Tribes and Political Islam in the Borderland Between Egypt and Libya"; Ruttig, "How Tribal are the Taliban?"; Khalaf, "Governance without Government in Syria"; Biddle, Friedman and Shapiro, "Testing the Surge"; Kilcullen, *Out of the Mountains*; Koehler-Derrick, "A False Foundation? AQAP, Tribes and Ungoverned Spaces in Yemen"; Menkhaus and Shapiro, "Non-State Actors and Failed States"; Guistozzi, *Koran, Kalashnikov and Laptop*; Guistozzi, *Decoding the New Taliban*; Van Bijlert, "Unruly Commanders and Violent Power Struggles"; Elias, "The Resurgence of Taliban in Kabul"; Lecocq, "Disputed Desert"; Boukhars, "The Paranoid Neighbor"; Keenan, "The Dying Sahara"; Lia, "Understanding Jihadi Proto-States"; Lia, "The Jihadi Movement and Rebel Governance"; Dukhan, "Tribes and Tribalism in the Syrian Uprising"; and Dukhan and Hawat, "The Islamic State and the Arab Tribes in Eastern Syria."
8. Cigar, "Al-Qaida, the Tribes, and the Government"; and Long, "The Anbar Awakening."
9. See for example: Hansen, *Horn, Sahel and Rift*; Kilcullen, *Out of the Mountains*; Bergen, "Introduction"; Gopal, "The Taliban in Kandahar"; and Lia, "Understanding Jihadi Proto-States."
10. Lia, "The Jihādī Movement and Rebel Governance," p. 4.
11. Arjona, Kasfir and Mampilly, "Introduction"; and Kasfir, "Rebel Governance."
12. See for example Arjona, *Rebelocracy*; Mampilly, *Rebel Rulers*; Kasfir, Frerks and Terpstra, "Introduction"; Wickham-Crowley, "Del Gobierno de Abajo al Gobierno de Arriba ... and back"; Kalyvas, "Rebel Governance During the Greek Civil War, 1942-1949"; Barter, "The Rebel State in Society"; Lia, "The Jihadi Movement and Rebel Governance"; Worall, "(Re-)emergent Orders"; Kasfir, "Dilemmas of Popular Support in Guerilla War"; Péclard and Mechoulam, "Rebel Governance and the Politics of Civil War"; Mampilly, "Performing the Nation-State"; and Sosnowski, "Violence and Order."
13. Arjona, "Wartime Institutions: A Research Agenda."
14. A notable exception is Dassouky's report on the relationship between the al-Qa'eda affiliated Jihadi group HTS and local councils in (former) HTS dominated areas in Syria: "The Role of Jihadi Movements in Syrian Local Governance."
15. See note 10 above.

16. The article supports Kalyvas' argument that Jihadi insurgents should be decoupled from religion and terrorism and could meaningfully be compared to other revolutionary insurgent groups, such as the older marxist groups. See Kalyvas, "Jihadi Rebels in Civil War."
17. Yow, *Recording Oral History*, 89–90.
18. Brinkmann and Kvale, *Interviews*, 285–288.
19. Improvised Explosive Device.
20. On 14 July 2019 an al-Shabaab suicide attack team launched an attack against one of the newer hotels in Kismayo city, killing at least 26 people, including several politicians and journalists.
21. Gallaher, "Researching repellent groups"; and Mertus, "Maintenance of personal security."
22. See for example Mampilly, *Rebel Rulers*; Arjona, Kafsir and Mampilly (ed.), *Rebel Governance in Civil War*; Arjona, *Rebelocracy*; and Staniland, "States, Insurgents, and Wartime Political Orders."
23. Mampilly, *Rebel Rulers*; Arjona, Kafsir and Mampilly (ed.), *Rebel Governance in Civil War*; Arjona, *Rebelocracy*; Kilcullen, *Out of the Mountains*; and Staniland, "States, Insurgents, and Wartime Political Orders."
24. Olson, *Power and Prosperity*, 7–8; Arjona, *Rebelocracy*, 45; and Mampilly, *Rebel Rulers*.
25. Kalyvas, *The Logic of Violence in Civil War*.
26. Kriger, *Zimbabwe's Guerilla War*.
27. Olson, *Power and Prosperity*, 6–9; Metelits, *Inside Insurgency*; Barter, "The Rebel State in Society," 228; Kilcullen, *Out of the Mountains*, 138–144; and Arjona, *Rebelocracy*, 45, 58–60.
28. Scott, *The Moral Economy of the Peasant*, 1–5; and Kilcullen, *Out of the Mountains*, 137, 160–162.
29. Kilcullen, *Out of the Mountains*, 137.
30. Arjona, "Civilian Cooperation and Non-Cooperation With Non-State Armed Groups," 760.
31. *Ibid*, 760.
32. Barre Shiire Hiiraale had ruled Kismayo and most of Lower and Middle Jubba and Gedo between 1999 and 2006 under the name of Jubba Valley Alliance, an alliance dominated by Marehan and Habergedir/Ayr clan militias. Hiiraale retook power in Kismayo when the administration established by the Transitional Federal Government (TFG) in early 2007 fell apart due to internal power struggle in the spring of 2007.
33. The largest faction, Mu'askar Ras Kamboni ('Ras Kamboni camp'), named after a small fishing village close to the Kenyan border, was a sub group of the loose alliance of several Jihadi groups under the umbrella of Hizbul Islam. See: Hansen, "Faction Fluctuation"; and Hansen, *Al-Shabaab in Somalia*, 69–70.
34. Arjona, *Rebelocracy*.
35. Interview in Nairobi with former Kismayo residents 'Farah' and 'Fahkiye', June 2018.
36. Skjelderup, "Punishment on Stage," 47–51.
37. Arjona, "Wartime Institutions," 1375.
38. Arjona, "Civilian Resistance to Rebel Governance"; and Arjona, *Rebelocracy*, 3, 28.
39. Interview with woman group in Kismayo, February 2018; Interview with civil society group in Kismayo, February 2018.
40. Arjona, *Rebelocracy*, 72–73.



41. Skjelderup, "Punishment on Stage"; and Skjelderup, "Huduud at the Forefront."
42. Interview with residents in Kismayo, February 2018.
43. Interview in Nairobi with a former victim of al-Shabaab's shari'a court in Kismayo, October 2010.
44. Gundel, *The Predicament of the 'Oday'*; Abdullahi, *Making Sense of Somali History*, 124–126, 153–155; and Le Sage, "Prospects for al Itihad and Islamist Radicalism in Somalia."
45. Gundel, *The Predicament of the 'Oday'*.
46. Abdullahi, *Making Sense of Somali History*, 153–154; Gilkes, *The Price of Peace*; HRW, "Somalia faces the Future"; Gundel, *The Predicament of the 'Oday'*; and Kapteijns, *Clan Cleansing in Somalia*.
47. Interview with clan elders in Kismayo, February 2018; Interview with clan elders in Kismayo, October 2018; Interview in Nairobi with clan elder from Kismayo, October 2018.
48. Lewis, *A Pastoral Democracy*.
49. Interview with clan elders in Kismayo, October 2018.
50. Interview in Nairobi with clan elder from Kismayo, October 2018.
51. Interview with clan elders in Kismayo, October 2018; Interview with former al-Shabaab and MRK members in Kismayo, July 2019.
52. Interview in Kismayo with 'Mohamed', a former al-Shabaab commander, July 2019.
53. See note 51 above.
54. Interview with clan elders in Kismayo, October 2018; Interview with court victims in Nairobi, October 2010.
55. Scott, *Domination and the Arts of Resistance*, p. 66–67.
56. Hiiral Institute, *The Fighters Factory*; Hiiral Institute, *Taming the Clans*, 3; and Skjelderup, "Punishment on Stage," 33–45.
57. Interviews with elders in Kismayo, October 2018; Interview with former MRK and al-Shabaab members in Kismayo, July 2019; Interview with Kismayo residents, February 2018.
58. At this point, both Mu'askar Ras Kamboni and Mu'askar Anole were still formally under the umbrella of Hizbul Islam. However, large parts of the Hizbul Islam forces were occupied with fighting in Mogadishu and were not able to intervene in the October clashes in Kismayo.
59. Interview with former senior MRK commander in Kismayo, July 2019; 'Somalia – TFG President on Recruitment in Kenya and Political Outreach', (*Wikileaks*, 21 October 2009); 'Somalia – Ras Kamboni Leaders Denounce Aweys; Fighting Resumes in Lower Juba', (*Wikileaks*, 23 November 2009).
60. Hansen, *Al-Shabaab in Somalia*.
61. 'Jabha' is the term for al-Shabaab's regular army forces.
62. Interview with 'Adow', a former al-Shabaab Jabha commander, in Kismayo, July 2019.
63. Interviews with clan elders in Kismayo, October 2018; Interview with former MRK and al-Shabaab members in Kismayo, July 2019; Interview with Kismayo residents, February 2018.
64. Worall, "(Re-)emergent order", 711.
65. Hiiral Institute, *Taming the Clans*, 1.
66. Haykel, "On the Nature of Salafi Thought and Action"; and Wagemakers, "The Transformation of a Radical Concept."

67. Interview with a former senior Islamic Courts Union official in Mogadishu, June 2018.
68. Al-Shabaab's Da'wa commanders were responsible for religious preaching and indoctrination.
69. Interview in Kismayo with 'Mohamed', a former al-Shabaab Da'wa commander, July 2019.
70. See note 65 above.
71. Muhamed Zubeyr is one of the largest clan groups of the Ogadeen clan in Lower Jubba and dominated large parts of the province. Awrmale is one of the most influential Hawiye clans in Lower Jubba.
72. Interview with 'Dheere', a former MRK fighter, in Kismayo, July 2019; Interview with 'Osman', a former MRK commander, in Kismayo, July 2019.
73. See note 62 above.
74. Mampilly, *Rebel Rulers*, 72.
75. See note 49 above.
76. Interview with clan elders in Kismayo, October 2018; Interview with former MRK and al-Shabaab members in Kismayo, July 2019.
77. See note 49 above.
78. Olson, *Power and Prosperity*, 6–10.
79. Interview with clan elders in Kismayo, October 2018; and Hiiral Institute, *The AS Finance System*, 1.
80. Interview with clan elders in Kismayo, October 2019; and Hiiral Institute, *Taming the Clans*, 3.
81. See note 49 above.
82. Barter, "The Rebel State in Society," 228.
83. Hansen, "Why support the Harakat al-Shabaab?"; Hansen, *Al-Shabaab in Somalia*; Marchal, *The Rise of a Jihadi Movement in a Country at War*; Harper, *Everything you Have told me is True*; and Marouf and Joseph, *Inside al-Shabaab*.
84. See note 76 above.
85. Interview with 'Abdullahi', a senior clan elder in Kismayo, October 2018.
86. See note 49 above.
87. Ibid.,
88. Interview with Ugaas 'Hussein' in Kismayo, October 2018.
89. Arjona, "Civilian Cooperation and Non-Cooperation With Non-State Armed Groups," 756–757.
90. Arjona, *Rebelocracy*, 67.
91. See note 25 above.
92. See note 49 above.
93. Interview with 'Ahmed', a former MRK member, in Kismayo, July 2019.
94. See note 49 above.
95. Interview with residents in Kismayo, February 2018; Interview with clan elders in Kismayo, October 2018; Interview with former MRK and al-Shabaab members in Kismayo, July 2019.
96. Interview in Nairobi with Kismayo resident 'Gardheere', October 2010.
97. See for example Duyvesteyn, "Rebel and Legitimacy"; Mampilly, *Rebel Rulers*, 53–58; and Weigand, "Investigating the Role of Legitimacy in the Political Order of Conflict-torn Spaces."
98. Barter, "The Rebel State in Society," 228; Duyvesteyn, "Rebels and Legitimacy," 678–679; and Kitzen, "Legitimacy is the Main Objective," 858–860.
99. See note 62 above.

100. Interview with former MRK and al-Shabaab members in Kismayo, July 2019.
101. Interview in Nairobi with al-Shabaab convicts from southern Somalia, October 2010; Interview with clan elders in Kismayo, October 2018; Interview with former MRK and al-Shabaab members in Kismayo, July 2019.
102. Interview in Nairobi with al-Shabaab court convicts, October 2010; Interview with clan elders in Kismayo, October 2018; Interview with a Somali academic in Nairobi, October 2010.
103. Skjelderup, "Huduud in the forefront."

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