

## When injustice is spatial. Pastoral nomadism and the territorial imperative in Niger's Sahara region.

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**Abstract:** *This article shows the incompatibility between, on the one hand, nomadic management of natural resources (particularly pastoral and water resources) within a fundamentally open area and, on the other hand, "spatialised" environmental policies, determined by the international injunction to adapt to desertification. This injunction relies in particular, on practices to "secure" mining of natural resources. This case study of Niger, is best understood in the current geopolitical context characterized by pressure from mining companies, claims by rebellious Tuaregs and the institution of land use policies within the framework of the recent decentralization, along with the activities undertaken by NGOs. This general context tends to reduce local and regional mobility and fluidity, which were the very foundations of the collective management of natural resources. The example of the establishment of extraterritorial mining areas (especially Imouraren) shows that what is at stake is not merely the driving out or sedentarization of nomads, but also "territorializing" revolution, which inevitably brings about the disappearance of the very conditions required for pastoral nomadism to exist. From the viewpoint of nomadism, any territorialization process can only be considered as constituting spatial injustice.*

The Sahara has once again become a central issue on the international geopolitical scene, especially because of the instability due to armed revolts, kidnappings by Islamist networks considered to be terrorist networks (AQIM)<sup>1</sup>, crime, contraband and, some would add, international trans-Saharan migrations that have increasingly become clandestine. The control of migratory flows and the strengthening of territorial management today appear to be a priority for the Saharo-Saharan States, but also for the international community, especially the USA, China, the European Union, etc. These international security issues are coupled with important geo-strategic interests linked to the prospecting and mining of the Sahara's mineral wealth (uranium, oil, gas, coal, gold, tin, phosphate, etc.). That is why there is so much talk about the current scramble<sup>2</sup> for the Sahara's natural resources. In addition, droughts and the desertification process, food crises and political tensions have increased competition between individual and collective actors for the appropriation of land. Pressure for enclosing several areas of the Sahara is being felt at all levels.

The main purpose of this study is to highlight the issues and disputes involved, both at the international and the local level, based on access to natural resources or their appropriation. The study shall also attempt to understand the effects of these trends on living conditions and the changes taking place in pastoral nomadism. The area of study is that of Niger's Sahara, especially Air – a vast, desert region with a pastoral, agro-pastoral or city-dwelling Tuareg

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<sup>1</sup> This article was submitted a little after the coup d'état that overthrew Niger's president Mamadou Tandja in February 2010, hence before seven of Areva's uranium mine workers (five of which are French nationals) were kidnapped on September 15<sup>th</sup> or 16<sup>th</sup>. According to published reports based on guards' accounts, this operation was carried out by about thirty people speaking arabic and perhaps tamashaq (Malian Tuaregs). It was later claimed by Abou Zeid's squad, part of the Al-Qaeda in the Islamic Maghreb (AQIM) network. An overwhelming majority of Tuaregs, particularly Niger's Tuaregs, don't support islamist ideology. However, kidnapping Westerners tends to become an ordinary business in Sahara (and elsewhere in the world).

<sup>2</sup> *Review of African Political Economy*, n° 101 (vol. 31, 2004) et 117 (vol. 35, 2008), and M.Klare et D. Volman (2006).

majority, in Northern Niger<sup>3</sup>. Moreover, it has an emblematic strategic dimension. This is a region that is very rich in uranium ore. In addition to the sites of Arlit and Akokan (mined since 1968 and 1974), as of 2013-2014, Imouraren will become the world's second biggest uranium mine, mined by a subsidiary of Areva. Nearby, a Chinese company is starting to mine for uranium in Azélik.

This paper will first consider the spatial dimensions of Tuareg nomadic pastoralism and the changes it is going through currently, as well as local tensions related to the competition for access to pastoral land or water, which often leads to forms of resource privatization and partial or total sedentarization. We will then look at the current dynamic in the light of national issues (pastoralism securing policies and the decentralization process underway). Finally, all this will be set against the framework of international pressure related to the issue of mining the region's natural underground wealth (hydrocarbons, ores and aquifers).

This article questions the effects of the introduction of the territorialization logic within a nomadic area. In the light of living conditions under nomadic pastoralism, all territorialization processes bring power games into play, leading to spatial injustice. Issues of power are often not seen as such, as they often remain implicit and hidden in conflicts that seem caused by other issues. Under cover of adaptation to desertification, stabilisation and securing the land, it is becoming impossible to maintain the openness of space.

## 1- Effects of new forms of territorialized governance on nomadism

### Pastoral use of natural resources by nomadic and semi-nomadic Tuaregs

Nomadic or seasonally transhumant pastoralists still constitute a large part of Niger's Tuareg population. The traditional cattle-raising method, based on the mobility and seasonal migration of livestock, makes it possible for them to make the best use of meagre fodder resources. The system involves a series of flexible pastoral migrations, in response to the unpredictable nature of water and pasture resources. In these barren lands, pastoral activities call for the mobility of livestock over vast areas – the only way of adapting to the variability of fodder resources in space and time, through regular and seasonal movements or migration. In "normal" years, such migrations are carried out in an orderly fashion, according to a stable schedule and itinerary. Pastoral migrations therefore follow an annual cycle. Two types of movements can generally be distinguished: during the short rainy season and during the long dry season. Whereas during the rainy season, pastoral management is in line with the principles of the temporary use/occupation of land, the dry season gradually forces herdsman to set up camps around the few remaining water points for a relatively stable period. Each nomadic domestic unit<sup>4</sup> appropriates for its use a certain number of valleys (or valley sections) within which it settles for the most difficult period of the year – the hot, dry season (*awélan*). It is only in case of drought-related disputes that nomads change their itineraries, pastures or water points.

Watering places are fundamental for the existence of pastoral activities. They are for public use, but priority access rights exist, favouring those who provided the labour for drilling and therefore use them regularly, especially during the dry season. Transient groups are allowed to water their animals there, but the practice is increasingly subject to the payment of charges in cash or kind. Moreover, small wells, generally called "well shops" in Eghazer, have also started

<sup>3</sup> It is estimated that 400 000 inhabitants lived in the Agadez administrative area in early 2010.

<sup>4</sup> A group of several camps, gathering on the basis of kinship, or nowadays increasingly good neighbourly relations. It constitutes a pastoral production unit.

appearing. The objective is to corner or build a well in a pastoral area, which is therefore appropriated by virtue of doing so. The owner then builds a small, adobe "house" next to the well, which is gradually transformed into a shop (*kanti*) selling food products (millet, rice, wheat semolina, sugar, tea, etc.) or manufactured goods (cloth, batteries, sandals, etc.). Then people refer to so-and-so's well (*anu n mandam*). Other herdsmen settle down there itself, and this process slowly leads to the permanent establishment of a camp around the well and its transformation into a "village", which then tries to gain recognition as such by the administration, through political support. In return, the villagers are considered by politicians to be their "clients" and are protected by them, while the politicians gain votes in exchange.



**Photo 1:** Herds at *Tchit n taghat's* well (copyright A. Afane)

This privatization of watering holes, which therefore goes hand-in-hand with the partial settlement of herdsmen, also includes a new feature, reversing the relationship of primacy between access to water and pastures. B. Thébaud (1990) has stated three fundamental principles necessary for the pastoral economy's equilibrium: "the existence of an indissociable link between water and pastures, the direct relationship between a water point's watering capacity and the pace of consumption of the surrounding pasture land, and the third principle introduces man and his work". However, major cattle farmers have been able to side-step these three principles. The use of tanks to water the animals allows them to use pastures that have no water points throughout the year. Big livestock owners, traders and city-dwellers who invest in

cattle are also very often responsible for drilling new wells. This enables them to obtain *de facto* priority usage rights on the surrounding pasture land, which they would not otherwise have been able to obtain. Any drilling means unofficial rights over the surrounding pasture land, since the authorities forbid the drilling of a well within a 10-15 km radius of another and require a distance of 20-30 km between deep wells. However, this rule is less and less complied with. Herdsmen view the establishment of a new water point negatively as it destabilizes the social management of pasture land. But the number of wells has grown along with fresh drilling, thanks to financial and technical support from development projects and to the authorisations obligingly granted by the administration. In short, the relationship between available water and the bearing capacity of pastures is being damaged. With the mushrooming of drilling work and wells, access to water no longer causes the same problems. What is happening is that instead of using water points to directly enable the use of the surrounding pastures as was the case in the past, what happens now is the appropriation or even privatization of pasture land. Drilling a well prevents competing individuals or groups from drilling another one in the same area, thereby making it possible to reserve priority or exclusive access to pasture land. Control over wells and sedentarization have therefore essentially become a tool for the appropriation of pastures, reversing the relationship between water and pastures.

Some large cattle farmers have gone as far as to enclose their grazing land in Azawagh and Eghazer, raising barbed-wire fences in the midst of the Sahara. The right to access in such enclosed spaces remains exclusively reserved for their owners. Large livestock owners open their ranches to their herds only once the accessible natural pastures open to all have deteriorated. On the grounds of ranch creation, they have occupied large areas that they are now trying to have recognized -through associative pastoral bodies and land commissions. This local and internal dynamic is largely the result of external pressures, related to the effects of the implementation of new forms of territorialized governance.

### **When securing pastoralism means putting an end to nomadism**

The Saharan region is gradually becoming enclosed, divided, privatised and/or "sanctuarized". It is therefore witnessing the northward movement of rain-fed crops, towards Azawagh and Damergou<sup>5</sup>; the development of irrigated gardening close to the *kori* (wadis) in Aïr; the establishment of irrigated perimeters so as to use the fossil aquifers of Eghazer<sup>6</sup>; the mushrooming of ranches, private hunting grounds but also protected areas<sup>7</sup>; and finally, the random distribution of prospecting permits and granting of mining concessions (oil, coal, phosphate, precious metals, salt and, above all, uranium), during the terms in office of the former President, Mamadou Tandja, who was deposed by a *coup d'état* on 18 February 2010 (E. Grégoire, 2010). Given the pressure on natural resources, the State, international institutions and NGOs have instituted a policy aimed at safeguarding pastoralism.

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<sup>5</sup> Faced with a decrease in available land and an increase in population, cultivators in search of new lands move further and further north, although Northern Niger is legally reserved for pastoralism. Since colonial times, the 350 mm per year isohyetal line is theoretically considered as a border over which rainfed cultivation is forbidden.

<sup>6</sup> Presently there are only small private irrigated perimeters, but Libya declared itself ready to invest 19 billion FCFA for an irrigated farming development project. Thirteen wells have been drilled, but the 50 000 hectares that were supposed to be cultivated were finally withheld by the State. The "Irzaher project" was taken over by Areva, which announced in 2006 that 5000 hectares of irrigated land would be made available, at a cost of 11 billion FCFA over five years. The "private company for the cultivation of Irzaher valley" was to be made official in 2010.

<sup>7</sup> Aïr-Tenere national natural reserve, listed as world heritage by UNESCO, contains a "sanctuary" area devoted to addax protection, to which nomads are not allowed to access.



The laws inherited from the colonial era, that described pastoral space as consisting of "vacant, owner-less land" belonging to the State and, therefore, free of access (R. Hammel, 2001), are no longer valid. The recognition of the specific management by herdsmen of the lands they pass through (and of associated rights) seems increasingly likely in Niger. But nomadic rights of use are as much of a legal headache as they are a political and economic issue. A rural code was adopted in 1993 as a result of growing pressure on natural resources and increasing competition (between herdsmen on the one hand, and between farmers and herdsmen on the other), which caused the multiplication of occasionally violent land disputes, especially in Southern Niger. The rural code enabled farmers to obtain a title to their land, while guaranteeing herdsmen access to water resources (wells and ponds) and to pasture land (pastoral enclaves such as classified forests, fields post-harvest, etc.). Moving in different pastoral areas was facilitated by seasonal migration corridors, sometimes marked out by projects, with transit and rest areas along the way.

However, pastoralists were disadvantaged. As they themselves did not enjoy exclusive rights to the land along their migratory routes, they did not have any recourse when the land that was previously open – though reserved *de facto* for pastoralism – was taken over. The recognition by a 1997 decree of "*terroirs d'attache*" or "home grazing territory" for pastoralists partly helped remedy this iniquity, although the adoption of a pastoral legal code was postponed several times. A "home grazing territory" is defined as a "*territorial unit*" belonging to herdsmen, which they have "*the power to occupy, use and manage*". Although this notion does represent progress in the acknowledgement of nomadic rights, the "power" thus defined remains virtual and in no way prevents uses other than cattle-breeding. Herdsmen's priority rights of use have not been determined precisely and pastoral activities have not been recognized as "adding value". In practice, nomads have no recourse against the private appropriation of the land along their migratory corridors.

By allowing pastoral resources to be taken over by other activities, the legislation offers no guarantees to collective appropriation. But how can pastoral practices really be secured, given the external pressure on land, while avoiding exclusive territorial appropriations, that would imply settling and go against nomadism? The contradiction is obvious. It is true that the main objective stated by international funding agencies (the World Bank, in particular), Niger's government and development programmes is to secure pastoral land and not to maintain the conditions of traditional, mobile and fluid pastoralism. In fact, land policies have resulted in counter-productive effects in terms of growth in pastoral production<sup>8</sup>. Hence, in pastoral and, especially, agro-pastoral areas, studies other than ours have shown that the dynamic of the private appropriation of wells and pastures contributes to the sedentarization or, at least, the increased settlement of herdsmen (R. Hammel, 2001; H. Beidou and S. Yacouba, 2005, T. Hilhorst, 2008). This also tends to limit the ability of nomads to overcome periods of drought, by making their sole survival strategy – that of extreme mobility – difficult, if not impossible. Faced with such external pressures, herdsmen therefore have no choice but to settle down, no longer solely on a seasonal basis, but for the entire year – at least, in the case of a section of this group. They become transhumant or wage-earning herdsmen for city-dwelling owners (P. Colin de Verdière, 1995). What is happening is an almost inevitable retreat of nomadic pastoralism, for in order to guarantee their control on their living environment, herdsmen have no option but to

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<sup>8</sup> Extensive nomadic grazing is the most productive in Saharo-Sahelian natural conditions. Studies have shown that ranching's energetic and ecologic cost did not make it more productive or economically efficient. Not to mention the human cost : creating a ranch large enough to be profitable means dozens of nomadic pastoralists families have to leave.

adopt a territorial logic – although it does seem to compromise their existence.

### **Decentralization and/or nomadism?**

The territorial imperative (D. Retaillé, 1996) is also gaining as a result of the decentralization policy underway in Niger<sup>9</sup>. The whole of Niger's territory has been divided into "*communes*". But how can nomads, seasonal migrants and transhumant breeders, who live a part of the year outside their "*commune*" of origin, be managed outside the *commune's* limits? Apart from prospects of local disputes, the establishment of *commune* borders, which has been postponed, may work against people's mobility and the fluid flow of economic (and not only pastoral) activities. For instance, as the *communes* have insufficient financial resources, some mayors in the Air region decided to tax the movement of goods and traffic, but had to recant owing to massive discontent. Trucks belonging to cooperatives and private vehicles had to pay an entry and exit tax in every *commune* they went through, as did caravans. Further South, seasonal migrants were taxed. With decentralization (and the monetization of access to well water), the more mobile one is, the more likely one is to be charged. Setting borders in a fragile environmental context always takes place to the disadvantage of the most mobile groups.

Given these hindrances to mobility and fluidity, the very foundation of pastoral systems, particularly during droughts, informed experts (for instance, A. Marty and A. Mohamadou, 2005) recommend basing such decisions on consensus and avoiding to set *commune* borders forcibly or too quickly. Moreover, the flexibility of several borders – infra- or supra-communal borders – is preferable to the rigidity of a single border and a single managerial level. At the local level, the central government's recommendation to land commissions is to constitute urban development and planning plans for the management of natural resources and the expansion of built-up areas. They should also aim at a more accurate demarcation of communal borders<sup>10</sup>. "*Intercommunalité*", the cooperation between several *communes*, is possible though not defined properly by legislation, but could help include and organize mobility without limiting it, and allow to rethink the complementarity between pastoral and agricultural areas in Southern Niger. Finally, the State and funding agencies are recommending the internal division of *communes* themselves. Thus, according to the guide on how to draft *Commune* Development Plans<sup>11</sup>, this kind of zoning would constitute "the very basis for success, (...) indispensable for ensuring the operationality of the approach". It should be "well-adapted to the socio-institutional context of the area and enable the spatial differentiation of planned activities, depending on the potentialities and constraints prevailing"<sup>12</sup>. This sub-division serves as a territorial framework for the inventory of natural resources and a detailed status report on each *commune's* infrastructure and services. It also helps prepare *commune*-level plans: in the central-village of each sub-zone, a "*Programme d'Investissement Pluriannuel*" or Multi-year Investment Programme is drawn up, on the basis of a participatory community diagnosis. With this transfer to Niger of management and action norms based on the French model (decentralization, land

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<sup>9</sup> This process is currently occurring in many Sahelian countries, for instance Mali (see Stéphanie Lima, 2005 and Claude Fay, 2006). LASDEL's Observatory of Niger's decentralization published interesting case studies.

<sup>10</sup> These two recommendations, among others, were made by a Regional Workshop on land and decentralization, organized by the Haut commissariat pour la modernisation de l'Etat in Agadez in May 2007. Land commissions are responsible for recording land ownership in the "dossier rural" (land register). Traditional chefferies, which used to be the sole authority on rights of use, are now merely consulted about them.

<sup>11</sup> These development plans were set up by the World Bank through Community Actions Program. They were carried out using the same pattern, thanks to bilateral aid and particularly to the LUCOP Program managed by German cooperation.

<sup>12</sup> Bulletin d'information du LUCOP n° 6 (avril 2006, p. 4).

registry, planning, etc.), pernicious effects similar to those found in France are likely to occur: to deal with these, the choice has been made of territorial complexity, with multiple tiers of consultation, decision-making and territorialized action.

But in a way, it is the very imposition of a territorial logic in a fluid, open space that has a negative impact. It is also the multiplication of scales that creates more problems than solutions. While the diagnosis of fragility and marginalization of pastoralism is correct, the solution adopted (securing land, territorial imperatives) can only further aggravate the symptoms. Decentralization has therefore ended up magnifying or even creating problems along with means for their resolution, in a self-referential system: creating new problems justifies the relevance of the solutions adopted.

Hence, in Niger, local authorities are being re-configured and development rent captured by imposing these new territorialized governance principles at different levels. Even a partial recognition of herdsmen's rights to the use of pastures in their habitual areas for a good part of the year, made necessary by the pressure on natural resources, is playing a role in making nomadic circulations more rigid. Trying to safeguard pastoralism often means limiting its mobility and flexibility, which leads to its destruction.

Long kept behind glass by the colonial administration and then the State of Niger, that inherited the principle of a clear separation between nomadic and sedentary populations (A. Marty, 1999), Northern Niger is therefore not well prepared to adopt sedentary territorial principles. The traditional principle for space management, that of village-based areas ("*un terroir, un village*"), has been extended to include pastoral land. After having created the concept of specific "home" areas for herdsmen, the authorities are now encouraging the principle of "one village, one pasture area" ("*un village, une aire de pâturage*")<sup>13</sup>. Decentralization and land management policy perpetuate the myth of the match between an African village and a territorial unit closed in on itself.

## **2- Tuareg rebellion, extraterritoriality in mining and dispossession of nomadic pathways**

The transformations described so far come under the heading of spatial injustice, only because nomadic ways of life require a relatively open and fluid pastoral space. The primacy of pastoral and caravan-related activities over the appropriation of local resources must be asserted. The time of nomadic predominance has long gone but the colonial legacy of indirect rule by traditional chefferies, while economically weakening Northern Niger and marginalizing it politically, has allowed to maintain a degree of openness and autonomy of pastoral space. But the carving up of land resulting from decentralization and supported by the territorial claims of Tuareg rebellions is challenging these.

### **Decentralization: the territorial imperative as a consequence of the claims of Tuareg rebellions**

Although the situation remains tense, peace returned to Northern Niger in the past few months after almost two years of conflicts since the Iférouane attack in February 2007. The three rebel movements of the second rebellion (MNJ, FPN and FFR) laid down arms thanks to Libya's mediation. Tuareg social forces that opposed Niger's government did not consider the territorial

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<sup>13</sup> *Rapport Général de l'Atelier National sur la Problématique de la Décentralisation et Communautés Nomades au Niger*, Haut commissariat à la réforme administrative et à la décentralisation, 8 p, 2005.

imperative as a problem but as a political and economic opportunity. Rebellions in the late 90s and early 2000s worked towards a strengthening of territorial control. After five years of conflicts following the first rebellion, the 24 April 1995 peace agreements, called the "National Pact", were more than a mere armistice. In particular, they brought on the adoption of the decentralization law, which squashed secessionist or federalist temptations.

The taking up of arms in 2007-2008 was motivated by what was seen as the marginalization of Northern Niger and the confiscation of natural resources by the central authorities. It seemed that the Tandja regime, deemed to be corrupt and ethnicist, was deliberately neglecting this region even though it produced Niger's main source of wealth, uranium. Only by embracing the territory could the Tuareg population manage and control space in a manner that was more autonomous vis-à-vis Niamey. Without going into the murky relationships between mining companies and rebel movements<sup>14</sup>, it was obvious that the rebellions were not opposed to mining activities as such but wanted local and regional spin-offs. It is not surprising that the first item in the list of demands dealt with "administrative divisions and territorial planning". While supporting the establishment of autonomous regions (administrative divisions such as *communes*, city districts, departments and regions), the MNJ proposed a re-division of the national territory into four regions that would take better account of the socio-economic and cultural nature of the country. The Northern Niger region would be expanded to include the largest section of Niger's Tuareg population but also other populations<sup>15</sup>.

Whereas mobility and even crossing national borders was a way of life for a section of the population, it was almost as if the rebellion's leaders themselves could not imagine any reconfiguration of power outside the framework of territorial divisions. For MNJ's heads and for the Tuareg elite, settlement is a primary objective today because it is a way of gaining access to political and economic resources. It makes "development" possible, in that it gives access to facilities and modern services (education, health, comforts), whereas nomadism would not. Today, pastoral nomadism means poverty and, rightly or wrongly, sedentarization or settlement is generally viewed as a prerequisite for development by local leaders. In fact, decentralization has allowed a new politico-economic elite (development brokers, farming cooperative leaders, tourist agency owners, big traders) to come to power.

However, decentralization has led to the emergence of new demands for spatial justice. Until now, uranium extraction in Niger, both for the State and for Areva, has not been considered as a planning issue but as a predatory treatment of local resources. The question of the consequences of these activities, especially environmental ones (O. Soubeyran, forthcoming), has been posed only recently and changed the deal. Decentralization has made possible a challenge to central government's control over financial profits and also made obvious the local

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<sup>14</sup> While in France Areva has been accused of spoliating North Niger's wealth, which is seen as the cause of the Tuareg rebellion, Niger's national media and government have blamed Areva for instigating or at least funding the rebellion, and for taking advantage of local insecurity in order to defend its interests against China, and when its mining contracts will come under review. MNJ is viewed by Niamey and most of Niger's civil society as a destabilizing instrument driven from abroad, by Areva and/or Libya. Therefore, despite the attack on Imouraren's in April 2007, and another attack against Chinese prospection sites (including the kidnapping of a Chinese engineer), Areva has been suspected of providing arms and funds to the Tuareg rebellion, in order to secure its activities. Since the abduction of French nationals in September 2010 in Arlit, Areva's strategy of hiring former Tuareg rebels in order to guard its sites and workers has become a contentious issue.

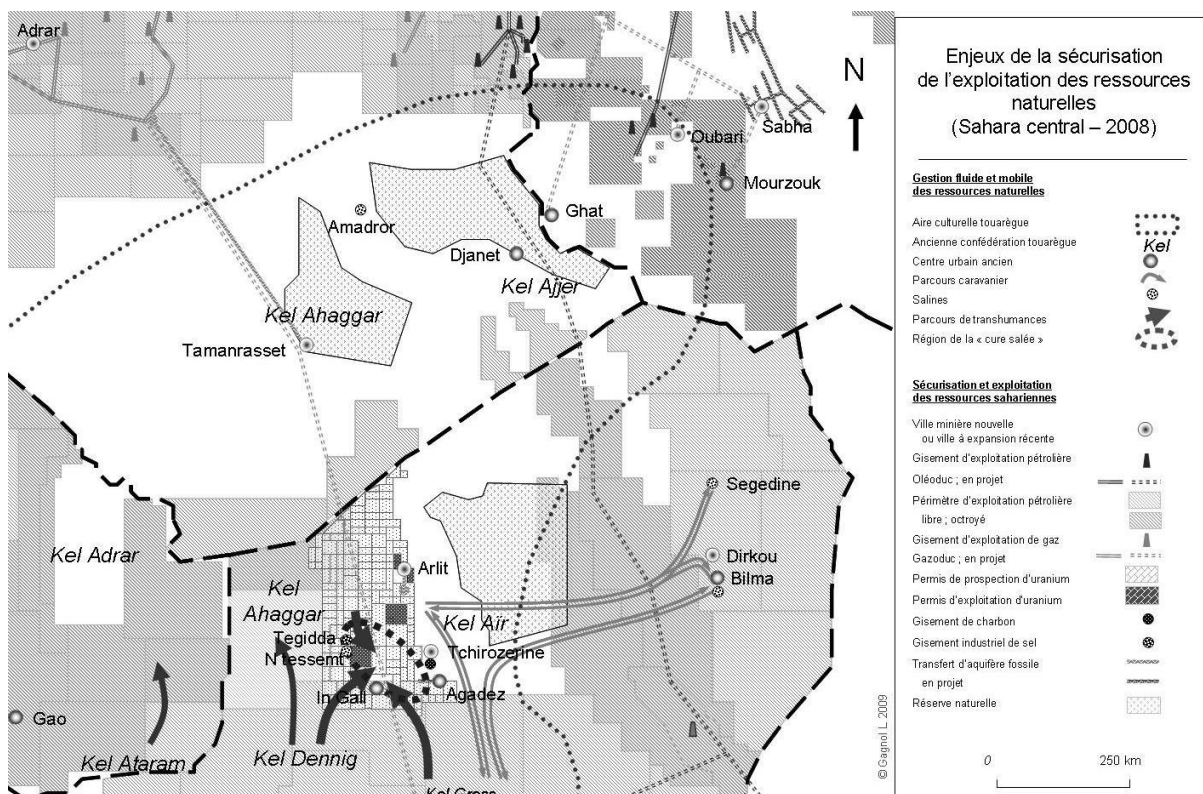
<sup>15</sup> Because partial autonomy of the regions was feared, *communes* were instituted before regions and *départements*, although these larger administrative subdivisions are easier to set up and financially more viable. This Northern region is still not precisely bounded, but brought back memories of the short-lived Organisation Commune des régions sahariennes at the end of the colonial period, which had already courted controversy when earlier territorial claims were made (A. Bourgeot, 2000).



consequences, raising the issue of possible compensations for health and environmental impacts of mining. Under pressure from donors and civil society, the government finally passed a law allocating 15% of the revenue from mining royalties to local authorities in 2006.

### Mining and nomadic pastoralism – the example of Imouraren

Officially, no fewer than 125 mining agreements (exploration or mining permits) were granted between 2000 and 2008 by Niger's government to 36 foreign companies of 12 nationalities (122 for uranium prospecting or mining and 3 oil permits). 75 other permits for uranium and 7 for oil have not yet been officially allocated (see Map 1). After a long period of arm wrestling with President Mamadou Tandja, Areva currently retains most of its control over uranium production thanks to its subsidiaries in Arlit-Akokan and on the future production site of Imouraren. Because of the spectacular rise in world prices in 2004-2007 and Chinese competition, Areva still had to review of its long-term agreements. Chinese subsidiaries monopolize other promising and rapidly operable mining concessions. Canadian, Australian, South African, Indian, British, Russian, American and British Virgin Island companies share the rest of the 90,000 sq. km. allocated for mining prospecting, which are also pastures used by herdsmen from western Aïr.

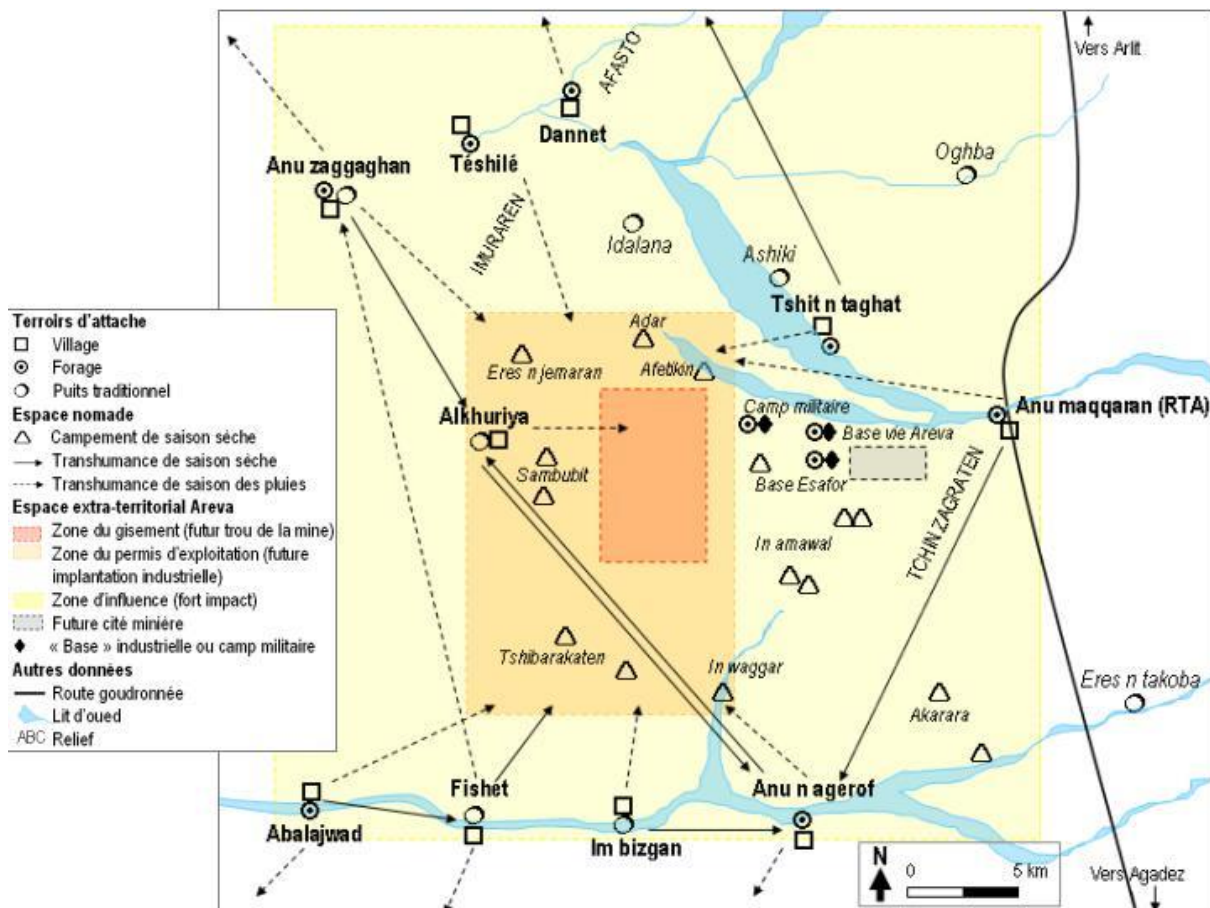


**Map 1:** *Securing the mining of natural resources in central Sahara* (Gagnol, 2009).

In the case, for instance, of Imouraren, the question seems to be what part the preservation of the environment and pastoral nomadism will be granted, in what will soon be the world's second biggest, open air uranium mine<sup>16</sup>. The industrial site covers an area of 200 sq. km. and

<sup>16</sup> Planned production is 5000 tonnes per year for 35 years, thanks to a 1,2 billion euros initial investment. Niger will go from the fourth to the second rank for worldwide uranium production.

the deposit alone will cover a surface area 8 km by 2.5 km (see Map 2). What will happen to the villages of Tshin Taghat, Anu Zaggaren and Teshilé, located a few kilometres from the future mining "hole"? Not to speak of the problems related to urban development<sup>17</sup> (development of "site facilities", an airport, industrial sites and a boomtown) – how will pastoralism survive near an area devoid of vegetation, likely to be contaminated by mining residues? The dust from the mine, uranium ore transportation in massive trucks<sup>18</sup>, and open air deposits of radioactive sterile material<sup>19</sup> are bound to have serious environmental consequences. What will be the impact of the unavoidable increase in water consumption on the Agadez sandstone groundwater<sup>20</sup>?



Map 2: Area covered by Areva's mining permit in Imouraren (commune de Dannet au nord-ouest du Niger, Home grazing territory of Alkhuriya, only dry season camps are represented). (L. Gagnol et K. Afane).

<sup>17</sup> If Imouraren's population growth is similar to Arlit's, it will have over 60 000 inhabitants in about 30 years. 1350 direct jobs, and 3375 indirect jobs are expected to be created by Areva and subcontractors. Even if the project for a housing estate for workers in Imouraren was abandoned, the inflow of people from other regions and the construction of a spontaneous new city are very likely.

<sup>18</sup> Trucks carry containers of highly radioactive yellowcake up to Cotonou, that is 1600 km from Imouraren. Accidents on the road cause ecological disasters.

<sup>19</sup> About pollution, the health of Arlit's inhabitants and workers, see Niger's NGO *Aghir in'man's* statements, and CRIIRAD's reports (2010).

<sup>20</sup> See alarming predictions of hydrogeologue A. Joseph, 2008, « Quand l'uranium menace le pastoralisme nomade », *Air-Info*, n° 72. Starting from 2013, uranium mining will need 56 000 cubic metres of water each day. They will be drawn from fossil aquifers, that are non-renewable resources.



What of the "*fair and prior compensation*" for the deprivation of pastoral rights of use provided for by Article 9 of the decree that created "home grazing territories"? How will the eviction and/or banning of some groups of nomadic and semi-nomadic Kel Tédélé, Kel Gharous and Ikazkazan Tuareg herders' from seasonal migratory routes and pastures used on the basis of traditional rights of use actually be implemented? These groups have at least one recognized "home grazing territory" with a well in it within the area covered by the mining permit granted to Areva. Located on the dynamite storage site, the well will necessarily be filled in.



**Photo 2:** *Traditional well in Alkhuriya, inside the area covered by Areva's mining permit at Imouraren* (copyright A. Afane).

The land use problem has already been settled for Areva. According to Areva's spokesperson, the area's nomads do not have any landed property but share – or rather "*defend*" – simple pasture land limited solely to the banks of *koris* (wadis); therefore, there has been no expropriation, nor any "inconvenience", nor even any "risk" of inconvenience for the nomads: "as land use laws have not been fully established in Niger – although the State is currently conducting work on the subject – very few people own land in two-thirds of the northern part of the country. While local populations, for the most part nomadic, have barely any landed property, they nonetheless defend grazing areas along the wadis (...) We have held several public hearings and have managed to demarcate a mining area that does not risk

inconveniencing the herdsmen"<sup>21</sup>. In agreement with the State of Niger and against the payment of annual charges for local governments, Areva has therefore granted itself an area that is reserved and clearly demarcated by excluding nomads *de facto* through a restrictive and partial interpretation of the decree on "home grazing territories" (while exonerating themselves from Article 9 of that decree). Under the pretext that there are no "home grazing territories" in the Imouraren area (deliberately overlooking that of Alkhuriya), they deal neither with expropriation nor with environmental impact. It is obviously totally incorrect to assert that nomadic pastoralism is limited to the wadis alone. These comprise fallback pastures and water points for the dry season, recognized as vital "home grazing territory" for nomadic herdsmen. But the latter cannot survive in such a restricted area, which in fact excludes them from the seasonal pastures of the Imouraren plains. It is only as a last resort in the dry season that the nomads resign themselves to using their permanent wells and, correlatively, to use the tree-shaded resources of the oueds. Official policies for pastoral lands, with the notion of "home grazing territories" has in fact inverted the nomads' relations with wadis and with dry season wells. These are represented as the foundations of nomadic areas whereas they are only the last resort, when the scarcity of resources is at its height. The ultimate fallback solution has been turned into the sole territorial framework of pastoral rights.

The spirit behind the decree on the creation of "home grazing territories" was, in fact, not to assign nomadism territorially. But what is happening is that the recognition – highly limited in space and very partial in land laws – of territorial rights for nomads made it possible to justify their total exclusion from land located outside the "home grazing territories" and to legitimize the monopolization of vast areas, rich in natural resources. Granting minimal rights with one hand makes it possible to grab fully with the other hand. That is the opinion of the Mayor of the Dannet *commune*, on which Imouraren is located<sup>22</sup>: "Areva, since it didn't want to give anything, has made use of some of Niger's incomplete laws (...) to claim that the land did not belong to anybody but to the State of Niger and that, consequently, such problems are minimal, as no population was found in the area allocated". Almoustapha Alhacen, Chairperson of the NGO *Aghir in'man*, concurs: "Areva has said everything but what's most important – i.e. what will happen to Imouraren's nomads. What's more, Areva fled from Dannet and came to Agadez to conduct this hearing<sup>23</sup> because people here are not aware of the situation of those in Dannet (...). Areva doesn't even take Imouraren's population into account – they say that there are no people within the perimeter! That's wrong! Completely wrong! We will defend these poor people!" In answer to this, Mr Moussa Souley from the Areva group<sup>24</sup> claims that the figures were not produced by the developer but by a field survey conducted by a reliable independent group. In fact, as part of the environmental impact study, Areva funded field research by academics from Niger on nomadism in the Imouraren area. But Areva deliberately misinterpreted the results of the survey to assert that there are no nomads in the area covered

<sup>21</sup> Yves Dufour, Areva's mining activities communication director, interviewed by *Journal du dimanche*, March 26, 2009.

<sup>22</sup> In M. Diallo, 2008, *Bulletin d'information du ROTAB*, n°8, p. 2.

<sup>23</sup> A public hearing took place in Agadez in May 2008, to validate the "*environmental impact study report*" done by Areva, in order to obtain the "*environmental compliance certificate*" required by the Environment Ministry. This very technical report could not be understood by most of the participants, and was not handed over to the "*ad hoc committee*" responsible for public hearings. No second independent expert study has been done. See Ousseini Issa, « Impact environnemental du projet Imouraren : les inquiétudes des populations d'Agadez », *Le Républicain* du 15-05-08. The following recommendations were given at this public hearing : consciousness-raising campaigns and compensations to nomads (which Areva refused), environmental and health monitoring, risk management program, mining waste processing program, etc...

<sup>24</sup> Areva-Niger's Director in charge of communication, sustainable development and health, *Air-Info* (n° 76, 2008).



by the mining permit<sup>25</sup>. As our own fieldwork has confirmed, there are several camps using pastures in the area, even during the dry season.



**Photo 3:** *Nomadic Camp in Alkhuriya inside the area covered by Areva's mining permit at Imouraren*  
(copyright A. Afane)

The spatial injustice here is two-fold: the notion of "home grazing territory", that was supposed to safeguard nomads by stabilizing them has made it possible to drive them out and confine them to certain areas. And because pastoralism is not considered as a form of territorial appropriation or as adding value, they do not have the right to the compensation provided for by the law, in the way farmers do<sup>26</sup>. Securing the mining of strategic natural resources is therefore based on the creation of extraterritorial areas prohibiting any local control over the management of natural resources. The Imouraren site is, in fact, "sanctuarized", i.e. closed, with access denied to the local population and militarily guarded by dozens of armed men – Areva funds and fits out military units from Niger (FAN and FNIS) and also employs nomads as guards.

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<sup>25</sup> This text is not accessible in France, but it can be found in some village halls in Air. Informations within cannot be used without a prior written authorization by Areva.

<sup>26</sup> Expropriation and compensation proceedings have begun for an oil refinery built by a Chinese company near Zinder. Only farmers who could register their land property rights in the "dossier rural" (land register) are concerned.



**Photo 4:** Areva's site's fence in Imouraren (copyright A. Afane)

This extraterritoriality is all the more visible in Chinese mining sites. It is done in even more explicitly "exceptional" conditions, with respect to local practices but also to Niger's national laws. The NGO *Aghir in'man* views Chinese companies as adopting "the same operational modalities", while "trampling Niger's laws underfoot", to the detriment of a mining industry that "integrates itself properly in the territories where it establishes itself"<sup>27</sup>. The environmental impact report for the Agadem block oil refinery project (owned by the Chinese company, CNPC) was hurriedly prepared by Chinese experts on the basis of Chinese environmental standards and laws. Moreover, some of Niger's engineers who were trained in China refused to sign the work contract for SOMINA, a subsidiary of a Chinese company mining uranium in Azélik – in fact, they were underpaid as compared to their colleagues working for Areva's subsidiaries. They had to accept working hours and payment conditions imposed in China and outsourced to Niger<sup>28</sup>. In Chinese sites, everything happens as if these extraterritorial areas enjoyed extensive autonomy with regard to national sovereignty and full autonomy with regard to the local milieu.

In reality, the pressure on natural resources (water, arable land, etc.) and mineral wealth

<sup>27</sup> See « La SOMINA interpellée », *Le Républicain* 04-29-2009.

<sup>28</sup> See *Bulletin d'information du réseau des organisations de la société civile pour la transparence dans les industries extractives et l'analyse budgétaire*, n° 9, Marsh 2009.

(uranium, oil, etc.) has combined to lead to the return of the old colonial principle of confining tribal people within a given area (I. Merle, 1999 and L. Gagnol, 2009). The aim is to transform a spatially unlimited right to use land into a collective ownership right. In Imouraren, thanks to the recognition of priority access over a small area ("home grazing territory"), Areva, in agreement with the State of Niger, is justifying the idea of the non-existence of nomads and the monopolization of land located outside these limited territories. But unlike what occurred in Algeria during the colonial period, the notion of "home grazing territories" confines nomads to wadi valleys without recognizing the right to collective ownership, nor even any compensation for such confinement. It is as if Imouraren's nomads were being pushed out with no legal proceedings other than the right of conquest, i.e. the law of "might is right", since the land, State property, was transferred without taking their existence into account.

## Conclusion

Since the colonial era, Niger has had a centralized but largely non-territorialized and indirect administration through tribal chiefs and nomadic groups. This is being challenged by the decentralization process today – a sort of territorializing political revolution that is being applied uniformly across Niger's territory. It means the end of what could be called the nomadic administrative exception. The division of the territory into *communes* is viewed in nomadic areas as the break-up of the country, the imposition of a new power by the division of space. The primary – and according to us, completely overlooked – effect of decentralization is the destruction of the conditions necessary for the continuance of nomadism (Gagnol, 2009).

Reinforced by fieldwork, our position with regard to the spatial injustice being meted out in nomadic areas is simple – everything that is territorialized constitutes spatial injustice from the nomadic point of view. Spatial justice in nomadic lands could only mean the denial of the territorial imperative – the aim being to guarantee mobility and fluidity within a fundamentally open or "smooth" area, according to the expression used by G. Deleuze and F. Guattari (1980).

Beyond that, there is the issue of local control over natural resources, in a context of multiplication of extraterritorial areas. We have discussed mines, but could also have examined the purchase or rental of arable land by foreign institutions. These enclaves of globalization, symbols of an extravert economy, are being grafted on a local milieu and gradually end up creating their own associated milieu. They are playing a role in transforming local society – which has no choice but to adapt or, in other words, sedentarize, or else disappear.

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