INHABITING TRIBAL STRUCTURES:
LEADERSHIP HIERARCHIES IN TRIBAL UPPER YEMEN
(HAMDĀN & KHAWLĀN B. ʿĀMIR)

M a r i e k e B r a n d t

INTRODUCTION

During his fieldwork in Yemen in the early 1970s, Walter Dostal had the opportunity to make observations of the social and economic organization of the Banī Ḥushaysh, a member tribe of the Bakīl confederation. These observations were incorporated into his article *Sozio-ökonomische Aspekte der Stammesdemokratie in Nordost-Jemen* (1974) and were later elaborated in his monograph *Egalität und Klassengesellschaft in Südarabien: Anthopologische Untersuchungen zur sozialen Evolution* (1983). *Egalität und Klassengesellschaft* includes a detailed exploration of the genealogy, religion, social stratification, kinship system, and political and economic organization of the Banī Ḥushaysh and compares it with the tribal societies of the Shiḥūḥ and the Banī Shumaylī of Rās al-Khaymah (UAE). It reflects Dostal's comprehensive approach to the study of local societies; in other words, his conviction that no understanding of a society is complete without the study of a broad range of its aspects and features. Yet the neo-evolutionist assumptions Dostal uses in *Egalität und Klassengesellschaft* may now seem exotic to those not immersed in the debates of that time.

The period of his stay with the Banī Ḥushaysh was characterized by the aftershocks of the 1962 revolution and the subsequent eight-year civil war that led to the overthrow of the imāmate and the establishment of the Yemen Arab Republic (YAR). The profound changes in the political landscape throughout Upper Yemen had direct repercussions on the tribal society of the Banī Ḥushaysh. The incipient realignment of political positions and alliances in the early YAR triggered reshuffles in tribal power relations among the Banī Ḥushaysh; it is therefore not surprising that one of Dostal's key observations was related to the rapid changes of tribal leaders and their empowerment and disempowerment through their tribal groups. The frequent changes in the office of the tribal leaders and the absence of a fixed duration of their tenure led Dostal to the formulation of his theory of "uninheritability of political offices" (Unvererbbarkeit der politischen Ämter). Dostal also observed that the higher a tribal leader's rank in the hierarchy of the tribe, the more obvious the "fluid nature" and "instability" of his position and authority became. With these observations, Dostal covers central points of the complex organization of tribal leadership in Upper Yemen, namely the question of the connection between tribal structure, leadership hierarchies, and fluidity and stability of authority.

This chapter is dedicated to an investigation of these connections. In comparison to the beginning of the 1970s, and due to profound ethnological and social anthropological research in that area since then, we today have a far greater knowledge available of the tribal societies of Upper Yemen. This makes it possible not only to focus on a single tribe (e.g. the Banī Ḥushaysh), but to evaluate tribes and even tribal confederations in a comparative perspective. For this reason, I have chosen two tribal confederations of Upper Yemen as subjects of this investigation: the large confederation of Hamdān (which consists of the two independent confederations Ḥāshid and Bakīl) and the confederation of Khawlān b. ʿĀmir. Using the empirical example of these confederations, this chapter aims at answering the following research questions: How do tribal structures and leadership hierarchies of tribes and confederations relate to each other? How are power and authority conceptualized and distributed among the tribal leaders? And what are the differences between these confederations with regard to the concept of tribal leadership?

Both confederations are made up of similar constituent elements and are structured in a similar hierarchical way. Tribal leaders, entitled *shaykh*, administer the tribal groups of both confederations. Yet the investigation of two central tasks of these shaykhs, namely representation and jurisprudence (arbitration), reveals that

both confederations have developed slightly different models of tribal leadership. Whereas among Hamdān the concept of leadership is reflected in the term *shaykh mashāyikh*, the specific conceptualization of tribal leadership among Khawlān b. ʿĀmir manifests itself in the leadership model of the *shaykh al-shaml*. In other words, both confederations have developed different modes to organize and to "inhabit" actually homologous tribal structures. Hence, the structures of tribes and of confederations and the features, which make up their socio-political organization, need to be distinguished.

The entities, called tribes and tribal confederations, found throughout rural North Africa and the Middle East are diverse polities and the differences between them are worth further investigation. In the recent past, several ambitious studies have been published which proposed a new reading of "the Arab tribe", by emphasizing hierarchical status differences.[1] The tribes inhabiting Upper Yemen are in many respects also very different, while academic awareness of the differences between them is underdeveloped. The following investigation shows that they must not be "lumped together" but rather considered differently, in all their aspects, and that we should indeed talk about the "tribal societies" of Upper Yemen, in the plural.

THE CONFEDERATIONS OF HAMDĀN AND KHAWLĀN B. ʿĀMIR

Upper Yemen (*al-Yaman al-Aʿlā*) is a landscape dominated by mountains and plateaus, which extends from some 100 km south of Ṣanʿāʾ to the Saudi border in the north, and from the steppe and desert areas of the large Empty Quarter (*Al-Rubʿ al-Khālī* and its southern extension, the *Arḍ al-Jannatayn*) in the northeast and east to the escarpment to the Tihāmah coastal plain in the West. South of Ṣanʿāʾ, approximately at the Sumārah pass, Upper Yemen changes into Lower Yemen (*al-Yaman al-Asfal*). Upper and Lower Yemen are not only geographically diverse regions, but also vary in sociological and denominational terms. A relatively large proportion of rural Upper Yemen's inhabitants are tribally organized and followers of the Zaydī-Shiite school of thought and jurisprudence. In Lower Yemen, by contrast, tribal norms are less pronounced and a majority of its inhabitants follows the Sunni-Shāfiʿī school of thought and jurisprudence.[2]

The tribes (sing. *qabīlah*, pl. *qabāʾil* or *qubul*)[3] of Upper Yemen have organized themselves into confederations: associations of independent tribal units, which occasionally act together outwardly, but retain their sovereignty. The main confederations of Upper Yemen are the large Hamdān[4] confederation (which consists of the two separate smaller confederations of Ḥāshid and Bakīl, also referred to as the "two wings" of Hamdān) and the confederation of Khawlān b. ʿĀmir. The Hamdān (Ḥāshid and Bakīl) make up the largest tribal confederation of Upper Yemen. It consists of politically important tribes, which occupy strategically significant territory from around Yemen's present-day capital Ṣanʿāʾ to the Saudi Arabian border in Yemen's Northeast. A large part of the area around and north of Ṣanʿāʾ and east of the western mountain chain (*Sarawāt*) is called the land or territory of Ḥāshid and Bakīl (*bilād Ḥāshid wa Bakīl*).

Note on transliteration: For transcribing Arabic, I have used the system of the *International Journal of Middle Eastern Studies* (IJMES) for both written and spoken words. Common words, such as Yemen and Saudi Arabia, are given in an Anglicized version. Many Arabic words I have treated as English words (e.g., *shaykhs, marāghahs, naqībs, Ḥūthīs*) instead of using their Arabic plural form (*shuyūkh/mashāyikh, marāghāt, nuqabāʾ, Ḥūthiyyūn*). The Arabic *bin* or *ibn* ("son of"), where it comes between two names, has been given as simply *b.* throughout. Initial *ḥamzah* is unmarked.

[1] See, for example, Bonte et al. 2001.

[2] Although tribalism is particularly pronounced in Upper Yemen, areas in the south and east of Yemen are also influenced by tribal norms, such as Shabwah, al-Mahrah, Yāfiʿ, Abyān, etc.

[3] The use of the term "tribe" is contentious, including among anthropologists. With regard to the Province of Ṣaʿdah, Weir (2007: 1-5) describes tribes as political-territorial (rather than descent-based) units. Because rural Upper Yemen is divided into territorially contiguous tribes, everyone unavoidably lives in a tribe. For a critique of the term "tribe" cf. Mundy (1995), Wedeen (2008: 170-176) and Blumi (2010: 19-34). For an overall discussion of the term cf. Gingrich (2001b: 15906-15909).

[4] The large Hamdān confederation (consisting of the sub-confederations of Ḥāshid and Bakīl), also called Hamdān b. Zayd, must be distinguished from the homonymous member tribe Hamdān of the Ḥāshid confederation (for a better distinction usually called Hamdān Ṣanʿāʾ) and Hamdān al-Jawf, a Hamdānid tribe which neither belongs to Ḥāshid nor to Bakīl. Furthermore, among the Shākir, Wāʾilah and some segments of Dahm together are referred to as Hamdān al-Shām ("northern Hamdān") or Hamdān Ṣaʿdah (Lichtenthäler 2003: 44).

Parts of the northwest quadrant of Upper Yemen and the adjacent areas of Saudi Arabia are inhabited by the tribes of the confederation of Khawlān b. ʿĀmir.[5] The settlement area of the Yemeni tribes of the Khawlān b. ʿĀmir confederation reaches from a few miles east of the provincial capital, Ṣaʿdah, extending over the town in the west to the border of the Saudi Arabian Jīzān province. In the south, the territory of the confederation begins about ten or fifteen miles from Ṣaʿdah and extends to the north and northwest to the Saudi provinces of ʿAsīr and Najrān.

The names Ḥāshid and Bakīl as well as Khawlān b. ʿĀmir are pre-Islamic.[6] Ḥāshid and Bakīl see themselves as genealogically linked with each other; their genealogy perceives them as descendants from a common ancestor named Jusham b. Ḥubrān b. Nawf b. Hamdān (Al-Jirāfī 1951: 19; Dresch 1989: 5, 1991a). By contrast, the tribes of Khawlān b. ʿĀmir trace their origin back to an ancestor called Quḍāʿah (Caskel 1966 (II): 56-57; Robin 1982a: 35-36; Bāfaqīh 1990: 99-103; Brandt i.pr.). These genealogical descent lines are largely constructs and results of manifold processes of tribal fusion and fission; the perception of a shared "ancestry" is to a greater or a lesser extent a statement of identification following the general Middle Eastern practice in conceptualizing groups as kin. Such statements of identity are, however, seldom understood by the tribesmen themselves in actual genealogical terms (Dresch 1989: 78-79, Weir 2007: 121, Brandt i. pr.). The perceived common ancestry corresponds to the common visual representation of tribes as "segmentary groups": tree-like structures, which divide and subdivide in the manner of the branches of a tree, though there is no central and pre-eminent trunk, all branches being equal (fig. 1 and 2). [7]

The confederations of Ḥāshid and Bakīl subdivide into a number of member tribes. The constituent tribes of Ḥāshid are al-ʿUṣaymāt, Idhar, Khārif, Banī Ṣuraym, Sanḥān, Bilād al-Rūs, and Hamdān Ṣanʿāʾ; the member tribes of Bakīl are Sufyān, Arḥab, Nihm, ʿIyāl Yazīd, ʿIyāl Surayḫ, al-Ahnūm, Murhibah, Banī Maṭar, Banī Ḥushaysh, Khawlān al-Ṭiyāl, and the Shākir tribes which consist of Dahm and Wāʾilah (Dresch 1989: 24). All member tribes further subdivide extensively. In spatial respect, the tribes of Ḥāshid and Bakīl do not form territorially contiguous blocks, but rather resemble a chessboard pattern with the eastern part of Upper Yemen, especially the Northeast, dominated by Bakīl.

The territory of the confederation of Khawlān b. ʿĀmir in the north-western part of Upper Yemen is bisected through the international boundary between Yemen and Saudi Arabia into a Saudi and a (territorially and demographically) larger Yemeni part.[8] The so called Ṭāʾif line of 1934, which was confirmed by the Treaty of Jeddah in 2000, places five out of eight member tribes of Khawlān b. ʿĀmir on Yemeni territory (Jumāʿah, Saḥār, Rāziḥ, Munabbih and the homonymous member tribe Khawlān) and three on Saudi territory (Fayfāʾ, Banī Mālik, and Balghāzī). The Yemeni Khawlān b. ʿĀmir tribes Saḥār, Jumāʿah and Khawlān dwell on the high plateau of Upper Yemen above the rift valley-edge to the Red Sea, with which also the Jabal Rāziḥ is still connected by the elevated basin of Ghamr. Munabbih is located below this edge of the rift valley on an isolated mountain massif. The tribal neighbours of Khawlān b. ʿĀmir are Hamdān (Bakīlī Shākir tribes and Sufyān) to the east and south, the Tihāma to the west and tribes of the Saudi ʿAsīr confederation to the north.

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[5] The confederation is sometimes also called Khawlān b. ʿAmrū, Khawlān Quḍāʿah or Khawlān al-Shām, see Gingrich & Heiss 1986: 16-20; Gingrich 1989a: 145-158, 1994: 11; Heiss 1997: 53; Weir 2007: 121-123.

[6] Serjeant 1982: 16-18. The confederation of Khawlān b. ʿĀmir must be distinguished from Khawlān al-Ṭiyāl, a Bakīl member tribe dwelling east of Ṣanʿāʾ.

[7] The segmentary model was introduced by Evans-Pritchard (1940) with regard to the Cyrenaican Bedouins and further elaborated by Gellner (1969: 41-44; 1981: 117; 1991: 109) for the Berber of the High Atlas. According to this theory, these tree-like structures are essentially homologous, and each comprises more or less egalitarian kin groups, which replicate in all but size those of which they are part. According to segmentary theory, neither within segments nor between them are there any specialized political institutions or groups, and the fundamental concept of segmentarism as theory of politico-legal action is that of "balanced opposition": no segment has specialized or permanent political functions, and there is no "crucial level of social organization" (Gellner 1981:117; 1991: 109). In the absence of effective leaders, order and the balance of power are maintained by collective action, mainly in response to external threats. The segmentary model has been challenged by several anthropologists and is now regarded defunct (Dresch 1986: 321; Caton 1987, 1991; Weir 2007: 3-4 with regard to Yemen). It is useful, however, for illustrating the tree-like pattern of structural organization of a tribe, and in this chapter the term *segmentary* denotes solely structural (rather than socio-political) phenomena.

[8] For the Yemeni-Saudi boundary dispute, see Schofield 1999, 2000; al-Enazy 2005; Heinze 2010.
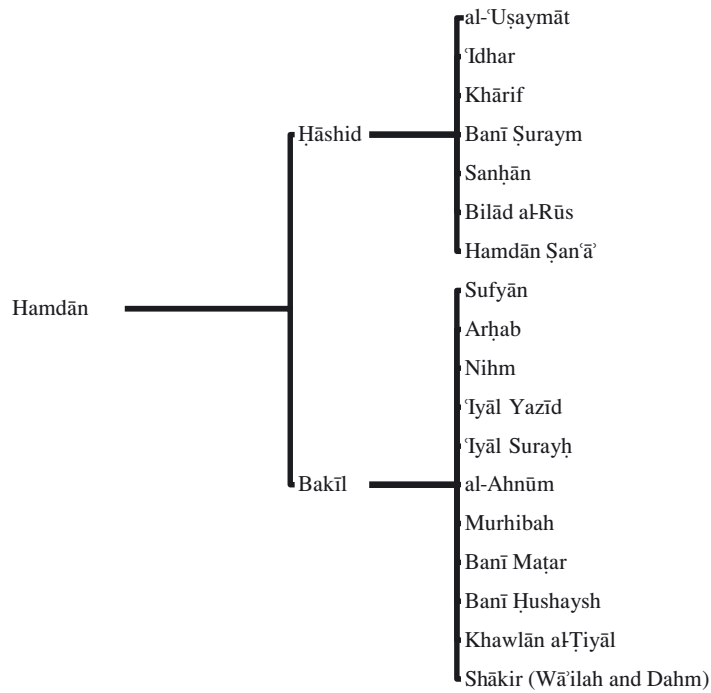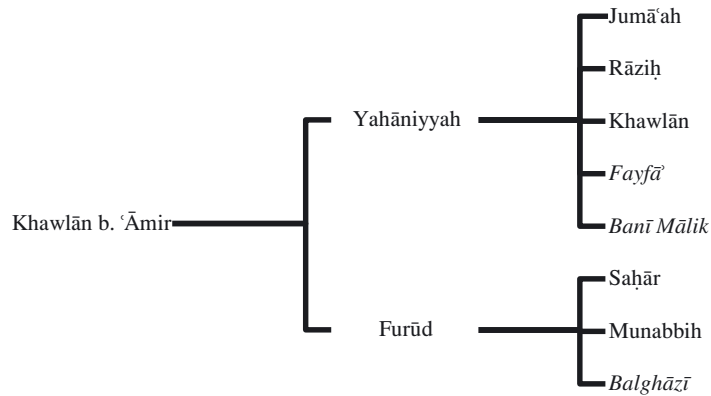
Figure 1: The confederation of Hamdān b. Zayd

Figure 2: The confederation of Khawlān b. ʿĀmir (italics: Saudi tribes)

The confederation of Khawlān b. ʿĀmir is segregated into the territorially interspersed moieties of Furūd and Yahāniyyah (Philby 1952: 486, 488-506; Gingrich 1989a: 158-166; 1994: 21-22, Brandt i. pr.). The moieties of Khawlān b. ʿĀmir are genealogical constructs, which do not denote independent confederations, as do Ḥāshid and Bakīl of Hamdān (Brandt i. pr.). The tribes of the Yahāniyyah moiety include Rāziḥ, Khawlān, Jumāʿah, Fayfāʾ, and Banī Mālik. The tribes of the Furūd moiety include the tribes Saḥār, Munabbih, and Balghāzī. Each of these eight member tribes is subdivided into tribal moieties, and the tribal moieties further subdivide into numerous sections, segments, and clans.

To a certain extent, the terminology used in Yemen to designate tribal divisions is inconsistent and ambiguous.[9] The conventional academic terminology in describing a tribe – for instance, *baṭn* (pl. *buṭūn*), *fakhdh*

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[9] Among the Hamdān confederation there seems to be no privileged level of organization that stands out in all circumstances, nor any standard distinction of terminology between one level and the next, and the vocabulary denoting sections and sub-sections varies

(pl. *afkhādh*), and *ḥabl* (pl. *ḥibāl*), referring to divisions and sub-divisions of confederations and of tribes – is rarely applied consistently within the tribes of Upper Yemen.[10] The tribes of Upper Yemen use the term *qabīlah* (tribe) to describe Ḥāshid, Bakīl or the Khawlān b. ʿĀmir federation as a whole, but they also refer to the constituent tribes of these confederations, such as al-ʿUṣaymāt or Sufyān, and sometimes even to smaller units, such as "the tribes of Rāziḥ" (Weir 2007), as *qabīlah*. Most tribal sub-divisions are referred to as *farʿ* (branch, section) or *ʿasharīyyah* (pl. *ʿashāʾir*), meaning tenths, which can of course also be thirds (*thulth*, pl. *athlāth*), quarters (*rubʿ*, pl. *arbāʿ*), etc., rather than in generic terms, such as *fakhdh*, or *ḥabl*. To all tribal divisions applies the term *qism* (pl. *aqsām*), meaning, division, part, which is therefore commonly used by local sources to describe tribal affiliations. In the following, in order to harmonize the terminology, the term *confederation* will be used to describe the overall communities of Ḥāshid, Bakīl and Khawlān b. ʿĀmir, the term *tribe* will be used to describe the constituent tribes of these confederations, and the terms *section* or *segment, sub-division* and *clan* will describe the divisions of those tribes in descending order.

Although they make up the majority of the population of Upper Yemen, the tribespeople are not the only social category in Yemen. The stratification system of Upper Yemen comprises three principal status categories:[11] the religious aristocracy (*sādah*, sing. *sayyid*), the tribespeople (*qabāʾil*, sing. *qabīlī*), and a third diverse low status occupational category known as "weak" people (*ḍuʿafāʾ*, sing. *ḍāʿif*). Both *sādah* and *ḍuʿafāʾ* are under the "protection" of the tribes, with *ḍuʿafāʾ* being considered "below" them and the *sādah* being considered "above" them. The religious aristocracy of the *sādah* exercises important religious and legal functions; until 1962 the imāms and the administrative elite of the imāmic state emerged from this stratum. Another once politically important status category, which stands apart from this tripartite formulation, is that of the hereditary jurist-administrators (*quḍāʾ*, sing. *qāḍī*), who are considered of *qabīlī* stock, but were formerly ranked above other *qabīlīs* because of their education (the study of Islamic law), and their role in the imāmic state (Dresch 1989: 136-140).

Basic principles of tribal leadership: As a general feature of the tribal societies of North Africa, the Near and the Middle East, tribal groups (except the smallest units on clan level) are usually represented by chieftains or "headmen", as translated by Serjeant from the Arabic term *shaykh* (pl. *mashāyikh* or *shuyūkh*).[12] Given the number of tribal units, the number of shaykhs is therefore almost indeterminately large. It does, however, happen that tribal sections have no shaykh or numerous shaykhs without clear affiliations to certain tribal divisions (we shall touch on such examples later).

The shaykhs perform important tasks for the benefit of the community. These include the administration of their tribal units and the promotion of its welfare through representation of tribal interests, both internally and externally, i.e., towards other tribal groups as well as towards state institutions. Another key task of the shaykhs is problem solving, and mediation and arbitration in tribal conflict in accordance with the tribal customary law. In times of conflict and crisis, the military mobilization of their tribal units according to tribal norms and traditions is incumbent upon the shaykhs.[13] During the imāmate, the shaykhly duties also comprised the collection of the *zakāt* tax (together with the local *sādah*), a task that is now often performed by the Local Authorities (*al-sulṭah al-maḥalliyyah*) of the republican Yemeni state.

The shaykhs administer their tribal groups through a second tier of tribal officials, called the "notables" or "elders". These elders have regionally different names, such as *aʿyān* (sing. *ʿayn*) or *kibār* (sing. *kabīr*), and are chosen from other leading clans. These elders represent and administer their clans and assist and deputize

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[10] from place to place, see Dresch 1989: 78. The same applies to Khawlān b. ʿĀmir terminology describing tribal structures, see Brandt (i. pr.). However, this ambiguity of local nomenclature seems to be highly unusual in all but few areas of Southwest Arabia.

[10] For the generic terminology describing tribal structures, see Dostal 1974: 3.

[11] On Yemeni status categories, see Gerholm 1977: 109-138; Adra 1982; Meissner 1987; Dresch 1989: 117-157; Gingrich 1989a: 137-144, 1989b; Weir 2007: 51-52. In addition, on Ṣanʿāʾ, see Dostal 1979; Mermier 1985, 1993.

[12] Serjeant 1977: 228. The role of shaykhs in Yemeni tribal society is well documented, see for example Serjeant 1977: 228-230; Dresch 1984a; 1989: 97-106; Weir 2007: 95-120, Adra 1982, Gingrich 1989a: 105-136, 1989b.
The term can denote both a tribal or a religious leadership position, as expressed in the terms *shaykh al-qabīlah* (tribal leader) and *shaykh al-dīn* (Islamic scholar). Whereas in the extreme Northwestern parts of Yemen the common plural of *shaykh* is *shuyūkh*, in central Yemen the plural is *mashāyikh* (Gingrich 1989a: 572 n. 66). Also a shaykh's close agnates may be called shaykh.

[13] In some tribal areas, e.g., Munabbih of Khawlān b. ʿĀmir, shaykhs themselves rarely participate in armed conflict as this is usually left to minor local shaykhs (Gingrich 1989a: 123, 1989b: 77, 1993: 26; Brandt 2012).

for the shaykh (Weir 2007: 68). Below them is a third tier of head men (*umanā*, sing. *amīn*) or *ʿuqqāl* (pl. of *ʿāqil*), a kind of "village mayor", who represent and administer hamlets (Weir 2007: 68; Dresch 1984a: 36; Dupret 2000b). Shaykhs are therefore part of a governing team, a practice which helps the institution of shaykhdom (*mashīkh*) survive the inadequacies of individual shaykhs (Weir 2007: 102).

Group cohesion is created through the principles of solidarity and collective responsibility, which are a legal extension of the basic values of "tribalism" (*qabyalah*), and upheld by the rules of tribal law (Adra 1982). The shaykhs do not have supreme and/or coercive power over their tribal groups; they do not "govern" them (Dresch 1984a: 41; Weir 2007: 79). Shaykhly rule is not equivalent to forms of coercive leadership, such as royal leadership, which requires the leader to exercise a restraining influence by force. Terms such as "shaykhly rule" or "shaykhly power" are therefore to some extent inappropriate and ambiguous because the concept of "power" is linked with the ability to achieve desired goals, if necessary, without the consent of all persons affected. The position of a shaykh in his tribal constituency can be better denoted as a position of "authority" because the principle of authority refers to the capacity of individuals to influence events as a result of widely recognized knowledge, prestige, or position. The shaykh is therefore forced to avoid antagonising the members of his group; otherwise his leadership will not last. Only in certain situations, i.e., during the process of arbitration and legal appeal, a temporary binding, coercive relationship between the concerned tribesmen and the involved shaykh is established (we will return to this point below). It is up to every member of the tribe not to agree with the opinion and actions of his shaykh and in particularly severe cases of disagreement, tribal members may also leave a tribe and entrust themselves to the representation and jurisdiction of another shaykh (Weir 2007: 112-120).

The absence of formal power and command implies that the concept of shaykhly authority should be understood essentially in symbolic terms. Shaykhs normally have no coercive power. Depending on their personal reputation and abilities they can, however, exert enormous influence on the members of their tribal constituencies. Caton has demonstrated that power, such as it exists in this system, must be achieved through persuasion, and a shaykh's ability to verbal suasion is one of the most important prerequisites for the successful tenure of a shaykh's office (Caton 1987, 1990). Burckhardt, the Swiss traveller in Arabia, noted the following (for southern Ḥijāz): "a shaikh, however renowned he may be for bravery, or skill in war, can never expect to possess great influence over his Arabs without the talent for oratory. A Bedouin will not submit to any command, but readily yields to persuasion" (Burckhard 1831: 250). Only through personal influence, not by coercive powers, can shaykhs mobilise large numbers of men in tribal affairs and national politics alike.

Shaykhs are not socially superior to their tribesmen as they are – usually, but not always – basically of the same stock (Serjeant 1977: 236). The shaykhs are elected by their tribal constituency from families in whom the office of the shaykh is hereditary; shaykhly succession is therefore both hereditary and elective. The shaykh is a "primus inter pares" (Gingrich & Heiss 1986: 19) whose investiture and performance must be in accordance with the members of his tribal constituency. The elective element of shaykhly succession and the absence of a strict and exclusive pattern of succession, such as primogeniture, mean that succession in shaykhdom is not passed on from the father to one of his male offspring, but can be transferred to any eligible, prominent and able person of the chief's clan.

The absence of primogeniture can cause intense competition for office within shaykhly clans because ancestry alone (without conjunction with primogeniture or some other form of restrictive rule) normally over-produces leadership.[14] Ideally, superior attributes and abilities decide whether a candidate can prevail against his rivals for the office of the shaykh. The age is not decisive, what matters is "superiority of abilities" (Niebuhr 1792: 18). These superior abilities include the aspirant having demonstrated that he is capable of administering a tribe or tribal unit and dealing with other tribes and officials; before his election he has usually been for a time part of the "escort" of its predecessor (Gingrich 2011: 40-44). He should be familiar with the tribe's rules and customs in mediation and arbitration. In addition, by referring to the famous phrase of Dresch, "his 'belly' should be 'full of politics'" (Dresch 1989: 100), he should be able to assert the interests of his tribe not only against other tribes, but also against the government. To a certain degree, the status of

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[14] This is a common feature of tribal societies in the Near and Middle East, see Gellner 1981: 210. It also applies to imāmic rule in Yemen; as pointed out by Madelung (1987: 176), the disapproval of hereditary succession in the Zaydī doctrine created dynastic problems and Zaydī history witnessed bitter struggles among brothers, relatives and other sāda lines for succession.

the shaykh is not only inherited, but also "earned" through continuous and honourable performance of his intra-and intertribal duties and tasks before and after his investiture (Gingrich 1989a: 131). Dostal described the complex election processes of shaykhs, which consist partly in direct, partly in indirect elections, through electoral committees (Dostal 1985: 230). The investiture of a new shaykh is confirmed within a tribal document, which all who have elected him sign.

Ideally, the most capable successor is selected, and both the preferences of the old shaykhs as well as public opinion play a crucial role in the nomination of a successor. In practice, however, it often happens that not the "superiority of abilities", but the influence of groups from within and outside the tribe controls the selection of the shaykh. For example, the incumbent shaykh can prefer a certain son or relative and introduce him preferentially in the practice of leadership and its privileged knowledge (Gingrich 1989a: 129, 131-132; Abū Ghānim 1985: 251-298). Some candidates may have large support groups within the tribe which compete with other groups and both will try to impose their candidates in the election by asserting that only their branch of sub-clans is entitled to office (Weir 2007: 989). Moreover, particularly influential and/or strategically important tribes often attract external attempts to influence the shaykhly succession and to control the investiture of the shaykhs. Such interference is reported from the time of the Ḥamīd al-Dīn imāms, when imāms – notably Imām Aḥmad – tried to influence the succession of certain (often from the imām's point of view "recalcitrant") shaykhly lines and in some cases attempted to depose entire shaykhly lines and replace them with more "suitable" ones (Wenner 1967: 65; O'Ballance 1971: 27-28). Since the end of the 1960s civil war, the patronage politics of the Yemeni government has achieved similar effects. Governmental influence in areas with strong tribal traditions relies mainly on the political and financial co-optation of local shaykhs. In addition, the "superiority of abilities" (Niebuhr) is a relatively ambiguous category because, depending on local conditions, different character traits and skills can qualify a potential successor to the shaykhly office, and these preferences can, just as political situations and other external circumstances, be subject to rapid changes.

By way of example, at the time when the shaykh of a minor, but strategically and politically important tribal segment of a Khawlān b. ʿĀmir member tribe died in 1997, this tribe was facing a menacing environment characterized by the looming Ḥūthī conflict. One could say that the interests of the Ḥūthīs were diametrically opposed to the interests of that particular shaykhly line. After the death of the old shaykh his second born son was elected his successor because he had a reputation of boldness and recklessness and the courage to face armed conflict; character traits which at that time were considered being particularly important for pursuing this tribal segment's interests in the conflict-ridden environment of Ṣaʿdah. After this new shaykh – predictably – came into violent clashes with the Ḥūthīs who finally displaced almost the entire shaykhly line, his firstborn (also exiled) brother began to grow into the role of the segment's shaykh. At the time of their father's death this firstborn son was not taken into consideration when the new shaykh was selected, because he had the reputation of being harmony-oriented and avoiding conflicts (*la yuḥibb mashākil*), in other words: too conciliatory. These character traits, however, regained crucial importance after the shift of the power structures in Ṣaʿdah in 2011 in favor of the Ḥūthīs and in particular during the National Dialogue[15], which in part seeks to encourage contact and reconciliation between Ḥūthīs and their (tribal, political, and denominational) contenders. Hence, the firstborn brother became a National Dialogue delegate, representing not only his tribal segment but rather the displaced tribes and tribal elites of Ṣaʿdah in their entirety during the protracted and extremely difficult negotiations with Ṣaʿdah's new Ḥūthī suzerains. In the long run it can be expected that the Ḥūthīs as the new shadow government in Ṣaʿdah will try to influence the succession within this shaykhly line and to enforce the election of a candidate who is receptive and responsive towards their positions and interests. Since the positions of the Ḥūthīs and this shaykhly line still remain utterly incompatible, Ḥūthī pressure may even be harder and lead to the marginalization of this shaykhly line and the empowerment of another, more cooperative one.

By the interplay of selection and succession, it is usually impossible that someone is elected as the successor of a shaykh without descending from the same genealogical line. Once on a track, shaykhly clans are

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[15] The National Dialogue, which started in March 2013, aims to set in motion a process of national transition. By bringing together the different groups in Yemen it will address a range of issues related to the transition process. If successful, the dialogue will lead to renew a vision for a "civil state", presidential elections 2014, and the drafting of a new constitution. If the dialogue stalls, state failure and the danger of a new civil war will loom ominously as a likely outcome.

extremely difficult to derail. The deselection of a shaykh, as observed by Dostal among the Banī Ḥushaysh, actually occurs only in rare cases when a shaykh proves extremely incapable (Dostal 1985: 238). This is also due to the fact that shaykhly lines usually inherit important tribal documents and contracts whose knowledge and handling is essential for the performance of the shaykhs duties and responsibilities (Gingrich 1989a: 131-132; Weir 2007: 101). This explains why many shaykhly lines of Upper Yemen could, despite all historical vicissitudes and rivalries, maintain their positions throughout centuries.

The longevity of shaykhly lines and the principle of dynastic succession are reflected by the continuous reference to the eponymous lineage ancestors through the use of the affix *ibn* or *bin* (son of). Upon inauguration, each newly elected office holder of a long-standing shaykhly line receives this affix – e.g. Ibn Muqīt, Bin al-Aḥmar, etc. – which identifies him as the agnate of the historical founder of this particular shaykhly line. The title remains his "term of address" and "term of reference" throughout his tenure, and under this common name all shaykhs of the same line operate and have done so in some cases for over a thousand years. Thus the official name of the shaykhs from long-standing shaykhly lines is a genealogical designation, which declares the agnatic legitimacy of its bearer (Gingrich 1989a: 134).

These are the basic principles of tribal leadership as they can be observed throughout Upper Yemen and in similar forms elsewhere in south-western and southern Arabia, and to a certain extent also among many other tribal societies of North Africa and the Near and Middle East, notwithstanding important regional and social differences. Turning to the substance of this chapter, in the following I shall examine – on the basis of the commonalities outlined so far – different concepts of leadership prevailing among the tribes of Khawlān b. ʿĀmir and Hamdān. The distinct features of these tribes become clear if one looks at the layers of authority in tribal leadership which these tribes have developed — specific orders of precedence which correspond more, or less, with the internal structures of the respective tribes. These specificities in hierarchy and precedence become particularly evident by close consideration of two key responsibilities of tribal leaders: representation and jurisprudence (arbitration).

REPRESENTATION

Clans, sections, tribes and confederations are, as demonstrated, the principal entities of tribal organizations in Upper Yemen. These have corporate identities that transcend generations, and normally (but not always) each of these entities has at its apex a shaykh. The shaykhs are arranged in a more or less hierarchical order, i.e., they form layers of authority and of corresponding responsibilities in respective sub-fields of chiefly authority. These layers of authority are not automatically synonymous with a power structure; rather they indicate the position of shaykhs within the internal organization of the tribe or the confederation. These layers of authority and their function differ from confederation to confederation, and often even from tribe to tribe.

Before we consider the layers of authority and orders of precedence among the shaykhs in regard to their responsibilities of representation, we should examine their distribution within the tribal structures. The Khawlān b. ʿĀmir case allows an examination of the relation between tribal structure, position of shaykhs and layers of authority more readily than one can in most other tribes. One will rarely find a tribal confederation in which the relationship between these aspects is as orderly and stable as among Khawlān b. ʿĀmir.

The confederation of Khawlān b. ʿĀmir is, as we have seen, distinguished into the moieties of Furūd and Yahāniyyah. The tribes of the Yahāniyyah moiety include Rāziḥ, Khawlān, Jumāʿah, Fayfāʾ, and Banī Mālik. The tribes of the Furūd moiety include the tribes Saḥār, Munabbih, and Balghāzī. Each of these eight member tribes of the confederation subdivides into tribal moieties, and the tribal moieties further subdivide into numerous segments, sub-divisions, and clans.[16]

From the smallest to the largest groups, almost every one of these groups is represented by a shaykh. The shaykhs are, according to tribal internal organization, hierarchically ranked. The order of precedence among the shaykhs of Khawlān b. ʿĀmir corresponds to the structural order of the tribes and the confederation as

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[16] Bipartite structures are also proven for the other constituent tribes of the Khawlān b. ʿĀmir confederation: Munabbih subdivides into the Shaʿshaʿ and ʿAliyyin moieties (Gingrich 1989a: 185-191, 1994: 25-26; Chelhod 1985: 56), Rāziḥ into Aḥlāf and Jihwaz (Chelhod 1985: 56; Weir 2007: 130-135), and Saḥār into Kulayb and Mālik (Chelhod 1985: 56; Gingrich & Heiss 1986: 170 n. 120; Lichtenthäler 2003: 41). The same applies to the member tribes on the Saudi side of the confederation.

a whole. On every level of the tribal structure, except the clan level, the tribal groups and their shaykhs are linked by a *shaykh al-shaml* (Gingrich 1989a: 105-124, 1994: 101; Weir 2007: 129-30). The term *shaml* is derived from the Arabic term *shamila*, meaning "uniting or gathering together", equivalent to the ancient Arabic term *mujammiʿ*, the "uniter" (Serjeant 1977: 228-229, 1982: 14). The *shaykh al-shaml* "gathers" (*yashmil*) the members of his tribe or tribal group as well as their particular shaykhs as a body against others and allows them to act as a unit in so far as he "gathers the word of all". The principal task of the *shaykh al-shaml*, whether at the level of tribal segments, tribal moieties, member tribes, confederation's moieties, or the whole confederation, consists in the representation of his respective tribal entity and the representation of the entity's interests towards third parties, be it other tribal units or the government (Gingrich 1989: 105). The *shaykh al-shaml* is a higher tribal representative and diplomatic authority than his coequal peers or colleague shaykhs of the same structural level within the tribal hierarchy. The representative function of the *shaykh al-shaml* is always associated with a well-defined tribal group that forms the addition of his title, for instance, *shaykh shaml al-ʿAbdīn*, *shaykh shaml Saḥār*, *shaykh shaml Furūd*, or *shaykh shaml Khawlān b. ʿĀmir*, and these titles indicate that the *shaykh shaml* of Saḥār has a higher rank in regard of tribal representation than the *shaykh shaml al-ʿAbdīn* because al-ʿAbdīn is a segment of Saḥār, etc.

This order of precedence can be demonstrated with the example of the *shaykh shaml Khawlān b. ʿĀmir*, the highest representative of the confederation. Jumāʿah tribe consists of twelve sections: Banī ʿUthmān, al-Baytayn, Banī Ḥudhayfah, Banī Shunayf, Ilt al-Rubayʿ, Āl Talīd, Majz, al-Maʿārīf, Banī ʿUbbād, Banī Suwayd, Āl Jābir, and Qaṭābir (Brandt i. pr.). Six out of these twelve sections belong to the tribal moiety of Naṣr, and each of these sections is further divided into sub-divisions, clans, etc. The Banī ʿUthmān section has three sub-divisions (Āl Thawbān, Banī al-Ḥārith, and Banī al-Khuṭāb), and each of these sub-divisions is gathered and represented by its *shaykh al-shaml*. Ibn Muqīt, the *shaykh al-shaml* of Āl Thawbān, gathers and represents all sub-divisions of Banī ʿUthmān, whereas the other two shaykhs only represent their own sub-divisions. Banī ʿUthmān and the five other sections constitute the Naṣr moiety. Also the Naṣr moiety is gathered and represented by Ibn Muqīt, who therefore occupies the position of *shaykh shaml qabāʾil Naṣr*. The sections of the other tribal moiety, the Aḥlāf, are represented by Ibn Ḥadabah. The senior shaykh of the Naṣr moiety, Ibn Muqīt, is also structurally superior to the senior shaykh of the Aḥlāf moiety and therefore occupies the position of the *shaykh al-shaml* for the whole Jumāʿah tribe. On this hierarchical level, he has within the Yemeni Khawlān b. ʿĀmir tribes four coequal peers, and within the whole Federation of Khawlān b. ʿĀmir in Yemen and Saudi Arabia, seven coequal peers, namely the *shuyūkh al-shaml* of the other seven tribes of Khawlān b. ʿĀmir confederation: Ibn al-ʿAzzām of Rāziḥ, Ibn Rawkān of Khawlān, Ibn al-Fayfī of Fayfāʾ, Ibn al-ʿAthwān of Banī Mālik, Ibn Jaʿfar of Saḥār, Ibn ʿAwfān of Munabbih, and Ibn al-Ghazwānī of Balghāzī. Five of these (including Ibn Muqīt) belong to the confederation's Yahāniyyah moiety, and the other tribes belong to the confederation's Furūd moiety. The confederation's moieties are also represented by certain shaykhs; the senior representative of the confederation's Furūd moiety (*shaykh shaml Furūd*) is the *shaykh al-shaml* of Saḥār, Ibn Jaʿfar. The *Yahāniyyah* moiety is gathered by the senior shaykh of Banū Mālik, Ibn ʿAthwān. Ibn Muqīt is, however, structurally superior (albeit he does not represent one of the confederation's moieties); Ibn Muqīt is therefore the structurally highest-ranking shaykh of all tribes of the Khawlān b. ʿĀmir confederation and entitled the *shaml shumūl* or *shaykh shaml Khawlān b. ʿĀmir al-kubrā*.[17] Simultaneously, he is the head of the *majlis al-shuyūkh* (the shaykhs' council) of Khawlān b. ʿĀmir, which consists of the senior shaykhs of the member tribes of Khawlān b. ʿĀmir and which comes together on certain rare occasions (Gingrich 1989a: 127-128, 157).

Historically the position of Ibn Muqīt as the highest representative of the confederation was at some times connected with enormous tribal prestige and influence; his position is, however, not recognized by all member tribes alike.[18] His supreme position does not wield stable power; the extent of power which his office confers depends on the personal capabilities of the incumbent. Until the 1962 revolution and the subsequent civil war, the Muqīt family maintained close (but not always conflict-free) relations with the Zaydī

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[17] Ibn Muqīt is not only the head of all Khawlān b. ʿĀmir tribes in Yemen and Saudi Arabia, but de jure even of tribal groups of Khawlānī stock in other countries of the Arabian Peninsula and North Africa, see Brandt (i. pr.).

[18] For reasons of inter-tribal rivalry and due to their own opposition to the royalists, the Munabbih do not recognize the authority of Ibn Muqīt to the same extent as the other member tribes of the Khawlān b. ʿĀmir confederation (Gingrich, pers. communication).

imāms which were reinforced through marriage relations with influential *sayyid* families (Gingrich 1989b). Similar to the tribes of Ḥāshid and Bakīl, the fortunes of many tribal leaders from Khawlān b. ʿĀmir were bound up with those of successive imāms, struggling with them for power and influence, and supporting or opposing them during conflicts with their rivals.[19] During the 1960s civil war, Yaḥyā Muḥammad Muqīt, the then incumbent, was a staunch royalist, who supported Imām al-Badr "with all might" (*bi-quwwah*). He is still remembered by many people in Khawlān b. ʿĀmir with tremendous admiration. During her fieldwork in Rāziḥ in the 1970s, local informants reported to Weir that Yaḥyā Muḥammad Muqīt "had to be obeyed" (Weir 2007: 137), and *sādah* from Ḍaḥyān, normally cautious about endorsing tribal shaykhs, told me with undisguised admiration that Yaḥyā Muḥammad Muqīt "was capable of ruling Yemen and what is adjacent to it" (*kāna muʾahhal li-ḥukm al-Yaman wa mā jāwrihā*). Both *sādah* and *qabāʾil* honour the family as a pillar (*rukn*) of the Zaydī order.

Due to their royalist stance during the 1960s civil war, the Muqīt family has since lost much of its former power and influence. The successor of Yaḥyā Muḥammad Muqīt, Ḥasan, accomplished the turn towards the now dominant republican power. Yet he never managed to gain the political influence of the so-called *shuyūkh al-thawrah* – those shaykhs who supported the republic during the civil war, were rewarded accordingly for their allegiances, and who did not hesitate to play off their starting advantages against their rivals. In addition to these long-term effects of intra-tribal rivalry, the assemblage of multiple and contradictory tribal, local, national and international loyalties, which arose after the 1960s civil war in the interplay between local and domestic politics, the republican Yemeni government, and Saudi Arabia make it difficult for Ḥasan Muqīt to reflect publicly unequivocal positions, although this would not be impossible, as the al-Aḥmar example of Ḥāshid shows (we shall return to this below). He rather exerts his influence through arcane diplomacy in camera and hidden from the public gaze, pursuing his tribal and political objectives through formal and informal relationships. The consequence is a certain lack of transparency that undermines the prerogatives of tribal representation. Consequently, he has been animadverted for neglecting the principle of the *shaml* (the one who gathers, represents, or unites) as a central part of his supreme title, position, and authority. This lack of representation became particularly obvious during the Ḥūthī conflict because in times of utmost threat and disruption of the confederation during the Ḥūthī wars, tribal policy towards the state and the Ḥūthīs should not have been delayed by arcane diplomacy.

The enormous stability and persistence of hierarchies and layers of authority among Khawlān b. ʿĀmir is demonstrated by the fact that the century-old system of the *shaml* remains unaffected by this ebb and flow in power and political fortune.[20] The Muqīt shaykhly line, regardless of how powerful or insignificant the respective incumbents may be, continues to provide the highest representative of Khawlān b. ʿĀmir, even if other shaykhs, who may stand far below him in regard to this order of precedence, have temporarily gained far more power, influence, and wealth. These "minor" shaykhs push their own objectives through in the tribal environment of Khawlān b. ʿĀmir; however, its ancient order of representation and its layers of formal authority are maintained and preserved.

Compared to Khawlān b. ʿĀmir, the precedence of representation among the shaykhs of the Hamdān confederation – the tribes of Ḥāshid and Bakīl – is less stable. It is to a far greater extent negotiable and alterable and subject to the assertiveness of the individual shaykh. The office of the shaykh is constantly bound to those families claiming hereditary entitlement to shaykhdom, but the order of precedence among them is subject to a bargaining process among rival tribal shaykhs from the same "nested group". This comparatively pronounced fluidity of authority contributes to a decentralisation of representation among the tribes of the Hamdān confederation. At first glance this seems surprising: since at least the early eighteenth century, the position of senior shaykh of all Ḥāshid is inherited within the al-Aḥmar shaykhly line of al-ʿUṣaymāt (we

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[19] On mutual alliances and interdependences between imāms, tribes and shaykhs, see Dresch 1989: 198-230 passim; 1991b.

[20] According to local evidence, the Muqīt shaykhly line holds the position of the *shaykh al-shaml* for the whole of Khawlān b. ʿĀmir since about 600 years. The current hierarchical structure has probably evolved in medieval times to coincide with the formation of the confederation. Before that time, different local families and lineages competed for supremacy. The Muqīt shaykhly line is apparently of extreme long standing: Al-Hamdānī mentions in al-Iklīl (Iklīl 1: 130) that in the 10th century AD Banū Naṣr already had the dominion over Jumāʿah. The incumbent Ḥasan Muḥammad Muqīt can recite a pedigree of 64 ancestors (sing. *jidd*), which certainly goes back to the 10th century AD, if not further (Brandt i. pr.).

shall return to this point below). Apart from this prominent example, the precedencies of representation and leadership hierarchies among the tribes of the Hamdān confederation are far less regular and stable than among Khawlān b. ʿĀmir.

We should at first cast a glance on the overall tribal divisions of this large confederation. Hamdān consist, as we have seen, of the two independent confederations Ḥāshid and Bakīl. The constituent tribes of the Ḥāshid confederation are al-ʿUṣaymāt, ʿIdhar, Khārif, Banī Ṣuraym, Sanḥān, Bilād al-Rūs, and Hamdān Ṣanʿāʾ. The Bakīl confederation comprises Sufyān, Arḥab, Nihm, ʿIyāl Yazīd, ʿIyāl Surayḫ, al-Ahnūm, Murhibah, Banī Maṭar, Banī Ḥushaysh, Khawlān al-Ṭiyāl, and the Shākir tribes Wāʾilah and Dahm. These tribes further subdivide extensively. In some cases, not every element of the tribal structure has a shaykh of its own. For Dhū Ḥusayn (a segment of Dahm), Banī Ṣuraym, Arḥab und Khārif, such irregularities are documented. These tribes or some of their sections have either numerous shaykhs on the same structural level without any order of precedence or no shaykh at all (Dresch 1984a: 37, 1989: 90; Chelhod 1970: 71).

In contrast to Khawlān b. ʿĀmir, where a representative of tribal units and the confederation as a whole is called *shaykh al-shaml*, we are witnessing among the tribes of Ḥāshid and Bakīl the phenomenon of the *shaykh mashāyikh* (Rathjens 1951: 175; Serjeant 1967: 284-297; Dresch 1984a: 31-49). The term *shaykh al-shaml*, although by no means unknown, is used only occasionally in central Yemen (Serjeant 1977: 228-119). In English the title of the *shaykh mashāyikh* is often translated into "shaykh of shaykhs" or "paramount shaykh" and refers to those shaykhs who occupy a particularly influential position among their coequal peers, with their charisma and influence often radiating far beyond their original tribal units.

By contrast to Khawlān b. ʿĀmir among whom the position of a *shaykh al-shaml* is constantly inherited within the same shaykhly lines, among Hamdān the position of a *shaykh mashāyikh* is historically less restricted to certain shaykhly lines. Especially among Bakīl, yet not only there, it is subject to active negotiation between competing shaykhs or shaykhly lines, whose claims are disputed and occasionally even fought over.

The prestigious position of a *shaykh mashāyikh* itself is not related to coercive power over other shaykhs and tribes. However, since this position is the result of an active bargaining process among rivals, it is usually much closer to the concept of power than the position of the *shaykh al-shaml* among Khawlān b. ʿĀmir. Not all of the individual tribes of each confederation recognize a *shaykh mashāyikh* of their own, and even here the position can remain contested between different competing shaykhly lines (Dresch 1984a: 37). Where a *shaykh mashāyikh* is recognized, his position is expressed in a document, which his "brother" shaykhs in the tribe all sign (Dresch 1984a: 37, 1989: 102).

Dresch illustrates this struggle for authority and representation among the Hamdān by using the example of the homonymous member tribe of the Hamdān confederation, Hamdān Ṣanʿāʾ of Ḥāshid, which occupies a territory north and northwest of the capital Ṣanʿāʾ (Dresch 1984a: 38). Before the 1960s civil war, the position of the *shaykh mashāyikh* of Hamdān Ṣanʿāʾ was held by ʿĀtif al-Musallī, but was then "taken over" by Muḥammad al-Ghashmī, whose brother later enjoyed a brief period as President of the Republic before being assassinated in 1978. The rivalry between the shaykhly lines of al-Musallī and al-Ghashmī persisted and repeatedly led to violent conflicts over the "paramountcy" of Hamdān Ṣanʿāʾ. A similar rivalry happened in Banī Maṭar, a Bakīl section in the mountains west of Ṣanʿāʾ; before the civil war its *shaykh mashāyikh* came from Bayt Rammāḥ, but the position was then taken by Aḥmad al-Maṭarī, whose family were previously only shaykhs of a minor section of Banī Maṭar (Dresch 1984a: 38). Dostal, too, describes this struggle for paramountcy among the Banī Ḥushaysh in the 1970s (Dostal 1985: 239). In all cases, the profound political changes during and after the 1960s civil war led to a realignment of political positions and alliances, a restructuring of power relations and, ultimately, a reshuffle of the layers of authority and the vigorously enforced rise of shaykhly lines at the expenses of others.

Until today the tribal power relations among the tribes and sections of the Hamdān confederation are continuously rebalanced. By way of example, the Wāʾilah are one of the four sections of the Shākir (Bakīl) occupying vast territories in the east and north-east of Ṣaʿdah province and to the south, in the adjacent areas of al-Jawf.[21] Wāʾilah subdivides into numerous sub-sections, and each of these sections and their subdivisions are represented by one or more shaykhs. The most prominent of them come from the shaykhly lines

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[21] For more information on Wāʾilah, see Gingrich 1993 and Lichtenthäler 2003.

of al-ʿAwjarī, Shājiaʿ, Dughsān, Qamshah, al-Ithlah, Dāyil b. Fāris, al-Kaʿbī, and al-Razzāmī, just to mention a few. Depending on the changing historical and political circumstances in that region, during the past forty years, each of these shaykhly lines of Wāʾilah gained prominence and influence, which radiated beyond the borders of Wāʾilah: the al-ʿAwjarī by their staunch royalist stance during the 1960s civil war and their subsequent radical shift in favour of the republic, the Dughsān by their connections to the communists of Southern Yemen in the years after the 1960s civil war, the Shājiaʿ at the turn of the millennium by their protest against the implementation of the Treaty of Jeddah and their violent challenge of the Yemeni and Saudi states, the al-Ithlah by their ties with radical Sunnism, the al-Razzāmī and parts of the al-Kaʿbī as supporters of the Ḥūthī movement since its very beginning, and all of them as extremely successful promoters of licit and illicit cross-border trade in an environment characterized by the substantial absence of state structures. According to historical contexts, one of them is always more "visible" to outsiders than the others and hence appears publicly as *shaykh mashāyikh Wāʾilah*, but none represents Wāʾilah as a whole. A local source explained this to me in the following way: "There is no one who gathers them officially (*la yashmilhum aḥad rasmiyyān*)… there is simply one of them at each time more prominent and influential than the others". Wāʾilah is a particularly politically diverse and competitive environment, and the prevalent diversity of political positions and the violent particularism of Wāʾilah's segments and divisions indicate that the possibility for one of them to gather or to represent the others is extremely low. Depending on the political agenda of a time, one of them may appear publicly as *shaykh mashāyikh Wāʾilah* even though he is neither elected by his colleague shaykhs nor recognized as such.

By contrast, among the immediate western neighbour of Wāʾilah, Saḥar of Khawlān b. ʿĀmir, nobody would think of considering the shaykhly lines of Manāʿ or Mujallī, who gained considerable tribal influence, political power and material wealth during and after the 1960s civil war, *shaykh al-shaml* of Saḥar. The position of the *shaykh shaml Saḥar* (along with the position of *shaykh shaml Furūd*) is firmly rooted in the Jaʿfar shaykhly line, despite the fact that their royalist stance during the 1960s civil war virtually led to a continuous loss of most of their previous power and standing, resulting in a decline of influence until it eventually diminished into insignificance.[22]

This ebb and flow of political fortunes and assertiveness does not affect the persistence of tribal relations and their relevance. A *shaykh mashāyikh*, as Dresch admirably elaborated, does not forfeit his previous position, each shaykh always remains the shaykh of the section that his family comes from: "In the way that the paramountcy of a tribe or confederation changes hands one can see politics (in fact, struggles for power) intruding on the formal alignments of shaykhly houses with the tribal structure. A particular shaykhly family is identified first with a particular section but then comes to be identified also with a larger unit; often enough it then loses its grip, as it were, and reverts to being identified only with the section it comes from. The tribal structure remains largely unchanged and shaykhly houses rise and fall within it" (Dresch 1984a: 38). The rise and fall of shaykhly lines and the ebb and flow of their authority and political assertiveness are the reasons why (again, in Dresch's phrase) "the structural or formal domains of shaykhly lines do not neatly match with political significance" (Dresch 1984a: 39). In other words, among the tribes of Hamdān there is a disjunction between the tribal structure and the domains of the shaykhs' actual influence and authority.

This decentralization and fluidity of authority and representation among the tribes of the Hamdān confederation may seem surprising or even contradictory at first sight because, among the Ḥāshid, the position of the *shaykh mashāyikh Ḥāshid* has virtually been inherited since at least the early eighteenth century within the al-Aḥmar shaykhly lineage of al-ʿUṣaymāt (Dresch 1984a: 37). Their almost exclusive entitlement to the high office of the *shaykh mashāyikh Ḥāshid* is due to the fact that the various holders of this position have all been men of great influence, who boosted (and helped to overthrow) imāms and who decisively influenced governments. Until his death in December 2007, ʿAbdullah al-Aḥmar had been the most prominent representative of tribal Upper Yemen, at times even called *shaykh mashāyikh al-Yaman* (i.e., paramount shaykh of [all tribes of] Yemen). Since the beginning of the revolution in 1962, he had held important political offices (Koszinowski 1993; Dresch 2000 passim), and after the 1960s civil war he was so influential that his marriage

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[22] On the political marginalization of the Jaʿfar shaykhly line, see Lichtenthäler 2003: 57.

policy even transgressed the traditional social strata in Yemen.[23] After his death, the position of the *shaykh mashāyikh Ḥāshid* was transferred to his firstborn son, Ṣādiq.

Yet this position of the *shaykh mashāyikh* of Ḥāshid is, so to speak, an exception to the rule among Hamdān, and it raises more questions than answers. What exactly is the "paramountcy" of the al-Aḥmar family? Not all of Ḥāshid are equally under the al-Aḥmars' sway. Under the aegis of ʿAbdullah al-Aḥmar, the tribes al-ʿUṣaymāt, Banī Ṣuraym and Khārif formed a remarkably cohesive unit, yet other Ḥāshid tribes, such as ʿIdhar, were largely beyond his influence (Dresch 1984a: 43, 1989: 104-105; Peterson 2008: 16). In the 1970s, Serjeant noted that ʿAbdullah al-Aḥmar's summons to war would even be responded to by Bakīl (Serjeant 1977: 228-229). This appreciation must be viewed in the context of its time and is certainly primarily related to ʿAbdullah's leading role during the large tribal mobilizations of the 1960s civil war and then during the so-called "Revolutionary Correctional Initiative" of President al-Ḥamdī (1974-1977), who took actions to curb the political and military power of the shaykhs in the early YAR, in particular that of the major shaykhs of the north. During the Correctional Initiative, ʿAbdullah al-Aḥmar forged a national tribal alliance, which gathered shaykhs from almost all tribes of Upper Yemen and brought them into position against al-Ḥamdī. Yet already during the 1994 civil war, the title of *shaykh mashāyikh al-Yaman* was only a phrase, which today is no longer heard of at all (Dresch 1995: 40). During the Ḥūthī conflict, the events in Sufyān have clearly shown that the tribes of Bakīl were not even remotely considering following al-Aḥmar's summons, but rather resorted to ganging-up warfare against their "cousins" from Ḥāshid.[24] At the same time the tribes of Khawlān b. ʿĀmir, too, bluntly rejected a summon attempt of Ṣādiq al-Aḥmar. However, the standing and influence of the al-Aḥmar shaykhs is certainly not confined to Ḥāshid. ʿAbdullah's death has left a vacuum in national affairs and in the effective leadership of al-ʿUṣaymāt as well as Ḥāshid, and his son Ṣādiq is unlikely to replace him as a "paramount shaykh" in the same way (Peterson 2008: 16).

The history of the other constituent confederation of Hamdān, Bakīl, has been rather different: The paramountcy of all Bakīl has shifted repeatedly, being contested between different families rather than remaining with a single family, as in Ḥāshid. During the time that the al-Aḥmar were first mentioned as heads of Ḥāshid, the heads of Bakīl were from the al-Juzaylān shaykhly line of Dhū Muḥammad (Abū Ghānim 1985: 208; al-Jirāfī 1951: 181; Dresch 1984a: 37-38). Political upheavals have always had direct repercussions on paramountcy among Bakīl. For example, during the 1960s civil war (1962-1969), two paramount shaykhs of Bakīl were active, mainly in the sense of being war-time leaders of the confederation: Amīn Abū Rās of Dhū Muḥammad, who took a firm republican stance, and Nājī al-Ghādir of Khawlān al-Ṭiyāl, whose sympathies were less clear but were in the late phase of the civil war more with the royalists (Serjeant 1977: 228-229; Dresch 1989: 271 n. 14). The claims of the two families lapsed, although Ṣādiq Abū Rās, Amīn's firstborn son and successor, is now an influential political figure.[25] For some years during the period after the 1960s civil war no one was recognized as *shaykh mashāyikh Bakīl*, but then in 1981 in a huge tribal gathering in Bīr al-Mahāshimah (in Khabb al-Shaʿf area in northern al-Jawf), Nājī al-Shāyif of Dhū Ḥusayn was pushed into the position of the *shaykh mashāyikh Bakīl*.[26] Since the end of the 1960s civil war and the assassination of Amīn Abū Rās in 1978 none has gained, or is likely to gain, the same influence over Bakīl, which the al-Aḥmar recently had over Ḥāshid.[27] This lack of representation and "decentralisation of power", as Caton puts it, is not only characteristic of many Bakīlī tribes, but for the Bakīl confederation as a whole (Caton 1990: 11).

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[23] From Bruck 2005: 146 refers to the marriage of ʿAbdullah al-Aḥmar ("Amin") with a *sharīfah* (female descendant of the prophet); his son Hāshim is a product of that liaison. For the sāda, increasingly beleaguered since the 1962 revolution, this marriage with the influential shaykh had political reasons.

[24] On the conflict between Ḥāshid and Bakīl during the late phase of the Ḥūthī conflict, see Brandt 2013.

[25] Ṣādiq Abū Rās held different high offices, e.g., Minister of State, Minister of Agriculture, Minister of Civil Service, Minister of Local Administration, Governor of Taʿiz, and most recently the post of a Deputy Prime Minister for the General People's Congress (GPC). He was an influential person of the inner circle of the Ṣāliḥ regime and has been among those who were injured during the blast in the presidential compound's mosque in June 2011, as a result of which he lost a foot.

[26] Serjeant 1977: 228-229; Dresch 1989: 366-372; Caton 1990: 11. Nājī al-Shāyif is said to be a henchman of the al-Aḥmar clan and Saudi Arabia, who put him in place to weaken the influence of Bakīl, and in particular of Bakīl's formerly powerful Abū Rās lineage.

[27] Dresch 1984a: 38; Caton 1990: 11-12. Caton (1987, 1990) also points to the strong position of local *sādah* in Khawlān al-Ṭiyāl whose responsibilities and duties at the time of his fieldwork were comparable to those of a *shaykh mashāyikh*.

After the 1960s civil war, Ḥāshid's dominance was further enhanced by the fact that largely republican Ḥāshid was able to position themselves better in the post-revolutionary republic than most tribes of Bakīl, giving the republican government and administration a certain Ḥāshidī hue, a feature which further increased the discontent of Bakīl. Particularly, the staunch republican *shaykh mashāyikh* of Ḥāshid, ʿAbdullah al-Aḥmar, and his protégés benefited from government patronage, and later on the "gray eminences" of Sanḥān, i.e., relatives of long-time President Ṣāliḥ. During the Ṣāliḥ regime (1978-2011), the small Sanḥān tribe enjoyed tremendous access to state resources. Until Ṣāliḥ's ousting in 2011, it was mainly from members of this group, yet most of them shrouded of secrecy, that the regime's inner circle was drawn.[28] Bakīl, by contrast, did not benefit from links to the centre to the same extent as leading figures of Ḥāshid, although members of the tribal elite from Bakīl became influential power-brokers of the Ṣāliḥ regime as well. Their (real or supposed) under-representation in the republican government and segregation from the inner echelons of power is a subject of continuous dissatisfaction among the tribes of Bakīl and still generates a great deal of "bad blood" between them and their "cousins" of Ḥāshid.

The tribes of Bakīl themselves are well aware that the lack of internal cohesion and unity of the confedera-tion is a major reason for their (perceived or real) political weakness. A number of attempts have been made at resurrecting Bakīlī cohesion, including efforts by various competing shaykhs. Among the most recent was the large gathering in November 2010, which (like the meeting of 1981, in which Nājī al-Shāyif was elected *shaykh mashāyikh Bakīl*) was convened in Khabb al-Shaʿf in the remote desert-like outskirts of the vast Empty Quarter in northern al-Jawf in order to "strengthen and re-organise the house of Bakīl" (*taʿzīz wa tartīb al-bayt al-bakīlī*).[29] The initiative for this assembly was launched by Amīn al-ʿUkaymī, a shaykh of Shawlān (Dahm) and bitter enemy of former president Ṣāliḥ, known for having little reservations in regard to pursuing alliances across the political spectrum. However, the conference did not yield the expected results, since important shaykhs of Bakīl, such as Nājī al-Shāyif, had cancelled their participation and because some tribes of Dahm blocked roads leading to the conference's venue in al-Jawf due to blood feud with other Bakīlī sections.

In June 2013, numerous Bakīlī shaykhs convened a new gathering in Ṣanʿāʾ, again, in order to "unite" the Bakīlī tribes (*min ajl tawḥīd qabīlah Bakīl*) and to address the problematic situation of Bakīl in regard to what they referred to in a joint statement as the "segregation, marginalization, exclusion and deprivation of political participation" of Bakīl during the previous decades. The meeting resulted in the establishment of a 20-point plan in order to enhance the national role of Bakīl (*Mareb Press* 2013). Their radical rhetoric indicates that they are also at odds with the Transitional Government, which replaced the Ṣāliḥ government in 2011, and that they continue to believe that other tribes and shaykhs (particularly, of course, from Ḥāshid) rather than themselves are still in receipt of government's favours. They are, however, unable to overcome their inner tensions and their prevalent particularism, which results in severe limitations of their influence and power, and their attempts to resurrect internal cohesion and alliances do not produce much.

It is evident that among Hamdān the attempt to distinguish between the concepts of authority, influence, and political power founders. Among Bakīl, this confluence of features in shaykhly positions is to some extent reflected in the title *naqīb* (pl. *nuqabāʾ*). The title *naqīb* is pre-Islamic.[30] In Yemen the title *naqīb* is used as a hereditary title for exceptionally influential shaykhly families, most of them of Bakīlī stock (Dresch 1989: 405, 2006: 13 n. 43, 115 n. 38). For instance, the shaykhly lines of Abū Rās, al-Juzaylān, al-Shāyif, al-Ghādir, Thawābah, al-Ruwayshān, etc., bear the title *naqīb* rather than shaykh. Serjeant explains that dur-ing the Prophet's lifetime, the *naqīb*s of Yathrib (Medina) were tribal headmen in the sense that they "were responsible for the tribes of which they were chiefs and they acted in accordance with customary law of the particular group to which they belonged" (Serjeant 1982: 14). Among Bakīl, the title bears today further con-notations. Sources among the above mentioned families gave me their differing definitions of the term. One

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[28] As elaborated by Phillips (2011: 51-53).

[29] See the interesting interview given by Amīn al-ʿUkaymī (*Mareb Press* 2010).

[30] Sources from Bakīl attribute the term to an ancient religious origin, referring to Surat 5: 11 which says that Allah took a covenant from the Children of Israel (meaning the direct descendants of the patriarch Jacob, also called the "Twelve Tribes") and appointed twelve captains or leaders (*athnī ʿashara naqībān*) among them. The majority of these twelve ancient tribes is now considered "lost" because most of them disappeared from biblical and all other texts after the kingdom were destroyed at about 722 BCE by Assyria and their inhabitants deported or scattered throughout the region (see, for example, Grabbe 2007: 134). The Bakīlī *naqīb*s see themselves as descendants of these mythical lost tribes.

source indicated that in the tribal society of Bakīl, the title *naqīb* means someone who "thoroughly examines the people's matters" (*yanqub* [sic!] *ʿan maṣāliḥ al-qawm*), giving it a social dimension in line with the social functions of tribal leadership. Another source explained that *naqīb* is a title of honour for those shaykhs, who could promote the general interests of their tribal communities through their supra-tribal importance and close relationship with the respective state overlords. A third source linked the title *naqīb* to (military) power and associated it with leadership positions in the Popular Army (*al-jaysh al-shaʿbī*) of the imāmic times.[31] The title has numerous, often ambiguous connotations; it denotes those ancient and long-standing shaykhly lines, most of them from Bakīl, which possess considerable influence in tribal and supra-tribal (political and military) spheres. In Yemen, the *naqībs* are the most promising candidates for paramountcy over Bakīl. Any offence against a *naqīb* is, similar to the *muhajjar* shaykhs, *ʿayb* or "disgrace" for which large amends are due.[32]

Among the Khawlān b. ʿĀmir, the layers of authority are directly linked to the tribal internal organization and hierarchies. Layers of authority can only be described by reference to tribal divisions; they derive from tribal alignments or run neatly in parallel with them. The positions of the shaykhs are continually passed on within these shaykhly lines and thus transcend the generations. The formal alignment of shaykhly houses with structural hierarchies is stable, though even the extent of actual influence is very changeable.

Among Hamdān, a more pronounced tendency to decentralization prevails – any attempts to systematically combine tribal subdivisions and actual domains of shaykhs are doomed to failure. The formal alignment of shaykhly houses with tribes and sections is far less regular than in Khawlān b. ʿĀmir. The position of the *shaykh mashāyikh* is a temporary dignity, or power position, which is contested and which has to be asserted and defended against competitors. Among Hamdān, the place of shaykhs cannot be reduced to an epiphenomenon of tribal alignments as in Khawlān b. ʿĀmir. It is not conceivable that the position of the highest representative of Ḥāshid or Bakīl is held by a politically marginalized family, as it is currently the case among Khawlān b. ʿĀmir. The term *shaykh mashāyikh* identifies the temporary predominance of an individual shaykh over the other representatives of the same tribal unit, it locates those who hold power and exert influence and, so to speak, it "ranks" the shaykhs. The different terms of *shaykh al-shaml* and *shaykh mashāyikh* thus refer to differing social positions (Gingrich 1989a: 105).

JURISPRUDENCE

The ability to solve problems is one of the most important capabilities of what all shaykhs of influence are ascribed. Whereas representation is particularly directed to the "outside" – representation of a tribal group of whatever size to other tribes or the state – the legal obligations of shaykhs are directed to the inside of the tribal community, comprising the tasks of mediation and arbitration according to tribal customary law.

The legal situation in Yemen is characterized by the coexistence of different legal systems. There are three options for conflict settlement: jurisprudence according to the rules of tribal customary law (*ʿurf*), according to Islamic justice (*sharīʿah*), or the state judiciary.[33] These legal systems sometimes criss-cross; in criminal cases, for example, the resolution of situations of homicide can often go through the following steps: police intervention, transmission of the case to customary arbitration, initiation of criminal proceedings by the prosecution, conciliation determining blood money and the abandonment of formal proceedings (Dupret 2000a; al-Zwaini 2006: 9-10).

The state has so far been unable to fully exercise its judicial authority through the court system, as a result of which the tribal judicial system is the predominant arena of justice in many rural areas until now. In the rural areas of Upper Yemen, *ʿurf* and *sharīʿah* law are in many ways complementary and thus coexist. They

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[31] The Popular Army or *al-jaysh al-barrānī* was a kind of paramilitary force made up of tribal levies and the non-regular wing of the imāmic military forces. It is comprised of tribesmen from the Zaydī highlands, see Fattah 2010: 27-28. Other sources of the 18th century mainly use the title *naqīb* of what look to be slave commanders, see Dresch 2006: 13 n. 43. The title *naqīb* is part of the modern Arab military nomenclature, in republican Yemen denoting the equivalent to a "captain" in British or US military ranks. For tribal militias in contemporary Yemen, see Brandt 2014.

[32] Some *shaykhs* enjoy a status of special protection (*hijrah*) among the tribes, see Puin 1984; Dresch 1989: 103-106.

[33] For an excellent overview over state law in Yemen, see al-Zwaini 2012. As a result of the codification process from the 1970s onwards, Yemeni state law incorporates elements from *sharīʿah* (Islamic law), customary/tribal law, excerpts from Egyptian and other Arab laws, and international principles.

are, however, represented by different social strata: whereas the *ʿurf* is promoted by the tribes, a *sharīʿah*-judge belongs either to a family, whose origins trace back to the Prophet (a *sayyid*), or to a family of judges (*qāḍī*, pl. *quḍāʾ*; sharīʿah law specialists of tribal stock). The *sharīʿah* is synonymous with the order which the *sādah* historically attempted to introduce in Yemen (Dresch 1989: 183-188). By virtue of their extensive knowledge of *sharīʿah*, the informal jurisprudence of these *sharīʿah* arbitrators relates almost exclusively to matters with a religious connotation, like marriage, divorce, and inheritance.

Sharīʿah law and *ʿurf* are closely interrelated with each other, although the former is seen as "divine" and the latter as "man-made". *Sharīʿah* law in part developed from pre-existing southwest and west Arabian law, and *ʿurf* was influenced by *sharīʿah* (Serjeant 1962; Messick 1993: 140, 182-184; Weir 2007: 144-147). The importance and complementarity of *ʿurf* is mainly due to the fact that it contains elaborate provisions regarding numerous issues of prime local concern, such as agriculture, trade, animal husbandry, markets, grazing and water-rights, on which *sharīʿah* law is unspecific or silent (Gingrich 1989a: 117-123; Weir 2007: 145-146; Dresch 2006; Obermeyer 1981). Nevertheless, the relationship between the representatives of *sharīʿah* and those of *ʿurf* is not free of competition; historically, the *sharīʿah* representatives often condemned *ʿurf* and designated it by pejorative terms such as *ṭāghūt* (wickedness) (Glaser 1913; Rathjens 1951: 4; Serjeant 1969: 11; Dresch 1989: 184-188; 2006: 3; Haykel 2003: 65). The relation to *sharīʿah* law differs from tribe to tribe. In Rāziḥ, for example, which historically developed a close cooperation with the local *sādah* and the respective state overlords, *ʿurf* is regarded as fully compatible with *sharīʿah* law (Weir 2007: 145-146). Among their immediate tribal neighbours, the more *sādah*-hostile and isolationist Munabbih, *sharīʿah* enforcement through the *sādah* is regarded as an unwelcome interference in tribal affairs. In such cases, a situation of rivalry and competition between *ʿurf* and *sharīʿah*, between the shaykh and the *sayyid* as an arbitrator, can emerge (Gingrich 1989a: 124-126).

Customary law is a set of principles, rules and local precedent cases that regulates the reciprocal obligations of tribesmen as well as tribal obligations towards people defined as "weak". These may be tribesmen in vulnerable situations or members of the nontribal population. It is oriented towards the peaceful settlement of conflicts. In case of conflict it is applied by way of mediation (*sulḥ*) and arbitration (*taḥkīm*). Only when conflict mediation fails will the disputing parties bring their case to arbitration.

For the study of tribal leadership, the consideration of tribal conflict resolution is particularly interesting because a shaykh is bestowed something very like coercive power only while he acts as arbitrator. Normally a shaykh has no formal power over the members of his tribal constituency; but this changes as soon as conflict parties turn to a shaykh and initiate the tribal system of mediation and arbitration. If the problem cannot be immediately solved, the shaykh then takes from each a pledge or surety, called *ʿadl* (e.g., guns, daggers, cash). Once the pledges are taken, the shaykh acts as "guarantor" (*shaykh al-ḍamān*, in Khawlān b. ʿĀmir the material component of this position is also called the *waḍḍān*), meaning he pays the plaintiff in his own group what is due and recovers it from the shaykh of the other section, who in turn recovers it from the culprit in his group (this is one of the reasons why material wealth can boost a shaykh's position). As long as the pledges are held, the case is said to be "on the honour" of the shaykh and he is responsible for what happens. The sum of these relations (the structure which contains a dispute) can reasonably be spoken of as a structure where power is exemplified; power which mere shaykhly standing within a group cannot generate (Dresch 1984a: 39-40; al-Dawsari 2012: 5). But again shaykhs can only perform this role upon request of the conflicting parties; after the conflict ends, their ad hoc role and authority lapse.

Among the confederations of Khawlān b. ʿĀmir and Hamdān, the appointment of arbitrators to contain and settle disputes follows distinct patterns. Whereas the hierarchic and centralized system of representation among Khawlān b. ʿĀmir simultaneously determines the course of the legal proceedings in processes and legal appeal, among Hamdān, the proceedings to contain disputes are less predefined, meaning they are more decentralised and emphasize the principles of neutrality through equidistance.

It has been demonstrated that the precedencies of representation among Khawlān b. ʿĀmir are continuously linked to the tribal internal organization of the confederation. The appointment of shaykhs in processes of arbitration and appeal follows a similar pattern: Among the tribes of Khawlān b. ʿĀmir, a *shaykh al-shaml* is normally also the juridical head of his particular tribal entity. The system roughly works as follows: If disputing persons or tribal groups are from the same tribal moiety and the dispute cannot be solved ad hoc

by mediation through the shaykh of their tribal unit, the case is referred to *shaykh al-shaml* of the tribal moiety. If the disputing parties are from different moieties, usually the problematic cases are referred to the *shaykh al-shaml* of the tribe. The tribal moieties of the member tribes of Khawlān b. ʿĀmir are jural domains, and the *shaykh al-shaml* of a tribal moiety is its judge of appeal in customary law. In this role he is called *maradd* or *radd* (pl. *rudūd*), a term derived from the Arabic verb *radda*, meaning someone who "answers", or "responds', or (in Weir's phrase) "to whom one resorts for solutions and judgments".[34] The *rudūd* are higher legal instances than the other *shuyūkh al-shaml*.

If the *rudūd* of the tribal moieties cannot solve the problem, or if their verdict is not accepted, the case is referred to the *shaykh al-shaml* of Khawlān b. ʿĀmir. The *shaykh al-shaml* of Khawlān b. ʿĀmir is not only the highest representative of the confederation (*shaml shumūl*), but also the final arbiter (*radd al-radd*, *ḥākim nihāʾī*, or *munhā istiʾnāf*) and therefore the highest legal authority in all cases in tribal customary law regarding appeal (*istiʾnāf*), correction (*taṣḥīḥ*), or dismissal (*buṭlān*) of the verdicts of the lower instances, namely the *rudūd* of the tribal moieties. The head of the confederation can modify or set aside the verdicts of the lower instances and issue a new verdict. A source from the Marrān Mountains in Khawlān explained this to me as follows:

"The *shaykh al-shaml* is simultaneously the *radd* for those whom he represents (*al-shaml radd li-man taḥta shamlihu*). If a tribesman does not agree with the verdict of his *shaykh*, he turns to the next higher *shaykh* (*lahu al-dhahāb ilā l-shaykh al-ʾarfaʿ minhu*), who either confirms or rejects the verdict, and if disagreements arise again, then the tribesman can call in the final arbiter (*al-radd al-nihāʾī*), who has the last word. For example, if the *shaykh* of Walad Yaḥyā has issued a verdict against me and I do not agree with it, and he does not accept my protest, then I have the right to go to Ibn Bishr[35] to appeal against the decision of the *shaykh* of Walad Yaḥyā. And if I am not convinced by the verdict of Ibn Bishr, too, then I go to Ibn Muqīt who is the final judicial authority (*radd al-radd*) of the whole Khawlān b. ʿĀmir."

Hence the process of tribal appeal is linked to the internal tribal structure of the tribes and the confederation, but it skips in some cases the level of the *shaykh al-shaml* of a tribe because the tribal moieties (not the tribes as such) are the jural domains of the tribes, who together comprise the larger jural domain of Khawlān b. ʿĀmir. The legal roles of the *rudūd* and the *radd al-radd* are activated from below. They cannot insist on being consulted, nor can they exert authority over tribes other than their own.

Given his elevated position, not all controversial cases are passed to the *radd al-radd*. The *radd al-radd* does not have jurisdiction to check the validity of verdicts in marriage and divorce cases and family disputes. In addition, the *radd al-radd* does not accept cases in which a verdict of a state court (*ḥukm sharʿī*) in Yemen or Saudi Arabia has already been issued. Only in exceptional cases does the *radd al-radd* issue a new verdict; in general his judgment does not differ substantially from the judgment of the lower instance, so as to avoid a loss of authority and prestige of the *rudūd*. Appeal to the *radd al-radd* should not imply a diminution of any *radd*'s sovereignty. The judgment of the *radd al-radd* is final and constitutes the end of the process of tribal appeal. During her fieldwork in Rāziḥ in the 1970s, a local informant reported to Weir that people submitted to the judgments of the then *radd al-radd*, Yaḥyā Muḥammad Muqīt, "like sheep lying down for slaughter" (Weir 2007: 137). No shaykh and no *radd* can set aside the judgment of the *radd al-radd*. Only very few famous *sayyid* arbitrators, such as from the al-Qaṭābirī family, solely and exclusively have veto rights (*naqḍ*) on the judgments of Ibn Muqīt and can renegotiate the case according to the provisions of *sharīʿah* law. Due to tribal animosities, not all the Khawlān b. ʿĀmir tribes recognize the supreme legal status of Ibn Muqīt in the same way.[36] Furthermore, the impact of the 1934 international frontier demarcation, which bisects the confederation into a Saudi and a Yemeni part, led to a disruption of the traditional chains of tribal appeal and even altered some tribal affiliations (Brandt i. pr.).

This ideal proceeding is not mandatory; in practice either shaykh can be approached (Gingrich 1989a: 126; Weir 2007: 132). This can, for example, be the case in complex inter-tribal or supra-tribal disputes with members of different tribes or even confederations being involved. In these cases, arbitrators can be found

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[34] Weir 2007: 132. In Munabbih the term *radd* or *maradd* is not used (Gingrich, pers. communication). The title *maradd* is pre-Islamic, see Serjeant 1982: 14.
[35] Ibn Bishr is the head of Khawlān's Jihwaz moiety.
[36] Gingrich, pers. communication.

from elsewhere. In addition, certain *rudūd* of Khawlān b. ʿĀmir often act as arbitrators in other member tribes of the confederation. For example, the *shaykh al-shaml* of Munabbih, Ibn ʿAwfān, is continuously involved in arbitration between Fayfāʾ and Banī Mālik on the Saudi side of the confederation.[37] The senior shaykh of Munabbih's other tribal moiety, Ibn Miṭrī, plays a prominent role in the arbitration of the border dispute between the Saudi Āl Talīd and Yemeni Āl Thābit (both segments of Jumāʿah), which erupted in 1934 with the Treaty of Ṭāʾif border demarcation and continues till now.[38]

A well-known mediator and arbitrator, who does not come from the ranks of the *rudūd,* is Fāris Manāʿ from the shaykhly line of Saḥār's al-Ṭalḥ section.[39] The Manāʿ family gained political influence during the 1960s civil war and was subsequently able to amass considerable wealth when Sūq al-Ṭalḥ, formerly a purely intra-tribal market of the Saḥār, became one of the largest weekly markets in Yemen.[40] Fāris Manāʿ is not only an internationally successful arms trader and since 2011 governor of the Ṣaʿdah province, but also a skilled and highly respected mediator with the required *haybah* (prestige) and *wazn* (weight), who in extremely precarious situations of the Ṣaʿdah wars (2004-2010), when everything was failing on the ground for the government, was one of the few persons in the region who could provide essential and neutral mediation between the government, Ḥūthīs, and tribes. Such ad hoc elevation of individual persons should, however, not be confused with institutionalized authority, or, as Weir puts it: "Temporary administrative, mediatory, or representational authority must be distinguished from permanent rights and jurisdiction over a sovereign domain" (Weir 2007: 309).

Among both Khawlān b. ʿĀmir and Hamdān the process of tribal conflict resolution consists of mediation, arbitration and a two-stage appeal. Among Hamdān, however, the process to contain disputes and the chains of legal appeal do not follow a pre-defined order of precedence (as they do among Khawlān b. ʿĀmir); rather, they are more decentralized and less orderly and emphasize the principle of neutrality through equidistance instead of the principle of jural domains.

Among the tribes of the Hamdān confederation, the process of conflict containment works as follows:[41] If two men from the same tribal section are at odds, they normally go to the *ʿāqil* (head of a tribal sub-section) of that section for mediation. If the conflicting men are from different sections, usually the shaykhs of the two conflicting sections negotiate over the differences. If the negotiations of the *ʿāqil* or the shaykhs fail, they can forward the case to another, higher shaykh, who is usually a neutral shaykh from outside the two conflicting tribes, and who deals with larger cases and with cases appealed from the *ʿāqil*. This arbitrator, called the *ghaṣṣāb,* issues a verdict. His decision should be honoured by the two conflicting parties, otherwise the conflict moves to a violent stage or they resort to the process of tribal appeal.

Among Khawlān b. ʿĀmir and Hamdān the tribal justice system gives the parties the chance to appeal twice at higher tribal arbitration levels before the verdict becomes final and binding. Appeal commences if one or both conflicting parties do not agree to the *ghaṣṣāb*'s verdict and decide to go to an "appeal arbitrator" (*munhā*). The activity of the *munhā* is only activated at the request of the conflicting parties. If the parties do not accept the verdict of the *munhā,* they can resort to a final juridical instance, namely a *marāghah* (pl. *marāghāt*). *Marāghah* (sometimes also *mardaʿ*) is the title of a judicial office; the *marāghah* is considered the specialist par excellence in customary law. Among the tribes of Hamdān, the *marāghah* is the most senior shaykh in the process of tribal appeal and his verdict is final.[42] His office is hereditary (Dupret 2000b). If a case has no precedent, if no customary rule exists, or when there is a disagreement about its interpretation, the *marāghah* has the authority to create a new rule and set a new precedent (Al-Zwaini 2006: 5). The *marāghahs*

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[37] Gingrich, pers. communication.

[38] Brandt 2012: 57-58. Āl Talīd and Āl Thābit are Jumāʿah sections dwelling in the borderland area of the Yemeni-Saudi frontier. Because at this border segment the territorial demarcation of the exact course of the 1934 Ṭāʾif boundary line had failed, tribal considerations came into force. Therefore the Treaty of Ṭāʾif put the negotiation and demarcation of these sections of the international boundary into the hands of the borderland tribes. The shifts of the boundaries of tribal territories, primarily resulting from tribal conflict or the compensation of tribal blood debt, were henceforth tantamount to alterations of the international boundary.

[39] The incumbent shaykh of al-Ṭalḥ is Fayṣal Manāʿ, an uncle of Fāris.

[40] Niewöhner 1985: 8 according to pers. information of G. Schweizer.

[41] This section mainly draws on Dresch 1989: 88-110 and the excellent papers by al-Zwaini (2006) and al-Dawsari (2008).

[42] The *marāghah* is not a "court of cassation" as suggested by CEFAS (2003), because he does not only examine the compliance of previous verdicts with the provisions of tribal law, but rather has the power to issue a new judgment.

of Hamdān are not assigned to any predefined jural domain; either *marāghah* can be approached. However, in a conflict, a *marāghah*, who is familiar with the specific local features of *ʿurf*, will prove to be the most appropriate arbitrator; whenever a tribe is particularly attached to specific regional rules and customs, it typically has a *marāghah* of its own.

Some *marāghahs* also take on large disputes of inter-tribal nature, like wars between tribes. They are specialized in the "separation" (*faṣl*) of the parties involved in inter-tribal conflicts. For instance, if a conflict happened between, say, Wāʾilah and Nihm, both tribes represented by "their" guarantor shaykhs, they would normally approach a neutral and territorially "distant" *marāghah*, such as Ibn Ḥubaysh of Sufyān, who would then endeavour to "separate" them and settle their conflict through arbitration.

Local sources deny the existence of an order of precedence among the *marāghah*. Al-ʿAlīmī, however, mentions "lower, middle, and upper" *marāghahs*, (Dupret 2000b) probably mainly in the sense of some being more or less prominent and/or capable than the others. Well-known *marāghahs* are, for instance, Ibn Shuṭayf, Ibn al-Shiʿr and Ibn Ḥaḍabān of Dahm, Ibn Dāyil b. Fāris of Wāʾilah, Ibn Dughsān of Āl ʿAmmār, and Ibn Ḥubaysh of Sufyān. One of the most prominent *marāghahs* is Ibn Malhabah of Dahm in al-Jawf.[43] All of them are shaykhly lines of Bakīlī stock.[44] In 1997, 25 *marāghahs* were counted among the tribes in northern Yemen (Al-Zwaini 2006: 5).

A glance at these names reveals that most *marāghahs* come from renowned, but (from the perspective of the central government) rather peripheral shaykhly lines. Whereas the authority and influence of a *shaykh mashāyikh* and *naqīb* of Hamdān usually unfolds in the power games of cooperation and challenge between shaykhs and state power, the judicial office of the *marāghah* is decoupled from government influence. The most appreciated *marāghahs* come from the areas of the "tribal wolves" (the phrase of Gellner), who are still largely beyond government control and state influence, and in whose areas tribal norms and traditions still remain largely unchanged and undiluted. This is especially the case in the eastern part of the Ṣaʿdah governorate and in the al-Jawf governorate, the province northeast of Ṣanʿāʾ that fans out from near ʿAmrān east to the Rubʿ al-Khālī and the still largely undemarcated border with Saudi Arabia beyond the eastern terminus of the 1934 Ṭāʾif line. Al-Jawf governorate was created only around 1980, and the tribally organized and still hard to reach region was the last large area of Upper Yemen to come under more than the nominal control of the state, this taking place gradually since the 1980s (Burrowes 1995: 198).

The system of conflict containment shows that, among the Hamdān neutral, third-party shaykhs become involved at an early stage of mediation and arbitration. The parties to the conflict can "activate" any arbitrator they wish. Tribal hierarchies are not as important as among Khawlān b. ʿĀmir: If two sections or tribes are at odds as wholes, then the arbitrator need not be drawn from a higher order unit that contains them (Dresch 1984a: 41). Numerous shaykhs with reputations as arbitrators are constantly called on to settle disputes throughout Upper Yemen and beyond, not just in their own tribes or confederations. The arbitrator does not have to be a member of one of the two groups involved; equidistance from the conflicting parties is preferable and necessary for an arbitrator to be acceptable to both parties. The greater the extent of a conflict and / or the longer the duration, the more distant in genealogical and/or local terms the mediator should be. In the most severe cases, it is customary that arbitration is assigned to a member of a neutral tribe whose impartiality ensures the negotiation between the parties. Also, shaykhs from outside the confederation of Hamdān are involved in processes of arbitration and legal appeal. Ibn ʿAwfān of Munabbih, for instance, historically has played a major role in arbitration in Wāʾilah.[45] The web of relations criss-crosses the tribes of Hamdān somewhat irregularly. Conversely, the author of this paper knows of no case from recent history in which shaykhs from Ḥāshid or Bakīl took more than a "supervisory" role in conflict resolution in Khawlān b. ʿĀmir.[46]

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[43] "Ibn Marhaba", as mentioned by Dupret (2000b), is a spelling error.

[44] The PDCI report (2011) is wrong when it states that there was only one *marāghah* for the entire al-Jawf governorate.

[45] Gingrich 2011. In 2011, Ibn ʿAwfān opened the negotiations, which should bring the violent confrontations between Ḥūthīs and Salafīs in Dammāj and the involved tribes on both sides to a halt.

[46] ʿAbdullāh al-Aḥmar took a supervisory role in the conflict settlement between the Yemeni Āl Thābit and the Saudi Āl Talīd in Jumāʿah (see above). His supervisory role is certainly due to the fact that this conflict between two tribal sections of Jumāʿah was simultaneously an international border conflict between Yemen and Saudi Arabia. Apart from that, I do not know of any involvement of Ḥāshid or Bakīl shaykhs in mediation and arbitration in Khawlān b. ʿĀmir, although such a case cannot be ruled out, especially with tribes such as Saḥār whose shaykhly lines are linked by marriage to shaykhly lines of Wāʾilah (Bakīl). The "arch-conflict"

Since most *marāghahs* come from the ranks of Bakīl, the chains of legal appeal among the tribes of Ḥāshid are even less predefined than among Bakīl. During the appeal process among Ḥāshid, everyone chooses the *munhā* whom he deems suitable (*yakhtār kull ṭarf man yarāhu munhā lahu*). Any skilled and experienced shaykh can be approached. Because of the particularly pronounced decentralization of legal proceedings and the substantial absence of hereditary *marāghahs,* members of Bakīl tend to characterize the system of conflict resolution among Ḥāshid pejoratively as "weak" (*ḍaʿīf*).

TRIBALISM IN TRANSITION

In Upper Yemen the "hardy plant of tribalism" (in Gellner's phrase) has had its golden years in the period following the 1960s civil war. The shaykhs, especially those who had fought on the side of the republic, had never been more powerful than in the decade after the civil war. The warring parties' attempts to buy off tribal loyalties and the enormous financial largesse, weapons and material support provided by the imām, the republicans, the Saudi Kingdom, and, at times, the Egyptians to shaykhs on both (royalist and republican) sides had greatly strengthened the position of the northern tribal leaders (Dresch 1984b: 169; Burrowes 1987: 31; Mundy 1995: 15; Lichtenthäler 2003: 57; Weir 2007: 283).

The enormous empowerment of tribal shaykhs at the expense of their former overlords, the *sādah*, took place in an environment that was characterized by the weakness of state structures. After the civil war, the efforts of the new republican government focused on "state formation" through the financial and political patronage of influential tribal leaders while at the same time denying the simple population access to basic public services and infrastructure. Also, the Saudi government tried to secure the loyalty and cooperation of many shaykhs (in particular the borderland shaykhs) through the provision of enormous financial resources. Consequently, it was the shaykhs who brokered government influence in the tribal areas of Upper Yemen and acted as a link between their tribal constituencies and the government.

Many shaykhs indeed had their "bell[ies] full of politics" (to repeat Dresch's phrase). Before 1992, they held the majority of the seats in the early Consultative Council (*majlis al-shūrā*). In addition to their hereditary entitlement to the office of the shaykh, after Yemeni unification, they commenced to pursue also a hereditary entitlement to parliamentary representation. Particularly in the northern areas, which were dominated by tribal norms and traditions, the influential shaykhs started to inherit political offices within their lines, such as the official function of a parliamentarian for their constituencies, and vigorously asserted their political claims. In the Ṣaʿdah governorate, for instance, after 1992, "normal" people only had the chance of becoming elected members of parliament through the *ḥizb al-ḥaqq*, which was actually the political rallying point of the *sādah*. This competition for political participation and representation between influential shaykhs and their contenders led to the eruption of deadly conflicts.

Many shaykhs doubled up as agents of a self-serving Yemeni state. The state's patronage, in turn, generated disparities in wealth and power, which are quite alien to the tribal system. Many shaykhly families have moved from their tribal constituencies to the capital, Ṣanʿāʾ, or stayed there over long periods of time, thus loosening their tribal ties and, consequently, losing their tribal influence. Throughout the countryside in Upper Yemen, tribesmen were complaining of the greatest shaykhs becoming "distant", as historically they were in Lower Yemen (Dresch 2000: 160). Consequently, many shaykhs have been animadverted for neglecting the principle of representation, which is a central part of their tribal office and authority. The Ḥāshid, for instance, have seen their "paramount" shaykh, ʿAbdullah al-Aḥmar, "transformed from a leader and representative of the Ḥāshid to a government insider with his political and financial interests centred in Ṣanʿāʾ and less with his tribesmen. His own al-ʿUṣaymāt tribe has not benefitted materially from his presence on the national scene" (Peterson 2008: 17). The same happened in many parts of Upper Yemen; local sources from rural areas complain that many shaykhs were using their shaykhdom to maximize wealth and to increase their influence and power on the national level without contributing substantially to the social welfare and development of their

of Khawlān b. ʿĀmir in the 9th century AD, however, features mediation and arbitration through a neutral party, which led to the settlement of the first Zaydī imām in Ṣaʿdah and resulted in the establishment of the Zaydī *dawlah* (see Heiss 1989, 1998, and this volume).

tribal constituencies. By comparison, an ordinary businessman from Taʿiz, Hāʾil Saʿīd Anʿam, who was not a shaykh, built hundreds of schools.

The patronage exerted by the Yemeni republic had a similar adverse impact on the system of tribal mediation and arbitration. Many shaykhs spend time between Ṣanʿāʾ and their home areas so that they stay connected to their tribes. Others, however, are more or less absent in their tribal constituencies due to their political and economic ambitions. For major problems, the tribesmen still appeal to their shaykhs, travelling to the latter's new urban homes. Smaller cases are settled locally. The void arising from the shaykh's absence is filled by others, be they "minor" shaykhs, or *sādah*, whose families have vast local knowledge and centuries of experience in mediation and arbitration of tribal conflict, or ordinary tribespeople without shaykhly status, who earned their reputation by proven service to their communities, such as conflict resolution, development services, finding jobs for members, etc. Their status depends to a large extent on level of demand for their service by community members (Al-Dawsari 2012). There are cases of individual tribesmen, who did not come from shaykhly families and who filled the vacuum arising from the shaykh's absence simply because men and women turned to them to resolve their conflicts. However, the enforcement of arbitration verdicts has become difficult due to the loss of shaykhly authority and the overall erosion of tribal traditions. Thus "absentee shaykhship" (Puin 1984: 489) has a de-tribalizing effect on society.

Tribal societies have been altered by the states whose hierarchical structures of power and patronage have penetrated them from within (an argument developed by Gellner 1981). Those of us who closely followed the recent developments in Yemen will have noticed an alarming shift in public opinion in regard to influential tribal leaders. Both simple tribespeople and city dwellers increasingly cast them as all-purpose scapegoats for many social and political problems in Yemen, making the shaykhs the bogeymen of the nation. Gellner wrote that tribal leadership truly has a "Dragon's Teeth" quality and that tribes cannot be weakened by the liquidation of their leaders (Gellner 1981: 24). Political patronage and empowerment of shaykhs as exerted by the Yemeni government, however, can corrupt and undermine tribal leadership and thus paradoxically contribute to the decline of tribalism.

CONCLUSION

The tribal structures of the confederations examined in this chapter, Khawlān b. ʿĀmir and Hamdān, are not immutable, but fairly stable over long periods of time. They consist of the same elements (clans, segments, sections, tribes), which constitute similar divisions in both confederations. The tribal internal organization of the confederations can be displayed by using tree diagrams (without adopting the socio-political implications of segmentary theory), which suggest descent from a (real or putative) common ancestor. Yet these tree diagrams fail to visualize the different modes which the tribal communities have developed to "inhabit" these actually homologous structures; the structures of tribes and confederations and the features making up their socio-political organization need to be distinguished.

This is clearly illustrated by the relationship between tribal internal organization and layers of authority in tribal leadership. To illustrate this difference, this chapter examined the layers of authority in two key areas of tribal leadership: representation and jurisprudence (arbitration) according to tribal customary law. Among Khawlān b. ʿĀmir, the layers of authority follow with great historical continuity the structural hierarchy of the confederation. Both the representative authorities and the legal domains of the shaykhs are linked to the internal structure of the confederation, and the positions of authority are continuously passed on within the patrilineal shaykhly clans. At the level of the constituent tribes, representative authority rests with the senior shaykhs (sing. *shaykh al-shaml*) of the tribal moieties and tribes. The highest representatives of the tribal moieties are simultaneously their juridical heads (sing. *radd*), since among Khawlān b. ʿĀmir, the tribal moieties are the jural domains of the confederation. Above them is the authority of the head of the confederation, who is simultaneously *shaml shumūl* (the highest representative of all tribes of Khawlān b. ʿĀmir) and *radd al-radd* (the final arbiter in all legal cases).

These layers of authority, however, are not power structures. The principle of authority refers to the capacity of tribal leaders of Khawlān b. ʿĀmir to influence events as a result of widely recognized hereditary and personal prestige, knowledge, persuasion skills, and position. In contrast, power is the ability to achieve

desired goals, if necessary, without the consent of all persons affected. Some (but few) shaykhs among Khawlān b. ʿĀmir *have* power, and most of them are shaykhs from minor sections and not identical to the senior shaykhs of the confederation's hierarchical system of authority. Their power is temporary and mainly results from their political assertiveness and personal wealth derived from government patronage; yet it neither implies coercive power towards their tribal constituencies, nor does it lead to an alteration of the prevailing layers of authority. The ebb and flow of political fortune does not affect the system of legal and representative authority, which is deeply rooted in the centuries-old shaykhly lines of the senior shaykhs.

The tribal internal organization of the member tribes of the Hamdān confederation (Ḥāshid and Bakīl) resembles a nested hierarchy as well. Yet, among Hamdān, a more pronounced tendency to decentralization prevails; the attempt to combine the tribal structure and the actual domains of shaykhs founders. The formal alignment of shaykhly houses with tribes and sections is far less regular than in Khawlān b. ʿĀmir. The position of the *shaykh mashāyikh* (as the highest representatives of tribal units are called among Hamdān) is a temporary dignity, or power position, which is contested and which has to be asserted and defended against competitors, and many times the position of the *shaykh mashāyikh* remains empty. The term *shaykh mashāyikh* identifies the temporary predominance of an individual shaykh over the other representatives of the same tribal unit, it locates those who hold power and influence and, so to speak, it "ranks" the shaykhs. The different terms *shaykh al-shaml* and *shaykh mashāyikh* thus refer to differing social positions.

The system of arbitration and legal appeal among Hamdān follows similar principles: The structures to contain a dispute are less prescribed and more decentralised than among Khawlān b. ʿĀmir and emphasize the principles of neutrality through equidistance (rather than the principle of jural domains). By the greater tendency towards decentralization and transition of authority, the organization of tribal leadership among Hamdān displays more heterarchical features.[47] Power and authority, understood from the Hamdān's more heterarchical perspective, respond to changing situations and can be redistributed within each structural unit, following the needs of the system. Whereas the more pronounced heterarchy among Hamdān distributes and re-distributes power in temporary settings within the tribal structural units, among Khawlān b. ʿĀmir authority, it is continuously assigned to those members high in the structure.

This chapter has attempted to work out these basic principles of tribal leadership and hierarchy in Upper Yemen and consider them in a comparative way. In everyday life of the tribal societies of Upper Yemen, these specific differences are certainly less obvious. This is, for example, due to the fact that the tribal societies are undergoing rapid and profound changes. The four past decades have been shaped by drastic changes – society and economy have changed and so did the perceptions of tribal leaders. The patronage system of the Yemeni government, which focuses on the financial and political patronage of influential tribal leaders while simultaneously neglecting the simple peoples' needs, corrupted and jeopardized shaykhly authority within many tribal constituencies. This is due to the counterproductive effect, in terms of legitimacy and authority, that state patronage has on relations between shaykhs and their tribes, with damaging repercussions on the tribal system as a whole. This loss of shaykhly authority and reputation by no means affects all shaykhs of Upper Yemen; many of them remain esteemed and deeply rooted in their tribal constituencies. In the long run, however, the system of tribal leadership only has the option of a "renewal from below" or an overall weakening of tribal norms.

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[47] A heterarchy is a system of organization, which features overlap, multiplicity, and/or divergent-but-coexistent patterns of relation. Crumley (1995) defines heterarchy as the relation of elements to one another when they are unranked or when they possess the potential for being ranked in a number of different ways. Heterarchy is therefore not strictly the opposite of hierarchy, but is rather the opposite of homoarchy, which is itself defined as the relation of elements to one another when they possess the potential for being ranked in one way only. A heterarchy may be parallel to a hierarchy, subsumed to a hierarchy, or it may contain hierarchies; the two kinds of structure are not mutually exclusive.

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