# THE CARNEGIE PAPERS

# TRIBAL GOVERNANCE AND STABILITY IN YEMEN

## Nadwa Al-Dawsari

MIDDLE EAST | APRIL 2012

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CP 142

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# Summary

The power-sharing deal signed by Yemen's President Ali Abdullah Saleh in November 2011 mentioned presidential elections, the formation of a national unity government, and a military commission to reform the armed forces. It was at best the first step in Yemen's recovery from the protracted turmoil and instability that wracked the country for months.

In this uncertain period of transition, as the new government struggles to establish legitimacy and address its most pressing issues, tribal law and traditions will play an important role in restoring a degree of stability because government capacity is extremely limited. This is particularly true given increasing conflicts and emerging sectarian and political divisions in the country. State and rule of law institutions are not only weak and ineffective outside of the main cities but also widely untrusted.

Yemenis have relied on indigenous tribal traditions to regulate conflict and establish justice for centuries, if not millennia. Tribal law has effectively handled conflicts between various tribes, between tribes and extractive companies, and between tribes and the government. It has successfully prevented and resolved conflicts over resources, development services, and land, and has sometimes managed to contain complex revenge-killing cases. Nationally, tribal mediators have played an important role in promoting political dialogue and building consensus among political groups. During the past year, where government forces withdrew, tribes took responsibility and managed to provide a reasonable level of security within their territories and along the main roads that connect tribal governorates.

Most Western observers and urban Yemenis believe that tribes and the tribal system have been an impediment to state building and development in Yemen. And, indeed, there have been tribal leaders who traded the needs of their people for political influence and who were part of the corrupt patronage network that undermined the state.

However, after eight years of working directly with tribal leaders and tribal communities, I argue that tribes have played an important role in holding Yemen together in the face of increasing political conflicts and harsh economic conditions. Moreover, as the tribal system is increasingly under stress, tribal leaders and citizens in the tribal areas of Marib, al-Jawf, Shabwa, and al-Bayda

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in particular are eager to see legitimate and functioning state institutions in their areas and have the desire and willingness to contribute to achieving that.

This is an opportunity that policymakers and the international community need to consider when planning their programs and interventions to help Yemen through the transition process and beyond.

Tribal governance and conflict resolution traditions will again play a part in helping to ease tensions and mitigate conflicts that will arise as Yemen moves toward political transition. Tribal mechanisms for conflict resolution need to be integrated with the formal system so that they work alongside and complement formal institutions. Issues related to the stresses that the tribal system is facing must be addressed within that framework.

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# A Splintering State

Embattled Ali Abdullah Saleh of Yemen signed his power away on November 23, 2011, according to a deal brokered by the Gulf Cooperation Council (GCC) and backed by the international community. Although this did not end the popular protests that had been roiling the country for some eleven months, it provided a power-sharing arrangement between the regime and the opposition coalition and opened a window of opportunity for peaceful power transfer and political transition in the country. By signing the deal, Saleh ceded all his authority to Vice President Abdrabuh Mansoor Hadi but retained his title as "head of state" until early presidential elections were held on February 21 and Hadi became president. A coalition government and a joint Committee for Military Affairs were formed to manage the transition, demilitarize major cities, and end divisions within the army.

The struggle to remove Saleh from power has led to a series of economic and security problems. Months of armed clashes and a failed attempt to assassinate Saleh in the capital city of Sanaa have only deepened distrust among political rivals and army factions. In the north, conflict increased between the Zaidi insurgent Houthi group and the tribes. Violent clashes between the Houthis and the Salafi group in the governorate of Saada threaten to spill over and inspire sectarian conflict in the whole northern region of the country and beyond. In the south, calls for secession are gathering more support and momentum. In addition, al-Qaeda gained control over major cities in the governorate of Abyan and seems to be establishing a foothold in some areas in the governorate of Shabwa.[1] Recently, a militant group that is believed to be associated with al-Qaeda attempted to seize the strategic city of Radaa in the tribal governorate of al-Bayda, only 100 miles away from Sanaa.[2]

**Yemen is in urgent need of an approach to justice that can prevent the escalation of violence and promote national reconciliation.**

More importantly, the transition plan was officially rejected by the Houthis, the loosely organized, secessionist Southern Movement, and some youth groups who felt excluded during the process of negotiating the GCC deal. All this comes on top of the already-immense challenges of a country that is brewing "a perfect storm of state failure" according to *Foreign Policy's* Failed States Index 2009.[3]

Today more than ever, Yemen is in urgent need of an approach to justice that can prevent the escalation of violence and promote national reconciliation. It is important, within that framework, to recognize the reality of legal pluralism in the country and the opportunities the traditional system can offer this process.

# A Fresh Look at Tribes

The role of tribes in Yemen is often overlooked or misrepresented in Western and sometimes Arab media and policy analyses alike. The common wisdom often holds that Yemen is a lawless country where tribes, defined as small political units, have resisted the presence and extension of the state into their territories. These tribes are frequently described as "fiercely independent" to signify their aversion to the state and are often said to prevent the development of state institutions in their territories. It is often argued that the state is weak because the tribes resist it.[4]

Contrary to this traditional assumption, the strong presence of tribes in Yemen is due to the corruption and weakness of the state institutions there. The tribes in Yemen provide social order outside the formal system. Tribes and tribal law act, in the words of political scientist Daniel Corstange, as "second-best substitutes for an absent or weak state." People approve of the tribes because they provide basic rule of law in the form of conflict resolution and regulation.[5]

Understanding this role is crucial to designing an approach to state-building that can facilitate the political transition process in a way that responds to Yemen's unique and strongly tribal society. It would be a mistake to neglect the informal system offered by the tribes and its impact on the formal system in any transition initiatives.

Tribes in Yemen are not ethnically diverse but, rather, culturally homogenous units. They share the same functions both in terms of their role in promoting the welfare of their members and in conflict management mechanisms and systems.[6] Due to the political instability that Yemen experienced for long periods of its history, tribes came to function as states, providing stability and economic support for their members.[7] Although some aspects of the tribal system, such as ensuring that public places and main roads are off-limits to violence and respecting peace truces, have weakened, it remains fairly effective, particularly in the north.

Key to the informal system is the tribal social structure that is based on the collective responsibility and accountability of tribal leaders (sheikhs) to their communities. Sheikhs have various degrees of power, influence, and wealth and are usually not "chiefs" who have authority over their "followers." The status of a sheikh is not automatically passed from father to son, and a person's efforts to be a sheikh are not necessarily respected by tribesmen or other tribes. A person becomes a sheikh if tribesmen acknowledge him as a leader after repeatedly requesting his assistance with tribal problems; the simple act of people in a community demanding a sheikh's service is an important indication that they recognize him as a sheikh. Furthermore, a sheikh's rise and fall does not affect the tribal structure, and a sheikh is not accorded authority (*sultah*) within his tribe. Instead, sheikhs gain their legitimacy and accreditation through their

ability to resolve conflicts and safeguard the tribe's interests without resorting to coercion.[8] If a sheikh proves incapable of attending to or providing for his community, tribesmen simply turn to another.[9]

The tribal structure is not hierarchal. There is no paramount sheikh but rather "prominent" sheikhs who earn their status by attending to the interests of their people and providing conflict resolution services in their communities and between tribes.[10] Layers of authority are relevant only in the conflict resolution system where parties have the right to appeal when they are discontent with an arbitrator's verdict. A standard sheikh or social figure usually mediates to get parties to choose an arbitrator or arbitrators. The tribal justice system then gives the parties the chance to appeal twice at higher tribal arbitration levels before the verdict becomes final and binding. Sheikhs at the appeals level are called by various names—*margha, manha,* and *mangadha*—depending on the area in which they operate.[11] This is the case only in areas that have a strong tribal structure where tribal sheikhs still have to demonstrate their ability to serve their people in order to maintain their influence and status as sheikhs.

A tribe in Yemen, therefore, can be defined as a social organization that gains its legitimacy from a set of traditional rules that constitutes a social contract among the tribe's members as well as between them and their sheikhs and other tribes. This social contract, or Customary Law, governs public affairs, protects common interests, and extends protection and economic support to tribal members.

## Stability and the Tribal System

Yemen has survived crises in the past against all odds: severe development challenges, increasing conflicts, the proliferation of arms, endemic corruption, and the absence of rule of law and state institutions. Its survival can be attributed to the role the tribal system plays, particularly in terms of resolving conflicts, preserving order, and providing social safety nets. Many conflicts that arise due to mismanagement of development, corruption, and competition over services and natural resources are resolved through the tribal system. According to a study conducted by a local nongovernmental organization in Yemen, 90 percent of conflicts are prevented and resolved using the Customary Law system.[12] Although the tribal system predates Islam and Yemen's formal state system, it continues to evolve. The system is perpetuated by the tradition of oral history, which is more open to interpretations than fixed written rules, making it flexible and responsive to new developments and needs.

> **Not only has the tribal system dealt with local conflicts but it has also played an integral part in preventing the escalation of political conflicts.**

Not only has the tribal system dealt with local conflicts but it has also played an integral part in preventing the escalation of political conflicts. For example, tribal mediation and arbitration have played an important role in resolving

tensions between political parties and political rivals. When clashes erupted between government forces and al-Ahmar tribesmen in Sanaa's al-Hasabah neighborhood in May 2011, a group of prominent tribal mediators succeeded in preventing the escalation of clashes several times. The mediation committee included prominent sheikhs from the Bakeel, Hashed, and Khawlan tribes, as well as others from different parts of the country, such as Marib and Saada.[13]

Tribes often choose not to take part in political conflicts because they know that doing so would bring fighting and violence to their communities. Tribal leaders can have political affiliations as individuals, but in many cases this affiliation is set aside so that political conflicts are not extended to tribal areas and do not add to the already complex tribal conflicts there. For instance, in March 2011, the governor of Marib was forced to leave the city after his guards shot dead a protester who was a member of the Abeedah tribe. Hundreds of armed tribesmen from Jahm, the governor's tribe, rushed to the governor's office building. Armed men from the Ashraf and Abeedah tribes—Marib city is part of their territory—surrounded the building. Alarmed by the situation, leaders from the Jahm and Ashraf tribes decided to put their political differences aside and to stay out of the conflict between the opposition and the regime. The situation was soon contained and Jahm tribesmen withdrew to their territory.[14]

**In some instances, the tribes have even proven to be better at keeping the peace than the government.**

The tribal system has also helped to prevent the escalation of emerging sectarian conflicts. In the Dammaj district of Saada, a tribal mediation committee from Hashed tribe succeeded in establishing a truce between the Salafi and Houthi groups after months of heavy clashes in which hundreds were killed.[15]

In some instances, the tribes have even proven to be better at keeping the peace than the government. When the security situation deteriorated in the tribal areas in the early months of the protests, government forces withdrew from main roads and many travelers were subject to plunder and sometimes carjacking. The tribes then deployed armed men and took over checkpoints that were controlled by the military, managing to secure most roads. After the governor of Marib left the city, tribal leaders from the Ashraf and Abeedah tribes worked with local officials to come up with an agreement to share responsibility in the absence of a formal government representation. In the governorate of Shabwa, the Khaleefa tribe made an agreement with security forces to form local commissions and share responsibility for securing government facilities. In al-Jawf governorate, tribal mediation led by tribal leaders from both Shabwa and al-Jawf stopped violence after hundreds were killed in clashes between the Houthis and local tribes.

In general, tribal areas witnessed a noticeable decrease in violence during 2011, though the exact causes are debated.[16] Some tribespeople chalk that up to the tribes' preoccupation with the overall situation in Yemen. Others relate the decrease in violence to the fact that tribes have taken full responsibility for

and control over their matters. Still others say the main cause is that the money typically flowing from corrupt government officials to tribes in order to sustain conflict has dried up.

Tribes are also inherently anti-ideological and are fearful of the appeal of radical groups, such as al-Qaeda, which seek to replace tribal culture and social structure with new leaders and agendas. The failure of Western policymakers to recognize this and to work with tribes has limited Western efforts to resist al-Qaeda.

One example came in January 2012 when hundreds of militants from Ansar al-Sharia—a group allegedly with links to al-Qaeda in the Arabian Peninsula—seized an ancient castle and the mosque of al-Ameriya in the heart of Radaa and released hundreds of inmates from the central prison. Alarmed by the situation, the tribes of the broader Radaa area came up with a multifaceted strategy to prevent the militants from taking over the city. Large tribes, such as Qaifah, al-Hattaimah, and Aal Sarhan, deployed armed men to guard government buildings and military and security sites so the militants could not take over those buildings. They also surrounded the militants to stop them from expanding throughout the city. At the same time, a tribal mediation committee that included prominent tribal arbitrators from Radaa and the Dhamar governorate launched intensive negotiations with the militants and eventually managed to convince them to leave. The tribe of Ansar al-Sharia commander Tariq al-Dhahab, who led the militants to Radaa, stopped protecting him because he had committed a shameful act and denied him the tribal cover upon which he and some of the militants relied. He was killed by one of his older brothers in mid-February.

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Although the tribes could have pushed the militants out by force, they chose to negotiate instead. The tribes are aware that violence will simply exacerbate current tribal conflicts in their areas. However, tribes are not this successful everywhere in the country, which is particularly true in areas that are less tribal. For instance, coming to a negotiated settlement was impossible in the Abyan governorate when it was overtaken by militants in May 2011 because both the tribal structure and government there are weak.

On a more routine basis, the tribal conflict resolution system helps manage conflicts over development services, and natural resources, and conflicts between corporations and local communities. In this respect it helps contain and prevent the escalation of many conflicts that might otherwise become violent. Under the tribal system, places that serve the public interest, such as mosques, schools, hospitals, and markets, are supposed to be safe havens where tribes do not engage in fighting or violence even if they come into conflict. Sometimes cities and towns can also be safe havens. Areas that are the homes

of prominent sheikhs are traditionally respected as safe havens so that they are accessible to those who want help in resolving conflicts. For example, Arrawdh village in al-Jawf is a safe haven because it has a large market and is the home of the prominent sheikh Mohammed Aljji, a maragha sheikh.

# Customary Law and the Formal System

Tribal Customary Law is dominant in tribal areas, and Yemenis in urban areas often prefer to use it over the formal court system. It is more accessible, effective, and much faster than the formal system.[17] Moreover, people are often discouraged from turning to the government because of perceived corruption, nepotism, lack of integrity, and inefficiency, as well as the length of judicial processes and the government's inability to reinforce the law and court orders. The government has been criticized for making payments to individuals who create conflict (spoilers) in an effort to convince them not to, for instance, block roads or cause other trouble for corporations or development organizations.[18]

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The government of Yemen acknowledges the tribal system and sometimes turns to tribes to resolve complex conflicts, especially those between the government and tribes and between tribes and corporations working in tribal areas. This was the case in May 2010, when the deputy governor of Marib was killed in a drone attack. Former president Saleh himself requested the intervention of a mediation committee that included prominent sheikhs from the Marib governorate to contain a potential clash between the government forces and tribes.[19]

In the formal court system, the Arbitration Law that was passed in 1992 was a first step toward integrating tribal reconciliation and conflict management processes into the state's legal system. The Arbitration Law officially recognizes tribal arbitration as an alternative dispute resolution mechanism. Judge Yehya Almawri, a member of the Supreme Court and a prominent tribal arbitrator in Yemen, suggests adding articles to the Arbitration Law to incorporate certain elements of the traditional system into the formal system and to strengthen the partnership between the state and tribes in law enforcement.[20]

In contrast to the mainstream perception, tribal leaders have indicated that they are tired of conflict and that they would like to see functioning state and rule of law institutions in their areas. This is largely due to the fact that their ability to handle local conflicts is being overwhelmed by the number of such conflicts and deteriorating security conditions. Additionally, sometimes tribal leaders and their tribes risk engaging in a conflict in the process of reinforcing verdicts or protecting safe havens that are located within their territory—any offense against a person or an animal within a safe haven is regarded an offense against the tribe that is protecting it.

# Tribal Conflict Resolution

Unlike the formal system, the tribal system is based on consensus building and maintaining relationships. Key to tribal traditions are transparency, accountability, solidarity, collective responsibility, the protection of public interests and the weak, prioritizing community interests over those of the individual, empathy, and forgiveness. Dialogue and the culture of apology are embedded in the practice and rituals of tribal Customary Law. The system is sophisticated and highly structured, and tribal conflict management processes involve a great deal of deliberate negotiation and dialogue to ensure conflict parties are content with the resolution.

Tolerance and forgiveness are encouraged throughout the process. In tribal terms, a confession or apology is an important step to ease tension and release negative emotions thereby preparing the way for a constructive conflict resolution process in which parties are encouraged to focus on their own interests but also those of the community. As a way to ask the wronged or his tribe to arbitrate a conflict resolution process, a tribesman or his representing sheikh gives *banadeq assawab*, which means "guns of reason," to the person that was wronged. According to tribal traditions, this ritual signifies a confession of the mistake/crime. In return, the other side shows its honorable tribal generosity by accepting mediation and sometimes granting forgiveness or a reduction of demanded amends.[21]

The tribal conflict management system typically deals with conflicts at an early stage, when they are not violent, but it also has mechanisms in place to resolve conflicts when they become violent. Although the system relies heavily on arbitration, negotiation and mediation are also used. When tribes sense a conflict brewing between families or individuals, sheikhs from the two tribes rush in to contain it before it escalates. They bring parties to the conflict together to negotiate and settle differences. Negotiation is usually facilitated by sheikhs or social figures that each party authorizes to be his representative.

If this process does not work, a sheikh from a third tribe can initiate a mediation process whereby, if the conflict becomes violent, he gets the parties to agree on a short cease-fire. He helps prepare for arbitration by getting each party to choose an arbitrator or arbitrators. Once that happens, the mediator's role ends unless a party or parties choose him to arbitrate. The arbitrator or arbitrators issue a verdict after a long process that involves examining evidence, dialogue, and caucuses with the parties to the conflict. Each party has the right to appeal twice in front of other tribal sheikhs before the verdict becomes final and binding.

The tribal system has a strong enforcement mechanism mainly based on collective responsibility and action. Every phase of the conflict management process involves parties bringing guarantees to the mediators and arbitrators. This could be in the form of daggers, guns, or money that is presented as a

symbol of the parties' commitment to implement the arbitrator's verdict. In addition, parties are also required to obtain the support of respected tribal sheikhs who serve as guarantors. Any offense committed by any of the parties to the conflict is an insult to the arbitrators and guarantors and comes with a high penalty.

Ultimately, the tribes are responsible for the acts of their members and for forcing them to implement verdicts. If a member of a tribe does not abide by the verdict, he might be denied his rights, including protection and support as a member of his tribe.

## Challenges and Pressures Facing the Tribal System

The political and socioeconomic changes that tribal areas have experienced over the past decades have introduced new challenges to the tribal system that have undermined its effectiveness and ability to handle conflicts. This has led to an increase in tribal conflicts and sometimes contributed to the deterioration of security in tribal areas.

The generation gap is one of the biggest challenges facing the tribal system. Yemen is experiencing a youth bulge, and the younger generations have less understanding of and commitment to tribal traditions. The young are typically poorly educated and have limited life opportunities, making them susceptible to engaging in violence and conflict.[22] Tribal elders complain that youth, or *jefareen* in the local dialect, sometimes violate local traditions that have helped to prevent and contain conflicts for centuries. Some youth severely violate tribal rules, committing acts that are considered "black shame" in tribal tradition because they disturb social order and peace. The list of such offenses includes violating safe havens, blocking roads, kidnapping, killing men even if they are accompanied by women or children (according to tribal tradition, it is forbidden to harm women or a man accompanied by a woman even during conflicts), and revenge killing. Some youth are engaged in gangs and smuggling.[23] A female tribal leader from al-Jawf governorate said about young people that "they are their own sheikh," indicating the extent to which it has become difficult for the tribes and tribal leaders to control the youth.[24]

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The weakening of the tribal system can also be attributed to the government's manipulation of the tribal structure for political gains. The Yemeni regime has taken two different approaches to the tribes as a means to consolidate its power: incorporating sheikhs into its patronage network and empowering new sheikhs to undermine those who have been reluctant to take part in

political corruption. These new leaders are supported with money and political influence so that they remain loyal and guard the interests of the regime. Those sheikhs not brought to their positions by the government are busy trying to solidify their relationships with their communities and maintain their status and are thus too distracted to attempt to have any potential political role.[25]

Some sheikhs were given financial allocations, government and military positions, scholarships for their children to study abroad, and other benefits. Some of them bought fancy houses in Sanaa and spend most of their time there, which distances them from their communities. Although they remain involved in resolving conflicts in their communities, there is growing feeling among locals that tribal sheikhs use their positions to serve their personal interests rather than those of their communities.[26]

The state has exported to the tribal areas a system that is corrupt, is based on nepotism, and favors individuals while leaving the larger community deprived of basic services. The government encourages practices that are foreign to and violate tribal traditions. In Marib for example, the tribes started kidnapping people and setting up roadblocks only when they found out that tribes from Sanaa and Amran, areas with a weaker tribal structure, can negotiate winning deals with the government if they kidnap foreigners and block roads.[27] Over time, this becomes a method the tribes use to pressure the government to deliver promised services and fulfill the people's needs.[28]

Furthermore, tribespeople strongly feel that the Yemeni regime tries to portray tribes as an obstacle to development in order to get money from Western governments, money that often goes into the pockets of individuals in the regime. Tribespeople feel ignored and marginalized by the government when the benefits from the oil and gas that has been extracted from tribal areas are transferred to individuals and cities while the tribes remain deprived of basic services, such as electricity and water. There is a growing resentment among tribes over the government's use and allowance of airstrikes that target what are believed to be al-Qaeda in the Arabian Peninsula fugitives but that have resulted in the killing of tens of innocent civilians in tribal areas since December 2009, including the deputy governor of Marib.[29]

The political system that the tribes have seen is one in which political influence becomes a means for unaccountable power and wealth accumulation. Unfair political competition has triggered violent clashes among tribes during previous election cycles. In Radaa, for instance, a 2006 clash that started because of competition among local council candidates resulted in a tribal conflict in which at least 47 people were killed. Election-related violence has been reported in tribal al-Jawf, Marib, Amran, Dhamar, and other areas as well.

The most common causes of conflict between tribes include border disputes, in which two tribes disagree about the borders of their land; disputes over former communal land; conflicts over the use of land, including grazing land and water distribution; and disputes over water management and access,

usually over wells or other water sources such as *wadis* (dry riverbeds that are important during flood season). Disputes over development projects have also caused conflicts, as has the presence of oil and gas companies.[30] Indeed, there has been a steady increase in tribal conflicts since 1990 in the tribal areas of Marib, al-Jawf, and Shabwa.[31]

Another challenge is that while the tribal system has proved well able to contain violent conflict, it does not seem to have a robust capacity to handle issues of revenge killing. Revenge killing sustains conflict even if the original dispute that caused the initial conflict is resolved. A 2003 conflict between Jahm and Jedaan, two of the five main tribes of the governorate of Mareb, started with a land dispute which then became violent and involved revenge killings. Though prominent sheikhs managed to resolve the land dispute that sparked the conflict, the revenge killings remain unresolved. In another case in al-Jawf, the original cause of the approximately one-hundred-year-old conflict between the Aal Katheer and al-Foqman subtribes was resolved in 2008, but because revenge killings were involved, the tribes were unable to come to a permanent settlement.

Tribes usually resort to establishing truces to prevent violent clashes and revenge killings, and those truces are usually renewed every year. But in some cases the tribes fail to negotiate a truce. Tribesmen then find it difficult to travel outside of their tribal territory because their protection cannot be guaranteed, which limits their access to education and other services.

Traditional rules that stem violence, such as the prohibition against harming disarmed men and the protection of public facilities as conflict-free areas, are also crumbling. These days, tribes are more reluctant to protect public places because they fear they might be dragged into a conflict in the process of protecting those safe havens. This happened in Marib, when a few men from Aal Yaslem subtribe invaded the al-Joobah hospital, seeking to kill a man there. The hospital is protected by the Aal Mesli subtribe as a safe haven, and in the process of protecting the safe haven, Aal Mesli entered into a conflict with Aal Yaslem. That conflict led to the killing of at least two people from each tribe.[32]

## Conclusion

Evidence about the role performed by tribes in Yemen challenges two major assumptions: that Yemen is lawless country and that tribes and the tribal system undermine stability and state building. On the contrary, in a country like Yemen, where the state is weak, the tribal system—especially tribal conflict resolution mechanisms—can help promote national reconciliation, stability, and even state building. As the United Nations and the international community try to help Yemen in its critical transition and state-building process, policymakers and practitioners need to explore ways in which the traditional

system can complement and strengthen this process. Tribes have played an important part in preventing and resolving conflicts, maintaining order, and promoting peace and reconciliation both at the national and local levels. This suggests that, contrary to the mainstream perception, the tribal structure and system has in fact been responsible for holding the country together in recent decades.

While the current Yemeni government is struggling to address the most urgent consequences of nearly a year of political turmoil and stalemate, as well as decades of corruption and political conflicts, its legitimacy is questioned by some key political players, the most important of which are the Houthis in the north and the Southern Movement in the south, posing the risk of failure of the government and the whole transition plan. The success of national reconciliation, an important foundation for state building, will depend on the level of trust that exists between political players in the country. It is not enough just to recognize grievances in the hopes of encouraging political players to engage in the national dialogue. Those players need to feel that they are treated as equal partners who have influence and who will never again fall victim to political manipulation and marginalization. Much is being said about transitional justice as a model to address this issue, but very little effort has been made to frame it in a way that is relevant within the local context. Transitional justice is based on dialogue, reconciliation, healing, forgiveness, compensation and compromise—values that are embedded in the traditional system.[33]

> In a country like Yemen, where the state is weak, the tribal system—especially tribal conflict resolution mechanisms—can help promote national reconciliation, stability, and even state building. Contrary to the mainstream perception, the tribal structure and system has in fact been responsible for holding the country together in recent decades.

With a weak civil society, tribal mediators are probably the most appropriate neutral players in Yemen with the capacity to offer sophisticated mediation and who can be accepted by most of the political groups. It is, therefore, important to explore ways in which the traditional system can help promote national reconciliation and dialogue around the issue of mediation.

Frequently, tribal conflict resolution systems and structures prevent and resolve community conflicts over development and natural resources that might otherwise become violent. However, those systems are increasingly unable to deal with the pressures of increasing conflicts and deteriorating security and living conditions. And given the current political conflicts and enormous development and security problems, it is unlikely that Yemen will see functioning state institutions for decades to come. A void of authority is thus growing, between struggling emerging state institutions and a weakening traditional system. Addressing this gap is critical to ensuring a peaceful and orderly transition and to help prevent political disintegration. Yemen can start by conducting an in-depth assessment and intensive discussions that involve experts in the fields of justice, law, and the traditional system. The

recommendations of those experts can be presented in a national dialogue involving key political players, civil society, and decisionmakers.

The evolution of justice in the developed world is moving in the direction of compulsory mediation, restorative justice, and community-led processes to promote effectiveness and reduce the pressures on the formal court system. And those same mechanisms have provided a system of justice that is relevant, appropriate, and accessible to Yemenis in tribal areas. These informal processes and traditional conflict resolution mechanisms are clearly relevant to any justice-sector reforms in Yemen. As Robin Madrid, a former Yemen director at the National Democratic Institute, said, "It's unfortunate that the Western policymakers do not acknowledge and Yemen's political elite do not recognize that community disputes are overwhelming the judicial system in the West and that private mediation is increasingly resorted to for the resolution of private disputes."[34]

> **For any attempted integration process to be effective and conflict sensitive, it has to be led and owned by Yemenis.**

State building does not have to be at odds with the traditional system. In fact, sometimes, maintaining the traditional justice system may be the best way to establish and preserve the rule of law.[35] Tribal engagement strategies, however, must be accompanied by a strong commitment to building state institutions.[36] As in the case of Afghanistan, this integration of traditional mechanisms into a formal justice system has helped broaden the ability of the state to reach its citizens. In Liberia, for instance, there is growing recognition that positive engagement with customary justice has promoted stability and filled the capacity gaps in the state system.[37] In Yemen, rule-of-law specialists and prominent tribal leaders realize that there is a need to create a common understanding of the traditional system and to utilize tribal traditions to promote development and the rule of law.[38]

Engagement with the tribes and the traditional system might involve some risk. A lack of understanding of local power dynamics and the political landscape could create or exacerbate existing conflicts. If not done carefully, engaging tribal leaders politically could create new mechanisms or processes that risk undermining those leaders' accountability to their communities and the access to justice that local people have enjoyed through the tribal system. But this could potentially be avoided by integrating the tribal system into the formal system.

While incorporating lessons learned in other countries might be helpful, it is important not to assume that all of those lessons are necessarily applicable to Yemen. The integration process should be defined and shaped through an in-depth assessment that looks into the opportunities it might offer as well as the limitations and risks it entails and ways to mitigate them. For any attempted integration process to be effective and conflict sensitive, it has to be led and owned by Yemenis.

# Notes

1   "From Azzan to Zunjubar, half a month with Ansar Ashariyah," *Marebpress*, December 3, 2011, http://marebpress.taiz-press.net//news_details.php?sid=38305.

2   Al-Qaeda militants come to Radaa to support Adhahab as the "Ameer of Radaa Islamist Emirate" and the tribes of the governorate rush in to stop Jihadi groups, reported by *Marebpress*, January 15, 2012, http://marebpress.taiz-press.net/news_details.php?sid=39670&lng=arabic.

3   "Failed States Index 2009," *Foreign Policy*, www.foreignpolicy.com/articles/2009/06/22/the_2009_failed_states_index.

4   Daniel Corstange, *Tribes and the Rule of Law in Yemen* (College Park, Md.: Department of Government and Politics, 2008), 13, www.bsos.umd.edu/gvpt/corstange/doc/corstange-tribes.pdf.

5   Ibid.

6   Mohammed Adhaheri, *Almujtama Wa Dawla, Derasah Le'laqat Alqabeelah Beta'adodiyah Assiyasyah Walheziyah* (The State and Society: A Study of the Relation between Tribes and Pluralism and Political Parties) (Cairo: Madbooli Publications, 2004).

7   Rashad Alaleemi, *AlQadha AlQaali Fi Alyaman* (Tribal Judiciary in Yemen) (Sanaa: Dar Alwadi, 1988).

8   *Regime and Periphery in North Yemen: The Houthi Phenomenon*, National Defense Research Institute, 2010, available at www.rand.org/pubs/monographs/2010/RAND_MG962.pdf.

9   Interview with Ali Assalahi, young tribal leader from the Aal Asalahi subtribe in Marib, January 2, 2012.

10   Adhaheri, *The State and Society*.

11   Author's meeting with tribal leaders from Marib and Aljawf, 2008.

12   "Conflict Resolution in Yemen Today, a Report for the German Development Cooperation," GTZ discussion paper, 2006. The same thing is confirmed by tribal leaders and citizens the author has been working with since 2005.

13   "Mediation Committee manages to establish a Truce in Alhasabah," *Marebpress*, October 18, 2011, http://marebpress.taiz-press.net/news_details.php?sid=37228.

14   Interview with Yehya Azzayedi, Marib governorate council member and a tribal leader of the Jahm tribe, January 30, 2012.

15   "Quiet in Dammaj after cease-fire," *Marebpress*, December 21, 2011.

16 A report conducted by the Aba'ad center shows that only 25 revenge killing cases were reported between January and June 2011, which is fewer that the average monthly cases reported in 2010. A summary of the report can be found at www.abaadstudies.org/show_n.asp?sub_no=78&sub_sec=2&sub_date=9/17/2011.

17 Alaleemi, *Tribal Judiciary in Yemen*.

18 "Baseline conflict assessment in Marib, Aljawf, Shabwa, and Albaidah governorates," Partners Yemen and Partners for Democratic Change International, 2011.

19 Abdulhakeem Al-Ofairi, deputy director, Partners Yemen and an expert in tribes and tribal conflicts, discussion with members of the mediation committee, June 2010.

20 Yehya Almawri, "The Role of Urf/Tribal Traditions in Promoting Rule of Law and Development," paper presented to the Symposium on the Role of Customary Law in Protecting Public Interests, organized by Partners Yemen, March 22–23, 2011.

21 Interview with Abdulhakeem Al-Ofairi, deputy director, Partners Yemen and an expert in tribes and tribal conflicts, December 17, 2011.

22 Educational Development Center-USAID, *Yemen Cross-Sectoral Youth Assessment Report,* 2008.

23 Interview with Abdulhakeem Al-Ofairi, deputy director, Partners Yemen and an expert in tribal conflict and affairs in Yemen, January 31, 2012.

24 Interview with Sayyedah Al-Ghanemiyah, a female tribal leader from al-Jawf, November 2009.

25 Interview with Ali Alajji, 2010; Adhaheri, *The State and Society*.

26 Interview with Abdulhakeem Al-Ofairi, December 17, 2011.

27 Interview with Ali Al-Ghulaisi, December 28, 2010.

28 Ibid.

29 Kim Sengupta, "US cruise missile parts found in Yemeni village where 52 died," *Independent*, June 7, 2010, www.independent.co.uk/news/world/middle-east/us-cruise-missile-parts-found-in-yemeni-village-where-52-died-1993253.html.

30 "Baseline conflict assessment in Mareb, Aljawf, Shabwa, and Albaidah governorates."

31 *Tribal Conflict Management Program Research Report* (Washington, D.C.: National Democratic Institute, 2007); the author managed the research process.

32 Interview with Sheikh Mufarreh Beheibeh, a prominent sheikh from the Aal Mesli tribe, November 2010.

33 Interview with Yehya Almawri, member of the Supreme Judicial Council and a tribal arbitrator, February 2012.

34 Interview with Robin Madrid, former country director, National Democratic Institute (NDI), February 2012.

35 D. Pimentel, "Can Indigenous Justice Survive? Legal Pluralism and the Rule of Law," *Harvard International Review*, Summer 2010.

36 Particio Asfura-Hein, "Tribal Customary Law and Legal Pluralism in Al Anbar,

Iraq," in *Customary Justice and the Rule of Law in War Torn Societies*, edited by Deborah Isser (Washington, D.C.: United States Institute of Peace, 2011).

37  Deborah Isser, "Understanding and Engaging Customary Justice Systems," in *Customary Justice and the Rule of Law in War Torn Countries*, Deborah Isser, ed. (Washington, D.C.: United States Institute of Peace, 2011).

38  "Partners for Democratic Change—Yemen," a series of symposiums on the Rule of Customary Law in Protecting Public Interests, June 2010 and February 2011.

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