 Territory in the Baraṭ region

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The rules of Barat. Tribal documents from Yemen
Texts and translation

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1 Dhū Muḥammad comprise five fifths, as we have seen, and most members of these fifths who are not scattered elsewhere in Yemen live on or around the western part of Jabal Baraṭ. People will speak of the “borders” of particular fifths (ḥudūd Dhū Zayd, for instance) but Baraṭ itself does not, in fact, divide as contiguous, exhaustive territories.1 Perhaps this is why the qawāʿid (text B section 36) specify that tribesmen from elsewhere who encountered trouble in the area had to be conducted to the nearest group or settlement (ilā aqrab ḥayy). Asking about responsibility nowadays for anonymous killings, one hears the same phrase. Rather than responsibility devolving on a section, as it would in such tribes as Banī Ṣaraym or Arḥab, because some event occurs in their exclusive territory, it is imposed on a particular settlement, and thus perhaps on the tribe or specific section, because people are taken there from what in effect is common land. The parts of a section do not, so to speak, join up.

2 When one of al-Akwa‘’s Baraṭ documents, dating originally from AD 1660, says that the “judges” of Bayt al-ʿAnsī have right of residence anywhere in the “homelands” (awtān) of al-Maʿṭirah and Āl Ṣaliḥ the plural deserves noting.2 They can live wherever members of these sections live, not choose a site of residence within a generalized collective space. At present when a dispute flares up within Dhū Muḥammad, or between them and al-Maʿṭirah, one needs a quite detailed knowledge of political geography to guess who will feel free to move where and who constrained to stay at home. One man may easily be able to thread his way past friends or neutrals to reach, say, Ṣanʿā‘; another, from the same small section, may be blocked from leaving home at all by the presence of enemies who are virtual neighbours.

3 The fifths do cluster (most of the settled population of Dhū Zayd are in the north-east of Baraṭ, for instance, Āl Dumaynah to the west of them, and Mūsā in the south; there are many nomadic Dhū Zayd nearer al-Marāshī), but a group of houses or settlements belonging to one fifth may be found among settlements all belonging to another.3 For instance the cultivated area around al-Maḥtawiyyah, Bayras, and al-ʿIshsh (just north of al-ʿInān) belongs to sections of Dhū Zayd. Between this and major Dhū Zayd concentrations to the north and east are villages such as al-ʿAshrah (ʿAl Ṣamad b. Kawl), Bīr Mahdī and Umm al-Ḥalā (Āl Dumaynah), and al-Dabāh (Dhū Mūsā), Bishrān (north of al-ʿInān) is said to belong partly to Dhū Mūsā. It is many kilometres away from the main
Dhū Mūsā areas south of the market. At al-ʿIshshah three different fifths (Zayd, Dumaynāh, Āḥmad b. Kawl) all have fortified towers overlooking one stretch of farm-land, where members of each own property. The contiguity of Āl Dumaynāh’s settlements is meanwhile interrupted by the presence of a Dhū Zayd village at Majza’, just south of there. It is not surprising that local notables in the 1970s felt unable to divide up the area on sectional lines for modern survey purposes. Indeed the urge to reduce life to maps and categories runs counter to local understandings.

In particular, one has to be careful not to assume that words carry technical meanings derived from shariʿah law. Notably, people in the Baraṭ region will say for instance ḥāḍha milk al-muḥāmidah ka-kull, “this is the property of Dhū Muḥammad as a whole” (as opposed, that is, to the property of some family or section in the tribe), and what they mean is something as vague and all-embracing as the English “belongs to”, not that it obeys all the rules of classical milk in law-books. The terms people use are general –milk, ḥaq, ḥudūd, etc.– and take their sense very much from context. One is often told that land is maryūs or murawwas (“shared”), but quite how it is shared by whom is complex and “technical” terms are not much in evidence. Faysh (pl. fuyūsh), for example, means roughly common land or even waste-land, and maḥjūr or maḥjar (pl. maḥājir) and maqṣūr (pl. maqṣār) by contrast mean land whose use is in some way restricted, but the phrase faysh khāṣṣ, roughly “private common land”, is not found paradoxical. Everywhere is subject to restriction of some kind, although these restrictions are difficult to map or catalogue.

Map 2. Baraṭ

People at Baraṭ are hesitant distinguishing maqṣūr from maḥjar in general terms, though all distinguish both terms from faysh. Having gone over the ground on several occasions now in a half-dozen places, I am confident that maqṣūr (lands off-limits) are very much what near Ṣanʿā’ one hears called marāḥiq or masāqī, small areas defined by run-off. The usual view at Baraṭ seems to be that anyone from Dhū Muḥammad (perhaps even from
other tribes) can graze sheep and goats there, though to approach someone’s house too closely is impolite and arable is always restricted space; what strangers cannot do is take “wood or stone”, and certainly not build anything, dig anywhere, or do anything that might disturb the existing pattern of run-off or compromise rights that run-off describes. Those rights are in force at all times.

5 Mahjar (pl. maḥājir) is rather different. Such areas are sometimes larger than maqāṣīr, they are not defined clearly by patterns of surface-water, and the rights they describe are seasonal. The general rules governing ḥijrah seem still to be as they were in the eighteenth century (text B section 32):

The laws of restricted places (mahājir) are that there are two ḥijrah periods in the year, one from the summer to before autumn, when it finishes (yübah), and one from autumn to after ʿāllān, when it finishes. This is for grazing-land (qaṣrah). As for trees (nawābiti), these are under the eye of their owner and are restricted at all times.6

6 The star period khāmis ʿāllān begins in early September, and sādis ʿāllān finishes in early October, which in most parts of Yemen is roughly when one harvests sorghum. The dates are not exact, however. The owners declare a mahjar restricted when they wish (usually after good rains) and declare it open more or less when they wish also. There would seem, in fact, to be some maḥājir that are permanent and are never opened (Āl Faraj’s ḥijrah at al-Ghayb is a case in point). Most, though, are seasonal and the dates depend on that year’s rainfall.

7 While the ḥijrah is in force no-one else can graze there. The ḥijrah ends when the owners declare it “open” (mubāḥ) or when they introduce their own household cattle – most households at Baraṭ have a cow or two – and collect fodder. Others are then free to introduce sheep and goats. A similar idea is evident among tribes around Khamir and Raydah, further west and south, where farming is more intensive: there fields are maḥšir until after the crop is harvested, when the owner lets his sheep on the stubble or maḥsharān, and a week later his fellow villagers can also let in their sheep to graze. In the more extensive maḥājir at Baraṭ the period during which the owners alone can pasture sheep may be longer and there is no close connection with farm-land. The qaḥid seem to say that animals which stray onto ground that is maḥjār can be killed by the maḥjar’s owners but must still be paid for (text B section 17).6 Nowadays a stray may be hamstrung, and the owner then confronted, at which point the beast is killed and the meat divided.

8 The main maḥājir at and around Baraṭ seem to be as follows. Al-Wādiyayn, about 20 km. east-north-east of Sūq al-ʿInān, is divided between al-Maʿāṭirah and Āl Dumaynah; arable at the top and bottom of the wādī-system is Dumaynī, the middle stretches are Maʿṭiri, and the whole area is ḥijrah twice a year for all of the two sets who live there. Al-Raḥābah belongs to Dhū Zayd, although this area is separated from much of the rest of Dhū Zayd by a belt of Āl Dumaynah settlement; al-Raḥābah too is ḥijrah twice a year for its residents. Al-Ḥirjar, near Dabāḥ, belongs to a single family of Dhū Mūsā, Āl Faraj’s maḥjar at al-Ghayb, just south of the market, belongs to a single family or minor section of Āl Dumaynah. Bishrān (north of al-ʿInān) belongs jointly to Āl ʿUmār of Dhū Mūsā and Āl Abū ʿUrūq of Āl Aḥmad b. Kawl, and again is ḥijrah twice a year for those living there. Asnam al-ʿUlyā, which belongs to Āl Dumaynah, is ḥijrah but Asnam al-Saff, which belongs to al-Maʿāṭirah, is not. Jabal Āl Šalāḥ belongs to all Āl Šalāḥ, regardless of where their wells and houses are. This seems to distinguish it from the other cases, where so far as I
could ascertain, only the people living there (or who at least have a permanent base there) have preferential access in the ḥijrah period.⁹

Surprisingly often, despite the shared nature of rights in many mahājir, people will stress how these rights were once seized by force and defended by force thereafter, which is not said of maqāṣir. By comparison with other categories of local land mahājir are arbitrary. But which category might be used by whom to discuss which other piece of land is far from settled. Where the qawā'id (text B section 32) specify that five oaths from each side be demanded to adjudicate disputes over borders (ḥudūd), land off-limits (maqāṣir) or property (amlāk), the witnesses would be supposed to know not only the physical extent of particular rights but what exactly the rights themselves were. With the exception of ma ḥājir, however, people insist that shortage of grazing is no reason to exclude outsiders from tribal territory at Baraṭ (wells are perhaps more contentious).¹¹ A person should be able to stay with his personal flocks as a qaṭr, almost a guest, unless relations with his tribe or section have been severed on other grounds.

NOTES

1. The term ḥudūd is used very loosely of borders and territory. If one wants a “line” one has to ask carefully for khaṭṭ fāṣil. And one has to ask even more carefully for examples of cases where that line is important – for the boundary (if there is one) which governs, say, rights of escort need not be that governing where one can graze, and neither may correspond to that describing where one can rightfully plough a field or dig a well.


3. The clusters are labelled on Steffen’s map (reproduced here as Map 2), and in breaking these down I have tried to take examples which the map shows clearly.

4. Steffen et al. Final Report p. II/199. Obviously people would have been aware that survey divisions implied administrative divisions; but detailed lists of section- and village-names show there is more involved here than political caution.

5. The dispersal of settlement does not always mean lack of political solidarity. When relations were particularly bad with Dhū Muḥammad around 1980, al-Maʿāṭirah fortified some of their settlements with armed watch-towers and seemed to do so from funds they raised in common, although each tower was the property of a specific village.

6. Glaser (ʻArḥab’ p. 14) reports the term faysh from Khārīf as meaning simply an uninhabited area. The point is more that it is open to many people: at Baraṭ it is used of shaʿrād; grazing or scrubland, that anyone can use. But in this most general sense, which an outsider might then be tempted to apply without care for context, there is no simple faysh in Dhū Muḥammad’s part of Baraṭ except right at the edges: at al-Namāsah (on the western edge draining into Wādī Madhāb), for instance, or Wādī Aṣwā’ or Jabal Nihm (to the east).

7. For maqāṣir (or more usually muqāṣarāt) in Sufyān, see Dresch Tribes pp. 339-40.


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9. Killing a stray elsewhere appears to be fined an additional quarter of the animal’s value. This seems very little by comparison with four-fold amends for stealing livestock (text B section 17), but a similar rule applied to stray sheep in Sufyān 30 years ago. If one slaughtered a stray other than on restricted ground, one gave half the meat to the owner and also paid him the animal’s fair cost.
If, to take the opposite perspective, someone repeatedly let livestock onto mahjar ground, we would be dealing with deliberate violation of territory, precisely the kind of trouble that routinely leads to tribal strife.
10. Jabal Āl Ṣalāḥ does not have obvious physical boundaries, nor does it seem ecologically any different from less plainly restricted areas such as Jabal Nihm. As Jaussen said of areas near Palestine and Jordan, “le droit de pâturage est fort simple en apparence, mais en fait il est soumis à une réglementation traditionnelle qui varie suivant les régions. Les conditions, en effet, ne sont pas les mêmes ni pour le sol ni pour les habitants”: A. Jaussen Coutumes des Arabes au pays de Moab (1948) p. 117. Despite a vast and often-quoted literature, I am not sure we understand how pasture-rights really worked in any part of Arabia where arable is not a dominant feature.
11. Cf. W. Lancaster and F. Lancaster, The concept of territory among the Rwala Bedouin, Nomadic Peoples vol. 20 (1986) pp. 43, 45. Obviously, despite this, control of territory must articulate with preserving scarce resources; but to understand how for instance grazing is actually apportioned around Baraṭ would require extensive fieldwork, which nobody has done. All one can safely say is that grazing is conceived in terms of sovereignty, not economics.