

**Iraq:
Arab tribes and
customary law**

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Finally, the report was also reviewed by Haley Bobseine. Ms. Bobseine is a PhD Candidate at King's College London's School of Security Studies. She is an Arabic-speaking researcher, analyst, and advisor to international organizations, with more than 12 years field experience in the Middle East, mostly in Iraq, Lebanon, and Syria. Her areas of expertise include tribalism, conflict, and security issues.





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Disclaimer

This report was written according to the [EUAA COI Report Methodology \(2023\)](#). The report is based on carefully selected sources of information. All sources used are referenced.

The information contained in this report has been researched, evaluated and analysed with utmost care within a limited timeframe. However, this document does not claim to be exhaustive. If a particular event, person or organisation is not mentioned in the report, this does not mean that the event has not taken place or that the person or organisation does not exist. Any event taking place after the finalisation of this report is not included. More information on the reference period for this report can be found in the [Introduction](#).

Furthermore, this report is not conclusive as to the determination or merit of any particular application for international protection. Terminology used should not be regarded as indicative of a particular legal position.

'Refugee', 'risk' and similar terminology are used as generic terminology and not in the legal sense as applied in the EU Asylum Acquis, the 1951 Refugee Convention and the 1967 Protocol relating to the Status of Refugees.

Neither EUAA nor any person acting on its behalf may be held responsible for the use which may be made of the information contained in this report.

On 19 January 2022, the European Asylum Support Office (EASO) became the European Union Agency for Asylum (EUAA). All references to EASO, EASO products and bodies should be understood as references to the EUAA.

The drafting of this report was finalised on 6 April 2023. More information on the reference period for this report can be found in the methodology section of the [Introduction](#).





Glossary and abbreviations

Term	Definition
ACLED	Armed Conflict Location & Event Data Project
Arfa	Tribal customary reference, <i>awaref</i> in plural
Ashira	Tribal organisation comprised of a cluster of clans
Asayish	Intelligence services of the Kurdistan Region of Iraq
Atwa	Tribal truce
Bara'a	Expulsion of a member from the tribe
Bayt	House – a tribal unit
Degge asha'iriyah (also degge)	A tribal practice whereby the injured tribe sends armed men to the home of the perpetrator and sprays it with some number of bullets' as a warning
Dakhala	Seeking protection of another tribe
Diyya (also diya)	Blood money paid to settle a dispute between tribes, especially in cases involving death; sometimes referred to as <i>fasl</i>
EUAA	European Union Agency for Asylum
Fakhdh	Clan – a tribal unit comprised of a number of <i>bayts</i>
Fasl (also fasef)	Tribal dispute compensation; sometimes used to refer to the process of dispute settlement or the compensation amount to be paid (<i>diyya</i>) though it is not always a monetary settlement; refers to the 'solution' or agreement that is the outcome of the <i>sulha</i> process





Term	Definition
<i>Fasliya</i>	A practice of trading women/girls to settle tribal disputes
<i>Fidiyya</i>	Ransom
<i>Ghasl al-yar</i>	Shame-washing; action taken, such as honour killing, to remove shame
<i>Gouwama</i>	Tribal warning – a tribal practice
<i>Hadr al-damm</i>	‘Blood spilling’
IDP	Internally Displaced Person
IOM	International Organization for Migration
IRCC	Iraqi Resistance Coordination Commission
<i>‘ird</i>	Family honour; can be increased by male behaviour; females for the most part can only contribute to loss of family honour; see also <i>Sharaf</i>
ISF	Iraqi Security Forces
ISIL	Islamic State of Iraq and the Levant; also known as Islamic State of Iraq and Syria (ISIS), the Islamic State (IS), or Daesh
<i>Jalwa</i>	Also called <i>Jali</i> ; A tribal practice whereby the perpetrator, and sometimes his close male relatives, undergo and exile for a certain period of time
KDP	Kurdistan Democratic Party
KH	Kata’ib Hezbollah (Battalions of the Party of God); Iranian-backed Shia militia that is part of the Popular Mobilisation Units. KH was designated by the US as a terrorist organisation on 2 July 2009) ¹

¹ USDOS, Foreign Terrorist Organizations, n. d., url





Term	Definition
<i>Khamsa</i>	Greater extended family – a tribal unit; consisting of male children with certain common lineage; traditional vengeance group
<i>Khoulasiya</i>	An official document obtained by the person in case of self-banishment from the tribe
KRG	Kurdistan Regional Government
KRI	Kurdistan Region of Iraq
<i>Mahdar Sulh</i>	A dispute settlement document
<i>Mutalaba Asha'iriyah</i>	Tribal summoning
<i>Nahwa</i>	A tribal tradition where the cousin, uncle or other male relative of a girl can prohibit her marriage to a person outside of the family.
Peshmerga	Military forces of the Kurdistan Region of Iraq Kurdistan
PMF	Popular Mobilisation Forces
<i>Qabila</i>	Tribal Confederation
<i>Sanayin (Sawani)</i>	Sets of codes constituting tribal law
<i>Sayyid</i>	A surname of Muslims recognised as descendants of Muhammad through Ali ibn Ali Talib; in the Iraqi context related to Shia Islam; in the context of dispute resolution or religious context, it usually means that this person, in addition to having descentance as described, also may have religious training or be acknowledged as a wise person within the community who has capacity to help in these matters. A sayyid may also be a religious cleric, such as for example, Ayatollah Sistani
<i>Sharaf</i>	A male's honour that can be won/lost based on his behaviour





Term	Definition
<i>Sheikh</i>	A tribal leader or notable in the tribal community
<i>Sulh/sulha</i>	Tribal dispute settlement process meaning ‘peacemaking’ and aimed at restoring the honour of disputing parties
<i>Tabriya</i>	Disowning a person, e.g., in cases of affiliation with ISIL
<i>Tahwila</i>	A tribal delegation (also referred to as <i>mashya</i>)
<i>Tanazul</i>	Withdrawal of complaint
<i>Thar</i>	Blood feud
<i>Urf</i>	Tribal customary law; also called <i>a’araf</i> or <i>adah</i>





Introduction

The purpose of this report is to provide relevant contextual information in view of the assessment of international protection status determination, including refugee status and subsidiary protection.

This report is meant to provide an overview and provide background information on the tribal dynamics and structures in Iraq as well the major tribal practices and dispute settlement mechanisms applied by the Arab Muslim Iraqi tribes, mainly in western/central and southern areas of the country. Kurdistan Region of Iraq (KRI) is not covered by this report. Issues in disputed territories between the KRI and Iraqi government are not specifically covered.

It provides information on tribal (customary) law in Iraq, tribal practices, and tribal interaction with Iraqi formal law as well as the Iraqi state's response towards tribes and tribal practices in Arab Muslim contexts. Furthermore, the report provides information on certain aspects of how women are impacted by tribal practices, and tribal responses to Christian conversion and perceived ISIL affiliation. Lastly, aspects of tribal violence that have a civilian and security dimension are addressed: causes, impact on the security situation, and the State's ability to respond to tribal feuds.

It must be noted that the tribal system in Iraq is highly complex, sensitive, extremely difficult to research, and variable based on a wide range of factors and specific circumstances on the ground. The information in this report is compiled from a selection of public sources and should therefore only be taken as indicative. It provides an overview of some of the tribal customs occurring in Arab tribal contexts in Iraq. The report should also be read in conjunction with other EUAA publications on Iraq, namely:

- [EUAA COI Report Iraq – Targeting of Individuals \(January 2022\)](#);
- [EUAA COI Report Iraq – Targeting of Individuals \(March 2019\)](#);
- [EUAA COI Report: Iraq - Treatment of Iraqis with perceived affiliation to ISIL \(October 2020\)](#)
- Additional EUAA COI Reporting on Iraq available on the [EUAA COI Portal](#).

Methodology

This report is produced in line with the EUAA COI Report Methodology (2023)² and the EUAA COI Writing and Referencing Style Guide (2023).³

The reference period for the report is January 2021 to 23 March 2023. It was originally from October 2021 to November 2022, however it was extended up to March 2023, to allow time

² EUAA, Country of Origin Information (COI) Report Methodology, February 2023, [url](#)

³ EUAA, Writing and Referencing Guide for EUAA Country of Origin Information (COI) Reports, February 2023, [url](#)



to address research gaps identified in the review process and enhance overall quality of the reporting.

Additional information was added after the reviewing of this report in response to feedback received during the quality control process, until March 2023. In this quality review process, a review was carried out by COI specialists from Germany, ACCORD, and by country expert Haley Bobseine, as stated in the [Acknowledgments](#) section of this report, and internally by EUAA. More details are provided below.

Defining the terms of reference

In the course of EUAA's work facilitating the EUAA COI Specialist Network on Iraq, the network indicated that information was needed on the functioning of tribal law and practices. The terms of reference of this report build on internal and external consultations with experts, with EUAA network members, and the relevant most recent literature on the topic. Terms of reference for this report can be found in [Annex 2: Terms of Reference](#) of this report.

Collecting information

This report is based on information gathered from extensive desk research using predominantly public, specialised paper-based, and electronic sources; as well as interviews with experts conducted by the EUAA and the Finnish Immigration Service for the purposes of the report in October-November 2022 and by the EUAA during March 2023 to supplement information gaps. ACLED data on security incidents and fatalities involving tribal actors covering the reference period of this report were also consulted and included. All these sources were duly referenced and described in [Annex 1: Bibliography](#).

Research challenges and limitations

Researching the tribal system in Iraq is extremely challenging due to a range of limitations including: lack of reporting and limited published sources on the topic, lack of available English sources, difficulty accessing expert knowledge about the internal workings of tribes, sensitivity of topics and questions surrounding human rights violations and tribal practices, a high degree of variability within the tribal context across different tribes, regions, and peoples; as well as a deeply complex socio-cultural and legal context that is opaque and difficult to access. Taken together, these limitations should be borne in mind when considering the available information found in this report, which provides an indication of the complexities of tribal practices based on available information.

Additionally, information on tribes available in sources can range from quite old (yet still relevant) to more recent and updated (and possibly unstable). Care has been taken during the research in validating information from older sources and reflecting possible changes due to the fluid situation in Iraq during the ISIL period and subsequently after ISIL's defeat in 2017, however it is important to be aware of how tribal and societal dynamics in Iraq were disrupted by the years of ISIL conflict.



Quality control

To ensure that the authors respected the EUAA COI Report Methodology a quality review was carried out by COI specialists from the countries and organisations listed as reviewers in the Acknowledgements section. All comments made by the reviewers were taken into consideration and most of them were implemented. The quality review phase identified a number of research gaps and methodology points that needed to be addressed, including adding detail on honour-related violence and the tribal dimension of the situation of people with ISIL affiliation. Duly responding to the reviewer comments and aimed at increasing quality, additional research was conducted up to March 2023 and included in the final draft of this report. A quality review on the content overall from a country expert perspective was then provided in March 2023 by Iraq expert, Haley Bobseine. Lastly, EUAA management conducted a review and the report was finalised in April 2023.

It must be noted that the review carried out by the mentioned departments, experts or organisations contributes to the overall quality of the report, but does not necessarily imply their formal endorsement of the final report, which is the full responsibility of EUAA.

Sources

In accordance with EUAA COI methodology, a range of different published documentary sources have been consulted on relevant topics for this report. These include: academic publications, think tank reports, and specialised sources covering Iraq; information from civil society, NGOs, and Iraqi media. As the topic of the report is of a deep societal and cultural nature, information from English sources was complemented and corroborated/contrasted by Arabic sources to provide a better understanding of the tribal issue in Iraq. Such information was gathered from a variety of sources in Arabic including media articles, academic papers, journalist opinions, official sources, and videos shared on social media by an Iraqi tribal leader explaining tribal practices in Iraq. The content of the Arabic sources was checked by Arabic-speaking/reading reviewers.

In addition to using publicly available documentary sources, several oral sources were contacted and interviewed for this report. These experts are competent in the issue of tribes and tribal practices in Iraq and have various backgrounds. See the [Bibliography](#) for additional details.

ACLED data on security incidents coded with a tribal actor

Furthermore, and in order to provide an overview of the prevalence of tribal violence and its evolution in Iraq within the reference period, ACLED data was used. The use of ACLED data is only meant to be illustrative of the overall element of tribes as an actor. Any understanding of security issues in relation to tribes must also be read in relation to the EUAA reports on the general security situation in Iraq such as [EUAA COI Report Iraq – Security Situation \(January 2022\)](#).





ACLED is a project collecting, analysing and mapping information on ‘the dates, actors, locations, fatalities, and types of all reported political violence and protest events across Africa, the Middle East, Latin America & the Caribbean, East Asia, South Asia, Southeast Asia, Central Asia & the Caucasus, Europe, and the United States of America’.⁴ The information is collected in a database that is searchable and kept continuously up to date. The data primarily come from secondary sources such as media reports. ACLED’s methodology applied for coding and monitoring of the data is explained in detail in its Codebook.⁵ As ACLED points out, the reader should, however, be aware of some limitations in the data.

These limitations are:

‘that most of the data is gathered based on publicly available, secondary reports. This means that the data is in part a reflection of the coverage and reporting priorities of media and international organisations. One of the effects of this is that it may underestimate the volume of events of non-strategic importance (for example, low-level communal conflict, or events in very isolated areas). We work to address this possibility by triangulating data sources to include humanitarian and international organisation reports, rather than media alone; and by conducting ground-truthing exercises in which we present data to local organisations and partners to assess its validity among people working directly in conflict-affected contexts.’⁶

Therefore, ACLED’s figures in this report are to be considered as an estimate and indication of trends in violence over a given period of time.

ACLED codes security incidents as follows:

- ‘Battles’: ‘a violent interaction between two politically organized armed groups at a particular time and location.’ ‘Battles can occur between armed and organised state, nonstate, and external groups, and in any combination therein.’ Sub-events of battles are ‘armed clash’, ‘government regains territory’ and ‘non-state actor overtakes territory’. The subevent type ‘Armed clash’ occurs when ‘armed, organized groups engage in a battle, and no reports indicate a change in territorial control’.
- ‘Violence against civilians’: ‘violent events where an organised armed group deliberately inflicts violence upon unarmed non-combatants’. ‘Violence against civilians includes attempts at inflicting harm (e.g., beating, shooting, torture, rape, mutilation, etc.) or forcibly disappearing (e.g., kidnapping and disappearances) civilian actors.’ The following sub-event types are associated with the violence against civilians event type: ‘Sexual violence’, ‘Attack’, and ‘Abduction/forced disappearance’.
- ‘Explosions/remote violence’: ‘one-sided violent events in which the tool for engaging in conflict creates asymmetry by taking away the ability of the target to respond.’ They include: ‘Chemical weapon’, ‘Air/drone strike’, ‘Suicide bomb’, ‘Shelling/artillery/missile attack’, ‘Remote explosive/landmine/IED’, and ‘Grenade’.
- ‘Riots’: are a violent demonstration, often involving a spontaneous action by unorganised, unaffiliated members of society. They include ‘violent demonstrations’, ‘mob violence’.

⁴ ACLED, About Acled, n.d., [url](#)

⁵ ACLED Codebook, n.d., [url](#)

⁶ ACLED, Armed Conflict Location & Event Data Project (ACLED) Guide for Media Users, January 2015, [url](#), pp. 9-10





- ‘Protests’: ‘public demonstration in which the participants do not engage in violence, though violence may be used against them.’ It includes ‘peaceful protests’, ‘protests with intervention’, ‘excessive force against protesters’.
- ‘Strategic developments’: ‘contextually important information regarding the activities of violent groups that is not itself recorded as political violence, yet may trigger future events or contribute to political dynamics within and across states.’ It includes ‘agreements’, ‘changes to group/activity’, ‘non-violent transfers of territory’, ‘arrests’.⁷

EUAA provided analytical graphs on security incidents involving tribal actors based on publicly available ACLED data. For the purpose of this report, only the following types of events were included as violent incidents in the analysis of the security aspect of tribal feuds in Iraq: battles, explosions/remote violence and violence against civilians. The reference period for the ACLED data is from 1 October 2021 to 28 February 2023 and EUAA downloaded the ACLED curated data files on the Middle East, including Iraq, on 9 March 2023.

ACLED identified in its 2019 Codebook⁸ three codes for the geo-precision of events: ‘If the report notes a particular town, and coordinates are available for that town, the highest precision level “1” is recorded. If the source material notes that activity took place in a small part of a region, and notes a general area, a town with georeferenced coordinates to represent that area is chosen and the geo-precision code will note “2” for “part of region”. If activity occurs near a town or a city, this same precision code is employed. If a larger region is mentioned, the closest natural location noted in reporting (like “border area”, “forest” or “sea”, among others) is chosen to represent the region – or a provincial capital is used if no other information at all is available – and is noted with precision level “3”. No ACLED event is associated with the “country” as the smallest location unit available.’

Structure and use of the report

The report is divided into six chapters. The first chapter provides background information on the issue and role of tribes in the Iraqi society, the structure of the tribe, and the major tribal confederations in the country and an introduction to tribal law. The second chapter describes the main triggers of tribal disputes and conflicts. Chapter 3 describes tribal conflict resolution mechanisms and practices that deal with disputes, as well as the means by which tribes enforce settlements. Chapter 4 covers tribe-related aspects of certain profiles, such as people with perceived ISIL affiliation, the participation of women and impacts of certain tribal practices on women, the liability of children in tribal disputes, and tribal treatment of Christian converts. Chapter 5 deals with tribal law and its relationship with the Iraqi state law, state redress in cases where a person fears tribal retribution, and relocation away from such threats. Chapter 6 provides information on tribal feuds that have a security dimension and broader civilian impact, their causes, prevalence, impact on the security situation in Iraq, as well as the Iraqi State’s ability to respond to such feuds and enforce the law.

⁷ ACLED, Armed Conflict Location & Event Data Project (ACLED) Codebook, October 2017, [url](#), pp. 7-14

⁸ ACLED, Armed Conflict Location & Event Data Project (ACLED) Codebook, 2019, [url](#), p. 29





1. Tribes and tribal law in Iraq

1.1. Background

Tribes in Iraq exercise social influence across the country,¹⁰ and social capital for Iraqis is ‘often’¹¹ or ‘primarily found in tribal, clan, and ethno-sectarian communities’.¹² A report by the US Congressional Research Service (CRS) estimated that 75% of Iraqis are either members of, or have kinship to, a tribe,¹³ and ‘around 70 percent of Iraqis identify themselves as part of the tribal system’.¹⁴ Recent information on the representation and organisation of tribes across Iraq is scarce. There are around 60 tribal confederations¹⁵, SS and around 150 tribes (*asha’ir*, singular *ashira*) in Iraq, comprising around 2 000 smaller clans. Tribes and clans vary in size and influence with the largest tribe counting more than 1 million members and the smallest a few thousand.¹⁶ Minority communities in Iraq are also composed of tribes, however, in certain cases those have become less prominent.¹⁷ In Arab and Kurdish areas, ‘tribal issues remain prevalent’¹⁸ and tribes are largely present in rural areas, though they are spread all over the country and represent Shia, Sunni, and Kurdish Iraqis.¹⁹

According to Iraqi scholar Renad Mansour,²⁰ ‘loyalties to tribal codes go beyond simple family bloodlines’. Arab tribes tending to be defined by genealogy, while Kurdish tribes are defined by territory.²¹ However, Bobseine mentioned that it is important to recognise that genealogical aspects have limits also – as tribes are characterised by distant patrilineal ancestry which is ‘often more claimed than real’ and that Iraqis, like other cultures ‘may manipulate their genealogical ancestry in search of new tribal associations.’²² Additionally, tribal confederations and tribes are ‘often cross-sectarian’ and major tribes contain both Sunni and Shiite members,²³ such as the Jiburi and Shammar.²⁴ Due to the diversity of tribal structures and origins, geographical and sectarian divisions are not always clear-cut. Iraqi tribes have ‘related branches’ in several Arab countries like Syria, Jordan, and Saudi Arabia as well as in

¹¹ Bobseine, H., comments during external expert review of the report, 03 April 2023

¹² BTI, BTI 2022 – Iraq, 2022, [url](#), p. 17

¹³ Hassan, H. D., Iraq: Tribal Structure, Social, and Political Activities, CRS, 7 April 2008, [url](#), p. 1

¹⁴ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 5

¹⁵ The Emirates Policy Center (EPC) estimated the number of tribes in Iraq at 200. EPC, عشائر البصرة في العراق: القضايا السياسية والاجتماعية والأمنية [Basrah tribes in Iraq: Political, social and security issues], 25 May 2022, [url](#)

¹⁶ Hassan, H. D., Iraq: Tribal Structure, Social, and Political Activities, CRS, 7 April 2008, [url](#), p. 1

¹⁷ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 9

¹⁸ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 9

¹⁹ BTI, Iraq Country Report 2022, 2022, [url](#)

²⁰ Renad Mansour is a Senior Research Fellow and project director of the [Iraq Initiative](#) at Chatham House. He is also a senior research fellow at the American University of Iraq, Sulaimani, and a research fellow at the Cambridge Security Initiative based at Cambridge University. Chatham House, Renad Mansour, n. d., [url](#)

²¹ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 5

²² Bobseine, H., comments during external expert review of the report, 03 April 2023

²³ Hassan, H. D., Iraq: Tribal Structure, Social, and Political Activities, CRS, 7 April 2008, [url](#), pp. 2-3; Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 9

²⁴ Hassan, H. D., Iraq: Tribal Structure, Social, and Political Activities, CRS, 7 April 2008, [url](#), pp. 2-3



Turkey.²⁵ In a commentary published on the foreign policy analysis platform War on the Rocks, Alison Pargeter,²⁶ stated that tribes are ‘broadly secular in orientation’,²⁷ and affiliation with the tribal system and codes supersedes religious considerations.²⁸ Haley Bobseine further stated that ‘while many tribes do not have explicit confessional orientations, often having Sunni and Shia members within one tribe, defining them as secular is a misnomer. Tribal customary law, or *urf*, is a dynamic amalgamation of various customs, including to a certain extent, interpretations of *Sharia* law.’²⁹ Tribes ‘do not have explicitly stated confessional orientations’, and supporting a tribal leader is based on the latter’s actions and ability to defend the interests of the tribe rather than sectarian considerations. Mansour noted that the secular nature of tribes should not be overstated.³⁰

Sources indicate that even highly educated individuals resort to their tribes, and tribal leadership may include highly educated individuals,³¹ including in urban areas.³² Many politicians, judges, and police ‘retain some degree of tribal identity’.³³ The Economist reported that some lawyers even advise corporate clients to use tribal councils instead of state courts, especially where the *sheikhs* involved have linkages to militia groups.³⁴

‘Tribalism’³⁵ is a defining characteristic of modern Iraqi society, but one that is constantly adapting to changing times’.³⁶ Years of authoritarian rule, war, and economic crises have hampered ‘the creation of a unified social identity’ in Iraq, meaning tribal, ethno-sectarian and clan communities are of primary social importance.³⁷ Tribalism is ‘one of the oldest establishments’ in Iraq and the tribe’s leader assumes the tasks of resource administration, conflict management, and law enforcement in periods where the state’s governing powers fluctuated.³⁸ This was particularly the case after 2003 when the tribe played a major role in maintaining peace and order in the country.³⁹ In Iraq, tribes can be viewed as ‘social, economic, cultural, and at times political organizations’,⁴⁰ and have strength over the state

²⁵ Hassan, H. D., Iraq: Tribal Structure, Social, and Political Activities, CRS, 7 April 2008, [url](#), pp. 2-3

²⁶ A Senior Research Fellow at the School of Security Studies, King's College London and a Senior Visiting Fellow at the Institute of Middle Eastern Studies, King's College London, Alison Pargeter, n. d., [url](#)

²⁷ Pargeter, A., TRIBES, POLITICAL PARTIES, AND THE IRAQI ELECTIONS: A SHIFTING DYNAMIC, War on the Rocks, 28 September 2021, [url](#)

²⁸ Pargeter, A., TRIBES, POLITICAL PARTIES, AND THE IRAQI ELECTIONS: A SHIFTING DYNAMIC, War on the Rocks, 28 September 2021, [url](#); Chokr, M. A., Tribes, Memory and Politics in Iraq, PhD Thesis, 2022, [url](#), 192

²⁹ Bobseine, H., Tribal Justice in a Fragile Iraq, 7 November 2019, [url](#)

³⁰ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 9

³¹ Al-Ibrahimi, H., email, 28 November 2022; OWFI, Interview with EUAA, 16 March 2023, p. 7

³² OWFI, Interview with EUAA, 16 March 2023, p. 7; Al-Ibrahimi, H., email, 28 November 2022

³³ CNA, “No Security Without Us”: Tribes and Tribalism in Al Anbar Province, June 2014, [url](#), p. 5

³⁴ Economist (The), With Iraqi tribes settling more disputes, sheikhs are in high demand, 30 May 2019, [url](#)

³⁵ The European Center for Populism Studies (ECPS) defines tribalism as ‘a loyalty or preference to one’s own people’. ECPS, Cultural Tribalism, n. d., [url](#)

³⁶ Bobseine, H., Tribal Justice in a Fragile Iraq, 7 November 2019, [url](#), p. 1

³⁷ BTI, Iraq Country Report 2022, 2022, [url](#)

³⁸ Khan, J., The Iraqi Tribal Structure: Background and Influence on Counter-Terrorism, November 2007, [url](#), p. 3

³⁹ Al-Ibrahimi, H., video interview, 3 November 2022. Haidar Al-Ibrahimi is the CEO of Peace Paradigms with expertise on peacebuilding and tribal reconciliation. He was also the Executive Director of the Iraqi NGO Sanad for Peacebuilding. Peace Paradigms, Meet our core team, n. d., [url](#); Al-Abadi, A. M., النزاعات العشائرية في العراق وتأثيراتها القانون العشائري هل هو بديل للقوانين المستقبلية [Tribal disputes in Iraq and their future impact], 15 April 2019, [url](#); BBC Arabic, القانون العشائري هل هو بديل للقوانين المدنية؟ [Tribal law: Is it and alternative to civil laws?] [Online video], 25 February 2019, [url](#)

⁴⁰ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 5



socially, politically, and legally.⁴¹ In areas where it is strong, tribal law ‘regulates everyday life and behaviour, relations between sexes, and men’s and women’s roles in society.’⁴² A key underlying concept of the tribal system in Iraq is ‘honour,’ especially where family, clan and tribe are strong and where state institutions are weak; it is also key to tribal systems of conflict resolution.⁴³

The role of tribes increases when the state is weakened by partisan struggles, armed conflicts, or economic crises, especially as regards the issues of security and identity. This increase, however, does not take place in a coordinated and homogeneous way, but varies based on geographical, socio-economic and religious considerations.⁴⁴ In countries impacted by conflicts as Iraq, tribes assume ‘functions that in strong states are exclusively performed by the government’ such as providing security and resolving disputes.⁴⁵ Bobseine observed, however, that when the state is weak in enforcing justice it would put more burden on tribes to enforce tribal justice as well, hindering both. She added that even during the ISIL conflict when ISIL had geographical control over areas, tribal justice was absent as ISIL’s interpretation of *Sharia* law was the only “judicial system” operating; nevertheless, tribal importance did not disappear.⁴⁶

There are hundreds of tribal codes in Iraq, and violations can trigger a reaction from tribes.⁴⁷ Each clan, tribe, and tribal confederation has their own leader, or Sheikh.⁴⁸ Tribal codes are hierarchical, within and across tribes, as leaders ‘compete and amalgamate’ into broader confederations. At the local level, tribal leaders are ‘power-holders’ and are considered responsible for the protection and economic situation of their communities, serving as local judges and mediators for resolving disputes, including in matters of property and marriage.⁴⁹ The tribe, however, is not currently considered by most to be responsible for the economic situation of their communities.⁵⁰

In contemporary Iraq, tribalism has influence throughout the country.⁵¹ It is particularly strong in the western/central areas and the south of Iraq, and particularly in rural areas. The presence of militias with tribal connections in both Baghdad and Basra were also mentioned; and

⁴¹ Al-Obaidi, B., Interview with EUAA, 3 April 2023. Dr. Bushra Al-Obaidi is an Assistant Professor in international criminal law. She has been lobbying for women’s rights in Iraq since 1997 and is currently a member of UNAMI’s advisory group specialising on women in legislation and policies. She is a former member of the Iraqi High Commission for Human Rights.

⁴² USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 253

⁴³ Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#), para. 2.2.1 ‘Honor as a mechanism’

⁴⁴ EPC, عشائر البصرة في العراق: القضايا السياسية والاجتماعية والأمنية [Basrah tribes in Iraq: Political, social and security issues], 25 May 2022, [url](#)

⁴⁵ Revkin, M. R., The limits of punishment: Traditional justice and violent extremism, IFIT and UNU, May 2018, [url](#), p. 24

⁴⁶ Bobseine, H., comments during external expert review of the report, 03 April 2023

⁴⁷ Al-Ibrahimi, H., video interview, 3 November 2022; HRW, Interview with EUAA, 13 March 2023; OWFI, Interview with EUAA, 13 March 2023

⁴⁸ CNA, “No Security Without Us”: Tribes and Tribalism in Al Anbar Province, Iraq, June 2014, [url](#), p. 7

⁴⁹ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 7

⁵⁰ Bobseine, H., comments during external expert review of the report, 03 April 2023

⁵¹ Gharizi, O., and Al-Ibrahimi, H., BAGHDAD MUST SEIZE THE CHANCE TO WORK WITH IRAQ’S TRIBES, War on the Rocks, 17 January 2018, [url](#); HRW, Interview with EUAA, 13 March 2023; OWFI, Interview with EUAA, 13 March 2023



individual members of tribes are involved in leading or participating in militias that can 'become very violent if it has disputes'.⁵²

Tribalism 'is particularly prominent among the Sunni community',⁵³ especially in the governorates of Al-Anbar, Salah Al-Din, Kirkuk and Ninewa.⁵⁴ For example, the population of Al-Anbar governorate still looks 'more toward their tribes for protection than the central government' where tribal leaders play the role of mediators and advocates 'toward other tribes, security forces and the government'.⁵⁵ The lack of strong political parties in the Sunni Arab areas also enabled tribes to represent the people and to mediate in cases of conflict.⁵⁶ In an interview with EUAA, Nasir Al-Samaraie also observed that in Al-Anbar for example, especially in the Ramadi and Fallujah districts, the role of tribes is thriving due to the presence of high profile politicians, and that tribes in these areas seek financial benefits from those politicians.⁵⁷ In a 2020 research paper on tribal justice for families with perceived affiliation to ISIL, Melisande Genat⁵⁸ observed that given the current situation of dysfunctionality of state institutions and the aftermath of the ISIL-conflict, 'Sunni tribes [in Nineveh, Salah al-Din and Anbar] all express a strong sense of confusion and a lack of clarity regarding the relationship between the adjudication function of the state and the tribes.'⁵⁹

The role of tribes in the Shia-majority areas in central and southern Iraq is also influential,⁶⁰ particularly in Basra.⁶¹ Renad Mansour observed that '[t]he tribes in the southern areas of Iraq are diverse in their origins and make-up, and varied in their stances towards state institutions and non-tribal actors'.⁶² A case study prepared for the United Nations University⁶³ published in August 2022 found that in the city of Al-Basrah (as well as in the city of Talafar in Anbar), '[h]ighest rates of trust (in both locations) were held towards tribal authorities'.⁶⁴ Moreover, according to an IOM report published in 2021, 62% of the respondents to a survey, who were

⁵² OWFI, Interview with EUAA, 13 March 2023

⁵³ Gharizi, O., and Al-Ibrahimi, H., BAGHDAD MUST SEIZE THE CHANCE TO WORK WITH IRAQ'S TRIBES, War on the Rocks, 17 January 2018, [url](#)

⁵⁴ Gharizi, O., and Al-Ibrahimi, H., BAGHDAD MUST SEIZE THE CHANCE TO WORK WITH IRAQ'S TRIBES, War on the Rocks, 17 January 2018, [url](#)

⁵⁵ Al-Monitor, Anbar tribes key to security, political backing ahead of Iraq's October vote, 22 April 2021, [url](#)

⁵⁶ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), pp. 11-12, 17

⁵⁷ Al-Samaraie, N., video Interview, 27 October 2022. Nasir Al-Samaraie is an expert on tribalism, tribal mechanisms and tribal law in Iraq

⁵⁸ Melisande Genat is a PhD student at Stanford University with extensive experience researching tribal justice and conflict resolution mechanisms in Iraq.

⁵⁹ Genat, M., Tribal Justice Mechanisms and Durable Solutions for Families with a Perceived Affiliation to ISIS, IOM, 2020, p. 10

⁶⁰ Badawi, T., The Growing Tribal Role in Iraq's Post-election Shia Politics, Carnegie Endowment for International Peace, 17 May 2022, [url](#)

⁶¹ Gharizi, O., and Al-Ibrahimi, H., BAGHDAD MUST SEIZE THE CHANCE TO WORK WITH IRAQ'S TRIBES, War on the Rocks, 17 January 2018, [url](#)

⁶² Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 30

⁶³ The methodology used for the report is as follows: 'This report is based on data collected from February 2022 to March 2022 from a total of 807 respondents in Basra and Tal Afar. Data was collected by a team of Iraqi enumerators who live in the relevant governorates. In both locations, male enumerators interviewed male respondents and female enumerators interviewed female respondents.' Parry, J., et al, Managing Exits from Conflict in Iraq: A Case Study of Basra and Tal Afar, August 2022, [url](#), p. 12

⁶⁴ Parry, J., et al, Managing Exits from Conflict in Iraq: A Case Study of Basra and Tal Afar, August 2022, [url](#), p. 4



residents of Al-Basrah city, expressed positive trust in tribal leaders.⁶⁵ Al-Samaraie observed that in southern Iraq, the potential financial gains to be made from the presence of the oil industry has increased the role of tribes, especially in the governorates of Al-Basrah, Thi-Qar and Maysan. According to him, those companies have taken large areas of land, and tribes tend to coerce them for financial benefits, especially through requesting the employment of members of tribes.⁶⁶

The focus of this EUAA report is not on tribal and honour issues in KRI, however it should be mentioned that tribes in the Kurdish region also have influence,⁶⁷ despite that '[n]ationalism has overtaken tribalism in the Kurdish psyche'.⁶⁸ The governance of the KRI is 'split down tribal lines between the Barzani and Talabani clans'.⁶⁹ Rudaw stated that 'tribes and religious denominations rule supreme [in the KRI, and particularly in Duhok] more than in any locality in the region'. During the 2021 Iraqi parliamentary elections, 'almost all the 31 candidates in the three constituencies of Duhok, including those from the religious minorities as well as nationalists and political Islamists, have made sure that their candidates are identified by their tribal affiliation'.⁷⁰ An article published by the Center for Middle Eastern Studies (ORSAM) in September 2018 stated that in return for their support to the political parties in the KRI, the tribes 'demand for some positions in the government and within the parties'. This, according to the source, 'has created such a reality which in many cases makes too hard to separate the tribes from the political parties and it can be assumed as a very crucial part of the parties'.⁷¹ Kurdish tribes were able to 'gain a huge political and militaristic power from the beginning of the formation of KRG even till the present time', including in 'administrative and institutional establishments'.⁷² They are mobilised by the ruling parties to provide votes to certain candidates during elections. Tribal leaders in some parts of the KRI enjoy a strong influence over the members of their tribes as regards voting, and this is especially the case when the candidate is a fellow tribesman.⁷³ Moreover, tribalism is present in the Peshmerga across the KRI as the Kurdish ruling parties 'use commanders that come from powerful tribes for their own political gain'. In Sulaimaniya, which is considered as the least tribal governorate of the KRI,⁷⁴ political parties continued to engage the tribes to collect votes in the governorate.⁷⁵ Honour crimes and related violence against women is a continuing problem in the Kurdistan Region of Iraq.⁷⁶

⁶⁵ IOM, Migration into a fragile setting: Responding to climate-induced informal urbanization and inequality in Basra, Iraq, 2021, [url](#), p. 22

⁶⁶ Al-Samaraie, N., video Interview, 27 October 2022

⁶⁷ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 9

⁶⁸ Zaman, A., From Tribe to Nation: Iraqi Kurdistan on the Cusp of Statehood, Wilson Center, 2016, [url](#), p. 6 [url](#), p. 3

⁶⁹ Kane, A., "The Reality of Intra-Kurdish Rivalry Undermines the Notion of Pan-Kurdish Nationalism", 2017,

⁷⁰ Rudaw, Tribal affiliation and religion may determine outcome of Iraq's election, 29 September 2021, [url](#); Qader, S. S. and Hakeem H., I., The role of tribes in the political process of KRG, September 2018, [url](#), p. 6

⁷¹ ORSAM, The Role of Tribes in the Political Process of KRG, September 2018, [url](#), p. 7

⁷² Qader, S. S. and Hakeem H., I., The role of tribes in the political process of KRG, September 2018, [url](#), p. 3

⁷³ Rudaw, Tribal affiliation and religion may determine outcome of Iraq's election, 29 September 2021, [url](#); Qader, S. S. and Hakeem H., I., The role of tribes in the political process of KRG, September 2018, [url](#), p. 6

⁷⁴ Rudaw, Tribal affiliation and religion may determine outcome of Iraq's election, 29 September 2021, [url](#)

⁷⁵ Rudaw, Tribal affiliation and religion may determine outcome of Iraq's election, 29 September 2021, [url](#); Qader, S. S. and Hakeem H., I., The role of tribes in the political process of KRG, September 2018, [url](#), p. 6

⁷⁶ Al Jazeera, 'As if she never existed': The graveyards for murdered women, 8 March 2021, [url](#); Canada, IRB, Iraq: Honour-based violence in Kurdistan, 15 February 2016 (IRQ105424.E), [url](#); AW, Worrisome increase of "Honour"



1.2. Structure of the tribe

EUAA notes that sources describe tribal structures in a similar manner, however there are some differences especially concerning the terms (English translations) used to describe those tribal units such as using the word ‘clan’ or ‘tribe’ interchangeably.⁷⁷ Bobseine observed that the ‘term ‘tribe’ is therefore a technical term, but is also used in a broad sense to include units of organization that operate within the tribal structure’.⁷⁸

The foundational unit in the tribal structure is the ‘greater extended family’, known as the *Khams* (or *Khamsa*⁷⁹). It comprises ‘all male offspring who share the same great-great grandfather’,⁸⁰ or those males ‘related through the paternal line to the fifth generation.’⁸¹ This tribal unit is the one obligated by tribal custom to avenge the death or injury of a family member⁸² by either killing a member of the perpetrator’s *Khams* or by obtaining a financial compensation (*diyya*).⁸³ That is, ‘if a tribesman is murdered, his [male] relatives within the *khamsah* are required to avenge his death, and all members of the murderer’s *khamsah* are considered to share responsibility and thus are legitimate targets for reprisal.’⁸⁴

The lowest level in the structure of the tribe is the *bayt*, or house,⁸⁵ which comprises one extended family⁸⁶ or a number of families (*awa’il*)⁸⁷ whose members amount to hundreds.⁸⁸ Members of one *bayt* often maintain a high level of cohesion,⁸⁹ which correlates with the degree of kinship (usually going up to five generations).⁹⁰ This unit does not have ‘a political or military role, but [...] an economic, camping, and housing’ one.⁹¹

crimes in Iraqi Kurdistan, 21 March 2022, [url](#); Mustafah, R., Addressing Violence Against Women in Iraqi Kurdistan, 28 March 2022, [url](#);

⁷⁷ EUAA observation on patterns and terminology in source information.

⁷⁸ Bobseine, H., Tribal Justice in a Fragile Iraq, 7 November 2019, [url](#), p. 3

⁷⁹ Bobseine, H., Tribal Justice in a Fragile Iraq, 7 November 2019, [url](#), p. 6

⁸⁰ Khan, J., The Iraqi Tribal Structure: Background and Influence on counter-Terrorism, November 2007, [url](#), p. 4

⁸¹ CNA, “No Security Without Us”: Tribes and Tribalism in Al Anbar Province, June 2014, [url](#), p. 5

⁸² Bobseine, H., Tribal Justice in a Fragile Iraq, 7 November 2019, [url](#), p. 6

⁸³ Khan, J., The Iraqi Tribal Structure: Background and Influence on counter-Terrorism, November 2007, [url](#), p. 4; UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, available at: [url](#), p. 1

⁸⁴ CNA, “No Security Without Us”: Tribes and Tribalism in Al Anbar Province, June 2014, [url](#), p. vi

⁸⁵ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 5

⁸⁶ Hassan observed that a *bayt* ‘is similar to a Khams. It can resemble a single, vast extended family with hundreds of members’. Hassan, H. D., Iraq: Tribal Structure, Social, and Political Activities, CRS, 7 April 2008, [url](#), p. 2

⁸⁷ Bobseine, H., Tribal Justice in a Fragile Iraq, 7 November 2019, [url](#), p. 3

⁸⁸ Khan, J., The Iraqi Tribal Structure: Background and Influence on counter-Terrorism, November 2007, [url](#), p. 4

⁸⁹ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 5

⁹⁰ Abd, A. M., *بنية القبيلة والتغيرات التي طرأت عليها بحث انثروبولوجي عن النظام القبلي في محافظة الانبار* [The Structure of the Tribe and the Changes Incurred to It: Anthropological Research on the tribal system in Al-Anbar governorate] in: Al-Adab Journal, Issue 101, 2012, [url](#), p. 694

⁹¹ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 5



A *fakhdh*, (translated as clan⁹² or sub-clan⁹³), is comprised of a number of houses,⁹⁴ and has 'its own chief, family name, and land that is relative to a specific village or town'.⁹⁵ A *fakhdh* can be viewed as a kind of 'sub-tribe' whose members tend to live together or in geographic proximity 'making cohesion and solidarity stronger'. The role of this unit is also economic.⁹⁶

Ashira, (translated as tribal organisation⁹⁷ or clan⁹⁸), is comprised of a cluster of clans or houses.⁹⁹ The geographic proximity of the clans that comprise the *ashira* as well as the influence of the *sheikhs* of the houses (*bayts*) that make up the clan could lead the *ashira* to enjoy a high level of unity.¹⁰⁰ Those tribal organisations 'can widely vary in size, ranging from a few thousand to more than a million members';¹⁰¹ play a political and military role and are led by *sheikhs* who bring 'a sense of unity to the structure'.¹⁰²

Finally, a group of *asha'ir* (*pl. of ashira*) form a *Qabila*¹⁰³, or a tribal confederation¹⁰⁴ which is 'the largest unit within the Arab tribal structure'.¹⁰⁵ The members of the *Qabila* are led by a 'paramount sheikh' and 'have a sense of common lineage or descent'¹⁰⁶ which can be real or fictitious.¹⁰⁷ While the term *qabila* can be used in reference to *ashira*, the distinction between the two units lies in the structure of leadership: when the *sheikhs* of several *asha'ir* are led by a paramount *sheikh*, then the unit in question is *qabila*.¹⁰⁸ Tribal confederations play a political and military role and respond to external threats.¹⁰⁹ Khan observed that '[a]lthough the *qabila* is an alliance of several tribes, it is still regarded as a tribe'.¹¹⁰

⁹² Khan refers to *fakhdh* as clan: Khan, J., The Iraqi Tribal Structure: Background and Influence on counter-Terrorism, November 2007, [url](#), p. 4; Bobseine, H., Tribal Justice in a Fragile Iraq, 7 November 2019, [url](#), p. 3

⁹³ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 5

⁹⁴ Abd, A. M., *بنية القبيلة والتغيرات التي طرأت عليها بحث انثروبولوجي عن النظام القبلي في محافظة الانبار* [The Structure of the Tribe and the Changes Incurred to It: Anthropological Research on the tribal system in Al-Anbar governorate] in: Al-Adab Journal, Issue 101, 2012, [url](#), p. 695

⁹⁵ Khan, J., The Iraqi Tribal Structure: Background and Influence on counter-Terrorism, November 2007, [url](#), p. 4

⁹⁶ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 5; Bobseine stated that the economic role of the tribe has decreased now compared to the past decades. Bobseine, H., comments during external expert review of the report, 03 April 2023

⁹⁷ Khan, J., The Iraqi Tribal Structure: Background and Influence on counter-Terrorism, November 2007, [url](#), p. 4

⁹⁸ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 5

⁹⁹ Abd, A. M., *بنية القبيلة والتغيرات التي طرأت عليها بحث انثروبولوجي عن النظام القبلي في محافظة الانبار* [The Structure of the Tribe and the Changes Incurred to It: Anthropological Research on the tribal system in Al-Anbar governorate] in: Al-Adab Journal, Issue 101, 2012, [url](#), p. 695

¹⁰⁰ Khan, J., The Iraqi Tribal Structure: Background and Influence on counter-Terrorism, November 2007, [url](#), p. 4

¹⁰¹ Hassan, H. D., Iraq: Tribal Structure, Social, and Political Activities, CRS, 7 April 2008, [url](#), p. 2

¹⁰² Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 5

¹⁰³ Abd, A. M., *بنية القبيلة والتغيرات التي طرأت عليها بحث انثروبولوجي عن النظام القبلي في محافظة الانبار* [The Structure of the Tribe and the Changes Incurred to It: Anthropological Research on the tribal system in Al-Anbar governorate] in: Al-Adab Journal, Issue 101, 2012, [url](#), p. 696. For Bobseine's description of the structure, see: Bobseine, H., Tribal Justice in a Fragile Iraq, 7 November 2019, [url](#)

¹⁰⁴ Hassan, H. D., Iraq: Tribal Structure, Social, and Political Activities, CRS, 7 April 2008, [url](#), p. 2; Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 5

¹⁰⁵ Bobseine, H., Tribal Justice in a Fragile Iraq, 7 November 2019, [url](#), p. 3

¹⁰⁶ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 5

¹⁰⁷ CNA, "No Security Without Us": Tribes and Tribalism in Al Anbar Province, Iraq, June 2014, CNA, [url](#), p. vii

¹⁰⁸ Abd, A. M., *بنية القبيلة والتغيرات التي طرأت عليها بحث انثروبولوجي عن النظام القبلي في محافظة الانبار* [The Structure of the Tribe and the Changes Incurred to It: Anthropological Research on the tribal system in Al-Anbar governorate] in: Al-Adab Journal, Issue 101, 2012, [url](#), p. 696

¹⁰⁹ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 5

¹¹⁰ Khan, J., The Iraqi Tribal Structure: Background and Influence on counter-Terrorism, November 2007, [url](#), p. 4





The major Arab tribal confederations in Iraq are the following¹¹¹:

- Shammar: counts more than 1.5 million members and extends from south of Baghdad to the Syrian border, while some of its tribes reside in Yemen and the United Arab Emirates. It includes both Sunni and Shia members.
- Dulaym: resides mainly in Al-Anbar governorate and many of its tribe leaders played an important role in supporting the regime of Saddam Hussein.
- Jibur: one of the largest tribal confederations in Iraq and includes both Sunni and Shia groups.
- Tikriti: is the tribal confederation of former senior officials in Iraq including Saddam Hussein. Abu Nasir tribe, Hussein's tribe, counts more than 350 000 young men.
- Al-Khaza'il: are found in Baghdad area.
- Anizah: is believed to be 'the largest group of nomad Arab tribes' in terms of number and is considered to be the 'hereditary foes' of Shammar.
- Banu Hushaim: resides on the Euphrates and its tribes are mostly of Shammar origin.
- Aqrah: is also of Shammar origin and its members work in agriculture and sheep breeding.
- Zubayd: believed to have migrated from Yemen, and 'have a wide kinship'.¹¹²

In addition to the tribal confederations mentioned above, Khan mentioned the following ones: Tayy, Rubia, Ubayd, Al-Dhufair, Al-Muntafiq, Bani Rikab, Al-Soudan, Abu Mohammed, Al-Qarraghul, Al-Hassan, Yazzid, Ka'b, Shammar Touga, Al-Ghalal, Al-Sumaida, Bani Lam, Al-Azza, Al-Umtayr, Zoba, Midan, Al-Duriyeen, and Al-Suwarma.¹¹³

The above information on major tribal groups provides an overview and a sampling; it is beyond the scope of this report to provide a comprehensive listing of all the tribes and confederations operating in Iraq.

1.3. Tribal law in Iraq

In the Arab world, according to Carroll, tribal law is 'best understood as a fluid product of ongoing negotiation between the state and tribal actors'.¹¹⁴ The tribal system 'represents a crucial social system' in a country¹¹⁵, and exists at the local level 'for dispute resolution, particularly in light of fledgling legal systems',¹¹⁶ or to fill the gap left by a weak state.¹¹⁷

¹¹¹ For more detailed information on the presence of tribes at a provincial level, see: Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), pp. 17-34

¹¹² Hassan, H. D., Iraq: Tribal Structure, Social, and Political Activities, CRS, 7 April 2008, [url](#), pp. 5-6

¹¹³ Khan, J., The Iraqi Tribal Structure: Background and Influence on counter-Terrorism, November 2007, [url](#), p. 5

¹¹⁴ Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 11

¹¹⁵ Chokr, M. A., The Persisting Past of Iraq, September 2021, [url](#), p. 4

¹¹⁶ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 17

¹¹⁷ Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 11; Economist (The), With Iraqi tribes settling more disputes, sheikhs are in high demand, 30 May 2019, <https://www.economist.com/middle-east-and-africa/2019/05/30/with-iraqi-tribes-settling-more-disputes-sheikhs-are-in-high-demand>





Sometimes tribal laws contradict state law¹¹⁸ or contravene human rights,¹¹⁹ they have not been recognised by the state or codified.¹²⁰

In the tribal system, the acquiring of honour and conversely the avoidance of shame, disgrace, or humiliation are ‘key to the ethos of Iraqi society’ underpinning value structure in the tribal system. Honour of the tribe may fluctuate with male behaviour (*Sharaf*), while family honour (*ird*), mainly embodied in women, can only be lost as a result of female behaviour. The tribal system is also characterised by the strong sense of group identity that subordinates the individual's interest. There is significant pressure to conform for groups survival, but also as ‘survival of the individual’, and in return for loyalty it provides protection. Customary tribal law is an expression of the collective identity that ‘regulates relations between the individual and the group’ and an individual who does not obey tribal customs ‘risks the loss of support of the tribe, thus making himself and his family vulnerable.’¹²¹ The fundamental goal of *Sulh* (tribal dispute settlement explained in chapter [3. Tribal conflict resolution mechanisms and practices](#)) is to restore peace through the restoration of honour.¹²² According to Genat, the purpose of tribal justice is to ‘contain conflict’, not to prevent it, but rather to prevent it from escalating.¹²³

Tribal law in Iraq is comprised of sets of codes (*sanayin* or *sawani* in Arabic) which are adopted by tribal *sheikhs* to constitute the customs that guide the relations between tribe members¹²⁴ and between tribes themselves.¹²⁵ Those codes comprise tribal customs that pre-date *Sharia* law¹²⁶ and precede the Iraqi Constitution,¹²⁷ and have materialised through tribal judicial precedents and tribal customs over the years.¹²⁸

According to Carroll, the legal codes of many Iraqi tribes have been printed in formal documents¹²⁹ which may be adopted by the senior members of tribes. Those legal codes ‘share a common body of rules, regardless of ethno-religious affiliations’ and are known as *urf*.¹³⁰ However, while *urf* rules vary, ‘[t]here is significant overlap and little variation among Sunni and Shia Arab tribal customs [... and] greater [differences] among other ethnic and religious groups.’¹³¹ According to Carroll, there ‘appears to be relatively little variation in the structure, specifics or processes of law’ among those codes which enables them to facilitate

¹¹⁸ Al-Bayan, «تقاليد عشائرية عراقية تفض النزاعات» [Saniya: Tribal traditions in Iraq to settle disputes], 27 September 2014, [url](#)

¹¹⁹ HRW, Interview with EUAA, 13 March 2023

¹²⁰ Genat, M., video interview, 4 October 2022

¹²¹ CNA, “No Security Without Us”: Tribes and Tribalism in Al Anbar Province, Iraq, June 2014, [url](#), pp. 8-9

¹²² Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 13

¹²³ Genat, M., video interview, 4 October 2022

¹²⁴ Genat, M., video interview, 4 October 2022

¹²⁵ Hassony, A. and Oda, J. G., التعريف بالمطالبة العشائرية [Definition of tribal claim], 2019, [url](#), pp. 117-118; Genat, M., video interview, 4 October 2022

¹²⁶ Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 12

¹²⁷ Al-Bayan, «تقاليد عشائرية عراقية تفض النزاعات» [Saniya: Tribal traditions in Iraq to settle disputes], 27 September 2014, [url](#)

¹²⁸ Hassony, A. and Oda, J. G., التعريف بالمطالبة العشائرية [Definition of tribal claim], 2019, [url](#), pp. 117-118; 123-124

¹²⁹ Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 12. In an interview with EUAA, Genat stated that she has seen printed documents containing such codes. Genat, M., video interview, 4 October 2022. In an interview with the EUAA, Nasir Al-Samaraie stated that tribal codes are available on social media and occasionally in Iraqi media. Al-Samaraie, N., video interview, 27 October 2022

¹³⁰ Genat, M., Tribal Justice Mechanisms and Durable Solutions for Families with a Perceived Affiliation to ISIS, IOM, 2020, p. 10

¹³¹ Bobseine, H., Tribal Justice in a Fragile Iraq, 7 November 2019, [url](#), p. 3



the settlement of disputes between tribes.¹³² Those rules that tribes have between each other include rules on the sums of *fasl* (see 3.6 below) for different disputes.¹³³

However, other sources tended to agree that while some principles are overarching, there is variation in application at the tribal level: USIP remarked in 2011 that ‘major legal concepts and principles (...) are generally true for most Arab Iraqi tribes’ and that ‘compensation amounts and punishments may vary from tribe to tribe.’¹³⁴ Other sources indicated that tribal rules are often unwritten or are norms leaving a wide range of discretion in their application.¹³⁵ Human Rights Watch remarked that the tribal system is very much oriented toward communal identity and while there are similar general concepts that apply across the board [collective responsibility for protection/revenge; blood money/*diyya*, *thar*/revenge, threats or confrontation (*degge*), *fasliya*, *bara’a*, honour killings], customary practices and settlements of disputes can vary very much at the discretion of who is involved in the dispute settlement process.¹³⁶ Al Samaraie stated that tribal codes may have difference by region, and disputes may be resolved differently by region, but have commonalities among them.¹³⁷ Similarly, Genat stated that ‘while the core rules are static’ tribal rules are dynamic and considered as a fluid mechanism. Some of those codes are written down and vary from tribe to tribe, while the core principles are similar.¹³⁸

Tribal rules are dynamic¹³⁹ and can be amended by tribal *sheikhs* in accordance with what the social, economic, and political circumstances dictate.¹⁴⁰ They can also be amended by a ‘tribal customary reference’, *arfa*, as in the example cited by Genat’s IOM report when the *arfa* of Shammar tribe ‘noted that he recently amended Shammar internal law to modify the extent of expulsion demanded of tribal members.’¹⁴¹ Another example is the decision of the tribes in Diyala governorate to adopt new codes to counter defamation on social media. According to Sky Arabia, Diyala tribes agreed to set a *fasl* of 25 – 50 million Iraqi Dinars (16 000 – 33 000 USD) for such cases.¹⁴²

There are two types of tribal judges. The first type are tribal leaders who act as mediators between the parties in most cases, and whose decisions are not binding. The other type of judges are called *Awaref* or *Faradha*.¹⁴³ They comprise a handful of reputable senior figures who are turned to when there is no clarity regarding the responsible party for any given injury.¹⁴⁴ These persons have inherited their positions and they “adjudicate” a case as

¹³² Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 12

¹³³ Genat, M., Tribal Justice Mechanisms and Durable Solutions for Families with a Perceived Affiliation to ISIS, IOM, 2020, p. 11

¹³⁴ USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 253

¹³⁵ HRW, Interview with EUAA, 13 March 2023; OWFI, Interview with EUAA, 16 March 2023; Oral tribal laws are also mentioned by Al-Mayadeen, *العطوة العشائرية في العراق .. "هدنة الدم" تسبق القانون* [Tribal atwa in Iraq. “Blood truce” precedes the law], 4 June 2022, [url](#)

¹³⁶ HRW, Interview with EUAA, 13 March 2023

¹³⁷ Al Samaraie, video interview, 27 October 2022

¹³⁸ Al-ibrahimi, H., video interview, 3 November 2022

¹³⁹ Genat, M., video interview, 4 October 2022

¹⁴⁰ Al-Mayadeen, *العطوة العشائرية في العراق .. "هدنة الدم" تسبق القانون* [Tribal atwa in Iraq. “Blood truce” precedes the law], 4 June 2022, [url](#)

¹⁴¹ Genat, M., Tribal Justice Mechanisms and Durable Solutions for Families with a Perceived Affiliation to ISIS, IOM, 2020, p. 11

¹⁴² Sky Arabia, *قانون عشائري "تشيكر" ضد التشهير على شبكات التواصل بالعراق* [“Tribal law” banning defamation on social media networks in Iraq], 4 June 2021, [url](#)

¹⁴³ Genat, M., video interview, 4 October 2022

¹⁴⁴ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 236; Al-Shabaka, *الفصل العشائري.. أعراف أقوى من القوانين* [Tribal *fasl*. Customs which are stronger than the law], 17 April 2018, [url](#)



opposed to tribal leaders who mediate between the parties.¹⁴⁵ The process is ‘quite formal and relatively swift, usually taking no more than a day or two in the most’.¹⁴⁶ When the disputing parties agree to have their case adjudicated through the second path, they pledge to accept the rulings of the tribal judge and make an oath on the Quran to abide by them.¹⁴⁷ In Hamoudi’s paper on Shia tribalism, he stated that in cases where there is no evidence to support a claim, ‘what is resorted to is known as taking an oath of the tomb of Abbas’, a revered figure in Shia Islam, where ‘a victim can be taken to Kerbala at the insistence of the offending party and be made to swear on the tomb’ of Abbas that the claim is true. Once the oath is undertaken, ‘a party’s honor, referred to among the tribes using the colloquial term *bakht*, is invoked, and to involve one’s *bakht* is a serious matter’.¹⁴⁸

The challenges faced by the government to protect the Iraqi society has led to the consolidation of the role of tribal customs and traditions in parallel to the rule of law, as acknowledged by the Supreme Judicial Council of Iraq.¹⁴⁹ As a result, sources indicated that many Iraqis prefer to use the tribal system to resolve disputes,¹⁵⁰ even for major crimes,¹⁵¹ as well as minor disputes,¹⁵² or interpersonal, intercommunal issues,¹⁵³ of family disputes.¹⁵⁴ This is mainly due to problems of corruption and distrust in the formal courts,¹⁵⁵ lack of access to such courts,¹⁵⁶ lack of trust in the government,¹⁵⁷ and because tribal courts are less costly and seen as faster than state courts.¹⁵⁸

Additionally, tribal resolution is seen as ‘more flexible’ compared to the state authorities for some types of disputes,¹⁵⁹ as the tribal systems are perceived as maintaining social relationships among community members.¹⁶⁰ However, sources also indicate that sometimes disputes may also be resolved through a mixed approach, or by resorting to the formal system in serious cases, such as murder.¹⁶¹

¹⁴⁵ Genat, M., video interview, 4 October 2022

¹⁴⁶ Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 2015, p. 236; Bobseine observed that the process can in some cases take much longer. Bobseine, H., comments during external expert review of the report, 03 April 2023

¹⁴⁷ Genat, M., video interview, 4 October 2022

¹⁴⁸ Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 2015, p. 236

¹⁴⁹ The Supreme Judicial Council of Iraq acknowledges that the weakness of the Iraqi State’s institution since 2003 has led to an increased role of the tribes in providing protection to their members and to the prevalence of the tribal practice of *degge*. Iraq, Supreme Judicial Council, الكوامة العشائرية [Tribal gouwama], 14 June 2021, [url](#)

¹⁵⁰ Freedom House, *Freedom in the world 2022: Iraq*, 2022, [url](#); HRW, Interview with EUAA, 13 March 2023;

National (The), *In post-ISIS Iraq, tribal justice grows in shadow of Baghdad mistrust*, 26 June 2018, [url](#)

¹⁵¹ Freedom House, *Freedom in the world 2022: Iraq*, 2022, [url](#);

¹⁵² Kao, K., *Legal Pluralism and Fragmented Sovereignty in Iraq*, 9 June 2022, [url](#), p. 18

¹⁵³ HRW, Interview with EUAA, 13 March 2023

¹⁵⁴ Kao, K., *Legal Pluralism and Fragmented Sovereignty in Iraq*, 9 June 2022, [url](#), p. 2

¹⁵⁵ Freedom House, *Freedom in the World 2022: Iraq*, 2022, [url](#); Al-Samaraie, N., video interview, 27 October 2022; Kao, K., *Legal Pluralism and Fragmented Sovereignty in Iraq*, 9 June 2022, [url](#), p. 18

¹⁵⁶ Freedom House, *Freedom in the World 2022: Iraq*, 2022, [url](#);

¹⁵⁷ National (The), *In post-ISIS Iraq, tribal justice grows in shadow of Baghdad mistrust*, 26 June 2018, [url](#)

¹⁵⁸ Revkin, M., *The Limits of Punishment*, May 2018, [url](#), p. 24

¹⁵⁹ HRW, Interview with EUAA, 13 March 2023

¹⁶⁰ Kao, K., *Legal Pluralism and Fragmented Sovereignty in Iraq*, 9 June 2022, [url](#), p. 2

¹⁶¹ Kao, K., *Legal Pluralism and Fragmented Sovereignty in Iraq*, 9 June 2022, [url](#), p. 41; HRW, Interview with EUAA, 13 March 2023





Al-Samaraie observed that all kinds of complaints can be brought to tribal justice.¹⁶² These include cases involving murder, traffic accidents, and individual disputes, as well as land feuds and disputes based on irrigation rights and historical feuds.¹⁶³ Tribal arbitration is ‘increasingly becoming the norm in handling criminal, family, and commercial disputes’ such as marital issues, personal disputes, car accidents, as well as professional problems ‘such as teachers failing students or medical mistakes by doctors’. Even state employees ‘resort to tribal courts to resolve disputes instead of by-laws and disciplinary tribunals’.¹⁶⁴ Further, according to an Iraqi tribal leader, tribal *sheikhs* are being involved in minor disputes such as ones arising from debt, interpersonal differences, and marital quarrels.¹⁶⁵ For honour issues, see Sections [3.10 Women as a means of tribal disputes settlement or use of women in tribal customs](#), [3.11 Honour violations and honour-based violence](#) and [4.2 Women’s tribal participation and other practices affecting women](#).

¹⁶² Al-Samaraie, N., video interview, 27 October 2022

¹⁶³ Shafaqna – Iraq, *العراق.. الفصول العشائرية أو “الكوامة” تعالج مشاكل وجرائم بكل أنواعها*, 27 August 2022, [url](#)

¹⁶⁴ Al-Ahram Online, *How Iraq’s judiciary got into a political mess*, 5 April 2022, [url](#)

¹⁶⁵ Independent Arabia, *العشيرة تحكم الدولة في العراق و تهدد كياناتها و العاملين فيها*, [The clan dominates the state in Iraq and threatens its entities and public servants], 13 September 2021, [url](#)





2. Causes of tribal disputes

Tribal conflicts or disputes may be triggered by a range of different issues including:

- Intentional or unintentional killing;¹⁶⁶
- Infliction of injuries;¹⁶⁷
- Loss of 'honour' and honour violations, especially by women¹⁶⁸ (also including 'black crime' (*as-souda*) such as rape, homosexual acts, kidnapping a woman, or stealing from a kinsman or host;¹⁶⁹ being LGBTIQ;¹⁷⁰
- Theft;¹⁷¹
- Verbal or other insults or offenses against a man's honour;¹⁷²
- Unpaid debts;¹⁷³ financial problems;¹⁷⁴
- Unresolved land disputes;¹⁷⁵
- Access to water, property, or resources;¹⁷⁶
- Car accidents;¹⁷⁷
- Revenge;¹⁷⁸
- Interpersonal, family, or intercommunal issues;¹⁷⁹
- Competition between tribes over power or authorities in a city, village, or neighbourhood;¹⁸⁰
- Medical errors or deaths blamed on doctors and medical professionals;¹⁸¹
- Moreover, tribal violence can also be triggered for minor reasons¹⁸² such as fights between children¹⁸³ and social media posts,¹⁸⁴ insulting a religious figure venerated by

¹⁶⁶ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, [url](#)

¹⁶⁷ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, [url](#)

¹⁶⁸ See Section [3.11 Honour violations and honour-based violence](#) of this report on honour violations and associated punishments.

¹⁶⁹ USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 264; UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, [url](#)

¹⁷⁰ HRW, "Everyone Wants Me Dead", 2022, [url](#), p. 72

¹⁷¹ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, [url](#); USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 254

¹⁷² USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 254

¹⁷³ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, [url](#); for additional examples, see:

¹⁷⁴ Al-Hadath, العراق [Melon price or divorce . the insanity of tribal clashes in Iraq], 12 May 2022, [url](#)

¹⁷⁵ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, [url](#); for additional examples, see:

¹⁷⁶ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, [url](#); for additional examples, see:

¹⁷⁷ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 259; Al-Samaraie, N., video interview, 27 October 2022

¹⁷⁸ New Arab (The), اشتباكات العشائر في العراق: استقواء بالحماية السياسية والفصائلية للسلح المتفطت [Clashes of tribes in Iraq: Drawing strength from politics and militias to protect incontrollable weapons], 22 April 2022, [url](#)

¹⁷⁹ HRW, Interview with EUAA, 13 March 2023

¹⁸⁰ OWFI, Interview with EUAA, 16 March 2023

¹⁸¹ Irfaasawtak, "أطباء تحت طائلة الكوامة العشائرية", [Doctors under tribal threats] 29 May 2019, [url](#)

¹⁸² Genat, M., video interview, 4 October 2022; Al-Samaraie, N., video interview, 27 October 2022; Al-Ibrahimi, H., video interview, 3 November 2022; Independent Arabia, العشيرة تحكم الدولة في العراق و تهدد كياناتها و العاملين فيها [The clan dominates the state in Iraq and threatens its entities and public servants], 13 September 2021, [url](#)

¹⁸³ Independent Arabia, العشيرة تحكم الدولة في العراق و تهدد كياناتها و العاملين فيها [The clan dominates the state in Iraq and threatens its entities and public servants], 13 September 2021, [url](#)

¹⁸⁴ Genat, M., video interview, 4 October 2022; Ultra Iraq, معركة عشائرية بالأسلحة النارية، "فيسبوك": بسبب منشورات على "فيسبوك" معركة عشائرية بالأسلحة النارية، 27 September 2019, [url](#); Al-Hadath, سعر البطيخ أو الطلاق.. جنون، 27 September 2019, [url](#); Al-Hadath, سعر البطيخ أو الطلاق.. جنون



the members of another tribe or the children of two competing tribes fighting.¹⁸⁵ Bobseine stated that it is important to note that minor disputes and a broad range of daily issues can escalate into tribal issues.¹⁸⁶

Sources indicate these can arise in both rural areas and in cities,¹⁸⁷ including in Baghdad.¹⁸⁸ The representative of OWFI indicated that in rural settings tribes are more free to escalate and use violence where there is less police control.¹⁸⁹ The prevalence of heavy weapons and lack of security forces intervention for fear of being targeted themselves were cited reasons for escalations of tribal violence.¹⁹⁰

Al-Ibrahimi observed that there are hundreds of tribal customs, and any violation of any of these is set to trigger a reaction from the tribe.¹⁹¹ An IOM report published in 2021 maintained that '[t]ribal conflicts emerge mainly when disputes between individuals or families are not resolved through peaceful means (either through formal or customary processes), and parties in conflict rely on specific customary practices [...] that involve violence'.¹⁹² In a follow-up email on 28 November 2022, Al-Ibrahimi stated that people who do not have contact or engagement with the tribal system (which is mostly the case in urban settings), are not obligated by any code or tribal measure. However, if for any reason they become subject to a tribal disciplinary code, they have to attend the tribal dispute settlement meeting (*fasl*) and abide by the outcome or otherwise they will face consequences, which could take the form of aggressive reaction from the tribe.¹⁹³ The reaction follows two steps. The tribes of the aggrieved and the perpetrator establish a conversation, a session where they discuss the issue and agree on the penalty. If the perpetrator (and his tribe) is compliant with the penalty, the issue is solved. If not, the aggrieved party (and his tribe) has the right to escalate, and escalation means violence.¹⁹⁴ A person who is not affiliated with a tribe, e.g., an urban professional or a non-Iraqi Arab can be called to a tribal dispute settlement meeting (*fasl*) if involved in a dispute with a member of a tribe, e.g., in the case of car accident. Such a situation is unfortunate because the person will not be able 'to turn to anyone to represent his interests in this closed and insular system'.¹⁹⁵

العراق [Melon price or divorce, the insanity of tribal clashes in Iraq], 12 May 2022, [url](#); Al-Falluja Channel, [سعر البطيخ أو الطلاق.. جنون النزاعات العشائرية في العراق](#) [Football causes deaths and injuries following a tribal feud in Thi-Qar] {Online video}, 19 October 2021, [url](#)

¹⁸⁵ Inquirer (The), Tribal Iraq: where petty squabbles turn lethal, AFP, 27 June 2021, [url](#)

¹⁸⁶ Bobseine, H., comments during external expert review of the report, 03 April 2023

¹⁸⁷ OWFI, Interview with EUAA, 16 March 2023; Al-Ibrahimi, H., video interview, 3 November 2022

¹⁸⁸ OWFI, Interview with EUAA, 16 March 2023; Al-Obaidi, B., Interview with EUAA, 3 April 2023

¹⁸⁹ OWFI, Interview with EUAA, 16 March 2023

¹⁹⁰ Al-Obaidi, B., Interview with EUAA, 3 April 2023

¹⁹¹ Al-Ibrahimi, H., video interview, 3 November 2022; Al-Hadath, [سعر البطيخ أو الطلاق.. جنون النزاعات العشائرية في العراق](#) [Melon price or divorce . the insanity of tribal clashes in Iraq], 12 May 2022, [url](#)

¹⁹² IOM, Migration into a fragile setting: Responding to climate-induced informal urbanization and inequality in Basra, Iraq, 2021, [url](#), p. 18

¹⁹³ Al-Ibrahimi, H., email, 28 November 2022.

¹⁹⁴ Al-Ibrahimi, H., video interview, 3 November 2022

¹⁹⁵ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 259



There were reports that government employees and public servants, police, doctors,¹⁹⁶ judges¹⁹⁷ and school teachers have been summoned to tribal *fasl* by tribes,¹⁹⁸ murdered, or be subject to revenge.¹⁹⁹ According to Bobseine, their tribe may represent them.²⁰⁰ According to the head of the teachers' trade-union cited in the article, targeting teachers by tribes has been increasing, especially in southern and central Iraq, with around 85 incidents registered in the governorate of Thi-Qar alone in 2022.²⁰¹ Tribes have threaten medical professionals/doctors for perceived medical errors or claims of wrongful death;²⁰² assault and threaten doctors at work,²⁰³ and extort doctors through fabricated tribal penalties,²⁰⁴ that can reach 300 million Iraqi Dinars (approximately 211 700 EUR²⁰⁵),²⁰⁶ including in Baghdad,²⁰⁷ and causing doctors to change professions or leave the country.²⁰⁸ Tribal practices in Iraq 'are becoming so common that people now often turn to the tribal courts even to solve professional problems' and are affecting education and medical institutions.²⁰⁹

Further relevant information could not be found within the time constraints of this report.

A sociologist cited in Independent Arabia observed that the reason behind tribal disputes is when a person or a group suffer from injustice and resort to their tribe, rather than the state, to address it.²¹⁰ However, Bobseine observed that state law may also be weak in resolving disputes, and that tribal and state law are very much overlapping.²¹¹ According to Genat, frustration caused by the deteriorating political and economic situation leads to escalation of violence. This phenomenon has been ongoing since the beginning of the civil war in 2004. Many feuds start with two individuals fighting, and later escalate when the two tribes get

¹⁹⁶ Iraq, Supreme Judicial Council, رقم القرار رقم 24] [Legal position regarding tribal summons in light of Decision No. 24], 23 May 2012, [url](#); see also: Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), pp. 8-9

¹⁹⁷ Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), pp. 8-9; Al-Obaidi, B., Interview with EUAA, 3 April 2023

¹⁹⁸ Raseef22, "بندقية عشائرية في ظهر معلمي العراق... "سأغلق المدرسة وأكسر رأسك ورأس مديرتك", 14 December 2022, [url](#).

Raseef22 is an 'independent media platform that includes decision makers from all denominations, socio-economic backgrounds, educational levels and with equal distance from all political parties'. Raseef22, Who We Are, n. d., [url](#); Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), pp. 8-9

¹⁹⁹ Al-Obaidi, B., Interview with EUAA, 3 April 2023

²⁰⁰ Bobseine, H., comments during external expert review of the report, 03 April 2023

²⁰¹ Raseef22, "سأغلق المدرسة وأكسر رأسك ورأس مديرتك... "بندقية عشائرية في ظهر معلمي العراق... "سأغلق المدرسة وأكسر رأسك ورأس مديرتك", 14 December 2022, [url](#)

²⁰² Irfaasawtak, "أطباء تحت طائلة الكوامة العشائرية", [Doctors under tribal threats] 29 May 2019, [url](#); AP, Doctors still working in Iraq face violence, tribal justice, 15 December 2015, [url](#)

²⁰³ Context, Iraq War 20 years on: Doctor's dreams shattered by tribal clan, 13 March 2023, Guardian (The), 'The family will kill you if the patient dies': the doctors facing attack in Iraq's hospitals, 9 August 2022, [url](#); Arab Weekly (The), Medical doctors, a disappearing profession in Iraq, 31 March 2019, [url](#); Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), pp. 8-9

²⁰⁴ Guardian (The), 'The family will kill you if the patient dies': the doctors facing attack in Iraq's hospitals, 9 August 2022, [url](#)

²⁰⁵ Exchange rates from European Commission, Exchange rate (InforEuro), n.d., [url](#), accessed 2 November 2022

²⁰⁶ Guardian (The), 'The family will kill you if the patient dies': the doctors facing attack in Iraq's hospitals, 9 August 2022, [url](#)

²⁰⁷ Riyadh, L., Violence against doctors in Iraq during the time of COVID-19, 2021, PlosOne, [url](#)

²⁰⁸ Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), pp. 8-9

²⁰⁹ Al-Ahram Online, How Iraq's judiciary got into a political mess, 5 April 2022, [url](#)

²¹⁰ Independent Arabia, العشيرة تحكم الدولة في العراق وتهدد كياناتها والعاملين فيها [The clan dominates the state in Iraq and threatens its entities and public servants], 13 September 2021, [url](#)

²¹¹ Bobseine, H., comments during external expert review of the report, 03 April 2023



involved. Consequently, tribal mechanisms are activated to contain the conflict and prevent it from escalating.²¹²

2.1. Water and land disputes

Water and land disputes are frequently linked to tribal conflict impacting security issues as discussed in chapter [6. Impact of tribal violence on the security situation and civilians](#).

Bobseine observed that tribal disputes in the south are mainly due to the absence of the rule of law, political fragmentation, the poor economic situation, and political-social deterioration, with some disputes occurring over rent-seeking behaviour.²¹³ Bobseine observed that water and environmental degradation are a ‘conflict multiplier’ in the southern region rather than a main factor causing violence.²¹⁴ Several sources also reported that scarcity of water resources constitutes a factor in tribal disputes in southern Iraq,²¹⁵ particularly due to severe droughts’ which are caused by ‘an increase in the demand for water, radical environmental changes, and poor water management’.²¹⁶ Sources indicate that incidents of tribal violence due to water issues have been increasing in recent years.²¹⁷ For example, in Thi-Qar where ‘water scarcity has contributed to the recent eruption of 20 clan clashes, which the government was unable to address, especially given that most tribes control the flow of water in southern Iraq’.²¹⁸ In an article published in June 2022, the National stated that ‘heated disputes over land and water rights’ take place in southern Iraq, and have led to clashes causing civilian casualties.²¹⁹ The Iraqi government ‘has been unwilling or unable to intervene, and tribal groups sometimes use violence directly against government authorities over water issues’.²²⁰

Tribal disputes over land in the south arise due to tribes imposing control, demands for payment, or threats on companies operating in their areas.²²¹ The presence of oil fields can also be a source of tribal disputes in southern Iraq as tribes demand access to resources, employment for their members,²²² or threaten and blackmail the companies operating in the fields’.²²³ The New Arab article further highlighted that 85% of tribal feuds in Al-Basrah take place in Al-Hartha, Al-Qurna and Al-Midaina districts due to their proximity to oilfields.

²¹² Genat, M., video interview, 4 October 2022

²¹³ Bobseine, H., comments during external expert review of the report, 03 April 2023

²¹⁴ Bobseine, H., comments during external expert review of the report, 03 April 2023

²¹⁵ Nussaibah Younis, Early warning: How Iraq can adapt to climate change, ECFR, 19 July 2022, [url](#); Planetary Security Initiative, Drought ignites tribal conflicts in Southern Iraq, 17 August 2020, [url](#); Water, Peace and Security, Water challenges and conflict dynamics in Southern Iraq: An in-depth analysis of an under-researched crisis, 17 February 2022, [url](#); National News (The), Nine killed in Iraq tribal violence, 22 June 2022, [url](#)

²¹⁶ Planetary Security Initiative, Drought ignites tribal conflicts in Southern Iraq, 17 August 2020, [url](#)

²¹⁷ Nussaibah Younis, Early warning: How Iraq can adapt to climate change, ECFR, 19 July 2022, [url](#); Planetary Security Initiative, Drought ignites tribal conflicts in Southern Iraq, 17 August 2020, [url](#)

²¹⁸ Water, Peace and Security, Water challenges and conflict dynamics in Southern Iraq: An in-depth analysis of an under-researched crisis, 17 February 2022, [url](#)

²¹⁹ National News (The), Nine killed in Iraq tribal violence, 22 June 2022, [url](#)

²²⁰ Nussaibah Younis, Early warning: How Iraq can adapt to climate change, ECFR, 19 July 2022, [url](#)

²²¹ Saadoon, M., Tribal disputes cripple Iraq's oil-rich Basra, Amwaj, 27 March 2021, [url](#)

²²² Saadoon, M., Tribal disputes cripple Iraq's oil-rich Basra, Amwaj, 27 March 2021, [url](#); Rudaw, Iraqi tribe protests in front of Dhi Qar oil field, 27 February 2022, [url](#)

²²³ Nasrallah, M., Clan violence in Iraq: Oil companies targeted as poverty reigns, the New Arab, 13 September 2021, [url](#)



According to the source, tribes ‘demanded financial compensation in exchange for access to the land which had previously belonged to them.’ The source gave an example where an oil company was demanded to pay a *fasl* and to grant a two-month paid leave to one of its members in the wake of a fight that involved him and a company employee.²²⁴

In an interview with EUAA on 3 November 2022, Al-Ibrahimi noted that land feuds are prevalent in all the disputed territories (between the central government and the Kurdish Regional Government), including Kirkuk, Ninewa, Salah Al-Din and Diyala.²²⁵

Al-Ibrahimi observed that in the so-called liberated areas where ISIL was in control the nature of some tribal disputes and dynamics may differ from other areas of the country. In the liberated areas, there is tribal competition with regard to international reconstruction funds, and there are problems on the basis of marginalization and exclusion on the basis of why certain tribes are supported instead of others. This affects a lot of tribes from different religious backgrounds.²²⁶

Tribal feuds over these resources can escalate and influence the security situation, as detailed in chapter [6. Impact of tribal violence on the security situation and civilians.](#)

²²⁴ Nasrallah, M., Clan violence in Iraq: Oil companies targeted as poverty reigns, the New Arab, 13 September 2021, [url](#)

²²⁵ Al-Ibrahimi, H., video interview, 3 November 2022

²²⁶ Al-Ibrahimi, H., video interview, 3 November 2022





3. Tribal conflict resolution mechanisms and practices

A briefing on tribal law practices in Iraq drafted by the not-for-profit CNA Corporation explained that

‘Tribes in Iraq practice several distinct ritualized processes of restorative justice. Procedurally, conflict resolution mechanisms most resemble mediation and arbitration and include peacemaking rituals such as *sulha* and *fasl*. Petty cases are disposed of daily by the sheikh of the section or tribe, while more important matters are reserved for the special decision of a superior or third-party sheikh or a committee of arbitrators. Procedures take place within a communal framework and involve a process of acknowledgment, apology, compensation, forgiveness, and reconciliation. In addition, customary juridical procedures employ calming mechanisms such as exile, sanctuary, truces, and the use of intermediaries or brokers. (...) Standardized rituals understood by all tribes are designed to prevent the escalation of conflict before, during, and after dispute resolution.’²²⁷

UNHCR stated that ‘tribal practices, procedures and remedies, including the amount of compensation, are subject to negotiation and can reportedly be influenced by various factors, including the nature of the crime and the extent of injury sustained, the social status of the tribes involved, the degree of influence of the tribal leader (“sheikh”), the sex and social status of the perpetrator and the victim, and the history of feuding between the tribes involved, among others.’²²⁸ Human Rights Watch similarly explained that there is a wide range of discretion in how compensation can be sought, depending on the situation and who is involved in the mediation; such that customary practices can vary from tribe to tribe, despite common concepts. Furthermore, the lines around who is affected by tribal reconciliation processes depends and varies extensively depending on the crime, the individual circumstances of the tribe, and the situation at hand.²²⁹

Sources indicated that inter-sect tribal disputes between Sunni and Shia are handled in a similar fashion²³⁰ or there are no specific mechanisms for those situations.²³¹ Further

²²⁷ CNA, “No Security Without Us”: Tribes and Tribalism in Al Anbar Province, June 2014, [url](#), p. 12; See also: USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), pp. 256-264

²²⁸ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, [url](#); Similarly the USIP provides an extensive list of determining factors that may contribute to determining the remedy including: the nature of the crime, extent of the injury and type, degree of shame induced, intentions of the injuring party; relationships/genealogy of the disputants; relationship of the victim to the sheikh; personal or community liability; tribal affiliations; history of feuds between parties; status of the victim within the tribe; gender of the victim; financial status of the accused; admissions of guilt. USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 262

²²⁹ HRW, Interview with EUAA, 13 March 2023

²³⁰ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 233; USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#)

²³¹ Mansour, R., Tribes and Religious Institutions in Iraq, Cordoba Foundation of Geneva, September 2017, [url](#), p. 10





information on differences between Shia and Sunni tribal mechanisms could not be found within time constraints.

Severity of offences

Sources indicate that serious offences likely to incur the most harsh responses from the tribe are those that deal with honour²³² (which can lead to honour killings, especially of women),²³³ preservation of the family bloodlines and relationships;²³⁴ also, serious disputes result from any transgression involving killing or wrongful death, such as killings of sons,²³⁵ homicide, injury, or intertribal warfare, or those that have potential to cause further violence or long-term feuds.²³⁶ USIP noted that in cases of homicide, there is distinction made between ‘premeditated and unintentional killing, as well as honorable and dishonorable killing’ which require different compensation amount and punishments, triggering ‘different obligations between victim and killer and between the tribes.’²³⁷

Without providing details, Genat also stated that the types of violations of tribal codes that incur harsh practices such as banishment from the tribe are ‘mainly terrorism and honour-related offences’.²³⁸ USIP described ‘black crimes’ (*as-souda*) as a trigger for capital punishment,²³⁹ while Al-Ibrahimi observed that there are four main categories of ‘serious violations’ of tribal codes that are not tolerated: these are killing, rape, sexual harassment of any kind and a threat to security, including those acts linked to extremist groups such as Al Qaida or ISIL; describing the punishments as such that ‘this crime won’t occur again’.²⁴⁰

In field research conducted among the Shia tribes of southern Iraq in 2013, Hamoudi et al. observed that ‘Iraqi tribes tend to rely on reputational sanctions in their early phases’ before resorting ‘to escalating self-help remedies that are used with some level of restraint to avoid the negative consequences and threats to public order that can attend as remedies grow’.²⁴¹ Similarly, Al-Samaraie noted that in general, a party to a dispute would try to settle the dispute in a direct manner initially. If the person is armed and/or is supported by a militia, they might opt for violence to resolve the issue. These methods are independent of tribal mechanisms and there are regional and geographic differences that influence the way to approach a conflict. When the direct approach to resolve a dispute fails, tribal mechanisms are initiated.²⁴² CNA explained the process as follows: ‘For homicide and other serious crimes, customary obligations and rules amounting to sanctuary, temporary truces, ceasefire agreements, and temporary exile are used to prevent blood feuds and the spread of violence’ and adversaries

²³² OWFI, Interview with EUAA, 16 March 2023; CNA, “No Security Without Us”: Tribes and Tribalism in Al Anbar Province, June 2014, [url](#), pp. v, 14

²³³ OWFI, Interview with EUAA, 16 March 2023; HRW, Interview with EUAA, 13 March 2023

²³⁴ OWFI, Interview with EUAA, 16 March 2023;

²³⁵ HRW, Interview with EUAA, 13 March 2023

²³⁶ CNA, “No Security Without Us”: Tribes and Tribalism in Al Anbar Province, June 2014, [url](#), pp. v, 14

²³⁷ USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 253

²³⁸ Genat, M., video interview, 4 October 2022.

²³⁹ USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 264

²⁴⁰ Al-Ibrahimi, H., video interview, 3 November 2022

²⁴² Al-Samaraie, N., video interview, 27 October 2022



can stop fighting without incurring shame associated with weakness or admission of defeat. Once the aggrieved parties agree to resolve the issues through peaceful means, various options include mediation (usually for minor cases, unintentional injury, car accidents or intratribal homicide), or arbitration for serious crimes or if mediation did not succeed; in 'grievous crimes' like homicide or blood feud cases where there is a serious risk of violence escalating between tribes or families, *sulha* and *fasl* settlement may be used,²⁴³ through arbitration processes involving mediators, Sheikhs, and possibly judicial councils of various *sheikhs* chosen by both parties.²⁴⁴

The following sections provide an overview of some procedural aspects of these tribal conflict resolution process and main mechanisms found within the available sources. The information provided is indicative only, and should not be taken as comprehensive in describing all aspects of the phenomena. Information on the details of such practices is scarce and difficult to access in English, in particular.

3.1. Notification (*tanbih*) and 'Tribal summoning' (*mutalaba asha'iriyah*)

Notification (or *tanbih*) is the first step in tribal dispute resolution where the injured party from a tribe notifies the perpetrator from another tribe of an injury that was incurred, and that recompense is required.²⁴⁵ This process is based on 'the desire to rely on reputation and avoid remedies that could escalate out of control and thereby garner the attention of the state'. For less grave injuries such as theft or unpaid debt, the involvement of prominent tribal leaders is not required, and usually a religious leader would transmit the notification.²⁴⁶ If the perpetrating party responds to the notification, 'an accommodation might be reached quickly and with minimal reputational damage to the offending party'.²⁴⁷

When a person objects to a behaviour or an action of another person from the same tribe or another tribe, that person can summon the opponent to a tribal dispute resolution gathering. This practice is called *mutalaba asha'iriyah* and could result in a *diyya* sum being paid by the summoned party.²⁴⁸

²⁴³ CNA, "No Security Without Us": Tribes and Tribalism in Al Anbar Province, June 2014, [url](#), p. 12

²⁴⁴ USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 259-264

²⁴⁵ BBC Arabic, القانون العشائري هل هو بديل للقوانين المدنية؟ [Tribal law: Is it and alternative to civil laws?] [Online video], 25 February 2019, [url](#); Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 233

²⁴⁶ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 233

²⁴⁷ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 234

²⁴⁸ Iraq, Supreme Judicial Council, الموقف القانوني من المطالبة العشائرية في ضوء احكام القرار رقم (24) [Legal position regarding tribal summons in light of Decision No. 24], 23 May 2012, [url](#)



3.2. Tribal confrontation (*gouwama*) and striking (*degge asha'iriyah*)

When a party to a conflict fails to take part in a *sulha* (see 3.5 below),²⁴⁹ or 'notification does not lead to a fruitful result,' the next step is a warning issued to compel that party to actively seek tribal reconciliation. This practice of tribal warning is known as *gouwama* [*guama*], and is best translated as 'confrontation'. It is where 'reputational sanctions begin to have their bite'.²⁵⁰

According to an explanatory video about *gouwama* made by an Iraqi tribal leader,²⁵¹ traditionally, it was used in cases of grave offences such as murder. However, it has become more common recently and is used in cases of personal disputes and trivial matters,²⁵² as well as for example, threatening medical professionals/doctors for perceived medical errors.²⁵³ This tribal practice is activated when the tribal leader of the injured party 'authorizes a sizable delegation to go to the home of the perpetrator in full view of the neighborhood [...] accompanied by a third party to act as witness as to the occurrence of the confrontation'. The delegation will then 'note the injury, demand recompense, and insist on a visit from the perpetrator's tribe to the victims within a set period'.²⁵⁴ According to Hamoudi, *gouwama* is 'not intended to be violent',²⁵⁵ however, a tribal leader explained that in practice, violent acts such as shooting in the air at the threatened person's house does occur during the warnings. In the past, tribal warnings used to take the form of firing into the air with a pistol, but since 2003, light and heavy weapons and grenades have been deployed and houses have been set on fire during this practice.²⁵⁶

The Iraqi Supreme Judicial Council observed that the practice of *gouwama* that remains a verbal threat that has not transformed into material action falls under the scope of Article 430 of the Iraqi Criminal Code No. 111 of 1969 which stipulates a punishment or imprisonment for up to seven years for a person who threatens another.²⁵⁷ Bobseine observed that the practice is now illegal under Iraqi state law under anti-terrorism law, although the practice still happens sometimes.²⁵⁸ Information on any prosecutions or convictions by the state against those carrying out *gouwama* threats, or those that include violence beyond verbal threats, could not be found.

²⁴⁹ Salah Dagher Al-Okabi, الكوامة أو التحذير العشائري [Gouwama or tribal warning] [Online video], 29 May 2021, [url](#)

²⁵⁰ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 234

²⁵¹ Salah Dagher Al-Okabi is an Iraqi tribal leader and Sheikh active in explaining tribal practices on social media. Sheikh Salah Dagher Al-Okabi, [Twitter], n.d., [url](#)

²⁵² Salah Dagher Al-Okabi, الكوامة أو التحذير العشائري [Gouwama or tribal warning] [Online video], 29 May 2021, [url](#)

²⁵³ Irfaasawtak, أطباء تحت طائلة الكوامة العشائرية, [Doctors under tribal threats] 29 May 2019, [url](#)

²⁵⁴ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 234

²⁵⁵ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 234

²⁵⁶ Salah Dagher Al-Okabi, الدكة العشائرية و معالجتها [Al-degge Al-Asha'iriyah and its treatment] [Online video], 22 December 2021, [url](#),

²⁵⁷ Iraq, Supreme Judicial Council, الكوامة العشائرية [Tribal gouwama], 14 June 2021, [url](#)

²⁵⁸ Bobseine, H., comments during external expert review of the report, 03 April 2023



When a party to the conflict ignores the tribal warning, *gouwama* escalates to a more violent form known as *degge asha'iriyah* (*degge* for short).²⁵⁹ It refers to 'the spraying of bullets on houses of wanted tribesmen during a tribal feud to force the clan of the enemy to depart from the area'²⁶⁰ or to cause 'a serious reputational sanction to the individual and to the tribe' of the perpetrator.²⁶¹ According to sources, a variety of weapons are used, including medium weapons²⁶² and grenades, as a way to force the other family to accept the settlement negotiations.²⁶³ AFP explained that tribes attempt to resolve a dispute through mediation, and '[i]f one side failed to attend such a meeting, the rival clan would fire on the absentee's home or that of fellow tribesmen'. With the proliferation of weapons in Iraq, this practice 'may be deadlier than ever'.²⁶⁴ For more information on the impact of *degge* on the security situation in Iraq, see Chapter 6 below.

3.3. Tribal 'blood truce' (*atwa*)

The tribal 'blood truce' (*atwa*) refers to a cooling off period between aggrieved tribes at the beginning of the reconciliation process, or a temporary ceasefire meaning the 'gift of restraint'.²⁶⁵ In disputes that especially involve the death of a tribe member, the two conferring tribes²⁶⁶ 'normally press the victim's family to accept a ceasefire' known as *atwa*. It is defined as 'a set period of time, generally between two weeks to sometimes months (renewable),²⁶⁷ in which the victim's family agrees not to exercise their right to retribution'.²⁶⁸ It is meant to 'give the offending tribe an opportunity to gather its members and others for the large resolution that will take place' and is considered 'an admission of guilt'.²⁶⁹ According to a tribal leader, the *atwa* is obtained in cases of premeditated and accidental death as well as in cases of honour and can last for a period of up to one year. There is usually a printed document which includes details such as the date, the names of the two parties involved in the case as well as

²⁵⁹ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 235; Salah Dagher Al-Okabi, الكوامة أو التحذير العشائري [Gouwama or tribal warning] [Online video], 29 May 2021, [url](#)

²⁶⁰ Water, Peace and Security, Water challenges and conflict dynamics in Southern Iraq: An in-depth analysis of an under-researched crisis, 17 February 2022, [url](#), p. 29

²⁶¹ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 235

²⁶² BBC Arabic, القانون العشائري هل هو بديل للقوانين المدنية؟ [Tribal law: Is it and alternative to civil laws?] [Online video], 25 February 2019, [url](#)

²⁶³ Iraq, Supreme Judicial Council, (مقترح مشروع تعديل قانون مكافحة الإرهاب) (اعتبار الدكة العشائرية ضمن نطاق الجرائم الإرهابية) [Including the *degge asha'iriyah* in the range of terrorist crimes (Proposal to amend the Anti-Terrorism Law)], 18 August 2022, [url](#); Saadoon, M., Tribal disputes cripple Iraq's oil-rich Basra, Amwaj, 27 March 2021, [url](#); Al-Arabiya, (سعر البطيخ أو الطلاق.. جنون النزاعات العشائرية في العراق) [Melon price or divorce . the insanity of tribal clashes in Iraq], 12 May 2022, [url](#); Al-Arab News, (حياة الشباب في العراق محكومة بسلطة العشيرة) [The life of Iraqi youth is controlled by the tribe's authority], 2 May 2021, [url](#)

²⁶⁴ AFP, In Iraq, bloody tribal custom now classed as 'terrorism', Arab News, 18 November 2018, [url](#)

²⁶⁵ CNA, "No Security Without Us": Tribes and Tribalism in Al Anbar Province, June 2014, [url](#), pp. v, 13; see also: Al-Mayadeen, (العطوة العشائرية في العراق .. "هدنة الدم" تسبق القانون) [Tribal *atwa* in Iraq . "Blood truce" precedes the law], 4 June 2022, [url](#)

²⁶⁶ Or a third party composed of notables according to Al-Mayadeen. Al-Mayadeen, (العطوة العشائرية في العراق .. "هدنة الدم" تسبق القانون) [Tribal *atwa* in Iraq . "Blood truce" precedes the law], 4 June 2022, [url](#)

²⁶⁷ According to Hamoudi et al, the period of *atwa* varies between a month and two months depending on the circumstances. Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 238

²⁶⁸ Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 14

²⁶⁹ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 238



the name of the guarantor who would guarantee the terms of the truce. The document loses its value once a *fasl* has been achieved.²⁷⁰

3.4. Exile (*jalwa*)

In some cases there is no *atwa*, and the perpetrator, and sometimes his close male relatives, must go on exile for a certain period of time.²⁷¹ *Jalwa* [or *Jali*] is a customary exile that is intended to secure the protection of the offender's family from revenge obligations.²⁷² *Jalwa* occurs in offences of a serious nature until *sulh* takes place,²⁷³ or until the dispute is resolved.²⁷⁴ According to the CNA,

The custom of exile away from one's tribal homeland serves several functions. First, it secures immediate protection for the exile's family within the territory of their protector. Second, *jali* saves the victim's group from dishonor, because the killer and his group are not within practical reach. Throughout the period of exile, which may extend for months or years, members of the killer's group are relegated to a marginal social political position within the tribal community offering them protection. After a period of time in exile, the mediation process can start.²⁷⁵

According to Al-Ibrahimi, if a person kills someone on purpose, the whole family will be expelled from the entire area and/or neighbourhood for a certain period of time (*jalwa*), between five and 25 years, depending on the tribe and the region. There is a certain framework to be observed that sets, e.g., the distance that should be kept from the people expelled.²⁷⁶

3.5. Tribal dispute settlement (*sulha*, also *sulh*)

The process of dispute settlement is called *sulha*²⁷⁷, and it results in a sum of money (*fasl*), or land,²⁷⁸ which is paid by the perpetrator 'for the damage of honor that has been caused'.²⁷⁹ *Fasl*, however, is not necessarily monetary, and can take the form of exile from the tribe,²⁸⁰ where the perpetrating party is required to 'leave their home and move to a location farther away from the home of the victim or other members of his tribe [... and if] then seen in the place where he had promised not to appear any longer, then, to use the tribal phrasing, "his

²⁷⁰ Salah Dagher Al-Okabi, صك العطوة العشائرية [tribal atwa template] [Online video], 14 September 2022, [url](#)

²⁷¹ Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 14

²⁷² CNA, "No Security Without Us": Tribes and Tribalism in Al Anbar Province, June 2014, [url](#), p. 13

²⁷³ Genat, M., Tribal Justice Mechanisms and Durable Solutions for Families with a Perceived Affiliation to ISIS, IOM, 2020, p. 11

²⁷⁴ CNA, "No Security Without Us": Tribes and Tribalism in Al Anbar Province, June 2014, [url](#), p. 13

²⁷⁵ CNA, "No Security Without Us": Tribes and Tribalism in Al Anbar Province, June 2014, [url](#), p. vi

²⁷⁶ Al-Ibrahimi, H., video interview, 3 November 2022

²⁷⁷ Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 12; Chokr, M. A., The Persisting Past of Iraq, ETH Zurich, September 2021, [url](#), p. 3

²⁷⁸ Al-Samaraie, N., video interview, 27 October 2022

²⁷⁹ Chokr, M. A., The Persisting Past of Iraq, ETH Zurich, September 2021, [url](#), p. 3

²⁸⁰ CNA, "No Security Without Us": Tribes and Tribalism in Al Anbar Province, Iraq, June 2014, [url](#), p. 15; Bobseine, H., Tribal Justice in a Fragile Iraq, 7 November 2019, [url](#), p. 6



blood could be shed with impunity”²⁸¹. Additionally, women are used as commodities and collateral during the resolution of conflicts,²⁸² for example through forced marriages, exchange of women, child marriage,²⁸³ or providing women as compensation.²⁸⁴ For example, in cases that involve the death of a young man, ‘the expectation is that the women [being used as a *fasl* from the offending tribe] will be married to the immediate male relatives of the victim so as to heal the rift by making the families relatives of one another’. According to Hamoudi, writing in 2015, the practice was not used in cities and was decreasing.²⁸⁵ However, other sources indicated the practice has been on the rise, especially in the south and rural areas where it is common.²⁸⁶ See Section [3.10 Women as a means of tribal disputes settlement or use of women in tribal customs](#) for more details. Additionally, Bobseine observed that *sulha* settlement can take other forms, such as a conciliation agreement where one party agrees to withdraw a court case against someone.²⁸⁷

Sulha has two types: partial (in the context of a broad feud where the aim is to suspend hostilities) and comprehensive (which ‘wipes the slate completely clean between two groups’).²⁸⁸ Tribal dispute settlement mechanisms are ‘designed to operate when the facts are known’ but have an investigative aspect when necessary. If the investigation comes to a dead end, a judicial council, composed generally of six tribal leaders is formed, and when one of the parties is not satisfied with the council’s decision, they have the right to appeal to a higher tribal judge with the caveat that the latter’s decision is final.²⁸⁹

As mentioned above, the purpose of *Sulha* is to avoid the escalation of feuds. A mediator plays an essential role in the *sulha* process and can be an Islamic religious leader (*sayyid*)²⁹⁰, a political leader, and most often a tribal leader (*sheikh*). When the mediator is a tribal leader, a hierarchy is observed following the tribal structure, whereby in cases of serious nature a *sheikh* at a tribal level is involved.²⁹¹ *Sulha* can be regarded as a ‘communal gathering or diplomacy’²⁹² usually taking place in a tribal leader’s house or the house of the victim²⁹³ as a sign of good will.²⁹⁴ The *sheikhs* involved in this practice mediate between the parties involved in the dispute in order to establish the facts of the incident, to agree on the

²⁸¹ Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 2015, p. 239

²⁸² HRW, Interview with EUAA, 13 March 2023; OWFI, Interview with EUAA, 16 March 2023; Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023

²⁸³ Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023

²⁸⁴ HRW, Interview with EUAA, 13 March 2023; OWFI, Interview with EUAA, 16 March 2023

²⁸⁵ Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 2015, p. 239-240

²⁸⁶ Raseef22, In Iraq, Women are Offered as Tributes to Settle Tribal Vendettas, 8 September 2016, [url](#); Al-Monitor, Blood money marriage makes comeback in Iraq, 18 June 2015, [url](#); See also: France24, In Iraq, tribal traditions rob women, girls of rights, 18 April 2019, [france24.com/en/20190418-iraq-tribal-traditions-rob-women-girls-rights](#)

²⁸⁷ Bobseine, H., comments during external expert review of the report, 03 April 2023

²⁸⁸ Carroll, K. B., *Tribal law and reconciliation in the New Iraq*, 2011, [url](#), p. 17

²⁸⁹ Carroll, K. B., *Tribal law and reconciliation in the New Iraq*, 2011, [url](#), p. 14-15

²⁹⁰ According to an Iraqi tribal leader and to Hamoudi et al. the presence of a sayyid in a reconciliation process is mandatory. Salah Dagher Al-Okabi, *مصطلحات عشائرية مهمة* [Important tribal terminology] [Online video], 15 September 2022, [url](#); Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 2015, p. 238; Bobseine clarified that the involvement of a sayyid happens in the Shia context. Bobseine, H., comments during external expert review of the report, 03 April 2023

²⁹¹ Carroll, K. B., *Tribal law and reconciliation in the New Iraq*, 2011, [url](#), p. 13

²⁹² Chokr, M. A., *The Persisting Past of Iraq*, September 2021, [url](#), p. 3

²⁹³ Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 2015, p. 238

²⁹⁴ Chokr, M. A., *The Persisting Past of Iraq*, September 2021, [url](#), p. 3; Carroll, K. B., *Tribal law and reconciliation in the New Iraq*, 2011, [url](#), p. 15



compensation (which is often referred to in Arabic as either *fasl* or *diyya*), and to launch the reconciliation rituals.²⁹⁵ According to BBC Arabic, the representatives of the perpetrator attempt during the *sulha* to convince those of the victim to withdraw the complaint lodged with authorities in return of the *fasl* sum.²⁹⁶ *Sheikhs* interviewed by Katherine Blue Carroll²⁹⁷ highlighted that they do not accept payments for their role in concluding *fasl* but accept gifts given to them after a *sulha* is achieved,²⁹⁸ However, in contrast, Bobseine remarked that often *Sheikhs* do take a cut of the dispute settlements, even if this is not publicly acknowledged.²⁹⁹ However, there have also been reports of a booming business where *Sheikhs*' services are rented out for the purpose of settling disputes, requiring fee payment, and sometimes involving 'imposter *Sheikhs*'.³⁰⁰

An Iraqi tribal leader described, in a video shared on social media, the process of reaching a *fasl* in the broader context of *sulha* as follows: In the south, but also in the mid-Euphrates³⁰¹ and some parts of the west of Iraq, tribal leaders, spearheaded by a Muslim religious leader, are asked to pay a visit to the tribe of the victim in the dispute in order to start a *sulha* (this delegation is called *tahwila* in the south and *mashya* in the mid-Euphrates). The *sulha* starts with a religious sermon by the Muslim religious leader. Other tribal notables take turns in providing speeches until the *fasl* is agreed upon or forfeited. In southern Iraq, once an agreement is reached, the delegation would request to receive a religious symbol (the flag of Al-Abbas) as a sign of accepting the settlement³⁰² and in the mid-Euphrates and the west, a short chapter of the Quran is recited. The *sulha* concludes with the payment of the *fasl* or the forfeiting of the sum if the victim has agreed to do so.³⁰³ USIP and CNA describe similar processes.³⁰⁴

There are strong incentives that enforce the outcome of the settlement and failure to uphold the agreement (e.g., by carrying out revenge or not paying the agreed amount of money) is considered an offence to the tribal leader who negotiated it. Once a *sulha* is concluded, its terms have to be respected by all the parties involved in the dispute. The victim's family risk

²⁹⁵ Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 12; In an interview with the EUAA on 27 October 2022, Nasir Al-Samaraie also observed that the reconciliation process includes the elements of mediation and compensation agreed between the parties to the conflict. Al-Samaraie, N., video interview, 27 October 2022

²⁹⁶ BBC Arabic, القانون العشائري هل هو بديل للقوانين المدنية؟ [Tribal law: Is it and alternative to civil laws?] [Online video], 25 February 2019, [url](#)

²⁹⁷ Katherine Blue Carroll is 'a full-time non-tenure track assistant professor in the Department of Political Science, where she directs the undergraduate program in public policy studies and teaches courses on Terrorism, Political Islam, Middle East Politics, and The War in Iraq'. Vanderbilt University, Department of Political Science, n. d., [url](#)

²⁹⁸ Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 16

²⁹⁹ Bobseine, H., comments during external expert review of the report, 03 April 2023

³⁰⁰ Economist (The), With Iraqi tribes settling more disputes, sheikhs are in high demand, 30 May 2019, <https://www.economist.com/middle-east-and-africa/2019/05/30/with-iraqi-tribes-settling-more-disputes-sheikhs-are-in-high-demand>

³⁰¹ A geographic area that comprises the governorates of Karbala, Diwaniya and Babil (Hilla). Al-Ittihad, مجتمع الفرات الأوسط: العشائر والسادة والتجار [Mid-Euphrates society: Tribes, sayyids and trade, n. d., [url](#)

³⁰² 'The offending tribe representative ties a cloth to a wooden stake that the *sayyid* declares to be the Banner of Abbas—the flag that Abbas held to represent the warring party of Imam Hussein in Kerbala. The injured party then attaches a similar cloth, and the deal is thereby formalized, on the staff carried by Shi'a Islam's noblest warrior in the most important battle in Shi'a Muslim history.' Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, pp. 238-239

³⁰³ Salah Dagher Al-Okabi, الفصل العشائري [tribal fasl] [Online video], 10 September 2021, [url](#)

³⁰⁴ USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), pp. 260-262; CNA, "No Security Without Us": Tribes and Tribalism in Al Anbar Province, June 2014, [url](#), p. 14-15



becoming socially outcast and losing honour and respect if they violate the terms of the *sulha*, while the guarantor of the terms has the obligation to take revenge against them if they do so.³⁰⁵ If the two tribes fail to achieve an agreement, the case may escalate to tribal violence.³⁰⁶

3.6. Tribal dispute compensation (*fasl*)

A dispute settlement process ends with *fasl* which is ‘the best-known part of the tribal proceedings throughout Iraq, and the most difficult to translate’.³⁰⁷ The term (*fasl*) has two different notions. It can refer to ‘a custom of compensation intended to prevent the escalation of conflict via payment for a wrong done where the culprit admits he was wrong’ and to ‘a negotiated settlement that is paid after an intentional killing’, although it is not necessarily financial.³⁰⁸ Hamoudi et al. observed that the word *fasl* can refer to both the ‘convening of the tribes to effect a final resolution, and the resolution arising therefrom’.³⁰⁹ *Fasl* is a tribal custom and constitutes a ‘fine’ or ‘compensation’ decided after a process of negotiation is held to settle a dispute within the framework of tribal law.³¹⁰ It is considered as the ‘central step in *sulha*’, and the sum of *fasl* for specific types of wrongs is indicated in the tribal code for each tribe or may have been established via ‘long-term bilateral agreements between the two tribes’. The ‘final sum is also influenced by the reasons for the incident, the behavior of the perpetrator, the suffering of the victim's family, and the status of the victim’³¹¹ and can be reduced to honour the religious leaders or tribal notables who attended the *sulha*.³¹² *Fasl* sets the amount and form of *diyya* to be provided to the injured party; traditionally *diyya* settlements consisted of ‘material goods, gold, or women, but today the payment is usually money or real property’. It is not seen as a punishment or as a replacement for the monetary value of a killed individual, but rather as the ‘price of foregoing revenge’.³¹³

Where the money of *fasl* goes depends on the internal rules of the tribe. In cases of death of a member of the tribe for example, the heirs of the deceased would get between one-third and two-thirds of the *fasl* money. There is always a proportion of the *fasl* that is paid to the collective fund of the tribe or distributed between the other members of the tribe. Also, the perpetrator would pay between a quarter and two-thirds of the *fasl* money with the rest of the sum being covered by the tribe. In cases related to honour, however, the perpetrator is expected to pay the entire amount of *fasl*.³¹⁴ Hamoudi et al. stated a slightly different ratio where the ‘perpetrator is usually responsible for one-third of the payment, with the tribe

³⁰⁵ Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 17

³⁰⁶ BBC Arabic, القانون العشائري هل هو بديل للقوانين المدنية؟ [Tribal law: Is it and alternative to civil laws?] [Online video], 25 February 2019, [url](#)

³⁰⁷ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 238

³⁰⁸ CNA., “No Security Without Us”: Tribes and Tribalism in Al Anbar Province, Iraq, June 2014, [url](#), p. vi

³⁰⁹ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 238

³¹⁰ Salah Dagher Al-Okabi, معنى الفصل العشائري [the meaning of tribal fasl] [Online video], 5 May 2022, [url](#)

³¹¹ Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 15

³¹² Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 16

³¹³ USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 263

³¹⁴ Genat, M., video interview, 4 October 2022. Melisande Genat is a PhD student at Stanford University with extensive experience researching tribal justice and conflict resolution mechanisms in Iraq.



supplying the other two-thirds', with the injured party being 'entitled to two-thirds, with the tribe entitled to the final third'.³¹⁵

According to Carroll, *fasl* could sometimes be used for extortionary purposes where the 'weaker parties simply paid to avoid problems'.³¹⁶ In a report published in August 2022, Shafaqna-Iraq, a Shia news outlet based in the UK,³¹⁷ citing an Iraqi notable from southern Iraq, stated that tribal dispute resolution has become a lucrative business with the reconciliation money transforming into large royalties imposed on parties to the conflict.³¹⁸ Additionally, Genat observed that tribes in the southern governorates have the tendency to ask for exaggerated *diyya* compensations amounting to more than 100 million Iraqi dinars (more than 70 500 EUR)³¹⁹ for cases of unpremeditated murders, while tribes in the mid-Euphrates and in western Iraq agreed on amounts not exceeding 25 million Iraqi dinars (approximately 17 600 EUR)^{320, 321} Hamoudi et al. stated that 'the injured tribe demands compensation that is many multiples of the amount that they ultimately seek', and 'then reduce it based on those who happen to be present – the *sayyids*, notables from the other tribe, and others'.³²² In her review of this report, Bobseine also reiterated that this is often a negotiation mechanism.³²³

3.7. Expulsion from the tribe or banishment (*bara'a*)

Another tribal practice is expulsion from the tribe. Hamoudi et al. observed that in exceptional situations, a tribe would resort to 'formal expulsion announced through a document known as the *sanad*,³²⁴ or certification, which is sent to all the tribes'. In this document, the tribe clears its responsibility of the actions committed by the individual after the issuance of the document, and although denied by the tribal leaders interviewed by the authors, 'from the sole perspective of the tribal law, the issuance of the *sanad* is the same as declaring the person's blood liable to be shed, because no tribal action is possible to defend him if violence were directed against him'.³²⁵ UNHCR stated that such documents 'do not follow a standard format' and the perpetrator may either receive a copy of it or be informed verbally of expulsion through relatives or members of the tribe.³²⁶

In an interview with EUAA on 4 October 2022, Genat distinguished between two practices here: *Bara'a* where the tribe collectively banishes a member and *tabriya* when relatives

³¹⁵ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 239

³¹⁶ Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 27

³¹⁷ Shafaqna News Association, Who We Are, n. d., [url](#)

³¹⁸ Shafaqna – Iraq, "الكوامة" تعالج مشاكل وجرائم بكل أنواعها, [In Iraq Tribal *fasl* or *gouwama* deals with all sorts of crimes and problems], 27 August 2022, [url](#)

³¹⁹ Exchange rates from European Commission, Exchange rate (InforEuro), n.d., [url](#), accessed 2 November 2022

³²⁰ Exchange rates from European Commission, Exchange rate (InforEuro), n.d., [url](#), accessed 5 November 2022

³²¹ Genat, M., Tribal Justice Mechanisms and Durable Solutions for Families with a Perceived Affiliation to ISIS, IOM, 2020, p. 11

³²² Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 238; see also: Al-Shabaka, الفصل العشائري.. أعراف أقوى من القوانين [Tribal *fasl*. Customs which are stronger than the law], 17 April 2018, [url](#)

³²³ Bobseine, H., comments during external expert review of the report, 03 April 2023

³²⁴ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, available at: [url](#), p. 3

³²⁵ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 241-242

³²⁶ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, available at: [url](#), p. 3



disown a person, e.g., in cases of ISIL affiliation.³²⁷ Before banning a person, tribes usually start with eviction, denouncement and repulsion in cases that involve acts considered by the tribe as ill-behaviour.³²⁸

Tribal expulsion became widely discussed in the wake of the ISIL crisis as tribes started to consider expelling members who are affiliated with ISIL from the tribe to distance themselves from the terrorist group.³²⁹ This was most pronounced in the governorates of Ninewa, and perhaps Kirkuk,³³⁰ as well as Al-Anbar, Salah Al-Din and Diyala following the defeat of ISIL.³³¹ Al-Ibrahimi noted that in the context of ISIL returns, if the community disavows a household, this affects the household members' economic opportunities, employment, and even the ability to get married. The returnees of this type have started to establish their own communities which are isolated from the rest.³³²

According to the Iraqi journalist, Layth Natiq,³³³ tribes continued to expel people from their land if they commit a 'shameful' act. This practice spilled over from rural areas to the cities, where the sentenced people are compelled to leave their houses if the two disputing tribes agreed on this.³³⁴ According to Al-Ibrahimi, people are banned if they commit acts such as killing, rape, sexual harassment of any sort, and acts considered as a threat to security.³³⁵ According to Sheikh Abud Al-Issawi, the former Prime Minister's advisor on the National Reconciliation and Follow-up Committee cited by Carroll, in cases that involve intentional killing, theft within the tribe, or rape, the perpetrator 'will be dishonored, expelled from the tribe, and will not be protected or assisted by his tribe with a *fasl*³³⁶'. He also added that even if the expelled person is killed in retaliation for his crime, no *fasl* will be requested by his tribe or family.³³⁷ In her review of this report Bobseine, noted however, in practice, expulsion in the above-mentioned cases is not as frequent as suggested.³³⁸ Genat also observed that people expelled collectively by a tribe can, in theory, be targeted by other actors and their tribe would not ask for *fasl* in case they were killed. She added that while banishment for cases related to honour can happen, it is not very common.³³⁹ The OWFI representative stated that exile or banishment can result from a combination of circumstances such as not paying money required by a tribal fine, not attending such meetings, and not respecting the patriarchs of the tribe.³⁴⁰

Without providing details, Al-Ibrahimi said that the banishment is documented in a tribal registry.³⁴¹ Corroboration could not be found about the a 'tribal registry', however, Bobseine

³²⁷ Genat, M., video interview, 4 October 2022

³²⁸ Al-Samaraie, N., video interview, 27 October 2022

³²⁹ Genat, M., video interview, 4 October 2022

³³⁰ Bobseine, H., comments during external expert review of the report, 03 April 2023

³³¹ Al-Samaraie, N., video interview, 27 October 2022

³³² Al-Ibrahimi, H video interview, 3 November 2022

³³³ Layth Natiq is an Iraqi journalist and news anchor at Al-Hurra media outlet. Natiq, L., [Twitter], n. d., [url](#)

³³⁴ Natiq, L., "مطلوب عشائريا، العراق كله "تضخم النفوذ القبلي: العراق كله "مطلوب عشائريا" [Inflation of the role of tribes: All of Iraq is "tribally wanted"], Assafir, 30 May 2019, [url](#)

³³⁵ Al-Ibrahimi, H., video interview, 3 November 2022

³³⁶ Otherwise written as *fasl*

³³⁷ Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), p. 17

³³⁸ Bobseine, H., comments during external expert review of the report, 03 April 2023

³³⁹ Genat, M., video interview, 4 October 2022

³⁴⁰ OWFI, Interview with EUAA, 16 March 2023

³⁴¹ Al-Ibrahimi, H., video interview, 3 November 2022



observed that tribal sheikhs are increasingly writing down their 'laws' and decisions are often written and signed on paper and a copy of it is saved with the tribal sheikh.³⁴² The tribal elites as well as the relatives of the banned person are informed. There are some restrictive measures involved: the banned person cannot receive aid from or contact the family. Moreover, individuals or families cannot be banned by another tribe, but only the tribe of the person can make such decisions.³⁴³ Further and corroborating information could not be found.

Banishment from tribe is, according to Genat, something that is meant to be advertised, and depending on the tribe and the offence committed, tribes usually announce that a person was banned and denounce the act committed. This can take place either informally through tribal meetings or more formally by posting this on the internet or publishing lists containing names.³⁴⁴ Al-Ibrahimi observed, on the other hand, that the meetings in which people are banned from the tribe are public. However, tribes do not invite the media, and the discussions are not published unless people are taking photos and videos and leaking them to social media. This is especially the case with these types of issues which are sensitive, where tribes try to resolve them internally. In such cases, tribes aim to avoid a scandal and a stain to the reputation of the tribe.³⁴⁵

The following examples of expulsion from tribes were reported by Iraqi media:

- In April 2022, the Sarkha tribe made a public announcement in which it reiterated its expulsion of one of its members who was initially disowned in 1999. The tribe accused the expelled member of violating tribal codes and affiliation with the Baath Party.³⁴⁶
- In the same month, Albu Assaf clan published a document on social media expelling a member for the immoral behaviour of insulting one of the clan's leaders. The document was signed and stamped by three of the clan's leaders.³⁴⁷
- In August 2021, Al-Sharfa tribe decided to expel one of its members due to 'immoral' behaviour that could jeopardise the reputation of the tribe. It requested its members not to deal with the expelled person until he apologised for his behaviour. Later on, the expelled member apologised, and the tribe shared a post on Facebook pardoning him.³⁴⁸
- Tribal leaders in Maysan decided in December 2019 to expel and 'spill the blood' of any member who participates in violent acts and in targeting state authorities and services.³⁴⁹

³⁴² Bobseine, H., comments during external expert review of the report, 03 April 2023

³⁴³ Al-Ibrahimi, H., video interview, 3 November 2022

³⁴⁴ Genat, M., video interview, 4 October 2022

³⁴⁵ Al-Ibrahimi, H., video interview, 3 November 2022

³⁴⁶ National News Center, "عشائر آل صرخة تتبرأ من المدعو "محمود الصرخي" [Al-Sarkha clans disown the so-called "Mahmoud Al-Sarkhi"], 11 April 2022, [url](#)

³⁴⁷ Ultra Iraq, "عشيرة علي السليمان تطرد أحد شيوخها بسبب لقاء تلفزيوني" [Ali Sulaiman's clan expels one of its sheikhs for a televised interview], 28 April 2022, [url](#)

³⁴⁸ NRT, "العراق: بعد ان طرده.. عشيرة تصدر بيانا وتنشر مقطع فيديو بشأن رجل دين معمم" [Iraq: After expelling him. A tribe issues a statement and publishes a video concerning a cleric], 2 August 2021, [url](#)

³⁴⁹ Today News, "عشائر ميسان تتعهد بـ"هدر دم" كل من يثبت اشتراكه بعمليات قتل أو حرق للمؤسسات" [Maysan tribes pledge to spill the blood anyone who is proved to have participated in murder or setting fire to state institutions], 15 December 2019, [url](#); Mawazeen News, "عشائر ميسان تتفق على البراءة من كل شخص يعتدي على المال العام والخاص" [Maysan tribes agree to disown anyone who targets public and private property], 15 December 2019, [url](#)



Iraqi media sources and social media shared examples of documents announcing *bara'a* from members of tribes for various reasons, including insulting the Prime Minister,³⁵⁰ vandalising public property and attacking security forces.³⁵¹ Both examples included the reason for expulsion and the signatures of the tribal *sheikhs* who issued them.³⁵²

At a formal level, there is a mechanism to voluntarily be expelled from a tribe. A person can go to the Directorate of Tribal Affairs³⁵³ and fill a specific form to obtain one's own banishment from a tribe to distance themselves from the actions of the tribe and avoid collective liability. The person is provided with a document (called in Arabic *Khoulasiyya*) which testifies that the person has undergone the process of self-banishment.³⁵⁴ Within the tribal context, a tribal leader explained in a video that a person can opt for leaving the tribe voluntarily for personal reasons including the treatment by the tribe or the willingness to distance themselves from the acts of the tribe. There are tribal customs to be followed in such cases: first, the intention to leave the tribe and dissociate oneself from the collective liability has to be announced publicly in the tribe's guesthouse; and second, all outstanding issues with the original tribe (*fasl* or disputes) have to be resolved beforehand. While not always the case, the person leaving a tribe should provide a deed of release issued by the *sheikh* of the original tribe to the leader of the host tribe.³⁵⁵

According to Genat, 'there is no agreement among tribes whether *bara'a* is permanent or not.' In the southern governorates, banishment from the tribe is often seen as temporary and comes to an end once a *fasl* has been achieved.³⁵⁶ UNHCR also stated that expulsion from a tribe 'can be for a specific period of time or forever'.³⁵⁷

Finally, according to USIP, tribal banishment is 'a fate tantamount to death because, without tribal protection, the offender is easy prey for other tribes.'³⁵⁸ Similarly, UNHCR observed that this practice 'has serious consequences for the affected individual's social status and everyday life, as he loses all claims to protection by the tribe'.³⁵⁹ Genat stated that if the violation committed by the expelled person affected another member of the same tribe, then the tribe would actively pursue that person. However, the tribe of the expelled person would not encourage other actors to target that person. Such persons can make use of an old tradition

³⁵⁰ Al-Hashimi, H., *كتاب تبرئة عشائرية من تصرفات النائب حنان الفتلاوي وتجاوزها على الدكتور حيدر العبادي* [Document of tribal tabriya from the behaviour of MP. Hanan al-fatlawi and her transgression against Dr. Haidar Al-Abadi] [Twitter], posted on 30 April 2016, [url](#)

³⁵¹ Mawazeen News, *بالوثيقة.. شيوخ عشائر البصرة تتبرأ من المخربين وتهدر دمهم* [In a document. Al-Basrah tribal sheikhs disavow vandalisers and conduct hadr al-dam towards them], 2 December 2019, [url](#)

³⁵² Based on the EUAA drafter's reading of the examples.

³⁵³ The Iraqi State recognises the importance of tribes, which is 'evident through the existence of the Directorate of Tribal Affairs in the Ministry of Interior that has branches in every Iraqi province and offices within the Ministry of Justice'. The Directorate's role is to deal with tribal leaders and has a Committee for Tribal Conflict Resolution. Water, Peace and Security, *Water challenges and conflict dynamics in Southern Iraq: An in-depth analysis of an under-researched crisis*, 17 February 2022, [url](#), p. 26

³⁵⁴ Genat, M., video interview, 4 October 2022

³⁵⁵ Salah Dagher Al-Okabi, *الخروج من العشيرة بدون سند* [Leaving the tribe without a document] [Online video], 25 August 2022, [url](#)

³⁵⁶ Genat, M video interview, 4 October 2022

³⁵⁷ UNHCR, *Tribal Conflict Resolution in Iraq*, 15 January 2018, available at: <https://www.refworld.org/docid/5a66f84f4.html>, p. 3

³⁵⁸ USIP, *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, [url](#), p. 254

³⁵⁹ UNHCR, *Tribal Conflict Resolution in Iraq*, 15 January 2018, available at: <https://www.refworld.org/docid/5a66f84f4.html>, p. 3



called *Dakhala* whereby they can seek the protection of a more powerful tribe.³⁶⁰ The person seeking the protection of a tribe must contribute to the collective fund of the that tribe³⁶¹ which will then intervene in cases of ‘simple’ tribal disputes such as fights and car accidents.³⁶² Granting this protection to a person expelled from another tribe is not an obligation on the part of the tribal leader of the host tribe and is decided on a case by case basis.³⁶³

Reportedly, individuals whose tribes are not strong and those who belong to minorities (e.g., Christians and Mandaeans) seek the protection of prominent tribes, or other strong power brokers such as the PMF and security forces,³⁶⁴ in Iraq, and this has become a trend whereby many youth in Baghdad have been reverting to tribes for protection.³⁶⁵ Bobseine observed in her review that it is important to note that power-brokers and protections are not just tribal, but also political, or security-related and that it ‘depends on the context, what they need protection from, and who is powerful in the area.’³⁶⁶

The expelled person can also seek the protection of the police, however, how well the person is connected plays a role in the effectiveness of this type of protection. Genat was of the view that it might be safer for an expelled person who is not well connected to run away and hide in another part of Iraq, such as the KRI for example.³⁶⁷

3.8. ‘Blood spilling’ (*hadr al-dam*)

Hadr al-dam is a ‘tradition-based form of response in tribal conflicts. This means that a person or an entire family is deprived of the family/tribe’s protection and can possibly be liquidated without causing any reactions from the person’s family/tribe.’³⁶⁸ Al-Samaraie explained that *Hadr al-dam* can be seen as a way that allows the tribe to distance itself from the act committed by one of its members.³⁶⁹ According to USIP, *hadr al-dam* is form of outcasting in extreme cases.³⁷⁰

Information on *hadr al-dam* is scarce. In a video posted on social media, by Sheikh Al-Okabi, an Iraqi tribal leader, he explained that when a tribe member constantly causes troubles and does not abide by tribal law and customs, the tribe can collectively decide to expel him. He stated that *hadr al-dam* is resorted to in cases of murder, and a document (*sanad*) that announces *hadr al-dam*, signed by the *sheikhs* of the tribe as well the perpetrator’s father and/or uncle, is issued. Once a person’s blood is ‘spilled’, his tribe will not claim revenge or

³⁶⁰ Genat, M., video interview, 4 October 2022

³⁶¹ Al-Arab News, *حياة الشباب في العراق محكومة بسلطة العشيرة* [The life of Iraqi youth is controlled by the tribe’s authority], 2 May 2021, [url](#); Genat, M., video interview, 4 October 2022

³⁶² Al-Arab News, *حياة الشباب في العراق محكومة بسلطة العشيرة* [The life of Iraqi youth is controlled by the tribe’s authority], 2 May 2021, [url](#)

³⁶³ Genat, M., video interview, 4 October 2022

³⁶⁴ Bobseine, H., comments during external expert review of the report, 03 April 2023

³⁶⁵ Al-Arab News, *حياة الشباب في العراق محكومة بسلطة العشيرة* [The life of Iraqi youth is controlled by the tribe’s authority], 2 May 2021, [url](#)

³⁶⁶ Bobseine, H., comments during external expert review of the report, 03 April 2023

³⁶⁷ Genat, M., video interview, 4 October 2022

³⁶⁸ Norway, LandInfo, *Irak: Klanskonflikt – hadr dam* [Iraq: Tribal conflict – hadr al-dam], 31 August 2012, [url](#), p. 1

³⁶⁹ Al-Samaraie, N., video interview, 27 October 2022

³⁷⁰ USIP, *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, [url](#), p. 264



call for dispute settlement (*fasl*) in case he was killed.³⁷¹ According to USIP, *hadr al-dam* is sometimes used in cases where a man ‘habitually puts the whole tribe in jeopardy by behaving irresponsibly or failing to abide by a *sulha* settlement with another tribe,’ or in the case of murder.³⁷²

Information on the types of behaviour that could lead to *hadr al-dam* as well as the prevalence of the practice is scarce. According to Al-Samaraie, the types of offences or violations that could lead to *hadr al-dam* are mainly of ‘criminal and moral nature.’³⁷³ According to OWFI, the cause is usually a morality punishment for situations like having sexual relations outside of marriage; usually against women who are the vast majority of victims; or in situations where a male is caught in an sexual act with another male (so-called ‘black crimes’, *as-souda*) or in cases of child rape. These are what the source stated were the ‘most extreme cases’.³⁷⁴ Al-Ibrahimi stated that *hadr al-dam* usually results from the violation of a tribal settlement, e.g., when a tribal blood compensation set on the basis of a killing is not complied with.³⁷⁵ According to Al-Samaraie, publicly announcing *hadr al-dam* implies a public declaration of inability to resolve a dispute and constitutes a public invitation to kill a person without fearing tribal consequences and is mainly used as a leverage to negotiate *diyya*.³⁷⁶ Al-Ibrahimi observed that *hadr al-dam* is ‘not a permission to kill a person, but rather a declaration that the tribe wants to have nothing to do with the person’ in question and no protection will be provided to them.³⁷⁷ Expulsion is not necessary in such cases, and the person can continue to live in their area but people from other tribes can harm the person. The person receives no aid from the tribe and any other person who tries to aid the person in question will be disciplined by the tribe.³⁷⁸ However, USIP states that this type of outcasting is seen in Iraqi tribal society as a ‘virtual death sentence’ due to the lack of protection.³⁷⁹

According to Al-Ibrahimi’s knowledge this practice is ‘very rarely exercised’, however direct corroboration could not be found.³⁸⁰ However, Haley Bobseine stated that the killing of people who killed for ISIL ‘happened a lot immediately following the cessation of hostilities in the official fight against ISIL. Basically, tribes said, they do not take responsibility for actions of any of their tribesmen who joined ISIL and committed crimes. In essence, they are *dam mahdour* [subject to *hadr al-dam*]. A number of perceived ISIL fighters and affiliates were murdered during this time. Some of this still occasionally continues today but not nearly the numbers seen before. Security forces allegedly sometimes turn a blind eye to some of these killings of suspected ISIL fighters and do not follow up on any investigations.’³⁸¹ Further information on prevalence could not be found.

³⁷¹ Salah Dagher Al-Okabi, *سند هدر الدم في العرف العشائري* [Sanad of *hadr al-dam* in tribal customs], 26 January 2023, [url](#)

³⁷² USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 264

³⁷³ Al-Samaraie, N., video interview, 27 October 2022

³⁷⁴ OWFI, Interview with EUAA, 16 March 2023

³⁷⁵ Al-Ibrahimi, H., video interview, 3 November 2022

³⁷⁶ Al-Samaraie, N., video interview, 27 October 2022

³⁷⁷ Al-Ibrahimi, H., video interview, 3 November 2022; Bobseine is also of the same view. Bobseine, H., comments during external expert review of the report, 03 April 2023

³⁷⁸ Al-Ibrahimi, H., video interview, 3 November 2022

³⁷⁹ USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 264

³⁸⁰ Al-Ibrahimi, H., video interview, 3 November 2022

³⁸¹ Bobseine, H., Comment made during the review of this report, 3 April 2023



3.9. Blood feuds (*thar*)

According to the CNA, *thar* refers to blood feuds or revenge killing to avenge the killing of a tribesman. Furthermore, ‘failure to fulfill the obligation of ‘*al thar*’ badly damages the group’s reputation; it is a loss of honor that weakens the group vis-à-vis other groups’ and this can have implications for the tribes economic and political influence, as well as ‘potential marriage partners’. *Thar* is thus both for vengeance to rebalance tribal power but also for self-protection of the tribe and tribes engage in *thar* to make known to others to refrain from trespassing against them.³⁸² In an interview with EUAA, Genat maintained that *thar*, although a tribal practice, is not considered a part of ‘tribal codes’ or a tribal conflict resolution mechanism. It happens precisely when tribal justice has failed.³⁸³ UNHCR also noted that blood feuds occur when ‘tribes fail to resolve disputes between them through peaceful means’.³⁸⁴

Blood feuds and *thar* remain common in Iraq³⁸⁵ and remain a ‘major matter’ within the tribal system that can go on for years.³⁸⁶ As regards blood feuds (known in Arabic as *thar*), Genat observed the existence of this cultural practice in Iraq, even in large cities, where ‘most urban Iraqis report that they know at least one person in their immediate entourage who is, or has been, at risk of *thar*’.³⁸⁷ This practice remains ‘a common occurrence’ especially in southern Iraq ‘with clashes sometimes lasting for days with the use of heavy weapons’.³⁸⁸

Al-Samaraie observed that in cases of ‘grave nature’ such as murder or if a party is ‘socially disadvantaged in various forms’, that party might not accept to go through the *fasl (sulha)* process. The affected party might announce that they would opt for revenge at the early stages of the dispute. Nevertheless, the tribal system continues to operate, and tribes continue to mediate to bring the two parties to a settlement. Once the two parties accept to meet, personal charms, historical relations, and religious language are used in order to reduce the blood money (*diyya*). However, when there is a revenge or counter killing, settlement becomes more complicated.³⁸⁹

Iraqi security sources cited in a New Arab report dated 15 January 2022 stated that tribal disputes did not come to an end despite the arrests of members of involved tribes who still believe in revenge. The cited sources added that 280 persons were arrested in Thi-Qar against the background of tribal disputes since the beginning of 2020, but those are usually released due to the intervention of government and city officials.³⁹⁰

³⁸² CNA, “No Security Without Us”: Tribes and Tribalism in Al Anbar Province, June 2014, [url](#), p. 9

³⁸³ Genat, M., video interview, 4 October 2022; Genat, M., Tribal Justice Mechanisms and Durable Solutions for Families with a Perceived Affiliation to ISIS, IOM, 2020, p. 11

³⁸⁴ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, available at: [url](#), p. 3

³⁸⁵ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, available at: [url](#), p. 3; OWFI, Interview with EUAA, 16 March 2023

³⁸⁶ OWFI, Interview with EUAA, 16 March 2023

³⁸⁷ Genat, M., Tribal Justice Mechanisms and Durable Solutions for Families with a Perceived Affiliation to ISIS, IOM, 2020, p. 11

³⁸⁸ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, available at: [url](#), p. 3

³⁸⁹ Al-Samaraie, N., video interview, 27 October 2022

³⁹⁰ New Arab (The), النزاعات العشائرية تخلق السلم الأهلي في العراق [Tribal disputes disturb civil peace in Iraq], 15 January 2022, [url](#)





3.10. Women as a means of tribal disputes settlement or use of women in tribal customs

Dr. Bushra Al-Obaidi stated in an interview for this report that women are used as a tool to settle disputes. When a tribal dispute breaks out related to a woman, usually it is due to an incident of rape, harassment, or violence against her by a man from another tribe. Additionally, there are several tribal customs which persist and impact women, including *fasliya* marriages, *kassa bi kassa*, *nahwa*, and giving women away as gifts to prominent and important visitors to the tribe, or forcing women to forfeit their inheritances.³⁹¹

Hamoudi et al. observed that women are not only excluded completely from ‘participating meaningfully in tribal resolution’, but ‘they are treated as objects of exchange in a broader compensation system, even if for the most part the matter is symbolic’.³⁹² This practice is called *fasliya*, where ‘women are married off as restitution for blood spilt between two tribes’³⁹³ or where a tribe gives ‘one or several girls or women for marriage to another tribe’ as a way to resolve inter-tribal conflict’.³⁹⁴ This is done ostensibly to ‘create bonds’ that prevent future fighting.³⁹⁵

The giving of women as gifts means the important visitor is obliged under tribal customs to accept the gift and it may be perceived as an insult if he does not, triggering a dispute or the killing of the woman (whose honour would be questioned).³⁹⁶

UNHCR observed that while *fasliya* practice is banned by Iraqi law, it ‘has reportedly seen a resurgence since 2014’³⁹⁷ especially in southern Iraq.³⁹⁸ In this practice, the woman has no right to divorce and is exposed to abuse,³⁹⁹ and mistreatment.⁴⁰⁰

Detailed information on this practice and other practices impacting women can be found under Sections [3.11 Honour violations and honour-based violence](#) and [4.2 Women’s tribal participation and other practices affecting women](#) of this report.

³⁹¹ Al-Obaidi, B., Interview with EUAA, 3 April 2023

³⁹² Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 2015, p. 259

³⁹³ France24, *In Iraq, tribal traditions rob women, girls of rights*, 18 April 2019, [url](#)

³⁹⁴ UNHCR, *Tribal Conflict Resolution in Iraq*, 15 January 2018, available at: [url](#), p. 2

³⁹⁵ USIP, *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, [url](#), p. 264

³⁹⁶ Al-Obaidi, B., Interview with EUAA, 3 April 2023

³⁹⁷ UNHCR, *Tribal Conflict Resolution in Iraq*, 15 January 2018, available at: [url](#), p. 2

³⁹⁸ UNHCR, *Tribal Conflict Resolution in Iraq*, 15 January 2018, available at: [url](#), p. 2; Bobseine, H., *Tribal Justice in a Fragile Iraq*, 7 November 2019, [url](#), p. 12

³⁹⁹ UNHCR, *Tribal Conflict Resolution in Iraq*, 15 January 2018, available at: [url](#), p. 2; Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁴⁰⁰ USIP, *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, [url](#), p. 264; Al-Obaidi, B., Interview with EUAA, 3 April 2023





3.11. Honour violations and honour-based violence

According to Dr. Bushra Al-Obaidi, honour violence is one of the largest problems encountered in Iraqi society, enabled by the Criminal Code, Article 409.⁴⁰¹ According to Landinfo, honour-based violence refers to ‘violence committed with the intention of restoring one’s honour or the collective honour of the family, clan, or tribe.’⁴⁰² Violations of honour (‘honour crimes’) that contravene tribal social norms and codes and that can spark honour-based violence against a person can be due to a range of reasons, including examples such as these for women/girls:

- seeking a partner of her own choosing, or having romantic relations without prior permission from respective male kin;⁴⁰³
- refusing an arranged marriage;⁴⁰⁴ seeking divorce against the will of the family or tribe;⁴⁰⁵
- expressed sexuality of women, including preservation of virginity and female ‘purity’;⁴⁰⁶
- sexual relations or male contact outside marriage; ‘fornication’; ‘adultery’;⁴⁰⁷ flirtation or even rumours or suspicion of an offence; ‘real or perceived unfaithfulness’;⁴⁰⁸ or if a girl/woman has texts/has correspondence ‘deemed inappropriate’ between her and a man she is not married to;⁴⁰⁹
- being a female victim of rape, sexual assault or kidnapping;⁴¹⁰
- ‘shameful’ dress or behaviour, including on social media;⁴¹¹
- showing disobedient behaviour to male relatives, elderly female relatives, or one’s husband.⁴¹²

Norway’s report on honour violations noted that the situation for males is not the same, noting: contact with the opposite sex or a premarital relationship is not in itself considered harmful to the collective honour of the man or his family, but he will be affected by the desire for revenge from the woman’s family. Males may be considered to have damaged honour if they violate gender roles through dress or same-sex relationships.⁴¹³ USIP also mentions ‘Black crimes’

⁴⁰¹ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁴⁰² Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#), p. 4

⁴⁰³ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 240

⁴⁰⁴ Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), p. 30

⁴⁰⁵ Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#), p. 20

⁴⁰⁶ EUAA, COI Report: Iraq – Targeting of Individuals, [url](#), para. 3.1

⁴⁰⁷ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 240

⁴⁰⁸ USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 255

⁴⁰⁹ Bobseine, H., comments during external expert review of the report, 03 April 2023

⁴¹⁰ Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#), para. 2.3.

⁴¹¹ Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), p. 30

⁴¹² Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#), p. 19-20

⁴¹³ Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#), p. 20





(*as-souda*) such as male same-sex relations,⁴¹⁴ rape, kidnapping a woman, or theft from a fellow kinsman or host.⁴¹⁵

Tribal resolutions to honour violations include arranged or forced marriage;⁴¹⁶ *fasliya* marriage;⁴¹⁷ forced divorce;⁴¹⁸ honour killing of women and/or the involved parties;⁴¹⁹ non-lethal violence, forced suicide or contrived suicide, female-genital mutilation, starving or poisoning; restricted freedom of movement or confinement; denial of basic rights; forced abortion; forced virginity testing; denial of personal autonomy; verbal abuse or abandonment.⁴²⁰ The aim of these actions is shame-washing to restore ‘honour’.⁴²¹ Women and girls are the most frequent victims of honour killings,⁴²² however men and boys may also be affected or killed, on a smaller scale.⁴²³ Male family members who consider their honour damaged are usually the perpetrators; however female relatives may also be involved.⁴²⁴ The full extent of the problem, which occurs all over the country, is not known due to extreme underreporting.⁴²⁵ It remains a serious problem nationwide.⁴²⁶ UNAMI reported that several hundred women die each year from honour killings.⁴²⁷ In February 2023, widespread outrage in Iraq occurred when a young woman was killed by her father for so-called honour reasons, upon a return trip to Iraq. She had complained of being sexually assaulted by her brother in previous years, and had moved and was living abroad with her Syrian fiancé against her father’s wishes, and become well known for making Youtube videos.⁴²⁸ Several sources mentioned her case as exemplifying the situation of women and honour violence in Iraq.⁴²⁹

⁴¹⁴ OWFI, Interview with EUAA, 16 March 2023; Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#), p. 15-17; USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 255

⁴¹⁵ USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 264; UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, [url](#)

⁴¹⁶ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 240; Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), p. 31; Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#), para. 2.3. Forms of honour-related violence

⁴¹⁷ Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), p. 31

⁴¹⁸ Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#), para. 2.3

⁴¹⁹ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 240

⁴²⁰ Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#), para 2.3.

⁴²¹ USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 264; UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, [url](#); Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#), p. 10-11

⁴²² Ceasefire Centre for Civilian Rights, Correspondence with EUAA, 16 March 2023; OWFI, Interview with EUAA, 16 March 2023; Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), p. 31; See also in KRI: AW, Worrying increase of “Honour” crimes in Iraqi Kurdistan, 21 March 2022, [url](#) and Mustafah, R., Addressing Violence Against Women in Iraqi Kurdistan, 28 March 2022, <https://www.washingtoninstitute.org/policy-analysis/addressing-violence-against-women-iraqi-kurdistan>

⁴²³ UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq, 5 June 2018, [url](#), Para. 40; Relating to the scale of the problem: Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#),

⁴²⁴ Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#), p. 4

⁴²⁵ UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq, 5 June 2018, [url](#), Para. 40

⁴²⁶ Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), p. 30

⁴²⁷ Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), p. 30

⁴²⁸ Al-Monitor, Honor killings in Iraq rekindle efforts to criminalize domestic violence, 19 February 2023, [url](#); Guardian (The), ‘Honour’ killing of YouTube star sparks outrage in Iraq, 3 February 2023, [url](#)

⁴²⁹ HRW, Interview with EUAA, 13 March 2023; OWFI, Interview with EUAA, 16 March 2023





Honour killings of those accused of honour crimes, occur with impunity, often in secret, or under the guise of other reasons.⁴³⁰ They are also often motivated by financial (such as getting a woman's inheritance) or personal motives, but they remain 'conceal crimes' that are not discussed in public.⁴³¹ Some families reportedly arrange honour killings to appear as suicides.⁴³² They occur more frequently in rural or poor areas.⁴³³ There are no reliable statistics,⁴³⁴ and they often remain unreported and unsolved.⁴³⁵

There is no law against domestic violence in Iraq,⁴³⁶ or that outlaws violence against women or sexual assault.⁴³⁷ Seeking assistance from authorities has not lead to results and the discussion of human rights violations such as these are very sensitive in the Iraqi context.⁴³⁸ The custom of honour killing is 'in some ways integrated, or at least indirectly sanctions, by statutory law'.⁴³⁹ Iraqi law allows for 'honour' to be seen as a mitigating circumstance for violence and such killings are considered separately from murder.⁴⁴⁰ There is a lack of modern and effective mechanism to protect victims of domestic violence and honour-related violence.⁴⁴¹ There are no state-run shelters for women fleeing violence.⁴⁴² The representative of OWFI indicated that women's shelters have been targeted by authorities who perceive them as 'brothels' or make accusations that they traffic women.⁴⁴³ The UN similarly reported that such shelters are stigmatised and targeted by various actors.⁴⁴⁴

Dr. Bushra Al-Obaidi explained that the Iraqi state Criminal Code is strongly influenced by tribal codes with some legal provisions derived from tribal customs.⁴⁴⁵ Human Rights Watch similarly explained that much of the provisions allowing the abuse of women have underlying reinforcement in Iraqi tribal law and practices.⁴⁴⁶ Examples under the Criminal Code include:

⁴³⁰ Ceasefire Centre for Civilian Rights, Correspondence with EUAA, 16 March 2023; Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 2015, pp. 252-253; National (The), *Death of Iraqi blogger sparks demands to end 'honour killings'*, 3 February 2023, [url](#)

⁴³¹ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁴³² Australia, DFAT, *Country Information Report Iraq*, 16 January 2023, [url](#), p. 30

⁴³³ Ceasefire Centre for Civilian Rights, Correspondence with EUAA, 16 March 2023; Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 2015, pp. 252-253

⁴³⁴ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁴³⁵ Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 2015, pp. 252-253

⁴³⁶ Al-Monitor, *Honor killings in Iraq rekindle efforts to criminalize domestic violence*, 19 February 2023, [url](#)

⁴³⁷ HRW, Interview with EUAA, 13 March 2023

⁴³⁸ Al-Monitor, *Honor killings in Iraq rekindle efforts to criminalize domestic violence*, 19 February 2023, [url](#)

⁴³⁹ USIP, *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, [url](#), p. 255

⁴⁴⁰ National (The), *Death of Iraqi blogger sparks demands to end 'honour killings'*, 3 February 2023, [url](#); Reuters, *Buried alive by her family, Iraqi woman fears for her life as murders go unpunished*, 12 July 2017, [url](#)

⁴⁴¹ National (The), *Death of Iraqi blogger sparks demands to end 'honour killings'*, 3 February 2023, [url](#); Guardian (The), *'Honour' killing of YouTube star sparks outrage in Iraq*, 3 February 2023, [url](#); UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq*, 5 June 2018, [url](#), Para. 44

⁴⁴² National (The), *Death of Iraqi blogger sparks demands to end 'honour killings'*, 3 February 2023, [url](#); Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023

⁴⁴³ OWFI, Interview with EUAA, 16 March 2023; UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq*, 5 June 2018, [url](#), Para. 43

⁴⁴⁴ UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq*, 5 June 2018, [url](#), Para. 43

⁴⁴⁵ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁴⁴⁶ HRW, Interview with EUAA, 13 March 2023; See also: UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq*, 5 June 2018, [url](#), Para. 41



- Article 41, for husbands to abuse their wives as discipline,⁴⁴⁷ ‘within certain limits described by the law or custom’ though this remains undefined other than to ‘not leave marks on the body’ however discipline with tools such as sticks or belts is ‘customary in Iraqi society’.⁴⁴⁸
- Article 128, 130, and 131 allow for honour motives as a mitigating circumstance and allow for reduced sentences.⁴⁴⁹ The ‘honourable motives’ can also include suspecting a behaviour that could affect honour occurred, whether or not it was actually witnessed.⁴⁵⁰ According to OWFI, these provisions correspond with tribal ‘shame-washing’ (*ghasl al-yar*) and is used by the formal justice system to cover up for the killing of women for honour-related reasons. Similarly, to Dr. Obaidi, OWFI stated that in terms of how tribal and formal law interact, perpetrators rarely serve time and judges sometimes applaud the perpetrators preservation of honour. As an example, OWFI also mentioned the case of two young girls who had been sexually abused in their family home, and the judge ordered virginity tests on girls.⁴⁵¹
- Article 377 on adultery being punishable by detention, which is ‘derived from customary law which considers certain acts shameful for women but not for men’.⁴⁵²
- Article 398 that if rapists to marry their victims [prosecution of sexual assault/rape ceases in the case of marriage to the victim⁴⁵³] they receive a lowered sentence.⁴⁵⁴ In such marriages, divorce cannot occur before three years, and in the tribal context, the victim is obliged to marry as the alternative would be death for dishonouring the tribe by having been a victim of rape.⁴⁵⁵
- Article 409, gives the right of the husband to kill his wife (or a first-degree relative to kill his relative) if for example, adultery occurs.⁴⁵⁶ The law allows reduced sentences for murders or violence with an honour motivation, including against family members,⁴⁵⁷ and for such acts as for adultery or sex outside marriage.⁴⁵⁸ The Code limits a sentence for murder to a maximum of three years’ imprisonment if a man is on trial for killing his wife, girlfriend, or a female dependant due to suspicion that the victim had been committing adultery or having sex outside of marriage.⁴⁵⁹ Dr. Al-Obaidi indicated that usually the perpetrator is sentenced to 6 months or a year on a suspended

⁴⁴⁷ HRW, Interview with EUAA, 13 March 2023; See also: UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq, 5 June 2018, [url](#), Para. 41; Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁴⁴⁸ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁴⁴⁹ Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#), para. 4.1; Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁴⁵⁰ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁴⁵¹ OWFI, Interview with EUAA, 16 March 2023

⁴⁵² Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁴⁵³ Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#), para. 4.1

⁴⁵⁴ HRW, Interview with EUAA, 13 March 2023; Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁴⁵⁵ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁴⁵⁶ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁴⁵⁷ National (The), Death of Iraqi blogger sparks demands to end ‘honour killings’, 3 February 2023, [url](#); elbarlament, The push to criminalise domestic violence in Iraq, 3 May 2020, [url](#); OWFI, Interview with EUAA, 16 March 2023; Article 409 of the Criminal Code - UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq, 5 June 2018, [url](#), Para. 41

⁴⁵⁸ OWFI, Interview with EUAA, 16 March 2023

⁴⁵⁹ Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), p. 30; Al-Obaidi, B., Interview with EUAA, 3 April 2023



sentence and ‘socially and tribally the perpetrator is considered a hero who was washed [away] his dishonour’.⁴⁶⁰

Dr. Al-Obaidi stated that violence against women in Iraq is a matter of custom, which poses obstacles to the passing of laws to protect women from domestic violence.⁴⁶¹ Perpetrators of gender-based violence are rarely prosecuted.⁴⁶² While arrest warrants are sometimes issued for perpetrators of honour killing, many suspects flee the country or seek protection from tribal groups before they can be brought to trial.⁴⁶³ According to OWFI, in regards to state responses, ‘female dignity is not respected and there is no protection for women fleeing from gender-based violence.’⁴⁶⁴ Norway also states that the ‘real access to official protection for persons exposed to honour-related violence is very low, both in KRI and Iraq in general.’⁴⁶⁵

3.12. Tribes’ capacity to enforce the outcome of dispute settlements

Regarding the treatment of persons who fail to abide by the codes of their tribes, OWFI stated that the tribe would start with pressure to comply, and this may escalate to threats like writing on the door of their house that they must pay the *fasl*, or ‘putting their guns to the door’, threatening violence, and if the person still did not comply, ‘they would not allow him to continue his life if he doesn’t pay out’ and that people ‘often escape altogether from the area and try to live somewhere else’.⁴⁶⁶ Hamoudi et al. observed that tribes follow different steps to ensure a member’s compliance with those codes. First, the ‘perpetrator is required to pay one-third of the damages in a *fasl*’. There is also the pressure of ‘informal reputational sanctions, bolstered by negative gossip respecting “shameful” [...] activity’. If those do not work, the tribe has other mechanisms to be employed: first, ‘a sentence of individual exile from a particular village, neighborhood, or city’ can be included in a *fasl*, ‘accompanied by a written indication that if the perpetrator is found in that prohibited’, he/she will be subject to the practice of *hadral-dam*.⁴⁶⁷ On 3 December 2022, Shafaq News reported that two men were killed in Thi-Qar due to their “violation” of a previous tribal resolution expelling them to Kerbala and banning them from entering the area in which they were killed.⁴⁶⁸ Second, the tribe ‘may escalate the matter to what is known as an internal, conditional expulsion’ whereby the perpetrator is no longer considered a member of the tribe and will have to ‘be responsible for all the damages’

⁴⁶⁰ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁴⁶¹ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁴⁶² HRW, Interview with EUAA, 16 March 2023

⁴⁶³ Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), p. 30

⁴⁶⁴ OWFI, Interview with EUAA, 16 March 2023

⁴⁶⁵ Norway, Landinfo, Temanotat: Irak - Ære og æresrelatert vold [Thematic Note: Iraq - Honour and Honour Related Violence in Iraq and Kurdistan], 10 March 2022, [url](#), para. 5

⁴⁶⁶ OWFI, Interview with EUAA, 16 March 2023

⁴⁶⁷ Hamoudi, H. A et al, The Resolution of Disputes in State and Tribal Law in the South of Iraq, 2015, p. 241-242; Bobseine observed that the exact amount varies. Bobseine, H., comments during external expert review of the report, 03 April 2023

⁴⁶⁸ Shafaq News, شاب يجهز على "عمه وابنه" بسبب كسر قرار عشائري [Thi-Qar. A man kills his “uncle and cousin” due to non-abidance by a tribal resolution], 3 December 2022, [url](#)



that may occur by him. Finally, and exceptionally, the tribe would resort to expelling the person from the tribe formally.⁴⁶⁹

Regarding capital punishment, in serious cases, which involve the killing of a tribal leader or in honour crimes, UNHCR stated that ‘tribes may impose capital punishment on the culprit’. The perpetrator can be dishonoured by his tribe, expelled, or even killed.⁴⁷⁰ Genat stated that the ‘death penalty’ does not exist in tribal law as such, however in practice it occurs.⁴⁷¹ USIP stated that ‘capital punishment is generally avoided’ since tribal mechanisms are designed to ‘foster reconciliation’.⁴⁷² Al-Samaraie stated tribes ‘do not impose the death penalty, at least not publicly,’ and that ‘parties involved are aware of the consequences’ of failing to play a ‘fair and just role’ in the process.⁴⁷³ USIP stated regarding capital punishments under tribal settlement mechanisms that :

‘Capital punishment is reserved for the most extreme cases, where honor cannot be retrieved in any other way (as in the case of female honor crimes or the murder of a tribal leader), if the victim’s family cannot be made whole in any other way, or if the offender has committed a heinous crime of individual liability. In some instances, tribes may kill culprits from their own tribe if they commit a black crime (*as-souda*) such as rape, homosexual acts, kidnapping a woman, or stealing from a kinsman or host.’⁴⁷⁴

In practice, killing and death sentences can happen in cases of revenge when no settlement can be found, if an *atwa* is broken, or when the terms of a *sulh* are not observed.⁴⁷⁵ USIP also remarked that the loss of tribal protection in cases of banishment is ‘tantamount to death’.⁴⁷⁶ Furthermore, in practice, tribal remedies do prescribe death as a consequence for certain offenses such as crimes of greed, repeat offences, honour violations,⁴⁷⁷ or in murder cases if the *diyya* is not paid within a year, allowing the ‘right to kill a notable or any other member of the perpetrator’s tribe’ with retaliation being unpunished.⁴⁷⁸

Kao observed in a study conducted in 2018 in Mosul that ‘the state is most likely to use coercive force whereas tribal and religious institutions rely more on social sanctioning to enforce their decisions’. Tribal *sheikhs* often inherit their positions from their fathers or uncles, and ‘rely on their reputation and their ability to command social pressure among tribal members to enforce their decisions.’ The most powerful tools at the disposal of tribal leaders to enforce their decisions are the expulsion from the tribe and the ‘ability to withdraw support and tarnish the reputations of his enemies’ so that the person would end up ostracised by the rest of the tribe.⁴⁷⁹ While most of the respondents in Kao’s study indicated that tribal *sheikhs* would avoid resorting to violence to enforce decisions, at different sections of her study she

⁴⁶⁹ Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 2015, p. 241-242

⁴⁷⁰ UNHCR, *Tribal Conflict Resolution in Iraq*, 15 January 2018, available at: [url](#), p. 2

⁴⁷¹ Genat, M., video interview, 4 October 2022

⁴⁷² USIP, *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, [url](#), p. 265

⁴⁷³ Al-Samaraie, N., video interview, 27 October 2022

⁴⁷⁴ USIP, *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, [url](#), p. 264

⁴⁷⁵ Genat, M., video interview, 4 October 2022; see also: USIP, *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, [url](#), p. 264

⁴⁷⁶ USIP, *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, [url](#), p. 253

⁴⁷⁷ USIP, *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, [url](#), p. 253-255

⁴⁷⁸ USIP, *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, [url](#), p. 264

⁴⁷⁹ Kao, K., *Legal Pluralism and Fragmented Sovereignty in Iraq*, 9 June 2022, [url](#), pp. 36-37



indicated that '[t]ribal leaders may have militias that are loyal to them or the ability to influence their community members to sanction those in their community in other ways'.⁴⁸⁰

Genat referred to the major role social pressure plays in enforcing the outcomes of *sulh*, as tribes do not have mechanisms or procedures to enforce them. As the legitimacy of tribal leaders has been compromised in Iraq, tribes are struggling with enforcing decisions, and it could happen that a *sulh* agreement is broken and fighting is resumed.⁴⁸¹

According to Al-Ibrahimi, tribal leaders have become key players in Iraqi society with regard to the political landscape and the security architecture, especially in cases related to the return of IDPs.⁴⁸² Local Peace Committees⁴⁸³ in Iraq have been collaborating with local stakeholders including tribal leaders 'to negotiate agreements that commit tribes to comply with the state's justice system, to cooperate with state security forces, to disavow extra-judicial violence'.⁴⁸⁴

4. Situation of certain profiles under the tribal system

4.1. People perceived as affiliated with ISIL

This section focuses on the tribal aspects related to the treatment of persons with perceived affiliation to ISIL. For detailed information on the general treatment of persons perceived as affiliated with ISIL, the legal requirements for and the process of return of IDPs to the areas liberated from ISIL, see Chapter 1 of the EUAA report [Iraq: Targeting of Individuals](#) published in January 2022, as well as EUAA's previous publications on this topic.⁴⁸⁵

Without providing details, the Iraqi Ministry of Interior estimated that there are approximately 250 000 people with perceived ISIL affiliation.⁴⁸⁶ In a tribal reconciliation session involving dozens of tribes from Al-Anbar, held in Baghdad in 2017, 'there was broad consensus on the need for cooperation and coordination with the Iraqi legal system and security forces on matters concerning the detention and prosecution of suspected IS members'; at the same time, 'some of the participating *sheikhs* made statements in favour the collective punishment and social exclusion of individuals solely on the basis of their family ties to IS'.⁴⁸⁷ According to an IOM report from 2019, 'A key principle of tribal law, which is influential in Iraq, particularly in

⁴⁸⁰ Kao, K., Legal Pluralism and Fragmented Sovereignty in Iraq, 9 June 2022, [url](#), pp. 7-8

⁴⁸¹ Genat, M., video interview, 4 October 2022

⁴⁸² Al-Ibrahimi, H., video interview, 3 November 2022

⁴⁸³ Local Peace Committees have been organised by local communities in Iraq since 2017 'to facilitate inclusive, fair, and context-specific reconciliation processes in areas liberated from ISIL'. UNDP, Pathways to Reintegration: IRAQ Families Formerly Associated with ISIL, February 2021, [url](#), p. 19

⁴⁸⁴ UNDP, Pathways to Reintegration: IRAQ Families Formerly Associated with ISIL, February 2021, [url](#), p. 21

⁴⁸⁵ EUAA, COI Report – Iraq: Targeting of individuals, January 2022, [url](#); EUAA, COI Report – Iraq: Targeting of Individuals (March 2019), [url](#); EUAA, COI Report – Iraq: Treatment of Iraqis with perceived affiliation to ISIL, October 2020, [url](#)

⁴⁸⁶ USDOS, Country Report on Human Rights Practices for 2022 – Iraq, February 2023, [url](#), p. 40

⁴⁸⁷ Revkin, M. R., The Limits of Punishment: Transitional Justice and Violent Extremism, May 2018, [url](#), p. 25





areas where state authority is weak, is the attribution of collective guilt to the family or tribe of the perpetrator of a crime'. This concept 'allows for the relatives of an ISIL member to be held vicariously responsible for crimes that he or she committed individually'.⁴⁸⁸ However, Bobseine stated that in practice, the tribal stance towards collective responsibility of ISIL family members is more nuanced as it is seen as an exceptional circumstance as a terrorist group. Some are allowed to return, and some are not and the degree of association to the ISIL perpetrator may also vary by area.⁴⁸⁹

According to Ceasefire for Civilian Rights, the situation of perceived ISIL-affiliates varies from tribe to tribe, as some made explicit commitments to take back relatives of ISIL members, while others have refused to accept them.⁴⁹⁰ Following the defeat of ISIL, and to prevent rounds of retributive justice, there were tribal reconciliation agreements made to refer suspected ISIL militants to the official justice system for prosecution; however, the tribes involved also pledged to disown members convicted of affiliation to ISIL.⁴⁹¹ While ISIL fighters are prosecuted through the state legal system,⁴⁹² families with perceived ISIL affiliation are being dealt with through a combination of intelligence, tribal, and state justice mechanisms.⁴⁹³ many ISIL families 'are unable to return to their home villages because of the application of tribal law'. The different tribal mechanisms applied in the case of persons with perceived affiliation to ISIL, such as family members, 'serve a punitive function, while protecting some families from possible reprisals.'⁴⁹⁴ Many Iraqis prefer to solve inter-personal and intercommunal disputes, including those related to ISIL, through the tribal justice mechanisms; some of those who sought redress for crimes committed against them by ISIL preferred tribal justice mechanisms, since state courts are overburdened and perceived as widely 'corrupt and illegitimate'.⁴⁹⁵ In the context of persons with perceived affiliation to ISIL, tribal law and agreements 'are being applied today on a mass scale' and 'have produced an excessive number of disputes that traditional tribal justice systems are struggling to address', with the outcome of such agreements being sometimes at odds with the Iraqi formal law and constituting 'a form of collective punishment that violates individual rights'.⁴⁹⁶

According to an IOM/RWG report from 2020, 'communities used three mechanisms from tribal customary justice that have been adapted to the specific context and used to regulate the return of those community members: disavowal, denouncement and return to a nearby

⁴⁸⁸ IOM, WEST MOSUL: PERCEPTIONS ON RETURN AND REINTEGRATION AMONG STAYEES, IDPS AND RETURNEES, June 2019, [url](#), p. 7

⁴⁸⁹ Bobseine, H., comments during external expert review of the report, 03 April 2023

⁴⁹⁰ Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023

⁴⁹¹ USIP, How to Foster Peace in Iraq After ISIS, 13 February 2017, [url](#)

⁴⁹² Thiefaine. C., IRAQI TRIBAL JUSTICE PUT TO THE TEST AS ISLAMIC STATE FAMILIES RETURN, 19 February 2021, [url](#)

⁴⁹³ Bobseine, H., comments during external expert review of the report, 03 April 2023

⁴⁹⁴ Thiefaine. C., IRAQI TRIBAL JUSTICE PUT TO THE TEST AS ISLAMIC STATE FAMILIES RETURN, 19 February 2021, [url](#); Bobseine also mentioned the importance of state security clearance process, lack of access to documentation, and is due to a combination of state security and tribal measures. Bobseine, H., comments during external expert review of the report, 03 April 2023

⁴⁹⁵ Revkin, M. R., The Limits of Punishment: Transitional Justice and Violent Extremism, May 2018, [url](#), p. 24

⁴⁹⁶ Center for Civilians in Conflict, Ignoring Iraq's most vulnerable: The plight of displaced persons, April 2021, [url](#), pp. 17-18





area'.⁴⁹⁷ Expulsion from the tribe, or *bara'a*,⁴⁹⁸ has also been mentioned by sources, as a form of disavowal.⁴⁹⁹

Disavowal constitutes the 'act of formally denouncing ISIL in front of the community or tribal leader, or the court, denying any allegiance to the group and pledging to having done no harm to the community', and is used widely in the context of IDPs who stayed under ISIL but 'have no proven direct association with the group and no first or second-line relatives facing criminal charges or accusations of ISIL affiliation in core roles'.⁵⁰⁰ According to research on post-ISIL return agreements by the World Bank,

The disavowal process has become common across Iraq in the post-war period as a means of enabling the return of families that had a first-degree relative with close ties to ISIL. It is practiced in two forms: one, known as *tabriya*, occurs in front of a tribal committee and does not have a basis in Iraqi law, while the second, known as *ikhbar*, is a form of 'notification' that takes place in front of a judge and has been recognized in Iraqi law for years preceding ISIL's arrival. The core idea of both processes is similar: namely, that the person formally pledges that their relationship with the accused relative is severed.⁵⁰¹

The two mechanisms can influence obtaining security clearances for persons with perceived ISIL affiliation, which they need to return to their areas of origin: disavowal of their ISIL-affiliated relative (*tabriya*, also spelled *tabrea'a*) and notification of offence (*ikhbar*).⁵⁰² According to Bobseine, '*Tabriya* is actually a tribal process but it is also used as a colloquial term to describe the *ikhbar* process, which is a process done through state courts. This can make research on these topics confusing. Sometimes it is required for a person with perceived ISIL affiliation to do *tabriya* with their sheikh and also to file an *ikhbar* claim in front of an investigative judge. This process may vary by area and by tribes, etc. The degree of relatives involved, and who is requested to do *ikhbar* against whom is left up to the informal discretion of both tribal and state/intelligence authorities who are managing returns in the area and managing access to documents, etc. However, according to state law, *ikhbar* is voluntary but many people are not allowed to return until they do this, so in that sense the extent to which it is voluntary is in question.'⁵⁰³

Disavowal, IOM added, 'is the most commonly used mechanism, often used in conjunction with other mechanisms, as it facilitates obtaining a sponsorship.' However, it poses a few problems to persons who utilise it, including the implication of indirect admittance of past involvement with ISIL and the possibility of exploitation by those who would provide

⁴⁹⁷ IOM Iraq and RWG, MANAGING RETURN IN ANBAR: Community Responses to the Return of IDPs with Perceived Affiliation, 2020, [url](#), p. 12

⁴⁹⁸ HRW, Interview with EUAA, 13 March 2023

⁴⁹⁹ HRW, Interview with EUAA, 13 March 2023

⁵⁰⁰ IOM Iraq and RWG, MANAGING RETURN IN ANBAR: Community Responses to the Return of IDPs with Perceived Affiliation, 2020, [url](#), p. 12

⁵⁰¹ World Bank Group, Local Peace Agreements and the Return of IDPs with Perceived ISIL Affiliation in Iraq, January 2022, [url](#), p. 25

⁵⁰² Protection Cluster Iraq, Protection Analysis Report: Right to identity and civil documentation, October 2021, [url](#), p. 8; CIVIC, Ignoring Iraq's Most Vulnerable: The Plight of Displaced People, April 2021, [url](#), p. 14

⁵⁰³ Bobseine, H., comments during external expert review of the report, 03 April 2023





sponsorship and clearances to returnees.⁵⁰⁴ There were reports that tribal leaders ‘fabricated accusations of ISIL affiliation’ leading to stigmatisation of IDPs or discrimination due to family rivalries or for economic reasons.⁵⁰⁵ IDPs may be faced with the choice of disavowing their relatives or remaining in situations of displacement.⁵⁰⁶

It is ‘most often employed if the accused relative is either deceased or missing, because the denouncement could potentially be used against the accused in a future trial or as a criminal proof against a relative who is still alive’.⁵⁰⁷ Many returnees refuse to undergo disavowal process ‘for fear that doing so is in effect a confession of the guilt of their family member’.⁵⁰⁸ This practice especially impacts women as it stigmatises and endangers them, puts the husband at risk if he is missing or detained, undermines their ‘rights to inheritance and other entitlements under Iraqi law’ and risks creating a conflict with the family of the woman’s husband.⁵⁰⁹ Human Rights Watch commented that the disavowals have presented problems where such statements by relatives have been used as secret evidence against accused ISIL militants, some of whom the family may believe is missing, but who are in secret detention; executions have also occurred as a result.⁵¹⁰

Another mechanism used by tribes is the return of IDPs to an area nearby the community of origin: ‘This mechanism has been employed generally in two situations. First, when the families of victims have accused one member of the displaced family of committing a crime that, according to tribal custom, can be avenged, and a tribal mediation process has started to settle the case. In these cases, and while mediation is taking place, the offender and his family are sent away until a settlement is agreed upon by the two families. This option offers protection to the accused and their family and protects the victim’s family honor.’ Although it can be ‘understood as an intermediary step before IDPs are allowed to return home’, there are numerous ‘drawbacks’ to this mechanism, including the risk of protracted displacement in case of inability to pay the *fasl* amount and isolation from the community in case of complete return.⁵¹¹

Persons with perceived ISIL affiliation may also be blocked from returning. According to sources, blocking the return of persons with perceived affiliation with ISIL to their areas of origin constitutes collective punishment⁵¹² derived from tribal customary law,⁵¹³ and can be

⁵⁰⁴ IOM Iraq and RWG, MANAGING RETURN IN ANBAR: Community Responses to the Return of IDPs with Perceived Affiliation, 2020, [url](#), p. 12

⁵⁰⁵ USDOS, Country Report on Human Rights Practices for 2022 – Iraq, February 2023, [url](#), p. 40

⁵⁰⁶ Human Rights Watch, Interview with EUAA, 13 March 2023

⁵⁰⁷ IOM Iraq and RWG, MANAGING RETURN IN ANBAR: Community Responses to the Return of IDPs with Perceived Affiliation, 2020, [url](#), p. 13

⁵⁰⁸ Sanbar, S., “Barriers to post-ISIS reconciliation in Iraq: Case study of Tel Afar, Ninewa”, SciencePo Kuwait Program, 2020, [url](#), pp. 9-10

⁵⁰⁹ UNDP, Affiliated with ISIS: Challenges for the return and reintegration of women and children, October 2022, [url](#), pp. 20-21; IOM Iraq and RWG, MANAGING RETURN IN ANBAR: Community Responses to the Return of IDPs with Perceived Affiliation, 2020, [url](#), p. 13

⁵¹⁰ HRW, Interview with EUAA, 13 March 2023

⁵¹¹ IOM Iraq and RWG, MANAGING RETURN IN ANBAR: Community Responses to the Return of IDPs with Perceived Affiliation, 2020, [url](#), pp. 13-14

⁵¹² Bobseine, H., Tribal Justice in a Fragile Iraq, The Century Foundation, 7 November 2019, [url](#), p. 15; Center for Civilians in Conflict, Ignoring Iraq’s most vulnerable: The plight of displaced persons, April 2021, [url](#), pp. 17-18

⁵¹³ Center for Civilians in Conflict, Ignoring Iraq’s most vulnerable: The plight of displaced persons, April 2021, [url](#), pp. 17-18





permanent or temporary.⁵¹⁴ According to the Center for Civilians in Conflict, ‘when there is a “blood crime” between members of different tribes [...] the leaders of both tribes negotiate a settlement (“*fasil*”)⁵¹⁵ in order to avoid an escalation of violence and revenge killings’, and forced exile, or *jalwa*, can be a part of the dispute settlement.⁵¹⁶ IOM observed that in some cases following a return of IDPs with perceived affiliation with ISIL, relatives of victims may file a complaint against the returnees to the security forces. The security forces then inform tribal leaders that ‘they cannot ensure the safety of the families with perceived affiliation and request that the families leave, prompting the secondary displacement of these families with perceived affiliation’. This type of displacement, according to the source, ‘is perceived by community members and community leaders as a preventative measure to avoid increased violence, given that the return of this population of IDPs can ignite cycles of revenge attacks by victims’.⁵¹⁷

In addition to these mechanisms, returnees are often requested to pay *diyya* (blood money), and those who fail to do so are ‘often stuck in the camps’ and ‘Even for those who can pay, families remain vulnerable to accusations, arrests, or physical attack.’⁵¹⁸ In some cases, initiatives by ‘Provincial authorities and national institutions’ succeeded in convincing victims of ISIL violence to accept ‘government compensation instead of the traditional’ *diyya*, however, ‘families wishing to return are still obliged to pay 500,000 Iraqi dinars, an excessive economic burden to most [...] despite the lack of criminal charges against them or any judicial decision compelling them to do so’.⁵¹⁹

The Protection Cluster – Iraq stated that ‘[s]ocial norms and practices, based on tribal customs, often takes precedence over the strict application of Iraqi law and thus can contribute to the denial of the right to identity and civil documentation’ in the case of IDPs with perceived affiliation to ISIL.⁵²⁰ UNDP observed that ‘In various parts of Nineveh, the procedure [of *ikhbar*] faced tribal rejection due to the concept of revenge’ while ‘In other areas, even after obtaining acquittal, many families accused of being associated with ISIS are ostracized, threatened and assaulted.’⁵²¹ Moreover, some clans in Al-Anbar refused the return of ISIL families ‘even though they obtained legal documents that prove they disowned the members involved with ISIS’.⁵²²

⁵¹⁴ Revkin, M. R., *The Limits of Punishment: Transitional Justice and Violent Extremism*, May 2018, [url](#), p. 11

⁵¹⁵ Bobseine observed, however, that ‘Many sheikhs from Anbar and Nineveh denied negotiating *fasil* or accepting *diyya* payments in exchange for Islamic State members being able to return to their communities, saying that tribes don’t pay for the group’s terrorist acts, and that individuals must bear responsibility’. Bobseine, H., *Tribal Justice in a Fragile Iraq*, The Century Foundation, 7 November 2019, [url](#), p. 14

⁵¹⁶ Center for Civilians in Conflict, *Ignoring Iraq’s most vulnerable: The plight of displaced persons*, April 2021, [url](#), pp. 17-18

⁵¹⁷ IOM Iraq and RWG, *MANAGING RETURN IN ANBAR: Community Responses to the Return of IDPs with Perceived Affiliation*, 2020, [url](#), p. 15

⁵¹⁸ Bobseine, H., *Tribal Justice in a Fragile Iraq*, The Century Foundation, 7 November 2019, [url](#), p. 18

⁵¹⁹ Center for Civilians in Conflict, *Ignoring Iraq’s most vulnerable: The plight of displaced persons*, April 2021, [url](#), p. 19

⁵²⁰ Protection Cluster Iraq, *Protection Analysis Report: Right to identity and civil documentation*, October 2021, [url](#), p. 8

⁵²¹ UNDP, *Affiliated with ISIS: Challenges for the return and reintegration of women and children*, October 2022, [url](#), pp. 20-21

⁵²² Shafaq News, *Tribes in Al-Anbar Refuses the return of displaced families with ISIS ties, local official says*, 24 November 2020, [url](#)





Tribal *sheikhs* play an important role in blocking or facilitating the return process, and their role is described as ‘more exploitative than constructive’.⁵²³ The return of IDPs with perceived affiliation to ISIL ‘is often dependent on multiple factors beyond obtaining a security clearance’, one of which is the verification of the tribal leader of any sponsorship agreements, in parallel with ‘local security, administrative and political actors’.⁵²⁴ In addition to resolving disputes, ‘tribal authorities are involved in negotiating the terms under which IDPs displaced by IS-related violence and individuals affiliated with IS including family members may or may not be allowed to return to their former communities.’⁵²⁵

In some areas, according to UNHCR, ‘tribal leaders have reportedly been successful in containing violent retribution against suspected ISIS members and their families by barring collective punishment and referring suspects to the formal justice system’.⁵²⁶ Tribes, in some cases, helped to facilitate safe returns ‘either by arranging the return of small numbers of families to their communities without risk of retaliation or by negotiating larger tribal agreements or “pacts of honor.”’⁵²⁷ However, in other areas, ‘IDP families accused of having supported ISIS are reportedly prevented from returning, while others were pressured to make “blood money” payments to the victims of ISIS before being allowed to return’.⁵²⁸ Persons with perceived affiliation to ISIL ‘often face stigmatisation and rejection from their home communities, and in some cases threats or violence’ in addition to the obstacles faced by other IDPs when returning to their areas of origin.⁵²⁹ According to Bobseine, ‘Even if granted security clearance to return, some sheikhs and tribesmen are demanding protection fees—sometimes euphemized as “taxes”—from returnees and those perceived to have affiliation with the Islamic State’. If the returnees fail to pay such fees, they would face attacks, evictions, or death.⁵³⁰

In a report published in October 2022, UNDP observed regional differences as regards the obstacles that prevent the return of persons with perceived affiliation to ISIL. In Al-Hatra region of Ninewa, tribes ‘say that they do not believe in punishing relatives of ISIS members just because of family ties’. In Talafar, ‘the Popular Mobilization Forces stipulated that in return for allowing the families to come back, the Government would provide services to families of victims’.⁵³¹ In the Sinsil district of Diyala, the PMF informed returnees that ‘the most capable man in his family should join a local armed unit, without pay, to patrol and guard the neighborhood’. In Kirkuk, the Sunni Arab, Turkmen and Kurdish communities ‘support the return of families’ and the objection to return comes from the Shiite Turkmen and the PMF. According to UNDP, some attempts to return IDPs to some villages in Kirkuk have failed.⁵³²

⁵²³ Bobseine, H., Tribal Justice in a Fragile Iraq, The Century Foundation, 7 November 2019, [url](#), p. 16

⁵²⁴ IOM Iraq and RWG, MANAGING RETURN IN ANBAR: Community Responses to the Return of IDPs with Perceived Affiliation, 2020, [url](#), p. 16

⁵²⁵ Revkin, M. R., The Limits of Punishment: Transitional Justice and Violent Extremism, May 2018, [url](#), p. 24

⁵²⁶ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, available at: [url](#), pp. 4-5

⁵²⁷ Center for Civilians in Conflict, Ignoring Iraq’s most vulnerable: The plight of displaced persons, April 2021, [url](#), p. 19

⁵²⁸ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, available at: [url](#), pp. 4-5

⁵²⁹ Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), p. 25

⁵³⁰ Bobseine, H., Tribal Justice in a Fragile Iraq, The Century Foundation, 7 November 2019, [url](#), p. 18

⁵³¹ UNDP, Affiliated with ISIS: Challenges for the return and reintegration of women and children, October 2022, [url](#), p. 17

⁵³² UNDP, Affiliated with ISIS: Challenges for the return and reintegration of women and children, October 2022, [url](#), p. 18





Furthermore, in Salah Al-Din, the tribes and families of ISIL victims ‘still do not allow talk about the return of families and their integration into society’ even those who obtained judicial clearance, while in Diyala, ‘family returns have been halted due to legal, economic, clan-related, social and security obstacles’. According to women interviewed by UNDP, their return was allowed only if ‘they abandon their male children even if the boy is only one day old’. Finally, in the Garma town of Al-Anbar, at least 200 ISIL families were issued ‘special pink identity cards’ as a method of tracing them. These families ‘are allowed to go home and can use the documents to travel across checkpoints [...but...] will be permanently marked with pink cards and subjected to harassment, stigmatization and sometimes violations’.⁵³³

Some communities in the areas liberated from ISIL established ‘local peace committees’ or agreements with the aim to facilitate the reintegration of this category of IDPs,⁵³⁴ however, according to a UNHCR report from 2018, ‘Under tribal agreements, those suspected of being ISIS members or whose relatives are alleged to have been involved with ISIS are reportedly subjected to forced eviction/expulsion and confiscation or destruction of their property’.⁵³⁵ The Center for Civilians in Conflict also stated that in some cases ‘tribes have reached agreements that punish entire families for the crimes of their relatives, banish them from their area of origin, and even confiscate their properties’.⁵³⁶ Bobseine also stated that in Al-Baaj district of Ninewa governorate, several tribal leaders ‘maintained that they were engaging in redistribution of property belonging to families associated with the Islamic State not for their own material benefit, but rather to appease government demands—proving to the government that the tribes are tough on terrorism—and to hedge against future Islamic State threats.’⁵³⁷

IDPs continue to face stigmatisation, discrimination, harassment, revenge killings, and difficulty obtaining security clearances and accessing reconstruction funds.⁵³⁸ UNHCR observed ‘An increase in attacks against and forced evictions of families suspected of having collaborated with ISIS in areas retaken from ISIS’.⁵³⁹ A report by the New Arab dated 3 March 2021 stated that persons with perceived affiliation to ISIL are subject to the tribal practice of *thar* (revenge) which incurs forms of retaliation such as exile, the blocking of return and execution, instances of which were reported.⁵⁴⁰ According to UNHCR, ‘Tribes have also been reported to take punitive action against members of their own tribe who had joined ISIS (e.g. in the governorates of Al-Anbar, Salah Al-Din and Ninewa), including by destroying their homes, ordering their expulsion, or killing them.’⁵⁴¹ According to Revkin, in some areas of Iraq, tribes

⁵³³ UNDP, Affiliated with ISIS: Challenges for the return and reintegration of women and children, October 2022, [url](#), p. 18

⁵³⁴ Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), p. 25

⁵³⁵ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, available at: <https://www.refworld.org/docid/5a66f84f4.html>, p. 4

⁵³⁶ Center for Civilians in Conflict, Ignoring Iraq’s most vulnerable: The plight of displaced persons, April 2021, [url](#), pp. 17-18

⁵³⁷ Bobseine, H., Tribal Justice in a Fragile Iraq, The Century Foundation, 7 November 2019, [url](#), p. 15

⁵³⁸ HRW, Interview with EUAA, 13 March 2023; Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023

⁵³⁹ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, available at: [url](#), p. 4

⁵⁴⁰ New Arab (The), الحكومة العراقية تعول على زعماء العشائر لتسهيل إعادة النازحين [Iraqi government relies on tribal leaders to facilitate the return of IDPs], 3 March 2021, [url](#)

⁵⁴¹ UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, available at: <https://www.refworld.org/docid/5a66f84f4.html>, pp. 4-5



showed unwillingness to cooperate with the state as regards the issue of persons with perceived affiliation to ISIL, and ‘have insisted on enforcing their own legal doctrines including those requiring paying of “blood money” or banishment’ and ‘have engaged in acts of extra-judicial violence’ including ‘executing individuals accused of joining IS, banishing them from the community, or destroying their homes’.⁵⁴² In May 2019, a tribal leader from Al-Anbar warned against the arbitrary return of ISIL families as they could be killed due to the prevalence of weapons and the weak enforcement of law.⁵⁴³

4.1.1 Possibility of tribal aid for returnees

Genat stated that there is no package of aid or help from tribes to returnees from internal displacement or abroad. She stated that ‘even for the weakest segments of the population, there have been complaints about the absence of help from the tribes.’ Issues like the reason behind displacement and the person’s connections play a role in facilitating or hindering the person’s return. What exists are mainly informal mechanisms whereby notables and wealthy people help those in need through charity, but no tribal codes exist in this regard. A *sheikh* might also use a part of the collective fund to help persons in need, but this is evaluated on a case-by-case basis.⁵⁴⁴ Bobseine observed that Tribal sheikhs were generally viewed as exploitative, and not helpful, in their role with regard to returns, but in response they claimed to be ‘providing a social safety net (funded by money collected from the tribal communities) to families without livelihoods who have been financially and psychologically destroyed by years of war and displacement.’⁵⁴⁵ In agreement with Genat, Bobseine also observed that tribes do not provide support systematically, and that sometimes there is support from collective funds but it is more on a case by case, charity basis. She added that this may depend on the profile of the returnee.⁵⁴⁶

On the issue of formal or informal supports from tribes for returnees, Human Rights Watch stated that there have been cases of tribal councils working to allow returns and others that have not; it is not based on a tribal code and ‘it entirely depends on the individual tribal leadership’.⁵⁴⁷ Similarly, according to Al-Ibrahimi, the type of support provided to returnees to areas previously held by ISIL varies from one area to the other and depends on the profile of the returnee. Tribes are dealing with the returning population on the basis of their perception on whether the returnees supported or fought against ISIL. Those IDP’s who are accepted by the tribe and adhere to tribal norms receive the three basic forms of support: shelter, basic local economic opportunities (usually in the field of agriculture) and protection. The general status is that the IDP’s are either accepted or rejected by the tribe, however, there are cases where the returnee is neither accepted nor rejected. In these cases, the tribe deals with the

⁵⁴² Revkin, M. R., *The Limits of Punishment: Transitional Justice and Violent Extremism*, May 2018, [url](#), p. 24

⁵⁴³ Rudaw, *شيوخ إحدى عشائر الأنبار: أفراد عائلات داعش العائدون عشوائياً يتعرضون للقتل بسبب غياب القانون* [A leader of one of Anbar’s tribes: Returning ISIL family members are randomly killed due to absence of law], 2 May 2019, [url](#); Center for Civilians in Conflict, *Ignoring Iraq’s most vulnerable: The plight of displaced persons*, April 2021, [url](#), p. 19

⁵⁴⁴ Genat, M., video interview, 4 October 2022

⁵⁴⁵ Bobseine, H., *Tribal Justice in a Fragile Iraq*, The Century Foundation, 7 November 2019, [url](#), p. 19

⁵⁴⁶ Bobseine, H., comments during external expert review of the report, 03 April 2023

⁵⁴⁷ HRW, Interview with EUAA, 13 March 2023



returnee with caution and provides only a basic level of protection on the basis of tribal norms and there is no guarantee that there will be no acts of retaliation or vengeance.⁵⁴⁸

No further information on the support tribes provide to returnees from internal displacement or from abroad could be found within the time constraints of this report.

For more information on this topic, refer to [EUAA COI Report – Iraq: Internal Mobility \(February 2019\)](#).

4.2. Women’s tribal participation and other practices affecting women

This section provides a brief discussion of women’s position and agency in relation to tribal practices, including her membership and tribal dimensions in situations of divorce, as well as tribal practices that specifically impact women/girls. The general situation of women should be taken into account for context and more detailed information on this can be found in: [EUAA COI Report Iraq – Targeting of Individuals \(January 2022\)](#); [EUAA COI Report: Iraq - Treatment of Iraqis with perceived affiliation to ISIL \(October 2020\)](#); [EUAA COI Report: Iraq - Targeting of individuals \(March 2019\)](#).

The violation of women’s rights are among the main human rights problems that arise due to tribal customary practices⁵⁴⁹ and daily incidents in Iraq show a ‘deep failure of the state’ to deal with the negative aspects of tribalism in Iraq, especially in relation to women’s rights.⁵⁵⁰ Women’s agency are often not respected in tribal proceedings and are in practice used as collateral to resolve conflicts.⁵⁵¹ Honour killings are among the worst violations of women’s rights as a result of the tribal system.⁵⁵² For more information on honour crimes and related honour-based violence, see Section [3.11 Honour violations and honour-based violence](#).

4.2.1 Women’s tribal membership and participation

Among Arab and Kurdish tribes, membership of the tribe is by patrilineal inheritance.⁵⁵³ According to Maryam Tawfiq Marwan, in her thesis in 2019 on forced marriages in tribal Iraq which focused on Kirkuk, Arabs, being a patriarchal society, mention only male ancestors in their family tree lineages, the ascending ‘chains’ (*salasil*) or ‘trees’ (*shajarat al-nasab*).⁵⁵⁴

Sources explained that family and individual honour is held and fluctuates due to the behaviour of the males; while females can only decrease honour through shameful

⁵⁴⁸ Al-Ibrahimi, H., video interview, 3 November 2022

⁵⁴⁹ HRW, Interview with EUAA, 13 March 2023

⁵⁵⁰ Independent Arabia, العشيرة تحكم الدولة في العراق و تهدد كياناتها و العاملين فيها [The clan dominates the state in Iraq and threatens its entities and public servants], 13 September 2021, [url](#)

⁵⁵¹ Ceasefire Centre for Civilian Rights, Correspondence with EUAA, 16 March 2023

⁵⁵² OWFI, Interview with EUAA, 13 March 2023; HRW, Interview with EUAA, 16 March 2023; Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023

⁵⁵³ GlobalSecurity.org, Shia and Kurdish Tribes, [url](#)

⁵⁵⁴ Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, May 2019, [url](#), p. 16-17



behaviour.⁵⁵⁵ Haley Bobseine, an independent researcher and analyst based in the Middle East, stated that unless they use a male intermediary, women have very limited influence or interaction with the tribal structure.⁵⁵⁶ Human Rights Watch similarly stated that women are members of the tribe, but are not considered equals and have no decision-making authority.⁵⁵⁷ Forced and child marriage are reportedly common, as well as honour killings to restore a man's reputation in the eyes of the community for perceived transgressions by a woman.⁵⁵⁸

Tribes and women's divorce

According to Genat, if a woman marries a man from another tribe, she is not considered a member of the new tribe, but rather one of their women.⁵⁵⁹ According to Al-Ibrahimi, when a woman gets married this does not eliminate her tribal affiliation.⁵⁶⁰ Concerning tribal attitudes towards divorce, according to Genat, in cases of 'regular divorce', the woman's tribe of origin wouldn't normally abandon her or object to her return, although the reason behind the divorce might play a role, e.g., in divorces that occurred due to honour-related issues [See Section [3.11 Honour violations and honour-based violence](#)]. As a general rule, a woman cannot be expelled from a tribe, so there are no mechanisms to expel a divorced woman, but the husband's tribe will not protect her either.⁵⁶¹ According to Al-Ibrahimi, in cases of divorce, the general condition is that the divorced woman returns back to her original tribe. 'A woman can be abandoned by her own tribe and family in rare and individual cases, for example when a wife kills her husband, harms her children or commits terrorist acts but not e.g. in case of divorce'.⁵⁶² USIP similarly explained that a woman's ties to her 'natal agnatic group remain stronger in some ways than ties to her husband' and if the woman suffers or inflicts injury, 'it is generally not her husband but her guardian who will undertake any legal proceedings that may follow; if she is guilty, it is her agnates who will pay. If the marriage ends, a woman normally returns to her guardian's home.'⁵⁶³

Human Rights Watch explained that there is a hierarchy in the *wali* (male guardianship) guardianship of a woman – unmarried young women (default *wali* is the father), if the father is missing, then it is the elder brother; once the woman marries, it becomes her husband; if she is unmarried it remains her father or brother; if a woman marries and has no brothers, no father, and her husband dies but she has a son, then the son will be the male guardian, even if he is a child. In instances where a woman no longer has a *wali* (male guardian), the tribe can step in as a surrogate to offer some degree of male protection.⁵⁶⁴ Ceasefire for Civilian Rights remarked that in cases where a woman's husband is killed or passes away, 'she will be

⁵⁵⁵ Bobseine, H., Tribal Justice in a Fragile Iraq, The Century Foundation, 7 November 2019, [url](#), p. 11; CNA, "No Security Without Us": Tribes and Tribalism in Al Anbar Province, Iraq, June 2014, https://www.cna.org/archive/CNA_Files/pdf/cop-2014-u-007918-final.pdf, p. 10

⁵⁵⁶ Bobseine, H., Tribal Justice in a Fragile Iraq, The Century Foundation, 7 November 2019, [url](#), p. 11

⁵⁵⁷ HRW, Interview with EUAA, 13 March 2023

⁵⁵⁸ Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023

⁵⁵⁹ Genat, M., video interview, 4 October 2022

⁵⁶⁰ Al-Ibrahimi, H., video interview, 3 November 2022

⁵⁶¹ Genat, M., video interview, 4 October 2022

⁵⁶² Al-Ibrahimi, H., video interview, 3 November 2022

⁵⁶³ USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 256

⁵⁶⁴ HRW, Interview with EUAA, 13 March 2023



pressured to remarry one of his close relatives or another member of the tribe'.⁵⁶⁵ Further information on how changes to the *wali* occur could not be found.

4.2.2. Use of women as compensation (*fasliya*)

Fasliya refers to the tribal practices of trading women [and children/girls] as part of the tribal settlement of a dispute⁵⁶⁶ as compensation for injury or death'.⁵⁶⁷ To be more precise, as UNHCR mentions in another report, 'under this custom, an inter-tribal conflict is resolved by one tribe giving one or several girls or women for marriage to another'.⁵⁶⁸ For example, the marriage of a murderer's sister into the victim's family may be a solution for the conflict.⁵⁶⁹

The forced marriage is a method of 'building bridges' between tribes,⁵⁷⁰ so that the two tribes' problems were solved and that the two families had 'become one'.⁵⁷¹ Motives for *fasliya* also include protecting the tribe's and family's honour. In *fasliya*, the consent of the bride or groom is not asked, but they are forced to get married. Such coercion, that emanates from tribe and family, does not come from *Sharia* law. The Islamic tradition of bride-wealth (dowry) normally does not exist in tribal forced marriages. A wedding or engagement party are also not normally part of a *fasliya* marriage.⁵⁷²

Women in *fasliya* marriages are often treated badly and experience abuse,⁵⁷³ and essentially are 'enslaved' as they are seen as the tribe's enemy,⁵⁷⁴ or with a sense of resentment by the deceased person's family towards the bride.⁵⁷⁵ According to researcher Mohamed Abdel Hassan, the bride may be subject to 'the worst kinds of retaliatory humiliation and degradation'.⁵⁷⁶ According to Iraqi journalist Dima Yassine, bad treatment by the murdered man's family 'frequently results in the girls' suicide or escape'.⁵⁷⁷ According to Janan Aljabiri and Joanne Payton at the non-profit Fair Observer media, women may be required to completely cut off contact with their natal families and live in a slave-like existence with 'none of the status or recourses of an official wife'. The most likely people to marry off their daughters to achieve reconciliation are poor people, who cannot raise 'blood money'. Due to

⁵⁶⁵ Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023

⁵⁶⁶ HRW, Interview with EUAA, 13 March 2023; OWFI, Interview with EUAA, 16 March 2023; Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023; Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, May 2019, [url](#), p. 6-7, 18; USDOS, 2016 Country Reports on Human Rights Practices - Iraq, March 3, 2017, [url](#) p. 52

⁵⁶⁷ UNHCR, Tribal Conflict Resolution in Iraq, January 15, 2018, [url](#), p. 2; Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, May 2019, [url](#), p. 6-7, 18;

⁵⁶⁸ UNHCR, International Protection Considerations with Regard to People Fleeing the Republic of Iraq, May 2019, [url](#), p. 93, footnote 568

⁵⁶⁹ Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, A thesis proposal submitted in fulfilment of the requirements for the degree of Master of Arts in Oriental Languages and Cultures: Arabic and Islamic Studies, Universiteit Gent, May 2019, [url](#), p. 45

⁵⁷⁰ Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023

⁵⁷¹ Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, May 2019, [url](#), p. 19

⁵⁷² Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, May 2019, [url](#), p. 22, 31-32, 46, 52-53

⁵⁷³ Yassine, D., Iraqi women: Resisting oppression in an afflicted country, 16 January 2022, [url](#); OWFI, Interview with EUAA, 16 March 2023; Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁵⁷⁴ OWFI, Interview with EUAA, 16 March 2023

⁵⁷⁵ Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, May 2019, [url](#), p. 22, 47;

⁵⁷⁶ Barwari, D., Iraqi Women Victimized by Tribal Marriage Customs, Al-Monitor, September 12, 2013, [url](#)

⁵⁷⁷ Yassine, D., Iraqi women: Resisting oppression in an afflicted country, 16 January 2022, [url](#)



their situation, they also cannot help the bride in cases of abuse.⁵⁷⁸ According to OWFI, children of the *fasliya* marriages are seen as ‘less’ than other children of the tribe and the wives in these situations will never have the same status as those of the rest of the tribe.⁵⁷⁹

Tribal leaders are the primary decision makers in *fasliya* marriages. Those who participate in *fasliya* marriages consider tribes to be above the law, but there may be official intervention if the conflict escalates. In some cases, *fasliya* marriages were arranged when the intended couple were children. The marriage would take place when they came of age, and only then would they be informed of the marriage. The tribe’s coercion towards a family can be considerable, and a tribal sheikh can coerce the family to have their daughter getting married.⁵⁸⁰

Sources indicate that women married off in *fasliya* marriages cannot divorce,⁵⁸¹ and that the expectation is that she will not be the last wife. There have also been cases where a woman has tried to escape a *fasliya* marriage, and where her original family has returned her to her husband, even telling her that they consider her as dead. Or that the husband has ordered her to leave, but her family has not accepted her back.⁵⁸²

In Iraq, there is no law against forced marriage.⁵⁸³ The most widely respected Shia religious leader in Iraq, Grand Ayatollah Ali al-Sistani has called to an end of the *fasliya* tradition, but the tradition continues particularly in areas where tribes have more influence than government institutions.⁵⁸⁴ Tribes have also attempted to end *fasliya*, as it brings tribal law into opposition with *Sharia*, causes problems within communities, forces women into an unpredictable future and victimizes families.⁵⁸⁵ Furthermore, Dr. Al-Obaidi stated that although *fasliya* marriage is a crime under the Personal Status Law of 1959, and punishable by 3-10 years, the provision is not effectively applicable because the complaint must be launched by the victim, which is ‘impossible for the victim’ in *fasliya* marriages.⁵⁸⁶ Many victims commit suicide.⁵⁸⁷

Fasliya marriages continue to exist.⁵⁸⁸ Iraqi journalist Dima Yassine mentions *fasliya* customs still occurring daily in Iraq.⁵⁸⁹ The US Department of State reports that *fasliya* remains a

⁵⁷⁸ Aljabiri, J. & Payton, J., Woman-for-Blood Marriages Persist in Iraq, 29 December 2015 [url](#)

⁵⁷⁹ OWFI, Interview with EUAA, 16 March 2023

⁵⁸⁰ Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, May 2019, [url](#), p. 46, 49-50, 52-53

⁵⁸¹ Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, May 2019, [url](#), p. 46, 49-50, 52-53; UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, [url](#), p. 2; Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁵⁸² Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, May 2019, [url](#), p. 46, 49-50, 52-53

⁵⁸³ IICI, Supplement to the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Iraq, Guidance for practitioners in Iraq, March 2018, [url](#), p. 6; However, in the Kurdistan Region ‘forced marriage’ and ‘marriage in exchange for ransom (blood money)’ are criminalized in Article 2(1) of the Act of Combating Domestic Violence (Law 8/2011).

⁵⁸⁴ USDOS, Iraq 2021 Human Rights Report, 31 March 31 2022, [url](#), p. 47

⁵⁸⁵ Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, May 2019, [url](#), p. 37, 51-53

⁵⁸⁶ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁵⁸⁷ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁵⁸⁸ Genat, M., video interview, 4 October 2022; Yassine, D., Iraqi women: Resisting oppression in an afflicted country, 16 January 2022, [url](#); OWFI, Interview with EUAA, 13 March 2023; Ceasefire Centre for Civilian Rights, Correspondence with EUAA, 13 March 2023; HRW, Interview with EUAA, 16 March 2023

⁵⁸⁹ Yassine, D., Iraqi women: Resisting oppression in an afflicted country, 16 January 2022, [url](#)



problem particularly in the southern governorates.⁵⁹⁰ Dr. Bushra Al-Obaidi stated that such marriages are a ‘concealed phenomenon’ that are not discussed publicly.⁵⁹¹

4.2.3. Traditional marriage of cousins (*nahwa*) and *kassa bi kassa* (cousin dowry)

The term *nahwa* comes from the Arabic terms *naha* (which means prohibit, interdict or prevent), and *nahw* (termination). Accordingly, in the *nahwa* tradition, the cousin, uncle or other male relative of a girl or woman can prohibit or end her marriage to a person outside of the family,⁵⁹² or tribe.⁵⁹³ *Nahwa* is the practice where a male cousin is entitled to marry his female cousin or decide on whom she can marry,⁵⁹⁴ and enables any clan to ‘reject marriage proposals from men who belonged to another clan, forcing the girl to marry from her own, without her parents’ consent or hers’.⁵⁹⁵ The bridegroom would be threatened or killed to prevent the marriage if the girl or her father went against the prohibition.⁵⁹⁶ Dr. Al-Obaidi stated that a victim of *Nahwa* would be killed by the tribe if she complained to authorities.⁵⁹⁷

The intention behind *nahwa* is to protect the honour and long-standing commitments of the family by preventing relationships outside the ethnic, cultural and religious group,⁵⁹⁸ And to control the sexuality of women in deciding whom they will marry, thus controlling the family bloodlines.⁵⁹⁹ Sources indicate that it is an old tribal tradition,⁶⁰⁰ linked to male-centric historical dominance in tribal systems.⁶⁰¹ Suicides have been committed by women who have fallen victim to *nahwa* marriage.⁶⁰² Honour killings of women by their own families are also sometimes disguised as suicides.⁶⁰³

Genat provided the view that, according to her knowledge, *nahwa* practice was nearly non-existent now, despite the fact that arranged marriages do exist and men often marry their

⁵⁹⁰ USDOS, Country Reports on Human Rights Practices 2018 - Iraq, 13 March 2019, [url](#)

⁵⁹¹ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁵⁹² Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, May 2019, [url](#), p. 20; OWFI, Interview with EUAA, 13 March 2023

⁵⁹³ Australia, DFAT, Country Report – Iraq, 16 January 2023, [url](#), p. 31

⁵⁹⁴ Genat, M., video interview, 4 October 2022; OWFI, Interview with EUAA, 13 March 2023

⁵⁹⁵ Yassine, D., Between Yesterday’s Wars and Tomorrow’s Revolutions: Women’s Role in Iraq, December 21, 2020, [url](#)

⁵⁹⁶ Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, A thesis proposal submitted in fulfilment of the requirements for the degree of Master of Arts in Oriental Languages and Cultures: Arabic and Islamic Studies, Universiteit Gent, May 2019, [url](#), p. 20

⁵⁹⁷ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁵⁹⁸ Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, A thesis proposal submitted in fulfilment of the requirements for the degree of Master of Arts in Oriental Languages and Cultures: Arabic and Islamic Studies, Universiteit Gent, May 2019, [url](#), p. 21-22

⁵⁹⁹ OWFI, Interview with EUAA, 13 March 2023

⁶⁰⁰ Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, May 2019, [url](#), p. 21; Abdoush, R., “The art of marriage” or the veiled rape practiced against tribal women in Syria and Iraq, April 30, 2022, [url](#)

⁶⁰¹ Tawfiq Marwan, M., Forced Marriages In Tribal Iraq: A Case Study From Kirkuk, May 2019, [url](#), p. 21

⁶⁰² Abdoush, R., “The art of marriage” or the veiled rape practiced against tribal women in Syria and Iraq, April 30, 2022, [url](#); Arab News, In Iraq, tribal traditions rob women, girls of rights, April 18, 2019, [url](#)

⁶⁰³ Ceasefire Centre for Civilian Rights, Correspondence with EUAA, 16 March 2023



female cousins.⁶⁰⁴ However, multiple sources stated that *nahwa* still continues today.⁶⁰⁵ The US State Department reports that despite Grand Ayatollah Ali al-Sistani's call to end the *nahwa* tradition, the tradition persists particularly in areas where tribes are more influential than government institutions.⁶⁰⁶ In an Al Jazeera article published in December 2021, researcher and activist Duaa Ghazi believed that *nahwa* marriages still concerned thousands of women, particularly in tribal areas in Southern Iraq. A tribal sheikh explained that the tradition was receding, but that some people continued to adhere to it.⁶⁰⁷

The practice of *kassa bi kassa* occurs when a man's sister is given as a dowry to the fiancée's brother. The practice is a form of forced marriage where the victim is not allowed to object.⁶⁰⁸ Further and corroborating information on this practice and its prevalence could not be found within time constraints.

4.3. Collective liability and children

The scope of this section deals with whether tribes are liable for the actions of children.

Children become members of a certain tribe by birth. They 'belong to their father's agnates' including in cases of divorce.⁶⁰⁹ In a book edited by Wolfgang Weissleder it is mentioned that 'a loyalty to the specific tribal group of which one is a member by birth' is a characteristic of the Arab identity in Iraq and elsewhere.⁶¹⁰ For example, the sheikh of the Abu Hamdan tribe in Iraq mentioned in an article of the Los Angeles Times in 2002 that his large tribe's members were bound to the group by birth.⁶¹¹ Iraqi tribes have a patrilineal ancestry.⁶¹²

According to Genat, due to the concept of collective liability, which is a core principle in the tribal system, parents are considered liable for the behaviour of their children. This collective liability takes two forms: the financial aspect where the next of kin is obliged to pay two-thirds or the whole amount of *fasl* depending on the tribe and the type of offence committed. The other form is exile (*jalwa*) where 1st, 2nd, and/or 3rd degree relatives are expelled depending on the arrangement. An entire clan can be expelled from an area for a certain period of time. This liability is general and not age specific.⁶¹³ Al-Ibrahimi mentions that there is no age limit with regard to tribal measures. Age is not taken into consideration. It is also not about an individual's mental capacity or ability to make decisions. It is about the reputation of the house

⁶⁰⁴ Genat, M., video interview, 4 October 2022

⁶⁰⁵ USDOS, Iraq 2021 Human Rights Report, 31 March 2022, [url](#), p. 47; USDOS, IRAQ 2022 HUMAN RIGHTS REPORT, 20 March 2023, [url](#), p. 54; OWFI, Interview with EUAA, 16 March 2022; Al Jazeera, [النهوة..القانون يجرمها القانون](#) 27, [العراقيات الراغبات بالزواج](#), [Criminalised by law...tribal lust spoils the joys of Iraqi women who want to get married], December 2021, [url](#)

⁶⁰⁶ USDOS, Iraq 2021 Human Rights Report, 31 March 2022, [url](#), p. 47; USDOS, IRAQ 2022 HUMAN RIGHTS REPORT, 20 March 2023, [url](#), p. 54

⁶⁰⁷ Al Jazeera, [27, النهوة العشائرية تفسد أفراح العراقيات الراغبات بالزواج](#) December 2021, [url](#)

⁶⁰⁸ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁶⁰⁹ USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 255

⁶¹⁰ Weissleder, W. (ed.), The Nomadic Alternative: Modes and Models of Interaction in the African-Asian Deserts and Steppes, Walter de Gruyter, 2011, p. 21

⁶¹¹ Los Angeles Times, Iraq's Tribes May Provide a Secret Weapon for Hussein, 14 October 2002, [url](#)

⁶¹² Bobseine, H., Tribal Justice in a Fragile Iraq, The Century Foundation, 7 November 2019, [url](#), p. 3

⁶¹³ Genat, M., video interview, 4 October 2022.



and, by extension, of the tribe. There is no age limit after which the child is considered, in this manner, an independent member of the tribe.⁶¹⁴

According to Al-Samaraie, in general, parents, as guardians, are considered responsible for the actions of their children until a certain age. In legal terms, the age is 18, but in societal terms, the age could be less, and the type of violation committed by the child plays a role in determining the liability age as well. If a boy or girl, who reached puberty, commits certain actions, their families would not announce that publicly but would try to resolve the issue within the family. Parents are considered liable for the actions of their children who are below the age of 18. If the boys come of age, they are considered liable for their own actions, but not girls.⁶¹⁵

4.4. Treatment of family members of a person violating ‘honour’

According to a report by the Center for Civilians in Conflict (CIVIC), Iraqi tribes may agree to punish whole families for the crimes that their members committed. Such a family can be banished from its area of origin, and its property may be confiscated. CIVIC reports, for example, that the tribes in Heet in Al-Anbar governorate had made a covenant, according to which the return of families whose members were suspected of having joined or cooperated with ISIL to the city was barred. According to CIVIC, obstructing the return of the whole family and other forms of punishment against them are linked to tribal practice and customary law. Tribal settlements concerning the families of alleged ISIL members have been applied on a mass scale. Even when there is a negotiated solution for a family to return home and there are no criminal charges against them, the family may be expected to pay a large sum of money as a condition for return.⁶¹⁶

For detailed information on the treatment of family members perceived as violating tribal honour, as well as Iraqis with perceived affiliation to ISIL, see Section [4.1 People perceived as affiliated with ISIL](#). Please also refer to EUAA’s previous publications on this topic.⁶¹⁷

4.5. Treatment of Christian converts

This section is focused on tribal responses to Christian converts; however, it is important to note that conversion occurs in a wider social and cultural context that should be taken into

⁶¹⁴ Al-Ibrahimi, H., video interview, 3 November 2022

⁶¹⁵ Al-Samaraie, N., video interview, 27 October 2022

⁶¹⁶ CIVIC, Ignoring Iraq’s Most Vulnerable: The Plight of Displaced Persons, April 2021, [url](#), p. 17-19

⁶¹⁷ EUAA, COI Report – Iraq: Targeting of individuals, January 2022, [url](#); EUAA, COI Report – Iraq: Targeting of Individuals (March 2019), [url](#); EUAA, COI Report – Iraq: Treatment of Iraqis with perceived affiliation to ISIL, October 2020, [url](#)





account. For information on treatment of Christian conversion in Iraq, see also EUAA's previous publications relevant for this topic.⁶¹⁸

The law forbids conversion of Muslims to other faiths.⁶¹⁹ Religious conversion away from the culturally dominant religion, Islam, to Christianity or other religions is socially taboo in Iraq, and ill-perceived by society.⁶²⁰

Tribes are highly influential and impose their traditions on society.⁶²¹ According to Haley Bobseine, it is important to note that 'because conversion is a religious issue, it is likely to be dealt with by religious men, although there can be overlap with tribal settlements of the matter.'⁶²² Compliance with traditions often surpasses compliance with official law. Christian converts with a Muslim and tribal background, particularly if the person comes from an influential tribe, may be affected and other Christians may not support the convert in fear of consequences. There are areas where tribal influence surpasses that of the government. According to Open Doors, Christian converts with a Muslim background are mostly pressured by the '(extended) family' and may face threats from family members, tribal leaders and the surrounding society. Because of this they are often secretive about their new faith.⁶²³

According to a person working with converts to Christianity who was interviewed anonymously by the Finnish Immigration Service in 2021, the family of the convert decides on the attitude taken towards the convert, and authorities would not change a decision that the family or tribe makes concerning the convert.⁶²⁴ Ceasefire for Civilian Rights stated that the way that Christian converts are treated by tribes varies from tribe to tribe and place to place, and can depend on the extent to which the convert draws attention to themselves.⁶²⁵

Publicly revealing one's conversion from Islam to Christianity 'would likely put a person at considerable risk', according to Ceasefire Centre for Civilian Rights.⁶²⁶ Al Ibrahim stated that for Arab Muslim tribes, disavowal by one's tribe 'provides a permission to kill since the person has become an infidel'.⁶²⁷ OWFI stated that Muslims who convert to Christianity are treated 'in a terrible way' and that she was aware of cases of converts exiled by their families; noting that conversion is not usually accepted by tribes.⁶²⁸ Open Doors reports that some tribal elders 'have agreed to converts being killed'.⁶²⁹ Christians with a Muslim background may face severe pressure from relatives who want the converts to return to Islam. According to Open Doors, sometimes this amounts to attempts to kill the convert. Open Doors also lists other forms of violations: 'physical harm and abuse, detention, being disowned and expelled from the family home, being ostracized from clan, family and community, forced divorce (especially targeting women), forced marriage with a radical Muslim (especially targeting

⁶¹⁸ EUAA, COI Report – Iraq: Targeting of individuals, January 2022, [url](#); EUAA, COI Query – Security Context of Christians, 22 October 2020, [url](#); EUAA, COI Query – Atheism and conversion in KRI, 15 March 2019, [url](#); EUAA, COI Report – Iraq: Targeting of Individuals (March 2019), [url](#)

⁶¹⁹ USDOS, Country Report on Human Rights Practices for 2022 – Iraq, February 2023, [url](#), p. 69

⁶²⁰ Al-Samaraie, N., video interview, 27 October 2022

⁶²¹ OWFI, Interview with EUAA, 13 March 2023; Open Doors, Iraq: Full Country Dossier, January 24, 2022, [url](#), p. 24, 31

⁶²² Bobseine, H., Comment made during the review of this report, 3 April 2023

⁶²³ Open Doors, Iraq: Full Country Dossier, January 24, 2022, [url](#), p. 24, 31

⁶²⁴ Finland, FIS, Kristityt, ateistit ja islamista luopuneet Irakissa, May 18, 2022, [url](#), p. 15

⁶²⁵ Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023

⁶²⁶ Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023

⁶²⁷ Al-Ibrahimi, H. video interview, 3 November 2022

⁶²⁸ OWFI, Interview with EUAA, 13 March 2023

⁶²⁹ Open Doors, Iraq: Full Country Dossier, January 24, 2022, [url](#), p. 27





women) and loss of custody of children'.⁶³⁰ According to an Iraqi pastor who was interviewed anonymously by the Finnish Immigration Service in 2021, a tribe may force a male Christian convert to divorce his wife and renounce his children.⁶³¹

According to Nasir Al-Samaraie, conversion in general is ill-perceived by the society and not spoken about. This is also the case for Christian women who marry Muslim men and are banished by their families due to social pressure. Conversion exists but is not talked about. Persons would opt to hide their conversion to Christianity or any other religion and not publicly announce it unless there is a benefit to be obtained by the conversion. As regards punishment for conversion, although Islamic law condemns apostasy by death, Al-Samaraie has not come across a case where this punishment was applied in practice.⁶³²

According to Al-Ibrahimi a family tries to hide the conversion of a family member because they know the consequences of conversion are very dire. Hiding the conversion is normally not successful. When that happens, the situation becomes critical for the family in question. There is no tribal code that says that the family should be eliminated but there is a code saying that they should be expelled from the territory. Al-Ibrahimi mentions that the meetings in which the decision to expel a family is made public are open with the date and venue made known in advance. Thus, basically anyone can attend them. The media are not invited, and information about the meetings is not published. Photos and videos may be leaked via social media particularly when tribes try to resolve the matter internally, trying to avoid a scandal and a stain to the reputation of the tribe. The meeting is documented in the tribal registry.⁶³³

According to a person who had worked with Iraqi Christians and who was interviewed anonymously by the Finnish Immigration Service in 2021, the attitude taken towards a convert by his/her family or tribe is of crucial importance. In a case where the tribe is assumed not to approve of the conversion, the convert's family and close relatives may decide on whether to convey information about the conversion to the tribe or not. If the family members choose not to convey this information to the tribe, they will take a calculated risk on the tribe's possible retaliatory measures being directed at the whole family. According to the interviewee, if the family members choose to talk about the conversion, the tribe will organize a meeting where a decision is made on who is responsible for the killing of the convert. The interviewee mentioned that the decision does not automatically lead to the killing of the convert. It is possible, that such a decision is only a formality and is left 'floating in the air'. It is also possible that the conversion is settled, and the decision of the tribe is annulled by the doing of favors and/or giving a monetary compensation to the tribe.⁶³⁴

Al-Ibrahimi was not aware of a family disavowing and distancing themselves from the convert publicly (e.g., in a newspaper). According to him, in almost all cases the family is against the conversion and consider it best that the family member is expelled or punished. If the family hides the convert, it is only because the family is afraid for her/his well-being. They are not

⁶³⁰ Open Doors, Iraq: Full Country Dossier, January 24, 2022, [url](#), p. 27

⁶³¹ Finland, FIS, Kristityt, ateistit ja islamista luopuneet Irakissa, May 18, 2022, [url](#) p. 15

⁶³² Al-Samaraie, N., video interview, 27 October 2022. An expert on tribalism, tribal mechanisms, and tribal law in Iraq

⁶³³ Al-Ibrahimi, H., video interview, 3 November 2022. The CEO of Peace Paradigms with expertise on peacebuilding tribal reconciliation

⁶³⁴ Finland, Kristityt, ateistit ja islamista luopuneet Irakissa, May 18, 2022, [url](#), p. 15-16



against the tribal measures as such. Al-Ibrahimi tells of a famous case where a Shabaki Muslim man fell in love with a Christian woman, and they escaped from their families to get married in Al-Najaf. The case became a big issue on tribal and religious levels and there was a lot of media attention around it. Al-Ibrahimi claims that converting from one religion to any other is a red line for all tribes, be it from Islam to Christianity or Christianity to Islam. He says that ‘from the perspective of religion, it provides a permission to kill since the person has become an infidel. This is the general code among all the tribes, among all ethnicities and all religions.’⁶³⁵

According to a person who had worked with Iraqi Christians and who was interviewed anonymously by the Finnish Immigration Service in 2021, a convert with a Muslim background would aim to leave the country if the conversion came to light. This is because a tribal judgment on the matter would complicate job seeking, buying an apartment or make it difficult to deal with authorities such as the Kurdish security organization Asayish. According to the interviewee, a person who has fallen out of favor with his/her tribe is seen to be destabilizing society.⁶³⁶ According to a person working with Christian converts who was interviewed anonymously by the Finnish Immigration Service in 2021, losing the tribe’s support is meaningful in situations where the person has to deal with authorities, e.g. when getting married, or needs a certificate from the tribal leader for some purpose, or requires assistance in dispute resolution.⁶³⁷ According to Open Doors, violations against converts tend to occur more often in Arab than Kurdish areas. A ‘country expert’ mentioned in the Open Doors report maintains that tolerance against converts with a Muslim background is decreasing in Kurdish areas and that there is increased pressure on them due to the growing influence of conservative Islam.⁶³⁸ Open Doors mentions that ethnic leaders are highly likely to pressure converts to Christianity with a Muslim background to renounce their new faith.⁶³⁹ According to Genat, conversion to Christianity might potentially create an issue that could escalate to a dispute and hence trigger tribal mechanisms, but conversion or renouncing Islam is not common in the context of tribalism in Iraq. It is not considered a violation to tribal honour but falls rather within the scope of the family.⁶⁴⁰

5. State response and redress

5.1. The interaction between tribal and state law

For an overview of tribal law, see Chapter [1. Tribes and tribal law in Iraq](#).

Iraq has a pluralistic legal system with multiple overlapping legal systems through the formal Iraqi state judiciary, the *Sharia* law and Islamic courts, and the tribal law system.⁶⁴¹ Additionally,

⁶³⁵ Al-Ibrahimi, H., video interview, 3 November 2022

⁶³⁶ Finland, FIS, Kristityt, ateistit ja islamista luopuneet Irakissa, May 18, 2022, [url](#), p. 16, footnote 122

⁶³⁷ Finland, FIS, Kristityt, ateistit ja islamista luopuneet Irakissa, May 18, 2022, [url](#), p. 16

⁶³⁸ Open Doors, Iraq: Full Country Dossier, January 24, 2022, [url](#), p. 31

⁶³⁹ Open Doors, Iraq: Full Country Dossier, January 24, 2022, [url](#), p. 27; Finland, FIS, Kristityt, ateistit ja islamista luopuneet Irakissa, May 18, 2022, [url](#), p. 16

⁶⁴⁰ Genat, M., video interview, 4 October 2022. PhD student at Stanford University with extensive experience researching tribal justice and conflict resolution mechanisms in Iraq.

⁶⁴¹ HRW, Interview with EUAA, 13 March 2023; USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 269



tribal, ethno-sectarian, and family considerations ‘significantly influenced government decisions at all levels and across all branches of government.’⁶⁴² The plurality of legal systems posed challenges to a uniform application of the law for Iraqis.⁶⁴³

Article 45 of the Iraqi Constitution of 2005 stipulates that:

The State shall seek the advancement of the Iraqi clans and tribes, shall attend to their affairs in a manner that is consistent with religion and the law, and shall uphold their noble human values in a way that contributes to the development of society. The State shall prohibit the tribal traditions that are in contradiction with human rights.⁶⁴⁴

According to a report published by Al-Mayadeen on 4 June 2022, Iraqi state law acknowledges tribal customs insofar as they do not contradict the Constitution and legal provisions. This is the case especially as regards crimes where tribes intervene to contain escalation by providing the victim’s family with the *diyya* (blood money) following a reconciliation process.⁶⁴⁵ The concept of ‘collective responsibility’ is fundamental to tribal law and is ‘an important guiding principle during tribal settlements’ where all sorts of *fasl* are to be paid by ‘the entire tribal branch’ of the perpetrator.⁶⁴⁶ From this perspective, ‘tribal law is inconsistent with the principle of “individual liability” that is integral to Iraq’s Penal Code’.⁶⁴⁷ Police and the judiciary are not independent of tribal influence,⁶⁴⁸ state judges ‘do appreciate it’s place in resolving conflicts, and some admit to using tribal customary law principles, while others vehemently insist on the modern system; and while its role is ‘extremely limited, in practice ‘tribal juridical principals do indeed influence state court decisions’ and may result in reduced sentences, including in honour crimes.⁶⁴⁹

In practice, tribal practices frequently undermine human rights,⁶⁵⁰ and in some cases law enforcement officials and courts encourage or refer cases for tribal settlement.⁶⁵¹ Bobseine noted that it is not only tribal practices that are discriminatory but that State law itself also often undermines human rights.⁶⁵² Citing a former Iraqi criminal judge, Carroll stated that there is ‘no official state-sanctioned right to avenge damage to honour’ via dispute settlement; however in practice most judicial officials she interviewed acknowledged the role of *fasl* in the

⁶⁴² USDOS, Country Report on Human Rights Practices for 2022 – Iraq, February 2023, [url](#), p. 45

⁶⁴³ HRW, Interview with EUAA, 13 March 2023

⁶⁴⁴ Iraq, Iraqi Constitution, 2005, [url](#)

⁶⁴⁵ Al-Mayadeen, العطوة العشائرية في العراق .. "هدنة الدم" تسبق القانون [Tribal atwa in Iraq . “Blood truce” precedes the law], 4 June 2022, [url](#)

⁶⁴⁶ Genat, M., Tribal Justice Mechanisms and Durable Solutions for Families with a Perceived Affiliation to ISIS, IOM, 2020, p. 10

⁶⁴⁷ Revkin, M. R., The limits of punishment: Traditional justice and violent extremism, IFIT and UNU, May 2018, [url](#), p. 25

⁶⁴⁸ Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023

⁶⁴⁹ USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#), p. 264

⁶⁵⁰ UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq, 5 June 2018, [url](#), Para. 40-44; HRW, Interview with EUAA, 13 March 2023

⁶⁵¹ EUAA, COI Report – Iraq: Actors of Protection, November 2018, [url](#), Section 6.6; UNHCR, Tribal Conflict Resolution in Iraq, 15 January 2018, available at: <https://www.refworld.org/docid/5a66f84f4.html>, p. 3

⁶⁵² Bobseine, H.



justice process. A successful *sulh* could lead to a reduction of sentences by half or completely.⁶⁵³

In formal proceedings, state courts do not officially take into consideration tribal laws,⁶⁵⁴ however, in practice, politics, social positions, and other factors influence the state's judicial process.⁶⁵⁵ For example Genat stated that sometimes judges wait for a *sulh* to be concluded between the litigants in order to terminate the case.⁶⁵⁶ Human Rights Watch explained that there is a relationship of both competition and cooperation between the state and tribal systems, noting that one of the main issues encountered especially in rural areas, is the close relationship between tribes and courts. For instance, the local judge may also be on the tribal council, or related by blood to the local *Sheikh*. This allows negotiations on the sidelines of the justice system and the tendency to resort to informal mechanisms. Outcomes then become dependent on individual personalities and positions of authority at a given time and place.⁶⁵⁷

As mentioned earlier, state failures have led to the increase in the role of tribal customs and traditions in parallel to the rule of law.⁶⁵⁸ However, Genat explained in a report authored for IOM in 2020 that 'the relationship between tribes and state judicial institutions in Iraq is best understood as deeply embedded cooperation' where the two spheres of justice overlap.⁶⁵⁹ According to Genat, an examination of the penal legislation in Iraq and how it is implemented in the tribal areas indicates that the two systems of law coexist.⁶⁶⁰ Similarly, Bobseine stated that: 'The informal Iraqi tribal justice system is often perceived by outsiders as operating in parallel to the formal justice system. In practice, however, the two systems frequently overlap and even coordinate with each other, and at other times challenge each other.'⁶⁶¹

Genat observed that 'Iraqi legislation contains carefully crafted windows enabling tribal justice to happen outside of the court system.'⁶⁶² Genat also maintained that the current Iraqi legislation contains a coded language that allows the state to work with the tribes without a direct reference to this, especially in the penal and procedures codes.⁶⁶³ In cases where tribal conciliation is achieved, 'Iraqi laws provide for accommodation, sentence reduction, or outright termination of all proceedings.'⁶⁶⁴ The two judicial systems, according to Genat, maintain 'a degree of functional autonomy in the areas where there is no overlap' and there

⁶⁵³ Carroll, K. B., Tribal law and reconciliation in the New Iraq, 2011, [url](#), pp. 27-28

⁶⁵⁴ Genat, M., video interview, 4 October 2022

⁶⁵⁵ Bobseine, H.,

⁶⁵⁶ Genat, M., video interview, 4 October 2022

⁶⁵⁷ HRW, Interview with EUAA, 13 March 2023

⁶⁵⁸ The Supreme Judicial Council of Iraq acknowledges that the weakness of the Iraqi State's institution since 2003 has led to an increased role of the tribes in providing protection to their members and to the prevalence of the tribal practice of *degge*. Iraq, Supreme Judicial Council, الكوامة العشائرية [Tribal gouwama], 14 June 2021, [url](#); USIP, Customary Justice and the Rule of Law in War-Torn Societies, 1 July 2011, [url](#); EUAA, COI Report – Iraq: Actors of Protection, November 2018, [url](#), Section 6.6

⁶⁵⁹ Genat, M., Tribal Justice Mechanisms and Durable Solutions for Families with a Perceived Affiliation to ISIS, IOM, 2020, p. 10

⁶⁶⁰ Genat, M., Tribal Justice and State Law in Iraq, International Journal of Middle East Studies, 53(3), August 2021, [url](#), p. 507

⁶⁶¹ Bobseine, H., Tribal Justice in a Fragile Iraq, The Century Foundation, November 7, 2019, [url](#)

⁶⁶² Genat, M., Tribal Justice and State Law in Iraq, International Journal of Middle East Studies, 53(3), August 2021, [url](#), p. 507

⁶⁶³ Genat, M., video interview, 4 October 2022

⁶⁶⁴ Genat, M., Tribal Justice and State Law in Iraq, International Journal of Middle East Studies, 53(3), August 2021, [url](#), p. 507



seems to be ‘a mutual understanding that each jurisdiction retains complementary yet distinct prerogatives’. She added that tribes acknowledge the role of the state in enforcing punishment in cases of grave offences whereby the exiled member of the tribe due to such an offense ‘is expected to surrender to the police to be incarcerated’.⁶⁶⁵

Genat added that a *sulh* can be negotiated outside of the court room or in front of a judge. When a *fasl* is concluded, this normally indicates that the litigants are satisfied with the compensation, and a *tanazul* [withdrawal of the complaint] can be made. In such cases, a peace document (*mahdar sulh*) is brought to the court by the litigants to withdraw the claim and a significant sentence reduction can be issued by the judge. If the claim is private and there is no public right, the judge can terminate the case. If there is a public right, however, the judge cannot terminate the case and has to pass a sentence on the perpetrator. Even when a sentence is handed down, it can be reduced when a tribal *fasl* was concluded. In general, the judges avoid acknowledging the role of tribes in the judicial proceedings but are happy when a dispute is settled through tribal mechanisms in order to reduce their workload. Judges collaborate with the tribes in an informal way.⁶⁶⁶

Exile

Another area of collaboration between the state and tribes is in cases that involve exile (*jalwa*). Al-Ibrahimi observed that *jalwa* is labelled under the eviction code and that the return of the exiled should be negotiated with the local community. The state has provided the local community the possibility to settle the issues, but this, according to Al-Ibrahimi, raises human rights questions with regard to, e.g., the neutrality of the process.⁶⁶⁷

Homicide

According to Hamoudi, it is ‘unlikely that the tribe could keep the state away from a murder entirely’ hence tribes are incentivised to cooperate with the state in allowing it to ‘undertake whatever punitive measures the tribe seeks’. Tribes may insist the perpetrator turn himself into authorities and then the tribes argue the case for compensation through the court system in a ‘symbiotic method of interaction’.⁶⁶⁸ According to Genat, in cases of homicide, most of the Iraqi tribes consider lodging an official complaint necessary ‘as long as no interference by armed para-state actors disrupts state-tribal relations’. If the death occurred accidentally, withdrawal of the complaint (*tanazul*) is expected once the blood money (*diyya*) is established; while for cases of premeditated murder, *tanazul* is not likely to be obtained. Further, tribes in the south of Iraq ‘sometimes negotiate what they call a *fidiyya* (lit. ransom), an additional *diyya*, to obtain *tanāzul*’.⁶⁶⁹ In fact, tribes bring their cases of murder, and even *thar*, to court

⁶⁶⁵ Genat, M., Tribal Justice and State Law in Iraq, *International Journal of Middle East Studies*, 53(3), August 2021, [url](#), p. 509

⁶⁶⁶ Genat, M., video interview, 4 October 2022; See also: Bobseine, H., Tribal Justice in a Fragile Iraq, The Century Foundation, November 7, 2019, [url](#)

⁶⁶⁷ Al-Ibrahimi, H., video interview, 3 November 2022

⁶⁶⁸ Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 2015, p. 242

⁶⁶⁹ Genat, M., Tribal Justice and State Law in Iraq, *International Journal of Middle East Studies*, 53(3), August 2021, [url](#), p. 508





‘routinely’. The only exception are cases of honour crime.⁶⁷⁰ For information on treatment of honour-related killings, see Section [3.11 Honour violations and honour-based violence](#).

Iraqi tribes ‘insist with some vigor that the tribe must handle certain matters on its own’ including ‘issues relating to stains of honor’.⁶⁷¹ Moreover, tribes have a tendency to view the role of state law as complementary, in the sense that it is ‘only when they cannot [resolve an issue tribally] or one tribe is unwilling that the state system becomes an acceptable venue’.⁶⁷² Nevertheless, as Hamoudi et al emphasised, ‘this by no means precludes the injured tribe from initiating a case in the courts’ which will often be the case ‘as another means of pressuring the offending tribe to seek a settlement – in addition to the “striking” previously discussed’. Once there has been a *fasl*, ‘the victims stop pursuing the case’ and would ‘only proceed to judgment under the state system if the offending tribe refused to adhere to the tribal procedure’.⁶⁷³ On the part of the state, the authors observed that ‘if alleged victims file a claim and then, after pursuing it for some period of time, seem to abandon it, the case sits on the record books, formally active but in reality unpursued by the state authorities’.⁶⁷⁴

As regards crimes, ‘the tribe cooperates by not seeking punitive measures, indeed by allowing the state to undertake whatever punitive measures the injured tribe seeks’. Thus, especially in cases of murder, tribes rely on the state to carry out the punishment. The tribe of the victim ‘will insist not only that a sum of money is paid to recompense a killing, but also that the perpetrator turn himself into the authorities’.⁶⁷⁵ On the issue of whether a tribal claim against a person ends when the state court system punishes them, UNHCR stated that prosecution of the offender in the formal justice system ‘does not necessarily end or avoid tribal conflict.’⁶⁷⁶ Human Rights Watch said that that can depend case-by-case. Tribes recognise the authority of the state is higher for some matters (such as murder or ISIL issues, but not honour crimes, for example). The source indicated that it is difficult to say whether the tribe’s claim on the person would end with formal punishment, or if it would be pursued despite a formal sentence, and depends on whether the victims were satisfied. It is possible the family could still pursue the matter even if the state punished someone, and it depends on the circumstances of the situation.⁶⁷⁷

Genat observed that there were cases where tribal customary law, *urf*, contradicted formal law. She stated that the Baghdad Directorate of Tribal Affairs ‘has worked on several

⁶⁷⁰ Genat, M., *Tribal Justice Mechanisms and Durable Solutions for Families with a Perceived Affiliation to ISIS*, IOM, 2020, p. 10

⁶⁷¹ Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq: Toward a Cooperative Model of Pluralism*, in: M. Helfand (Ed.), *Negotiating State and Non-State Law: The Challenge of Global and Local Legal Pluralism* (ASIL Studies in International Legal Theory), Cambridge University Press, 2015, p. 244

⁶⁷² Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, Cambridge University Press, 2015, p. 246

⁶⁷³ Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 2015, p. 247

⁶⁷⁴ Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 2015, p. 244

⁶⁷⁵ Hamoudi, H. A et al, *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 2015, p. 248

⁶⁷⁶ UNHCR, *Tribal Conflict Resolution in Iraq*, 15 January 2018, [url](#), p. 3

⁶⁷⁷ Human Rights Watch, *Interview with EUAA*, 13 March 2023





legislative proposals designed [...] to discipline, or rectify' tribal law, especially as regards violent practices during tribal feuds and forceful expulsion.⁶⁷⁸

In the context of ISIL members, some Iraqis turn to tribal justice in order to seek redress for crimes committed by the members of the group since state courts 'are both overburdened and widely perceived as corrupt and illegitimate'. While in some cases the role of tribes was perceived to be positive, in others 'tribal justice has been a barrier to reconciliation' with tribes in certain areas being 'unwilling to cooperate with state authorities [... and insisting] on reinforcing their own legal doctrines including those requiring paying of "blood money" or banishment ...'.⁶⁷⁹ Genat observed that Iraqi tribes have been confronted with a new situation, especially in the context of the ISIL conflict and the large number of cases of dispute settlement which is due to the dysfunctionality of the state. Iraqi tribes are attempting to formalise new mechanisms and find solutions to these outstanding issues.⁶⁸⁰ Al-Ibrahimi also referred to existing confusion when it comes to tribes dealing with cases involving ISIL. He stated that tribes are confused on how to deal with the issue of intentional killings by a terrorist group that wants to destabilise the whole country or the whole area.⁶⁸¹

For more information on the treatment of persons perceived to be affiliated with ISIL, see Section [4.1 People perceived as affiliated with ISIL](#) of this report.

Also refer to Chapter 1 of the [EUAA Iraq Targeting of Individuals report](#) published in January 2022 and EUAA's previous publications on this topic.⁶⁸²

5.2. State response to persons fearing tribal retaliation, particularly honour-based violence

According to Human Rights Watch, given the tribalistic nature of Iraqi societal attitudes and the underlying concept of honour/shame, turning to the formal justice system in matters of personal or intercommunal disputes can itself be perceived as 'shameful' and to protect one's reputation, it is preferably to go through the tribal dialogue system.⁶⁸³ Similarly, in the case of violence against women, Ceasefire for Civilian Rights also remarked that women do not report such violence against them because state institutions do not look positively on individuals (especially women), leaving their family/tribe and taking legal measures against their relatives, leading to underreporting.⁶⁸⁴

⁶⁷⁸ Genat, M., Tribal Justice and State Law in Iraq, *International Journal of Middle East Studies*, 53(3), August 2021, [url](#), p. 510

⁶⁷⁹ Revkin, M. R., The limits of punishment: Traditional justice and violent extremism, IFIT and UNU, May 2018, [url](#), p. 24

⁶⁸⁰ Genat, M., video interview, 4 October 2022

⁶⁸¹ Al-Ibrahimi, H., video interview, 3 November 2022

⁶⁸² EUAA, COI Report – Iraq: Targeting of individuals, January 2022, [url](#); EUAA, COI Report – Iraq: Targeting of Individuals (March 2019), [url](#); EUAA, COI Report – Iraq: Treatment of Iraqis with perceived affiliation to ISIL, October 2020, [url](#)

⁶⁸³ HRW, Interview with EUAA, 13 March 2023

⁶⁸⁴ Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023



On 8 March 2022, an expert of the UN Human Rights Committee noted that although tribal courts ‘had the potential to enhance the administration of justice in the country, there were reports of abuses from such courts.’ The expert questioned the Iraqi State’s ability to prevent such abuses and to offer means of recourse ‘for individuals who had suffered harm because of the application of tribal justice’. The expert added that ‘there were secret prisons being operated by’ different non-state actors including tribal factions.⁶⁸⁵ On the question of obtaining protection by the state if a person is fearing tribal violence or retaliation, according to the representative of OWFI, the police are not effective in providing protection in cases of *thar* revenge and blood feuds.⁶⁸⁶ Human Rights Watch stated that for *degge*, a person would be more likely to be able to be protected in an urban setting, rather than in rural areas, as it is more difficult for tribes to carry out *degge* due to police presence.⁶⁸⁷ Similarly, OWFI stated that the tribes have more freedom to act in rural areas and outside the capital and main cities.⁶⁸⁸

OWFI stated that in the more than 4 000 cases of family violence that they documented, most went unreported, and for the police family units that do exist, they often try to mediate the conflict with the family/tribe with the agreement to drop charges and return home being seen as a success. The same source noted that family or tribe member who caused the violence may agree to sign a ‘pledge’ not to cause further harm. ‘These are the dominant methods used by the [largely male-dominated] state institutions to deal with cases of violence, despite their limited actual effectiveness in preventing further harm.’⁶⁸⁹ Dr. Al-Obaidi also stated that the community police stations are not considered a safe accommodation for women fleeing from violence, and often such police would return the victim to her family after making a promise not to hurt her.⁶⁹⁰

There are no shelters or laws that protect women victims of domestic violence.⁶⁹¹ When women flee situations of domestic violence or need to escape the family home, tribes will pursue the woman, and although some civil society organisations offer shelter, government officials are not supportive. Other times there are some community police who will write up a report on behalf of the woman and bring her to a women’s organisation; however the government ‘doesn’t seem to care much about it as a major issue.’⁶⁹² Similarly, Human Rights Watch stated that there is ‘no protection for anyone’ in cases where the tribal code overlaps with the criminal code, such as in cases of violence against women.⁶⁹³ According to Ceasefire for Civilian Rights, ‘in line with the general weakness of the rule of law in Iraq, state institutions have a limited capacity to provide protection or take action against the interests of powerful groups. For example, there are very few instances of police or courts taking action to prosecute members of tribes/families for ‘honour’ related killings of women, despite the prevalence of this practice.’ Furthermore, state courts may drop charges under tribal pressure

⁶⁸⁵ OHCHR, Experts of the Human Rights Committee Commend Iraq for its Judicial Pursuit of Perpetrators of Sexual Violence, and Ask about the Civil and Political Rights of Displaced Persons, 8 March 2022, [url](#)

⁶⁸⁶ OWFI, Interview with EUAA, 16 March 2023

⁶⁸⁷ Human Rights Watch, Interview with EUAA, 13 March 2023

⁶⁸⁸ OWFI, Interview with EUAA, 16 March 2023

⁶⁸⁹ Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023

⁶⁹⁰ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁶⁹¹ Al-Obaidi, B., Interview with EUAA, 3 April 2023

⁶⁹² OWFI, Interview with EUAA, 16 March 2023

⁶⁹³ Human Rights Watch, Interview with EUAA, 13 March 2023



or refrain from further investigation if the family insists it was suicide, even in the face of clear evidence of their involvement in her death.⁶⁹⁴

Further information on the state's response to honour-motivated violence, especially against women, can be found in Section [3.11 Honour violations and honour-based violence](#). For more details on tribal interaction with state justice, see Section [5.1 The interaction between tribal and state law](#).

5.4. Relocation away from tribal threats

Information on relocation away from tribal threats was scarce.

According to the Australian DFAT Country Report on Iraq for 2023, 'where a person is relocating to avoid violence or the threat of violence at the hands of family, tribe, or community as a result of harmful traditional practices, including on account of preserving family 'honour', there is clear evidence that such actors will pursue the person to the proposed area of relocation, including, through tribal, family or other links. The endorsement of such norms and practices by large segments of society and the limitations of the state to provide protection against such abuses all mitigate against successful relocation.'⁶⁹⁵ The OWFI representative stated that people relocate away from tribal issues when they have to, but that tribes have the capacity to locate a person due to their network connections and will 'find a way to do it' if they desire finding the person.⁶⁹⁶

Further information on relocation could not be found within time constraints. For more information on this topic, refer to [EUAA COI Report – Iraq: Internal Mobility \(February 2019\)](#).

⁶⁹⁴ Ceasefire for Civilian Rights, Correspondence with EUAA, 16 March 2023

⁶⁹⁵ Australia, DFAT, Country Information Report Iraq, 16 January 2023, [url](#), p. 40

⁶⁹⁶ OWFI, Interview with EUAA, 16 March 2023



6. Impact of tribal violence on the security situation and civilians

6.1. Security incidents resulting from tribal conflict

Tribal violence in Iraq is frequent, especially in the southern governorates which see an outbreak of tribal violence very often.⁶⁹⁷ According to several sources, tribal aspects are present in Iraqis' daily life,⁶⁹⁸ either through the phrase 'wanted by the tribe' written on houses or through the frequent clashes in the southern governorates.⁶⁹⁹ Tribal disputes can continue for months or years, and usually impact civilians in areas in which those feuds breakout.⁷⁰⁰ In her review of this report, Bobseine also remarked that Tribal conflicts is often a catch all term used and that while some conflicts can be tribal, sometimes this catch all, general term can be used to obscure political, security, and other dimensions of the ongoing conflict.⁷⁰¹

Tribal disputes, according to a New Arab article from January 2022, are on the rise in Iraq,⁷⁰² and tribal violence can be noticed across all the governorates of Iraq.⁷⁰³ The main security risk caused by tribal disputes that affect the security situation is to civilians getting caught up in the cross-fire as heavily armed tribes can escalate disputes very quickly.⁷⁰⁴ Bobseine stated that there have been cases of heated tribal disputes where for instance an *atwa* has not been reached or is repeatedly breached and no *sulha* is in sight. In such situations, it can be dangerous for children to cross town and go to school and there have been incidents in Thi Qar, for example, where schools were closed temporarily due to tribal violence in the area.⁷⁰⁵ A tribal leader from southern Iraq, cited in the New Arab article, highlighted that the governorates of Thi-Qar, Maysan and Al-Basrah were the ones that registered the highest numbers of tribal disputes which led to dozens of casualties among those involved in the feuds,⁷⁰⁶ but also innocent bystanders.⁷⁰⁷ Bobseine remarked in her review of this report that those 'involved in feuds' can be broad due to the definition of *Khamsa* level vengeance [See

⁶⁹⁷ Al-Ibrahimi, H., video interview, 3 November 2022; Genat, M., video interview, 4 October 2022

⁶⁹⁸ EPC, العشائر السياسية والاجتماعية والأمنية في العراق: القضايا السياسية والاجتماعية والأمنية, 25 May 2022, [url](#); Zalzali, A., "شيوخ مرتزقة" يهددون مدنية الدولة العراقية, [Customs and "mercenary Sheikhs" threaten the civility of Iraqi State], Al-Hurra, 29 March 2022, [url](#); Ceasefire for Civilian Rights, 16 March 2023; OWFI, Interview with EUAA, 16 March 2023

⁶⁹⁹ Zalzali, A., "شيوخ مرتزقة" يهددون مدنية الدولة العراقية, [Customs and "mercenary Sheikhs" threaten the civility of Iraqi State], Al-Hurra, 29 March 2022, [url](#)

⁷⁰⁰ Rudaw, Senior Iraqi officer killed while mediating tribal dispute in Dhi Qar, 20 April 2022, [url](#); OWFI, Interview with EUAA, 16 March 2023

⁷⁰¹ Bobseine, H., comments during external expert review of the report, 03 April 2023

⁷⁰² New Arab (The), العشائر العشائرية تخلق السلم الأهلي في العراق, [Tribal disputes disturb civil peace in Iraq], 15 January 2022, [url](#)

⁷⁰³ Independent Arabia, العشيرة تحكم الدولة في العراق و تهدد كياناتها و العاملين فيها, [The clan dominates the state in Iraq and threatens its entities and public servants], 13 September 2021, [url](#)

⁷⁰⁴ HRW, Interview with EUAA, 13 March 2023

⁷⁰⁵ Bobseine, H., comments during external expert review of the report, 03 April 2023

⁷⁰⁶ Bobseine, H., comments during external expert review of the report, 03 April 2023

⁷⁰⁷ New Arab (The), العشائر العشائرية تخلق السلم الأهلي في العراق, [Tribal disputes disturb civil peace in Iraq], 15 January 2022, [url](#)



Section [1.2 Structure of the tribe](#).⁷⁰⁸ Rudaw, citing sources in the Iraqi Security Forces (ISF), added Baghdad and Wassit to the list of the governorates affected by tribal violence.⁷⁰⁹ In such disputes, medium and heavy weapons are used, civilians are terrorised and killed, and main roads are blocked.⁷¹⁰

According to Al-Ibrahimi, in the southern region (including Al-Basrah, Thi-Qar and Diwaniya) the tribes are heavily polarized and supported by key armed actors and have become a key competitor to state's security institutions.⁷¹¹ Also tribal militias have political connections, including in Baghdad,⁷¹² and the risk of escalation is increased due to both the armed capacity of tribes and the tribal affiliation of members of the security forces as well as with different tribal militias.⁷¹³ This took place in parts of Iraq, especially the south, in the post-2003 environment and during the ISIL crisis where Non-State Armed Groups (NSAGs), which included tribes, 'compete with the state apparatus in security provision'.⁷¹⁴ The state struggles to have the security institutions in order since the tribes have weapons and enjoy political backup.⁷¹⁵ In the context of the protests in Baghdad, Al-Basrah and Thi-Qar, for example, tribes 'have taken the lead in crafting protest tactics, shutting down roads, and even retaliating against Iranian-backed groups.' Additionally, one prominent tribe from Southern Iraq threatened the Iraqi government for the release of one of its leaders who was arrested, and the government conceded to the tribe's demand.⁷¹⁶

In the view of Al-Ibrahimi, it has become hard to control the tribes and to separate the Popular Mobilization Forces (PMF) and the armed actors from tribal factions since they are deeply connected. The more the tribes have presence in the armed groups the more they are empowered locally and also on the national level.⁷¹⁷ Together with organised crime and political parties, the tribe is one of the categories into which the PMF fits readily.⁷¹⁸ Badawi noted that elements within the PMF and tribes collaborate in security matters due to tribes' capacity to deny PMF militants access to their lands during counterinsurgency operations. He cited the example of an alliance created by Kata'ib Hezbollah (KH) which organises 'pro-paramilitary tribal elders and figures that routinely issue statements supportive of those groups and the Iran-led regional axis'.⁷¹⁹ Moreover, a judge cited in Independent Arabia stated that some tribal groups receive support from the armed factions of certain political parties that use the *degge* practice as an umbrella for their activities.⁷²⁰ According to a security official

⁷⁰⁸ Bobseine, H., comments during external expert review of the report, 03 April 2023

⁷⁰⁹ Rudaw, Tensions between two Basra tribes lead to bloody fighting, 2 July 2022, [url](#)

⁷¹⁰ Al-Abadi, A. M., النزاعات العشائرية في العراق وتأثيراتها المستقبلية [Tribal disputes in Iraq and their future impact], 15 April 2019, [url](#)

⁷¹¹ Al-Ibrahimi, H., video interview, 3 November 2022

⁷¹² HRW, Interview with EUAA, 13 March 2023; OWFI, Interview with EUAA, 16 March 2023

⁷¹³ HRW, Interview with EUAA, 13 March 2023

⁷¹⁴ KAS, Research Paper No.3: Alternative Governance – Non-State Armed groups and the Iraqi Reconstruction Process, June 2018, [url](#), p. 11

⁷¹⁵ Al-Ibrahimi, H., video interview, 3 November 2022

⁷¹⁶ Smyth, P., Iran is losing Iraq's tribes, 4 December 2019, [url](#)

⁷¹⁷ Al-Ibrahimi, H., video interview, 3 November 2022

⁷¹⁸ Haddad, F., Iraq's Popular Mobilization Units: A Hybrid Actor in a Hybrid State, in Day, A. (ed.), Hybrid Conflict, Hybrid Peace: How Militias and Paramilitary Groups Shape Post-conflict Transitions, New York: United Nations University, 2020, [url](#), p. 51

⁷¹⁹ Badawi, T., The Growing Tribal Role in Iraq's Post-election Shia Politics, Carnegie Endowment for International Peace, 17 May 2022, [url](#)

⁷²⁰ Independent Arabia, العشيرة تحكم الدولة في العراق و تهدد كياناتها و العاملين فيها [The clan dominates the state in Iraq and threatens its entities and public servants], 13 September 2021, [url](#)



cited in by the New Arab in June 2022, members of the ISF take part in some of the tribal clashes and use the weapons of the state to support their tribes.⁷²¹

Recent examples of tribal confrontations that include civilian casualties include:

- In March 2021, Rudaw reported that a family of three, including a child, were injured in their home in the south of Nasiriyah, in Thi-Qar governorate, as a result of a tribal dispute.⁷²²
- In a video shared online in September 2021, the Iraqi TV channel, Al-Falluja, reported on a tribal feud that broke out in Al-Shatra district of Thi-Qar where light and medium weapons as well as mortar shells were used by the parties to the conflict. The feud resulted in casualties among those involved in the feud, and caused damage to the health centre, the water station, and numerous houses in the district. The report claimed that the ISF did not intervene immediately despite calls for help.⁷²³
- In June 2022, sources reported on the death of nine people in two separate tribal feuds that broke out in Maysan and Wassit.⁷²⁴
- In July 2022, Rudaw reported on a tribal feud that lasted for more than five hours in the town of Garma in Al-Basrah between two tribes and led to the death of five people and the injury of 21 others.⁷²⁵ Reportedly, heavy weapons were used in the feud.⁷²⁶
- A tribal feud broke out in the district of Khabat in Erbil which also resulted in casualties among the parties to the conflict.⁷²⁷
- On 5 October 2022, fighting erupted in the al-Hai District of Wasit Province between the al-Gharib and al-Shahman Tribes that resulted in the death of a child (Hasan Abbas al-Gharibawi) and injuries to two individuals. Two members of the al-Shahman Tribe were arrested on charges of the killing and were reportedly affiliated with the Counter Terrorism Service and the Special Operations Forces.⁷²⁸
- 'On February 20, security sources in Diyala said that unidentified gunmen attacked farmers in the village of Albu-Bali, near the town of Khalis, northeast of Baquba. The attack killed seven people, including two women, and injured three other villagers. Security officials attributed the violence to an old tribal conflict involving the main tribes residing in the villages of Albu-Bali and al-Jayaliyah.'⁷²⁹

Several drivers for displacement in Iraq include tribal issues and blood feuds. The Head of the Al-Sulaymaniyah Migration Department cited in the source observed a 'reversed migration' from Salah Al-Din governorate to IDP camps in Al-Sulaymaniyah. This movement is due to

⁷²¹ New Arab (The), النزاعات العشائرية تهدد السلم المجتمعي وترهق الأمن في مدن جنوب ووسط العراق [Tribal disputes threaten societal peace and exhaust security in Iraq's southern and central cities], 27 June 2022, [url](#)

⁷²² Rudaw, Family burned inside home in Nasiriyah armed clan conflict, 19 March 2021, [url](#)

⁷²³ Al-Falluja Channel, نزاعان عشائريان في الشطرة وأربيل يتسببان بحرائق ووقوع ضحايا [Two tribal feuds in Al-Shatra and Erbil cause fires and casualties] [Online video], 16 September 2021, [url](#)

⁷²⁴ Al-Arabiya, Nine shot dead in Iraq tribal clashes: Police, 22 June 2022, [url](#); Arab Weekly (The), Bloody tribal clashes highlight fragile security in Iraq, 26 June 2022, [url](#)

⁷²⁵ Rudaw, Tensions between two Basra tribes lead to bloody fighting, 2 July 2022, [url](#)

⁷²⁶ Germany, BAMF, Briefing Notes Summary Group 62 – Information Centre for Asylum and Migration, 4 July 2022, [url](#), p. 1

⁷²⁷ Al-Falluja Channel, نزاعان عشائريان في الشطرة وأربيل يتسببان بحرائق ووقوع ضحايا [Two tribal feuds in Al-Shatra and Erbil cause fires and casualties] [Online video], 16 September 2021, [url](#)

⁷²⁸ USDOS, Iraq 2022 Human Rights Report, 20 March 2023, [url](#), p. 22

⁷²⁹ EPIC, ISHM: February 16-23, 2023, 23 February 2023, [url](#)



ongoing tribal conflicts in the areas of origin.⁷³⁰ In September 2021, the New Arab, citing the Head of the Al-Basrah Police, stated that 13 families left their homes in the city of Al-Basrah due to tribal violence. The Chairman of the Reconciliation and Clans Committee in the Iraqi Parliament, also cited in the source, stated that 'this type of displacement is spiralling out of control due to the proliferation of weapons within the tribes and the weakness of the security apparatus'.⁷³¹

6.2. ACLED data on tribal feuds⁷³²

This section provides an overview of ACLED data where coded actors involved in security incidents were coded as tribal actors. From the numerous actors in Iraq identified by ACLED, only those actors in the dataset mentioned with tribal affiliation were selected,⁷³³ with the exception of Tribal Mobilisation Forces, which are irrelevant to the scope of this report, as they constitute a part of the Popular Mobilisation Forces (PMF)⁷³⁴ and their purpose is to fight remnants of ISIL in coordination with the state forces.⁷³⁵ Therefore, the incidents in this section should be understood as security incidents with strictly tribal actors coded and it is possible that there are more incidents with a tribal dimension that are not captured by the scope of this report.

This section is intended only as an indication about the level of security incident activity involving ACLED-coded tribal actors, and should be read in conjunction with other EUAA COI reports on the Iraqi security situation to put these incidents in context. Given how broad ACLED data is, it can be challenging for researchers to determine what exactly constitutes 'tribal' conflict, especially given that conflict labels may obscure other political and security dimensions within a given conflict.⁷³⁶

For the purpose of this report, only the following types of events were included in the analysis: battles, explosions/remote violence and violence against civilians.

EUAA used the ACLED dataset for Iraq (9 March 2023) for security incidents figures, graphs and maps.⁷³⁷ According to this dataset, in all of the reference period (1 October 2021 – 28 February 2023), there were 378 security incidents recorded in Iraq involving tribes, most of which were coded as battles (302). For the remainder of the incidents, 10 were recorded as

⁷³⁰ New Arab (The), النزوح الداخلي مستمر في العراق بسبب المليشيات والنزاع العشائري ودمار المنازل [Internal displacement in Iraq is ongoing due to militias, tribal blood feuds and destruction of houses], 22 October 2021, [url](#)

⁷³¹ New Arab (The), Clan violence in Iraq: Oil companies targeted as poverty reigns, 13 September 2021, [url](#)

⁷³² The dataset used to extract security events is inclusive of geo precision level 3. See the section [Sources](#) of this report for further information on ACLED's codes for the geo-precision of events.

⁷³³ Those tribal actors are: Akil Abu Ghraib Clan Militia, Al-Dhahabiyat Tribal Militia, Al-Hilali Tribal Militia, Al-Khanafra Tribal Militia, Al-Mawajid Tribal Militia, Al-Sawaed Tribal Militia, Albu Bakhit Tribal Militia, Albu Hamoudi Tribal Militia, Albu Khamis Tribal Militia, Banu Tamim Tribal Militia, Jaghayfa Clan Militia, and Unidentified Tribal Militia.

⁷³⁴ GPPI, Sunni Tribal Forces, 30 August 2017, [url](#)

⁷³⁵ Shafaq, "لمعرفتهم بتضاريس المناطق... الحشد العشائري يتولى مسؤولية واسعة في مطاردة داعش" [For their knowledge of the geography of the region Tribal Mobilisation Forces assume an important role in chasing Daesh], 30 April 2022, [url](#)

⁷³⁶ EUAA observation.

⁷³⁷ EUAA analysis based on ACLED data. ACLED, ACLED Data Export Tool, 1 October 2021 – 28 February 2023, 9 March 2023, [url](#)



explosions/remote violence, and 66 as violence against civilians. The vast majority of the incidents (363) involved unidentified tribal militias. Furthermore, most security incidents related to tribal violence were recorded in the governorates of Baghdad (137), Maysan (86), Al-Basrah (47), Thi-Qar (40), and Ninewa (11). The lowest numbers of security incidents related to tribal violence were recorded in the governorates of Duhok, Al-Qadissiyah, and Al-Sulaymaniyah (1 each).⁷³⁸

Evolution of events by type

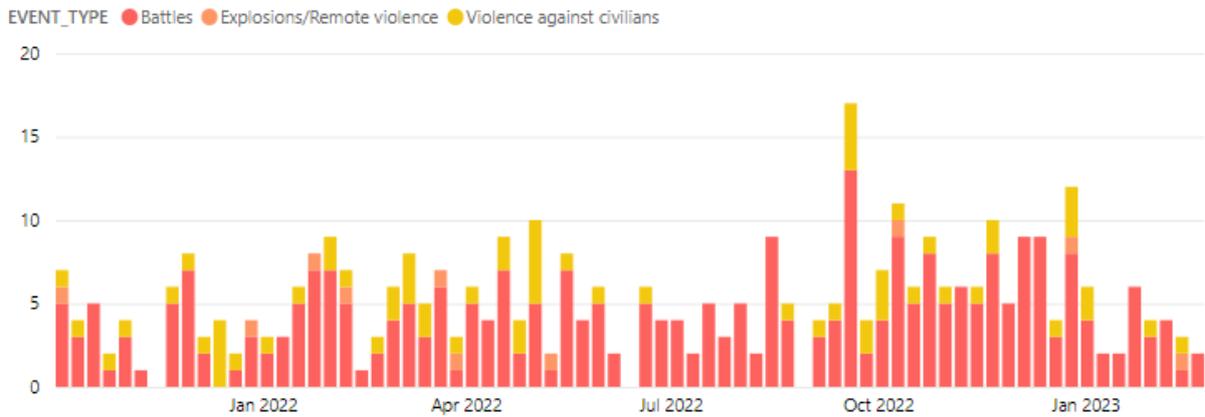


Figure 1: Evolution of security events involving tribal actors coded battles, explosions/remote violence and violence against civilians in the period 1 October 2021 – 28 February 2023, based on ACLED data⁷³⁹

Governorate	Battles	Remote violence	Violence against civilians	Total number of events
Baghdad	114	6	17	137
Maysan	65	1	20	86
Al-Basrah	37	0	10	47
Thi-Qar	34	1	5	40

⁷³⁸ EUAA analysis based on ACLED data. ACLED, ACLED Data Export Tool, 1 October 2021 – 28 February 2023, 9 March 2023, [url](#)

⁷³⁹ EUAA analysis based on ACLED data. ACLED, ACLED Data Export Tool, 1 October 2021 – 28 February 2023, 9 March 2023, [url](#)

Al-Muthanna	9	0	0	9
Wassit	6	0	4	10
Al-Najaf	6	0	2	8
Ninewa	10	0	1	11
Al-Anbar	2	1	2	5
Diyala	3	0	3	6
Kirkuk	2	0	2	4
Erbil	3	0	0	3
Salah Al-Din	3	0	0	3
Babil	3	0	0	3
Kerbala	2	1	0	3
Al-Qadissiya	1	0	0	1
Al-Sulaymaniyah	1	0	0	1
Duhok	1	0	0	1

Figure 2: Breakdown of security events involving tribal actors (coded battles, explosions/remote violence and violence against civilians) by governorate in the period 1 October 2021 – 31 October 2022, based on ACLED data⁷⁴⁰

During the reference period of this report (1 October 2021 – 28 February 2023), ACLED recorded 264 fatalities in security incidents involving tribes in Iraq, of those fatalities, 83 were

⁷⁴⁰ EUAA analysis based on ACLED data. ACLED, ACLED Data Export Tool, 1 October 2021 – 31 October 2022, 9 November 2022, [url](#)

recorded in Maysan, 60 in Baghdad, 30 in Al-Basrah, 26 in Thi-Qar, 15 in Diyala, 10 in Ninewa, 9 in Wassit, and 7 in Al-Muthanna.⁷⁴¹

6.3. State's response to tribal feuds that impact security

This section deals with how tribes are embedded in Iraqi state institutions, the state's efforts to deal with tribal conflicts, and their effectiveness.

The Ministry of Interior has publicly stated that tribes are 'part of the social fabric and have a prestigious status'.⁷⁴² Tribes 'have a semi-autonomous nature and follow their own set of customary laws and other sub-identities', and this results in a complex situation where 'political leaders and self-governed groups attempt to merge traditional and modern systems of governance'. Chokr stated that 'the Iraqi government continuously attempts to ensure that tribal loyalties, allegiances, and their affairs are taken into consideration to maintain social stability'.⁷⁴³ The Iraqi government takes the tribal issue seriously, and several committees were formed to deal with tribal feuds and violence at the levels of the Council of Ministers, the Parliament, and the Ministries of Interior and Defence.⁷⁴⁴

Tribes are represented in the Iraqi state institutions through the Directorate of Tribal Affairs which operates under the auspices of the Ministry of Interior and has branches in all the Iraqi governorates as well as a committee for Tribal Conflict Resolution. The latter's directors are both tribal leaders and senior police or army officers.⁷⁴⁵ In an attempt to establish dialogue between the tribes and the state, arbitration laws were adopted in 2018 whereby a team of tribal arbitrators was assembled by the Ministry of Justice 'to secure the safety and peace of communities across all provinces'. Moreover, the Ministry of Interior selected 47 tribal leaders who were tasked with resolving disputes with the aim to reduce tribal conflicts.⁷⁴⁶

However, sources indicate that due to being well armed and connected with militias, the risk of escalation of violence by tribes is high.⁷⁴⁷ With regards to *degge* (striking), among the different tribal practices, the *degge* is the one that involves 'the spraying of bullets on houses of wanted tribesmen during a tribal feud to force the clan of the enemy to depart from the

⁷⁴¹ EUAA analysis based on ACLED data. ACLED, ACLED Data Export Tool, 1 October 2021 – 31 October 2022, 9 November 2022, [url](#). The dataset used to extract fatalities is exclusive of geo precision level 3. See the section [Sources](#) of this report for further information on ACLED's codes for the geo-precision of events.

⁷⁴² Iraq, Ministry of Interior, [وزير الداخلية يؤكد أن العشائر العراقية جزء من النسيج الاجتماعي ولها المكانة المرموقة](#) [Minister of Interior affirms that Iraqi tribes are part of the social fabric and have a high status], 12 November 2022, [url](#)

⁷⁴³ Chokr, M. A., The Persisting Past of Iraq, September 2021, [url](#), p. 3

⁷⁴⁴ EPC, [عشائر البصرة في العراق: القضايا السياسية والاجتماعية والأمنية](#) [Basrah tribes in Iraq: Political, social and security issues], 25 May 2022, [url](#)

⁷⁴⁵ Genat, M., Tribal Justice and State Law in Iraq, *International Journal of Middle East Studies*, 53(3), August 2021, [url](#), p. 509

⁷⁴⁶ Chokr, M. A., The Persisting Past of Iraq, September 2021, [url](#), p. 3

⁷⁴⁷ Al-Ibrahimi, H., video interview, 3 November 2022; OWFI, Interview with EUAA, 16 March 2023

area'.⁷⁴⁸ It has affected the lives of civilians which led the Iraqi Supreme Judicial Council to designate it as a terrorist crime in November 2018⁷⁴⁹ and to include it under the Anti-Terrorism Law No. 13 of 2005.⁷⁵⁰ In December 2018, the Iraqi Supreme Judicial Council announced that 64 people were arrested across Iraq under the Anti-Terrorism Law for their involvement in the *degge* practice.⁷⁵¹ The Council further announced subsequent arrests and sentences handed down to persons involved in *degge* in 2019⁷⁵², and 2021.⁷⁵³ Moreover, on 4 January 2022, three men involved in tribal disputes and convicted of murder in Babil were sentenced to death by the Babil Criminal Court.⁷⁵⁴ Noon Post observed a decrease in the number of *degge* incidents since the Iraqi judiciary has designated as a terrorist crime.⁷⁵⁵

In addition to the measures taken by the Iraqi Supreme Judicial Council, the Iraqi Ministry of Interior has a directorate dedicated to tribal affairs.⁷⁵⁶ The directorate engages with Iraqi tribes,⁷⁵⁷ resolves tribal disputes between tribes and prepares studies about the reasons that lead to such disputes.⁷⁵⁸ The directorate, as cited in an article by Mawazin⁷⁵⁹ from July 2022, stated that the incidents of *degge* have decreased by 85% across Iraq.⁷⁶⁰ Reportedly, the Directorate of Tribal Affairs has resolved more than 450 tribal disputes between July 2020 and June 2021⁷⁶¹ and more than 2 400 in 2022.⁷⁶² Moreover, at a governorate level,

⁷⁴⁸ Water, Peace and Security, Water challenges and conflict dynamics in Southern Iraq: An in-depth analysis of an under-researched crisis, 17 February 2022, [url](#), p. 29

⁷⁴⁹ Independent Arabia, العشيرة تحكم الدولة في العراق و تهدد كياناتها و العاملين فيها [The clan dominates the state in Iraq and threatens its entities and public servants], 13 September 2021, [url](#)

⁷⁵⁰ New Arab (The), النزاعات العشائرية تخلق السلم الأهلي في العراق [Tribal disputes disturb civil peace in Iraq], 15 January 2022, [url](#); Al-Amili, S., العشيرة تحكم الدولة في العراق و تهدد كياناتها و العاملين فيها [The clan dominates the state in Iraq and threatens its entities and public servants], Independent Arabia, 13 September 2021, [url](#)

⁷⁵¹ Iraq, Supreme Judicial Council, القاضي بيرقدار: محاكم البلاد سجلت توقيف 64 متهما بجريمة "الدكة العشائرية" و صدور 20 أمرا بالقبض على هاربين [Judge Beyrakdar: State courts registered the arrest of 64 persons accused of the crime of "degge asha'iriah" and the issuance of 20 arrest warrants for fugitives], 26 December 2018, [url](#)

⁷⁵² Iraq, Supreme Judicial Council, "جنايات ميسان تقضي بسجن مدان 15 سنة لارتكابهم الدكة العشائرية" [Maysan Criminal Court sentences a convicted with 15 years imprisonment for committing "degge Asha'iriah"], 20 February 2019, [url](#)

⁷⁵³ Iraq, Supreme Judicial Council, إجراءات قانونية بحق خمسة متهمين بجريمة الدكة العشائرية [Legal procedures against five persons accused of committing the crime of degge asha'iriah], 31 January 2021, [url](#); Iraq, Supreme Judicial Council, الإعدام لثلاثة مجرمين تسببوا بجرائم قتل ونزاع عشائري في الإسكندرية [Babil Criminal Court: Death sentence for three criminals who caused murders and tribal disputes in Alexandria], 04 January 2022, [url](#)

⁷⁵⁴ Iraq, Supreme judicial Council, الإعدام لثلاثة مجرمين تسببوا بجرائم قتل ونزاع عشائري في الإسكندرية [Babil Criminal Court: Death sentence for three criminals who caused murders and tribal disputes in Alexandria], 04 January 2022, [url](#)

⁷⁵⁵ Noon Post, ما حجم ترسانة العشائر؟ سلاح العراق.. [Iraq's weapons. What is the size of tribes' arsenal?], 17 July 2021, [url](#)

⁷⁵⁶ Iraq, Ministry of Interior, وزير الداخلية يؤكد أن العشائر العراقية جزء من النسيج الاجتماعي ولها المكانة المرموقة [Minister of Interior affirms that Iraqi tribes are part of the social fabric and have a high status], 12 November 2022, [url](#)

⁷⁵⁷ Al-Awla, مديرية شؤون العشائر في وزارة الداخلية تعقد مؤتمرها العشائري الثاني في محافظة نينوى [Directorate of Tribal Affairs in the Ministry of Interior held its second tribal conference in the governorate of Ninewa], 20 October 2020, [url](#)

⁷⁵⁸ Yaqin News, "أبرزها" السلاح المنفلت" .. مديرية شؤون العشائر تحدد أسباب النزاعات العشائرية [Mainly "unregistered weapon". Directorate of Tribal Affairs specifies the reasons of tribal disputes], 10 December 2020, [url](#)

⁷⁵⁹ Mawazin News is an independent, neutral, and pro-democratic media outlet. Mawazin News, نحن [Who we are], n. d., [url](#)

⁷⁶⁰ Mawazin News, الداخلية: الدكة العشائرية انخفضت بنسبة 85 بالمئة في عموم البلاد [Ministry of Interior: Tribal degge has decreased by 85% across the country], 14 July 2022, [url](#)

⁷⁶¹ Al-Jazeera, لماذا تتفاقم النزاعات العشائرية جنوب العراق؟ [Why do tribal disputes in southern Iraq keep worsening?], 16 May 2022, [url](#)

⁷⁶² Rudaw, العراق.. فضّ 2403 نزاعات عشائرية وضبط أكثر من 45 ألف قطعة سلاح في 2022 [Iraq.Resolution of 2403 tribal disputes and seizure of more than 45 000 weapons in 2022], 4 January 2023, [url](#)

committees to resolve tribal disputes were created in Thi-Qar⁷⁶³ and Basrah.⁷⁶⁴ In Maysan, a committee affiliated with the Ministry of Interior announced the resolution of 800 tribal disputes, some of which started more than 30 years ago.⁷⁶⁵ In Thi-Qar, and according to the Commander of the Sumer Operations of the Iraqi Army cited in Al-Mada,⁷⁶⁶ the security situation is stable, but there are still tribal disputes and criminal activities under control.⁷⁶⁷

Regardless of the state's efforts to put an end to tribal violence, sources reported that *degge* still happens in Iraq, and that including it under the Anti-Terrorism Law and the few sentences handed down to people accused of conducting it did not have a deterrence effect.⁷⁶⁸ A report published by the New Arab in April 2022 stated that the attempts of the Iraqi government to solve the issue of tribal violence in central and southern Iraq, which included the creation of official committees to settle disputes among rival tribes, failed in many cases.⁷⁶⁹ According to security sources cited by Noon Post in July 2021, 74 tribal disputes and 234 *degge* incidents were documented in 2020-2021, with the highest numbers registered in Al-Basrah governorate.⁷⁷⁰

Additionally, a source observed that all the laws currently in place did not deter tribal practices, and that it remains at the discretion of judges to determine the graveness of the tribal *degge* practice on a case-by-case basis. Some sentences, therefore, were handed down under the Anti-Terrorism Law of 2005, while others under Article 430 and the subsequent Articles of the Iraqi Penal Code.⁷⁷¹ According to Genat, the Iraqi army randomly arrested a big number of people on charge of a *degge*, but due to corruption, those arrests did not necessarily lead to conviction.⁷⁷²

Tribes challenge the Iraqi state's ability to maintain control over its full territory.⁷⁷³ The arsenals of weapons possessed by Iraqi tribes, especially in the southern cities and Baghdad, pose a 'unresolved threat to the state's monopoly on the use of force' and successive governments have failed to disarm the tribes.⁷⁷⁴ The Iraqi law permits the possession of weapons by several segments of the Iraqi society including tribal leaders with the endorsement of the Tribal Affairs

⁷⁶³ Mawazin News, *العشائرية، النزاعات العشائرية* [Following the incidents of Al-Shatra... Thi-Qar creates a committee to resolve tribal disputes], 20 April 2022, [url](#); Earth News, *نائب محافظ ذي قار يؤكد تشكيل لجنة لحل النزاعات العشائرية* [Deputy Thi-Qar Governor affirms the creation of a tribal dispute resolution committee], 20 April 2022, [url](#)

⁷⁶⁴ Iraq, Al-Basrah Governorate, *الجزائري: لجنة حل النزاعات العشائرية سيكون لها دور كبير في فرض الأمن والقانون بين المواطنين* [Al-Jazaeri: The tribal dispute resolution committee will play a major role in enforcing security and law among citizens], 24 February 2019, [url](#)

⁷⁶⁵ K24, Iraq interior ministry announces end of 800 tribal feuds in Maysan, 17 August 2022, [url](#)

⁷⁶⁶ An Iraqi independent newspaper. Al-Mada, *من نحن* [Who we are], n. d., [url](#)

⁷⁶⁷ Al-Mada Paper, *انخفاض للنزاعات العشائرية واستمرار متابعة السلاح المنفلت* [Thi-Qar: Decrease in tribal disputes and ongoing follow-up on unregistered weapon], 27 March 2022, [url](#)

⁷⁶⁸ Arab Weekly (The), *Tribal feuds pushing many Iraqis to leave Basra*, 29 June 2019, [url](#); Genat, M., video interview, 4 October 2022; Al-Arab News, *حياة الشباب في العراق محكومة بسلطة العشيرة* [The life of Iraqi youth is controlled by the tribe's authority], 2 May 2021, [url](#)

⁷⁶⁹ New Arab (The), *اشتباكات العشائر في العراق: استقواء بالحماية السياسية والفصائلية للسلاح المنفلت* [Clashes of tribes in Iraq: Drawing strength from politics and militias to protect uncontrollable weapons], 22 April 2022, [url](#)

⁷⁷⁰ Noon Post, *سلاح العراق.. ما حجم ترسانة العشائر؟* [Iraq's weapons. What is the size of tribes' arsenal?], 17 July 2021, [url](#)

⁷⁷¹ Independent Arabia, *العشيرة تحكم الدولة في العراق و تهدد كياناتها و العاملين فيها* [The clan dominates the state in Iraq and threatens its entities and public servants], 13 September 2021, [url](#)

⁷⁷² Genat, M., video interview, Teams, 4 October 2022

⁷⁷³ BTI, BTI 2022 – Iraq, 2022, [url](#), p. 6

⁷⁷⁴ BTI, BTI 2022 – Iraq, 2022, [url](#), p. 8

Directorate of the Ministry of Interior.⁷⁷⁵ Each family is allowed to possess one light weapon as long as it is registered with the authorities. However, due to tribal customs, Iraqis sometimes keep many weapons at their homes, and some tribes, according to an academic cited in the Independent Arabia report, possess a lot of weapons and ammunition that are used in tribal disputes.⁷⁷⁶ Such weapons can range from light weapons to short-range missiles.⁷⁷⁷ An Iraqi tribal leader cited by the New Arab stated that most of the weapons that the tribes possess are registered and owned by members of the ISF and the PMF,⁷⁷⁸ especially since most fighters of armed factions also have tribal affiliation.⁷⁷⁹

The Iraqi government attempted to ban parties and tribes from carrying weapons and to control the proliferation of weapons in the country in 2020⁷⁸⁰ and conducted operations to seize unlicensed weapons in the governorates of Al-Basrah, Maysan, Al-Muthanna and Thi-Qar, as well as tribal areas in Baghdad.⁷⁸¹ In April 2022, the Iraqi Army units carried out an operation in Thi-Qar governorate in the wake of tribal armed disputes in which rocket-propelled grenades (RPG), mortar shells and grenades were used. The clashes resulted in the death and injury of around 20 Iraqis, including a highly ranked officer of the Iraqi Army. A curfew was imposed by the army in order to contain the situation. Those disputes, according to the source, fall in a long series of tribal disputes that highlight the state's inability deal with the issue of unregistered weapons that the tribes possess.⁷⁸² Moreover, according to a spokesperson of the Ministry of Interior cited by Rudaw, more than 45 000 weapons were seized in 2022.⁷⁸³

However, according to BTI, '[a]ll seven successive cabinets have failed to disarm the clans and tribes'.⁷⁸⁴ According to an article by the New Arab dated April 2022, citing a security source, the reason behind the deterioration of the security situation in southern Iraq related to tribal feuds is the protection of the tribal arsenal provided by political parties and armed actors. The source added that the state is apprehensive of approaching the issue of tribes' weapons which impacts the state's ability to resolve the issue.⁷⁸⁵ A prominent government official from Al-Nasiriya, cited in the New Arab article, stated that most of those involved in 'current and previous' tribal disputes were protected by PMF factions and that the government's attempts

⁷⁷⁵ Iraq, Supreme Judicial Council, [Judges discuss the categories entitled to carry weapons. As well as the punishments of weapon possession without permit], 17 February 2021, [url](#)

⁷⁷⁶ Independent Arabia, [The clan dominates the state in Iraq and threatens its entities and public servants], 13 September 2021, [url](#)

⁷⁷⁷ BTI, Iraq Country Report 2022, 2022, [url](#), p. 8; Noon Post, [Iraq's weapons. What is the size of tribes' arsenal?], 17 July 2021, [url](#)

⁷⁷⁸ New Arab (The), [Tribal disputes disturb civil peace in Iraq], 15 January 2022, [url](#)

⁷⁷⁹ Noon Post, [Iraq's weapons. What is the size of tribes' arsenal?], 17 July 2021, [url](#)

⁷⁸⁰ AA, Iraq bans parties, tribes from carrying weapons: Arms and weapons are widespread in Iraq, especially in hands of Iranian-backed militant groups, 15 July 2020, [url](#)

⁷⁸¹ Diyaruna, Southern Iraq tribes back crackdown on unlicensed weapons, 22 September 2020, [url](#)

⁷⁸² New Arab (The), [Clashes of tribes in Iraq: Drawing strength from politics and militias to protect uncontrollable weapons], 22 April 2022, [url](#); Al-Sharq Al-Awsat, Senior Iraqi Intelligence Officer Killed during Tribal Dispute in Dhi Qar, 21 April 2021, [url](#)

⁷⁸³ Rudaw, [Iraq. Resolution of 2403 tribal disputes and seizure of more than 45 000 weapons in 2022], 4 January 2023, [url](#)

⁷⁸⁴ BTI, Iraq Country Report 2022, 2022, [url](#), p. 8

⁷⁸⁵ New Arab (The), [Clashes of tribes in Iraq: Drawing strength from politics and militias to protect uncontrollable weapons], 22 April 2022, [url](#)

to address the issue of unregistered weapons that the tribes possess by custom are ineffective and are done just to save face.⁷⁸⁶

According to Genat, in the southern governorates, especially Al-Basrah, the army is the main interlocutor with the tribes,⁷⁸⁷ while according to Bobseine, the ISF may be the main interlocutor with tribes in other areas.⁷⁸⁸ Whenever an incident of tribal violence occurs, the army intervenes and arrests people randomly as a way to pressure the involved tribes to put an end to the feud.⁷⁸⁹ The Iraqi Army occasionally played a mediatory role between conflicting tribes to resolve a dispute.⁷⁹⁰ Tribes may communicate their promise to settle the dispute so that the army does not intervene. When a *sulh* is achieved, the army is generally satisfied with the outcome and does not intervene. Tribes especially in the south know how to instrumentalise the state justice and they file hundreds of complaints and counter-complaints to the courts. The more the feud escalates, the more complaints are lodged. This shows that the tribes do not operate outside the scope of the state, and that the two systems are intrinsically interconnected.⁷⁹¹

UNHCR observed that Iraqi law enforcement personnel, due to their affiliation with tribes, 'are said to be reluctant to interfere in tribal conflicts as their involvement may risk further escalating the situation'.⁷⁹² Law enforcement agents in Iraq are often harassed and threatened by tribesmen when on duty,⁷⁹³ and their actions can trigger the tribal practice of *gouwama* when for instance a policeman asks a person to show their identity document or ask to check their car.⁷⁹⁴ Moreover, AFP and Arab News cited examples of police officers who were forced to attend tribal *sulha* and to pay a *fasl* following decisions they took to enforce the law.⁷⁹⁵ The New Arab, citing the Commander of Thi-Qar Operations of the Iraqi Army, also stated that members of the Iraqi security forces face threats of death and attacks on their homes by tribesmen if they intervene in disputes. The source added that this sometimes renders the security forces reluctant to enforce the law.⁷⁹⁶

Al-Ibrahimi stated that the Iraqi State lacks both the capacity and the will to resolve the issue of tribal feuds: The government lacks the tools, the capacity and the know-how, and at the same time there is also pragmatically enough evidence to suggest that there is no willingness to resolve the situation since there has been no resolution for the last two decades. The propositions by peace building organisations to resolve the issue receive no response.⁷⁹⁷

⁷⁸⁶ New Arab (The), اشتباكات العشائر في العراق: استقواء بالحماية السياسية والفصائلية للسلاح المتفككت [Clashes of tribes in Iraq: Drawing strength from politics and militias to protect uncontrollable weapons], 22 April 2022, [url](#)

⁷⁸⁷ Genat, M., video interview, 4 October 2022

⁷⁸⁸ Bobseine, H., comments during external expert review of the report, 03 April 2023

⁷⁸⁹ Genat, M., video interview, 4 October 2022

⁷⁹⁰ Rudaw, Senior Iraqi officer killed while mediating tribal dispute in Dhi Qar, 20 April 2022, [url](#)

⁷⁹¹ Genat, M., video interview, 4 October 2022

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Annex 2: Terms of Reference

Tribalism in Iraq

- Background of tribalism in the Iraqi society; the prevalence of tribalism and the role of tribes in the Iraqi society; structure of tribes.

Tribal disputes and tribal conflict resolution mechanisms and practices

- Causes of tribal disputes and the different tribal mechanism triggered by such disputes: e.g., notification, confrontation, truce, *sulha*, *fasl*, and blood feuds; expulsion from the tribe (the mechanism, documents issues, publicity of expulsion); the practice of *hadr al-dam* (spilling one's blood); the capacity of tribes to enforce the outcome of tribal conflict resolution mechanisms; – the treatment of issues related to honour.

Tribal law and Iraqi formal law

- Information on tribal law in Iraq and its prevalence; types of conflicts resolved by tribal law; the death penalty under tribal law.
- The interaction between tribal and state law in Iraq
- Representation of tribes in the Iraqi state institution.

Tribal disputes

- Prevalence of tribal violence in Iraq and the Iraqi state's ability to respond to tribal feuds
- ACLED data on tribal violence.

Tribes and the issue of perceived ISIL affiliation and returnees:

- Requirements for return of IDPs, support, if any and the nature of support provided by the tribes to returnees
- The issue of the return of persons perceived to be affiliated with ISIL; the role of tribes in facilitating/blocking return.

Treatment of converts, specific aspects of children and women under tribal law and practices

- The issue of renouncing Islam under tribal law and the treatment of converts/apostates by the tribe.
- Tribal affiliation of children; liability as regards actions committed by children.
- The treatment of women under tribal law and practices: honour-related issues and tribal practices specific to women; tribal affiliation of women; treatment of divorced women; male guardianship in Iraq.



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