

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	1409
Land:	Irak
Kilde:	ACCORD
Titel:	Query response on Iraq. Sulaymaniyah, Information on the influence of the tribes and on tribal conflict resolution mechanism
Udgivet:	15. oktober 2021
Optaget på baggrundsmaterialet:	17. januar 2022

ACCORD – Austrian Centre for Country of Origin and Asylum Research and Documentation

Query response on Iraq: Sulaymaniyah: Information on the influence of tribes and on tribal conflict resolution mechanisms [a-11725-2]

15. October 2021

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Please read in full all documents referred to.

Non-English language information is summarised in English. Original language quotations are provided for reference in the document or upon request.

Among the sources consulted by ACCORD little could be found on the situation in Sulaymaniyah specifically. For this reason the subsequent references will contain information about the entire Kurdistan Region of Iraq.

It is to be noted that a number of sources online discuss the political influence of tribes in the Kurdistan Region, but this query response focuses on tribes' influence on social aspects and individuals.

Rising influence of tribes in the Kurdistan Region and its consequences

The Ekurd news portal, which is specialized on Kurdish topics, describes a 'revival of tribal spirit' in the Kurdistan Region in an article from May 2016. The article continues by criticising tribal conflict resolution mechanisms and by providing a few examples of such mechanisms:

"Despite the fact that there were well-known tribal groups in Iraqi Kurdistan, their authority was either not openly recognized or just hidden behind the name of a political party. And for almost 25 years Iraqi Kurdistan has supposedly been moving toward a more civil state.

However recently that seems to have been changing and tribal groups are, once again, becoming more powerful. The main reason locals have been talking about this issue was the staging of two major tribal festivals, or get-togethers, in the region, that saw thousands of tribe members come together for a series of activities, including meals, performances, fashion shows and displays of historic tribal artefacts.

While the tribes and their members insist that this revival of tribal spirit is just about their heritage in Iraqi Kurdistan, other locals fear this new mood. Given the ongoing power of tribal customs and tribal law, as well as the current insecurity and political unrest in Iraqi Kurdistan, they fear that increasing loyalty to tribal factions could lead to violence and the increased observation of tribal law will marginalize gains made by civil society groups and secular lawyers. [...]

The tribes putting on these large events say they're doing it all 'in good faith', but other Iraqi Kurdish groups see the large gatherings as dangerous, a way for tribes to assert their dominance and their customs.

Civil society groups in Iraqi Kurdistan have criticized the tribal system of justice repeatedly, saying that criminals within the tribes are not properly punished according to the law. Instead a tribal system of restorative justice is used – especially when it comes to crimes against females – and that affiliated political parties help the tribes enact their own laws.

'Tribes in Iraqi Kurdistan still have the upper hand in many small and large legal issues,' argues Shokhan Ahmed, a local lawyer and activist. 'This is due to the absence of rule of law here and the fact that many locals don't trust the law courts. This means that the tribes become more powerful and overrule what local courts may decide.'

Shokhan then told Niqash about a murder case she had been working on for the past few months. 'But before we got to court, the case was resolved. Around US\$200,000 was paid and the whole file was closed.'

This is a common way that tribal law settles a dispute, even one as heinous as murder – the perpetrator's family pays the family of the victim a certain amount of money as well as undertaking other kinds of compensation, such as, for example, banishing the murderer." (Ekurd Daily, 12 May 2016)

Martin van Bruinessen, a Dutch anthropologist and author, who is inter alia specialized in research on Kurdish culture, writes in a chapter on tribes and ethnic identity [of the Kurds] in 2019 about the 'comeback' of the tribes and a consequential strengthening of conservative social norms:

“There was yet another way in which the tribes made a comeback, or have become more visible. The massive influx of tribespeople, fleeing from war or forcibly expelled from villages, into the towns and cities has made a noticeable impact on social life and public morality. Tribes have provided their members in the urban environment with a social ‘safety net’, but have also brought conservative social norms and a violent code of honour.

Women’s-rights activists have complained of a strengthening of patriarchal structures constraining women’s lives in Iraqi Kurdish towns. This, too, may be a passing phenomenon, due to the geographical movement of people holding ‘tribal’ values rather than a general resurgence of those values, but it shows that tribes, tribalism and the associated practices and values may persevere even when the economic and political conditions to which they were adaptations have changed.” (Van Bruinessen, January 2019, p. 4)

General information on tribal conflict resolution mechanisms in the Kurdistan Region

Among the sources consulted by ACCORD, only one source could be found describing the specificities of tribal conflict resolution mechanisms in the Kurdistan Region.

Maamoon Mohammed, from the University of Duhok (Kurdistan Region Iraq), Department of Peace and Human Rights Studies, published an article on the traditional methods of resolving conflicts and the role of Kurdish Aghas (Tribal Leaders) in the Academic Journal of Nawroz University in July 2020. The paper is based on research conducted in Dohuk City in Iraqi Kurdistan. It focuses specifically on the work of Aghas and the methods they use in solving conflicts:

"Iraqi Kurdistan comprises many tribes, each with a leader or Agha who is greatly respected by that tribe and many outside it. The position is inherited from the Aghas' ancestors and, traditionally, conflict resolution is seen as their responsibility. Although primarily Muslim, they have an open-door policy and intervene in all cases of conflict that are brought to them, whether they involve social conflicts (such as blood feuds), family disputes, issues relating to honour killings, or friction between tribes." (Mohammed, July 2020, p. 114)

"The position of tribal leader is inherited from the ancestors and Aghas gain their skills in conflict resolution through accompanying their fathers' and grandfathers' interventions. Traditionally, resolving conflicts is understood as one of their responsibilities and interviewees explained that they feel they have the responsibility to provide security within their tribe and in their environment. The leader who is best accepted by people is the one who is generous, has charisma, is humble, has a sense of humor, and is rich and eloquent. The house of an Agha is also considered sanctuary, whenever people take refuge in the Agha's house, they are safe; whatever happens to the guest, also happens to the Agha. All the Muslim tribal leaders use the same methods, although some are stronger than others and some people obey and respect their tribal leader more than others. The interviewed Aghas said that they feel equipped to do mediation, since they have a lot of experience in such matters. Many people accept Aghas' solutions, and people feel ashamed if they do not accept them as it is considered to be part of being moral and socially acceptable within the tribe. Aghas' way of intervention is also more confidential than the court; the majority of people feel ashamed if they sue people in court for social issues and they prefer to resolve it among themselves, which generally means to take it to their Agha." (Mohammed, July 2020, p. 118)

"The research found that a number of different types of conflict are resolved through traditional means. These include conflicts over killing, vendetta, fights, land conflicts, children related conflicts, finance and debt conflicts, car accidents, and women related conflicts (honor and marriage related conflicts). [...]"

5.3 The procedures of Aghas' conflict resolution

In Muslim tribes, the process starts at family level where the families or relatives of the conflicting parties try to prevent the conflict escalating and becoming known by people beyond close relations. If the conflict is not resolved at a family level it goes to the Mullah or to the Agha. How people choose to channel their conflict depends on the nature of the case. In general, since social conflicts are considered sensitive, they are first dealt with by the family, then by relatives, then Mullahs, and then by Aghas. The Agha is considered last because this is less private as there are always people coming and going in the tribal leader's house; although the conflicting parties can ask for their cases to be dealt privately, this option is still more public than with relatives or Mullahs." (Mohammed, July 2020, p. 119)

"The resolution process can take place over several meetings and the Agha may call other people to attend if he requires people to give evidence or be a witness to their agreement to the resolution. Discussions go on until an agreement is reached binding one or both parties. The fact that the conflicting parties are given equal opportunities to state their case makes it possible for both parties to accept the conclusion made by the tribal leaders. Our informants made clear that no tribal leader coerces people to come to an agreement and resolve the conflict, and conflicting parties have to understand and agree that the conflict needs to be resolved willingly." (Mohammed, July 2020, p. 119-120)

"On the other hand, one interviewed Agha said that some educated people may not like to refer their conflict cases to Aghas, since they consider their traditional methods to be backward and conservative. They prefer their conflict cases to go to court." (Mohammed, July 2020, p. 121)

"The issue and aim of the tribal leaders' role is not about deciding who wins or loses but to reconcile both parties through mediation. Therefore, Aghas' resolution is a process that includes reconciliation; this requires re-establishing broken relationships, forgiveness, creation of the means for common-sense building, and agreement on a common narrative of the past." (Mohammed, July 2020, p. 123)

Tribal conflict resolution mechanisms in the case of honour killings

The Danish Immigration Service (DIS) and the Danish Refugee Council (DRC) published a report in April 2016 based on a Fact-Finding Mission to the Kurdistan Region Iraq from September and October 2015. The report quotes an international humanitarian organisation from KRI describing that courts do not become active in cases of domestic violence and 'honour crimes', and people often seek justice through the tribal system:

"Honour crimes

The international humanitarian organisation is aware of a few cases of honour crimes in KRI [Kurdistan Region Iraq] and explained that domestic violence is very common in Iraq. Not much is done about it by the courts, and victims usually resolve to traditional justice through the elders, religious leaders and the tribe leaders. Issues of blood money will be dealt with by the elders in the tribes. The judiciary functions in KRI, but the further one gets from KRI, the less efficient the system, even though the penal code is the same in all Iraq." (DIS/DRC, April 2016, p. 81)

Danish Immigration Service (DIS), as part of their fact finding mission to Erbil, Sulaymaniyah and Dohuk on the topic of male victims of 'honour crimes' in the Kurdistan region in 2010, quoted the statements of interviewees, who described how most families prefer to settle disputes related to honour through family or the tribe and that solutions to such disputes might vary:

"Resolving honour-related conflicts Hassan Berwari, Diakonia, Dahuk, stated that although there are laws addressing the issue of honour crimes in KRI [Kurdistan Region Iraq], ordinary people are looking to tribal leaders rather than the authorities (police and courts) in settling any disputes. The strength of tribal links is prevailing among Kurds in KRI. Family ties are very strong, and the tribal leaders represent the whole tribe, also when it comes to addressing honour.

According to Hassan Berwari, Diakonia, Dahuk, due to lack of awareness and lack of confidence in the authorities, many turn to tribal solutions.

There are major dissimilarities between tribes as to how honour issues are being addressed. It was stressed that most families would prefer to settle disputes related to honour through family or tribe rather than through the authorities as the honour and the reputation of the family when related to females is 'better protected' [through the family or the tribe].

Sardasht Abdulrahman Majid and Aree Jaza Mahmoud, DHRD [Democracy and Human Rights Development Center], Sulaymaniyah, explained that anyone violating traditional values and rules, by having an illicit sexual relationship, will be at high risk of being punished [by their family or tribe].

Ari Rafiq and Huda S. Zangana, DVW [Directorate to Followup Violence against Women], Erbil stated that disputes and crimes related to honour differ from case to case, and that there is no straightforward solution as to how to settle such matters." (DIS, March 2010, p. 5)

The Danish Immigration Service (DIS) and the Norwegian Country of Origin Information Center Landinfo published a joint report on women and men in honour-related conflicts in the Kurdistan Region of Iraq (KRI) in November 2018. The report is based on interviews conducted in Erbil and Sulaymaniyah from 22 to 30 April 2018, as part of which 15 interlocutors, comprising an international organisation, NGOs, authorities in the Kurdistan Regional Government (KRG), an academic informant, a diplomatic representation as well as a lawyer were consulted. The report mentions various possible outcomes to honour disputes being brought before the tribe:

"6.1 Possibility to seek protection from tribal councils

In the rural areas, honour conflicts are often solved by the tribe. Families prefer that disputes are settled by tribal councils, due to the risk of shame and stigma in case the conflict becomes known to people outside the tribe. [...]

The elders of the tribe can solve the problem in several ways: In case of adultery/premarital relations, the elders can decide that the man and women should get married. Reconciliation could also be reached in a so-called 'jin-by-jin' or 'woman-by-woman' deal which implies an exchange of daughters who are given for marriage. As a third option, the elders could decide that the woman who committed adultery should be killed; and also appoint a male family member to kill her, for instance her cousin. The cousin will not be punished by the tribe. But if the police find out, they will investigate the case. In case the cousin is taken to court the penalty will be low. In addition, if the woman's family announces that they forgive the man, he will be given an even lower penalty. The source noted that sometimes an amnesty is given, often to influential people.

There are cases in which the elders of the tribe decide not to kill the woman. However, it might happen that another family member, a cousin for instance, disagree with that decision and act on his own and kill the woman for honour reasons. In such cases, the tribe will try to stop the family member, but it does not always succeed." (DIS/Landinfo, November 2018, p. 19)

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ecoi.net summary:

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influence of tribes and on tribal conflict
resolution mechanisms



Country:
Iraq

Source:
[ACCORD – Austrian Centre for Country of
Origin and Asylum Research and
Documentation](#)

Document type:
Response

Language:
English

Published:
15 October 2021

Document ID:
2065478

Austrian Red Cross
Austrian Centre for Country of Origin and
Asylum Research and Documentation (ACCORD)

Wiedner Hauptstraße 32, 1041 Wien
T (Telefon) +43 1 589 00 583
F (Fax) +43 1 589 00 589
info@ecoi.net

Contact
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F.A.Q.
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ecoi.net is run by the Austrian Red Cross (department ACCORD) in cooperation with Informationsverbund Asyl & Migration. ecoi.net is funded by the Asylum, Migration and Integration Fund, the Austrian Ministry of the Interior and Caritas Austria. ecoi.net is supported by ECRE & UNHCR.

