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Tribal Conflict Resolution in Iraq

This document provides an overview of factual elements on tribal conflict resolution in Iraq, based on UNHCR information and publicly available sources. The information is valid as at 15 January 2018.

Note: *Generally, 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. As such, information available in public sources on tribal practices in general should be regarded as indicative rather than conclusive in relation to individual cases.*

Tribal conflicts can reportedly be triggered by intentional or unintentional killing, but also by other offences such as the infliction of injury, loss of “honour” (e.g. as a result of the kidnapping or rape of a woman or girl, or socially unacceptable activities on social media), theft, unpaid debts, or unresolved disputes over land, access to water supplies or property.¹ Under tribal custom, male members of an extended family (“*khamsa*”) are obliged to avenge the injury or death of another member, be it in the form of killing someone from the murderer’s “*khamsa*”,² or, more commonly, agreeing on financial compensation (blood money, “*fasl*” or “*diyya*”) to the family of the victim.³ The perpetrator may also

¹ Niqash, *Iraqi Tribes Take Law Into Own Hands, Make Facebook Trolls Pay*, 13 July 2017, <http://bit.ly/2B2NoPk>; Niqash, *Tribal Violence Escalates in Southern Iraq*, 17 September 2015, <http://bit.ly/1RnFB4m>; Al-Monitor, *Blood Money Marriage Makes Comeback in Iraq*, 18 June 2015, <http://bit.ly/1TOBU8T>; Center for Naval Analyses, “*No Security Without Us*”: Tribes and Tribalism in Al Anbar Province, Iraq, June 2014, <http://bit.ly/1KfrQNE>, p. 14; Middle East Institute, *Tribal Law and Reconciliation in the New Iraq*, The Middle East Journal, Volume 65, Winter 2011, <http://bit.ly/1Ot7eTM> (hereafter: Middle East Institute, *Tribal Law and Reconciliation in the New Iraq*, 2011, <http://bit.ly/1Ot7eTM>), p. 12. Regarding doctors and other medical personnel facing demands for compensation from tribes in the event of a failed surgery or prescriptions that led to the death of the patient, see Niqash, *Crime Wave Targets Baghdad Doctors, Whose only Choice Is to Emigrate*, 3 August 2017, <http://bit.ly/2BFWsyb>; Wall Street Journal, *Iraq’s Doctors Face Threats of Violence as Civil Order Deteriorates*, 1 May 2016, <http://on.wsj.com/1UqN9UX>; Shakomako, *Doctors in Iraq: Vilified, Hunted and Killed*, 17 December 2015, <http://bit.ly/1IM0R0T>; Associated Press, *Doctors still Working in Iraq Face Violence, Tribal Justice*, 16 December 2015, <http://bit.ly/1PK7UIS>.

² “*A man’s ‘khamsah’ group consists of all male-born children who share the same great-great grandfather. The khamsah is the traditional vengeance group which functions in cases of conflict, notably blood feuds. If a tribesman is murdered, his 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*”; Center for Naval Analyses, *Cleared for Public Release “No Security Without Us”*: Tribes and Tribalism in Al Anbar Province, Iraq, June 2014, <http://bit.ly/1KfrQNE>, p. iv. See also p. 9 of the same report. See also, Middle East Institute, *Tribal Law and Reconciliation in the New Iraq*, 2011, <http://bit.ly/1Ot7eTM>, p. 13.

³ “*The tribal law punishment has centered around diyyah, financial compensation to victims or their families in cases of murder, bodily harm and damage of property. Its scope and amount is determined by tribal sheiks acting as adjudicators. In return, the victims’ families agree to not take revenge against the other tribe*”; Los Angeles Times, *In Iraq, Punishing Family Ties to Islamic State and Compensating Victims of the Violence*, 9 October 2016, <http://fw.to/GRpniPT>. “*When a tribesman is injured or murdered by someone from another tribe, his tribesmen know that they have an obligation to avenge his spilled blood. This could take the form of killing someone from the murderer’s khamsah group or, more commonly, working out a blood price, or diyya, to be paid by one khamsah to another. (...) Failure to fulfill the obligation of al ‘thar [blood feuds] badly damages the group’s reputation; it is a loss of honor that weakens the group vis-à-vis other groups*”; Center for Naval Analyses, “*No Security Without Us*”: Tribes and Tribalism in Al Anbar Province, Iraq, June 2014, <http://bit.ly/1KfrQNE>, p. 9. For an overview of the different mechanisms deployed to resolve intertribal disputes, including on the different types of “*fasl*”, see also, Haider Ala Hamoudi, Wasfi H. Al-Sharaa and Aqeel Al-Dahhan, *The Resolution of Disputes in State and Tribal Law in the South of Iraq: Toward a Cooperative Model of Pluralism*, University of Pittsburgh, Legal Studies Research Paper Series, Working Paper No. 2015-09, 30 March 2015, <http://bit.ly/2zIHcg5> (hereafter: Haider Ala Hamoudi et al., *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 30 March 2015, <http://bit.ly/2zIHcg5>), pp. 233-242.



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be required to leave the area.⁴ Despite being banned by law,⁵ the use of women and girls as compensation for injury or death (“*fasliyah*”) has reportedly seen a resurgence since 2014, particularly in southern Iraq. Under this custom, an inter-tribal conflict is resolved by one tribe giving one or several girls or women for marriage to another tribe.⁶ In this type of marriage, the woman has no right to divorce and is likely to be exposed to abuse.⁷ In particularly serious cases such as in the case of honour crimes or the murder of a tribal leader, tribes may impose capital punishment on the culprit.⁸

In serious cases, the perpetrator’s tribe can “dishonour” the perpetrator and order his and his family’s expulsion from the tribe, or even kill him.⁹ Being expelled from one’s tribe reportedly has serious

⁴ “The *fasl* may also involve matters beyond the mere payment of money, including, for example, a requirement that a party leave their home and move to a location far away from the home of the victim or other members of his tribe. That may be accompanied by a written guarantee that the perpetrator will not return again to the same city, neighborhood, or village. If he is then seen in the place where he had promised to not appear any longer, he, to use the tribal phrasing, ‘his blood could be shed with impunity’”; Haider Ala Hamoudi et al., *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 30 March 2015, <http://bit.ly/2zIHcg5>, p. 239. The perpetrator can reportedly be sent into temporary exile immediately following the perpetration of a serious crime. This practice, also referred to as “*jali*” in Arabic, is reportedly considered as a calming mechanism in order to prevent the escalation of conflict while negotiations take place; Center for Naval Analyses, “No Security Without Us”: Tribes and Tribalism in Al Anbar Province, Iraq, June 2014, <http://bit.ly/1KfrQNE>, pp. 12-13. On the different steps of tribal dispute resolution, see; Middle East Institute, *Tribal Law and Reconciliation in the New Iraq*, 2011, <http://bit.ly/1Ot7eTM>, pp. 14-17. See also Niqash, *Tribal Violence Escalates in Southern Iraq*, 17 September 2015, <http://bit.ly/1RnFB4m>.

⁵ Al-Monitor, *Can Iraq’s Parliament Regulate the Country’s Tribes?*, 16 December 2017, <http://bit.ly/2igZA8m>; Al-Monitor, *Blood Money Marriage Makes Comeback in Iraq*, 18 June 2015, <http://bit.ly/1TOBU8T>; Al-Monitor, *Underage Marriage of Iraqi Girls Rises*, 12 December 2012, <http://bit.ly/1in4QRU>.

⁶ Known as “*fasliyah*” in Arabic and “*badal khueen* (blood substitute) or *jin be xwên* (woman-for-blood) in Kurdish. “Government officials and international and local NGOs also reported that the traditional practice of ‘*fasliya*’ – whereby family members, including women and children, are traded to settle tribal disputes – remained a problem, particularly in southern governorates” US Department of State, *2016 Country Reports on Human Rights Practices - Iraq*, 3 March 2017, <http://www.refworld.org/docid/58ec8a234.html>. See also, Raseef22, *In Iraq, Women Are Offered as Tributes to Settle Tribal Vendettas*, 17 August 2016, <http://bit.ly/2zLkHcC>; HRW, *World Report 2016 – Iraq*, 27 January 2016, <http://www.refworld.org/docid/56bd99386.html>; Arab Weekly, *Iraqi Tribes Take Law and Justice into their own Hands*, 20 January 2016, <http://bit.ly/2yEAeal>; Fair Observer, *Woman-for-Blood Marriages Persist in Iraq*, 29 December 2015, <http://bit.ly/1Z2Qs2Q>; Minority Rights Group International/Ceasefire Centre, *Family-Based Violence during Armed Conflict*, 5 November 2015, <http://bit.ly/1O57aeK>, p. 24; The Iraqi Civil Society Solidarity Initiative (ICSSI), *No to Harassment, No to Tribal Fasliya! Iraqi Women Want Their Rights and Freedom!*, 8 July 2015, <http://bit.ly/1ZmAXmF>; Al-Monitor, *Blood Money Marriage Makes Comeback in Iraq*, 18 June 2015, <http://bit.ly/1TOBU8T>; The Arab Weekly, *In Iraq, It’s a Man’s World*, after all, 12 June 2015, <http://bit.ly/2zHCW2s>.

⁷ “Women married under such arrangements may not divorce and are required to sever any contact with their natal family. The young bride – who may well be a child for whom no other arrangement has yet been made – may be mistreated by the family in reprisal for the initial crime against their kinsman, and live as a virtual slave with none of the status or recourses of an official wife. Poor people, unable to raise blood money, are most likely to marry off their daughters in such forms of reconciliation. They are also least likely to be able to intercede in cases of marital abuse”; Fair Observer, *Woman-for-Blood Marriages Persist in Iraq*, 29 December 2015, <http://bit.ly/1Z2Qs2Q>. See also, Raseef22, *In Iraq, Women Are Offered as Tributes to Settle Tribal Vendettas*, 17 August 2016, <http://bit.ly/2zLkHcC>; Al-Monitor, *Blood Money Marriage Makes Comeback in Iraq*, 18 June 2015, <http://bit.ly/1TOBU8T>; Al-Monitor, *Iraqi Women Victimized by Tribal Marriage Customs*, 12 September 2013, <http://bit.ly/1RvrV7x>; Al-Monitor, *Underage Marriage of Iraqi Girls Rises*, 12 December 2012, <http://bit.ly/1in4QRU>; United States Institute of Peace (USIP), *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, <http://bit.ly/2sSXR9W>, p. 263; Niqash, *Abuse of Women Continues*, 29 July 2010, <http://bit.ly/1ZxrFts>.

⁸ USIP, *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, <http://bit.ly/2sSXR9W>, p. 264. “‘Honour’ crimes are most often perpetrated after a woman has committed or is suspected of committing any of the following: engaging in friendships or pre-marital relationships with a member of the opposite sex; refusing to marry a man chosen by the family; marrying against the family’s wishes; committing adultery; or being a victim of rape or kidnapping. (...) Transgressions of honour are seen as unforgivable and the ‘taint’ on the family’s honour does not decrease over time. In most cases, the only way to absolve a transgression of honour is to kill the woman, and sometimes the man as well”; Minority Rights Group International/Ceasefire Centre, *Family-Based Violence During Armed Conflict*, 5 November 2015, <http://bit.ly/1O57aeK>, p. 26.

⁹ “When a person commits ‘*as-souda*’ (black crimes and shameful deeds such as rape, homosexual acts, or stealing from a kinsman or host), he may be ostracized or exiled to face responsibility for his actions alone. (...) In the case of murder, the sheikh of the tribe may order that the killer be banished from the tribe and its territory for seven years or more, the length of time depending on the importance of the deceased and whether the crime was premeditated. (...) 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”; USIP, *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, <http://bit.ly/2sSXR9W>, pp. 248, 264. According to Shaykh ‘Abud Al Issawi, the Prime Minister’s tribal advisor on the National Reconciliation and Follow-up Committee, “[I]n case of intentional killing, theft within the tribe, or rape, the person who commits these crimes will be dishonored, expelled from the tribe, and will not be protected or assisted by his tribe with a *fasel*. Even if he is killed as a revenge for his crime, his tribe or family would not ask for a *fasel* from the killer”; Middle East Institute, *Tribal Law and Reconciliation in the New Iraq*, 2011,



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consequences for the affected individual's social status and every-day life, as he loses all claims to protection by the tribe.¹⁰ In the event of a formal expulsion from the tribe, which can be for a specific period of time or forever, the expulsion is reportedly announced through a document (“*sanad*”, or “certification”). It reportedly has the purpose of informing other tribes of a tribe's decision to expel a certain member and that the tribe does not take any responsibility for any of his future actions.¹¹ According to UNHCR information, such letters do not follow a standard format.¹² The perpetrator may receive a copy of such a letter based on his standing in the tribe and his relationship with the *sheikh*, or may be informed verbally through relatives or other members of the tribe.¹³

In instances in which tribes fail to resolve disputes between them through peaceful means, disputes can turn into blood feuds (“*tha'ir*”). Such feuds between tribes are reported to remain a common occurrence, particularly in the southern governorates, with clashes sometimes lasting for days with the use of heavy weapons.¹⁴ Blood feuds may give rise to long cycles of retaliatory violence and revenge, sometimes passing from generation to generation, and can sometimes flare up after being dormant for many years.¹⁵

Prosecution of the offender in the formal judicial system does not necessarily end or avoid tribal conflict,¹⁶ and, in some cases, law enforcement officials and courts refer cases to the tribal system for settlement.¹⁷ According to reports, tribal justice has reportedly gained renewed strength as a result of successive conflicts affecting Iraq, weak state authority and an ineffective formal justice system and

<http://bit.ly/1Ot7eTM>, p. 17. On the different levels of expulsion, see; Haider Ala Hamoudi et al., *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 30 March 2015, <http://bit.ly/2zIHcg5>, pp. 241-242.

¹⁰ “Before destroying his home, the tribe shunned him, leaving the former IS man unprotected in a country where tribal law often takes precedence over the law and the courts”; AFP, *Tribal Justice Awaits Returning Iraqis who Joined Islamic State*, 13 November 2017, <http://bit.ly/2EzHSph>. “An individual who does not obey tribal customs risks the loss of support of the tribe, thus making himself and his family vulnerable. An outcast in Iraqi society can be mistreated without fear of reprisal from his kinship group”; Center for Naval Analyses, “No Security Without Us”: Tribes and Tribalism in Al Anbar Province, Iraq, June 2014, <http://bit.ly/1KfrONE>, p. 8. Outcasting means “that the tribe has withdrawn its protection and releasing itself from the obligation to avenge any injury the outcast may suffer. In Iraqi tribal society, outcasting has been traditionally seen as a virtual death sentence”; USIP, *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, <http://bit.ly/2sSXR9W>, p. 264. See also, Haider Ala Hamoudi et al., *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 30 March 2015, <http://bit.ly/2zIHcg5>, p. 241.

¹¹ “(...) 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”; Haider Ala Hamoudi et al., *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 30 March 2015, <http://bit.ly/2zIHcg5>, p. 242.

¹² UNHCR information, January 2018.

¹³ *Ibid.*

¹⁴ “Kidnappings also continued to be a common tactic in tribal conflicts. In January [2016] members of the al-Halaf tribe abducted a man from the Garamsha tribe after the establishment of a truce between the two tribes failed. A photo of the man, bound and beaten, went viral on social media; the photo caption described him as a ‘captive of the war between the two tribes’”; US Department of State, *2016 Country Reports on Human Rights Practices – Iraq*, 3 March 2017, <http://www.refworld.org/docid/58ec8a234.html>. “Inter-tribal conflict in the south of Iraq has brought with it its own particular challenges regarding the protection of civilians. Tribes frequently come into conflict with one another over issues such as land use and ownership, inter- and intra-family disputes and historic inter-tribal animosities. These conflicts can result in armed confrontations between members of the tribes involved in the dispute, which can result in deaths and injuries, including of innocent bystanders”; UNAMI, *Report on the Protection of Civilians in the Armed Conflict in Iraq: 1 November 2015 - 30 September 2016*, 30 December 2016, <http://www.refworld.org/docid/5885c1694.html>, p. 32. See also, National Iraqi News Agency (NINA), *Three People Killed and Injured in the Al-Maimouna District in Maysan in the Context of an Armed Conflict*, 23 September 2017, <http://bit.ly/2ALZzAh>; NINA, *Tribal Armed Conflict In Basra Kill one Wound Another*, 19 August 2017, <http://bit.ly/2yO7TyY>; NINA, /35/ *People Involved in a Tribal Dispute Arrested North of Basra*, 13 June 2017, <http://bit.ly/2zOjwXM>; NINA, *A Young Man Killed and Three Others Injured due to Tribal Conflicts in Basra*, 8 October 2017, <http://bit.ly/2mxtV7i>; NINA, *Tribal Armed Clashes in Diyala*, 22 July 2016, <http://bit.ly/2a7SYZh>; Iraqi News, *Tribal Dispute South of Maysan, Four Casualties*, 18 July 2016, <http://bit.ly/2aGZDWh>; Al-Monitor, *Can Iraq Curb Tribal Disputes?*, 20 January 2016, <http://almon.co/211h>.

¹⁵ Niqash, *As Extremists Withdraw in Salahaddin, Iraq's Tribes Demand Justice*, 22 October 2015, <http://bit.ly/1OsO805>; Niqash, *Tribal Violence Escalates in Southern Iraq*, 17 September 2015, <http://bit.ly/1RnFB4m>.

¹⁶ USIP, *Customary Justice and the Rule of Law in War-Torn Societies*, 1 July 2011, <http://bit.ly/2sSXR9W>, p. 271.

¹⁷ “In modern Iraq, many legal and religious authorities are generally happy to accept resolutions made by tribal law because of the way it is able to solve social problems holistically and consensually as well as come up with quick solutions that do not require government involvement or bureaucracy”; Niqash, *Tribal Law Trumping Civil in Modern Iraq*, 12 May 2011, <http://bit.ly/2B3TKhj>. See also, AFP, *Tribes, Tradition Stand in Way of Iraq Police*, 23 September 2017, <http://dailym.ai/2xoc3c9>.



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people increasingly resort to tribes to resolve their differences.¹⁸ Law enforcement personnel, who are often themselves members of tribes in the area, are said to be reluctant to interfere in tribal conflicts as their involvement may risk further escalating the situation.¹⁹ Others are reported to take sides in tribal disputes along their own tribal affiliation.²⁰

In areas retaken by Iraqi government and associated forces from the so-called Islamic State in Syria and Iraq (ISIS), the government is reported to face challenges to establish full and effective authority and the capacity of the state to enforce the law and protect civilians remains weak.²¹ 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. According to the UN Assistance Mission for Iraq and the Office of the High Commissioner for Human Rights (UNAMI/OHCHR), such reprisal measures amount to “*collective punishment*” and are in violation of applicable Iraqi and international laws.²² An increase in attacks against and forced evictions of families suspected of having collaborated with ISIS in areas retaken from ISIS has been reported, even if the families themselves have not committed any crimes.²³ In some

¹⁸ “Many Iraqis resolve problems – whether criminal or civil – without going to the authorities. They prefer to use the ancient systems of tribal justice”; Niqash, *Tribal Justice Rules: In Basra, ‘Terrorism by Tradition’ Causes Fear and Waste*, 22 March 2017, <http://bit.ly/2zFyYYh>. On the reported strengthening of tribes and tribal justice, see AFP, *Tribes, Tradition Stand in Way of Iraq Police*, 23 September 2017, <http://dailym.ai/2xoC3c9>; Reuters, *Tribal Clashes, Political Void Threaten Oil Installations in Iraq’s South*, 11 September 2017, <http://reut.rs/2zMdln5>; Iraqi News, *Armed Tribal Clash North of Basra Leaves 5 Casualties*, 12 April 2017, <http://bit.ly/2zDa3Fh>; Arab Weekly, *Iraqi Tribes Take Law and Justice into Their own Hands*, 20 January 2016, <http://bit.ly/2yEAeal>; Al-Monitor, *Can Iraq Curb Tribal Disputes?*, 20 January 2016, <http://almon.co/211h>; Fair Observer, *Woman-for-Blood Marriages Persist in Iraq*, 29 December 2015, <http://bit.ly/1Z2Qs2Q>; AP, *Doctors still Working in Iraq Face Violence, Tribal Justice*, 15 December 2015, <http://apne.ws/1P4w12E>; Niqash, *As Extremists Withdraw in Salahaddin, Iraq’s Tribes Demand Justice*, 22 October 2015, <http://bit.ly/1OsO805>; Al-Monitor, *When Conflict Arises, these Iraqis Go to the Madeef*, 30 August 2015, <http://almon.co/2jfo>; ICSSI, *No to Harassment, No to Tribal Fustliya! Iraqi Women Want Their Rights and Freedom!*, 8 July 2015, <http://bit.ly/1ZmAXmF>; Al-Monitor, *Blood Money Marriage Makes Comeback in Iraq*, 18 June 2015, <http://bit.ly/1TOBU8T>; Haider Ala Hamoudi et. al., *The Resolution of Disputes in State and Tribal Law in the South of Iraq*, 30 March 2015, <http://bit.ly/2zIHcg5>, p. 15. For background on the role of tribes throughout history, see Center for Naval Analyses, “No Security Without Us”: *Tribes and Tribalism in Al Anbar Province, Iraq*, June 2014, <http://bit.ly/1KfrQNE>, p. 4; Jesmeen Khan, *The Iraqi Tribal Structure*, 1 November 2010, <http://bit.ly/231reqm>.

¹⁹ Niqash, *Tribal Violence Escalates in Southern Iraq*, 17 September 2015, <http://bit.ly/1RnFB4m>.

²⁰ UNHCR information, January 2018.

²¹ UNHCR, *UNHCR Position on Returns to Iraq*, 14 November 2016, <http://www.refworld.org/docid/58299e694.html>, para. 6.

²² For example, “[I]n March 2016, representatives of the main tribes in Ninewa Governorate reached a ‘Tribal Agreement,’ endorsed by the Provincial Council of the governorate, which purports to apply traditional justice mechanisms and customs. The Agreement includes a provision for the forced eviction of families connected to ISIL and the transfer of their property to victims as reparations. In discussions with UNAMI/OHCHR, tribal representatives said that the seizure of property would help to mitigate other forms of retribution against families who supported ISIL, and that the redistribution of property would serve as ‘mental therapy’ to victims and facilitate the return of displaced persons from Ninewa. UNAMI/OHCHR highlighted that the forced eviction of families of ISIL suspects amounts to a form of collective punishment and is contrary to Iraqi and international law. The Tribal Agreement also provides for the death penalty in the case of ‘serious crimes,’ and considers that crimes committed against women must not be covered by any amnesty. The Tribal Agreement requires that those who committed less serious crimes should be imprisoned, including financial supporters/fundraisers of ISIL activities, those who destroyed cultural and religious sites, and collaborators”; UNAMI, *Promotion and Protection of Rights of Victims of Sexual Violence Captured by ISIL/or in Areas Controlled by ISIL in Iraq*, 22 August 2017, <http://www.refworld.org/docid/59b67bf04.html>, para. 28. See also paras 37, 41-43 of the same report. “We have received reports of so-called night letters left at families’ houses or distributed in neighbourhoods, including in Sharqat in Salahadin Governorate, Al Heet City in Al Anbar and Al-Qayyarah in Ninewa Governorate, as well as in Mosul City. These letters typically warn people to leave by a particular date or face forced expulsion. Many of these threats are the result of tribal agreements that explicitly demand that families of affiliated ISIL members be excluded from the area. Hundreds of families have been threatened with forced displacement and such developments are extremely worrying. People are at real risk of forced eviction from their homes and losing access to basic necessities, including adequate housing, food, access to health services and education” (emphasis added); Office of the High Commissioner for Human Rights (OHCHR), *OHCHR Briefing Note on Iraq*, 30 June 2017, <http://bit.ly/2ii72Ac>. See also, AFP, *Tribal Justice Awaits Returning Iraqis who Joined Islamic State*, 13 November 2017, <http://bit.ly/2EzHSph>; UNHCR, *UNHCR Position on Returns to Iraq*, 14 November 2016, <http://www.refworld.org/docid/58299e694.html>, para 24.

²³ “Of particular concern is the rising popular sentiment in favour of collective punishment of families perceived to be associated with Da’esh. Iraqis perceived to have links with Da’esh are increasingly subjected to revenge measures. It was reported to UNAMI that on 22 September [2017], Tribal Mobilisation Unit members burnt around 20 houses in a village in eastern Shirqat, Salah al-Din Governorate. These acts were allegedly committed for past Da’esh abuses. On 27 September, Tribal Mobilisation Unit members allegedly burned and demolished at least 20 houses belonging to families allegedly Da’esh-affiliated in al-Zab sub-district, Kirkuk Governorate. In Heet City, Anbar Governorate, Iraqi security together with local actors notified families with members allegedly



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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.²⁴ 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.²⁵

In some areas, 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.²⁶

affiliated to Da'esh to leave the city, marking their houses with the words 'you should leave within 72 hours'. Hundreds of houses have so far been marked; dozens of families reportedly left to unknown destinations after the marking of the houses; and seven houses were seriously damaged. Unlawful acts like forced evictions, without evidence that the individuals subjected to eviction orders committed any crime or wrongdoing, are in clear contravention of the Constitution of Iraq and Iraq's obligations under international law"; Special Representative of the United Nations Secretary-General for Iraq, *Briefing to the Security Council by SRSG for Iraq Ján Kubiš*, 22 November 2017, <http://bit.ly/2muOOZj>, pp. 17-18. “*Along with revenge attacks, forced evictions are increasing as well. Earlier this month, a group of ISIS victims' families in the nearby village of Qayyarah [Ninewa Governorate] compiled a list of names and, with the backing of local tribal leaders, went door to door to the people on the list, demanding that they sign next to their names promising that they would leave, or face consequences*”; The Intercept, *Revenge Attacks on Families of Isis Members Could Start a New Cycle of Violence in Iraq*, 19 July 2017, <http://bit.ly/2uyRcsg>. “*Since May [2017], local tribal and governorate authorities in Hammam al-Alil, Qayyarah [Ninewa Governorate], and Mosul have issued eviction calls against so-called ISIS families, in tandem with grenade and other attacks on the families, as well as threatening letters and demands to deny these families humanitarian assistance. As a result, many of these families have been forced to move to nearby camps housing families displaced by the fighting in Mosul*”; HRW, *Iraq: Alleged ISIS Families Sent to 'Rehabilitation Camp'*, 13 July 2017, <http://www.refworld.org/docid/596780c44.html>. See also, NINA, *Three People from one Family Killed West of Anbar*, 15 December 2017, <http://bit.ly/2mkAkzt>; Iraqi News, *Nineveh Council Says Feuds Break Out Between Mosul Civilians and IS Families*, 21 June 2017, <http://bit.ly/2u16qD7>; Rudaw, *Locals in Iraqi Town Take Matters into Their Hands to Expel ISIS Families*, 21 June 2017, <http://bit.ly/2sk56yf>; Iraqi News, *Mosul Council Departs IS Fighters Families, Cites Need for Rehabilitation*, 20 June 2017, <http://bit.ly/2tsfmER>; USA Today, *Iraqi Families Fear Reprisals Against Relatives Forced to Help ISIS*, 31 May 2017, <https://usat.ly/2rDXKOU>; NPR, *For Iraqi Families with ISIS Links, Agonizing Choices – and Consequences*, 18 December 2016, <http://n.pr/2gZcjhr>; Los Angeles Times, *In Iraq, Punishing Family Ties to Islamic State and Compensating Victims of the Violence*, 9 October 2016, <http://fw.to/GRpniPT>; Reuters, *Iraq Expels Islamic State Families from Local Communities*, 9 September 2016, <http://reut.rs/2cqvfS0Q>.

²⁴ “*Tribal-based extrajudicial punitive measures continue to be taken, targeting families alleged to have relatives affiliated with or members of ISIL, in order to expel them or prevent them from returning to their areas of origin. On 30 July [2017], a letter of understanding to prevent the families of alleged ISIL members from returning to their areas and homes was reportedly adopted at a meeting of tribes in western Anbar allegedly attended by, among others, the Governor of Anbar*”; UN Security Council, *Report of the Secretary-General Pursuant to Resolution 2367 (2017) (S/2017/881)*, 19 October 2017, <http://bit.ly/2hDXpyL>, para. 57. “*Tensions relating to IDP returns to areas of Balad district [Salah Al-Din Governorate] reportedly increased once again on 7 February [2016], when a committee began the process of distributing compensation in the form of Fasl Ashayri (blood money) to families of victims of previous ISIL and al-Qaida attacks in Yathrib subdistrict and Balad district, south of Tikrit [Salah Al-Din Governorate]. The receipt of compensation by the victims or victims' families was a condition that had been negotiated earlier with residents of Balad and Yathrib to begin the return of a number of IDPs*”; UNAMI, *Report on the Protection of Civilians in the Armed Conflict in Iraq: 1 November 2015 - 30 September 2016*, 30 December 2016, <http://www.refworld.org/docid/5885c1694.html>, p. 26. See also, AFP, *Tribal Justice Awaits Returning Iraqis who Joined Daesh*, 14 November 2017, <http://bit.ly/2AVYjvi>; Wall Street Journal, *Among Iraqis Freed from ISIS, Resentment Festers*, 21 July 2017, <http://on.wsj.com/2tO3SY1>; UNHCR, *Iraq Protection Cluster: Salah Al Din Returnee Profile – March 2017*, 24 April 2017, <http://bit.ly/2io7j4M>; Wall Street Journal, *For many Displaced Iraqis, It's a Struggle to Go Home*, 23 June 2015, <http://on.wsj.com/1N5VuXh>.

²⁵ “*Before destroying his home, the tribe shunned him, leaving the former ISIS man unprotected in a country where tribal law often takes precedence over the law and the courts*”; AFP, *Tribal Justice Awaits Returning Iraqis who Joined Daesh*, 14 November 2017, <http://bit.ly/2AVYjvi>.

²⁶ *War on the Rocks, Harnessing Iraq's Deadly Array of Armed Groups after ISIL*, 15 December 2017, <http://bit.ly/2CUJnhw>; NINA, *Commander of Hawija Mobilization Forces: We Directed Our Forces to Protect the Families of Daesh Fighters from Revenge*, 8 October 2017, <http://bit.ly/2mwk3bo>; USIP, *Iraqi Tribes Sharpen Legal Tools to Root Out ISIS*, 22 June 2017, <http://bit.ly/2u9Yhf9>; Sanad for Peacebuilding, *Announcement of the Declaration of Principles and Mechanisms to Support the Rule of Law and Stability in Southwest Kirkuk*, 10 June 2017, <http://bit.ly/2yGh018>; Christian Science Monitor, *Iraq after ISIS: At Site of Massacre, Bridge-Building Replaces Blood Feud*, 22 November 2016, <http://bit.ly/2DkeELH>.