"No Security Without Us": Tribes and Tribalism in Al Anbar Province, Iraq

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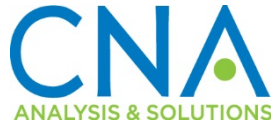
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Cover Photo: Anbar tribal leaders meet early in 2013 in Fallujah to discuss ways to support the Iraqi security forces. (Saif Ahmed/Mawtani).

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Glossary

Ayb	Shame
Arain or Harem	Sanctuary. Each tribesman's home is regarded as a sanctuary for those escaping from a feud or conflict.
'Arfa	The knowledgeable. Tribal jurists or adjudicators.
Asabiyya	Group feeling. The sense of belonging to a group. The maintenance of tribal solidarity against an outside threat.
'Atwa	A temporary cease-fire. Literally "gift"—the restraint of the injured party. During this time, the offender is in exile. Before coming to mediation, the offender's family asks for time to contact their tribesmen and makes arrangements. After the *'atwa,* the criminal can come back to his tribe but must stay away from the victim's tribe.
Balash	The social death suffered by refuge seekers no longer able to live among their tribe.
Dakhala	Entering protection. Offenders can seek protection from any stranger after committing a crime. The custom of *dakhala* represents one of the most important mechanisms tribes use to contain conflict and suppress violence. Its success lies in the fact that it is universally practiced; thus, everyone can offer it to others or seek it out when in need.
Daksheel	Refuge seeker. *Daksheel* may seek protection from any stranger after committing a crime.
Dakhal Ad-difa	Protector. After a crime has been committed, a *dakhal* must immediately assume the responsibility of ensuring the safety of his *daksheel* (refuge seeker).
Dam butlab dam	"Blood demands blood." An Arab saying, referring to the revenge obligation among a male's *khamsah* group.
Dira	A tribe's homeland or territory.
Diyya	Payment following death, insult, destruction of property, or accidents. *Diyya* also applies as payments for rights to safe passage through tribal territory. Payment of *diyya* does not necessarily signify an admission of guilt.
Eqrar al Fasil	The ratification of an agreement.
Faridya	Tribal judge.

Fasl	Rendering of judgment. "The solution" or agreement that ends mediation. This is a custom of compensation intended to prevent the escalation of conflict via payment for a wrong done where the culprit admits he was wrong. *Fasl* is also the term for a negotiated settlement that is paid after an intentional killing. *Fasl* does not have to be financial; exile is also common. This can also be the name for the entire conflict resolution process.
Al Fassala	The negotiators during a *fasl* ritual.
Hurmat al-belt	Sanctuary of the house. The owner is duty bound to receive any fugitive who asks for his protection. Tribal law regarding this custom is very strict. There are scores of authentically documented cases where culprits have sought refuge in the homes of their foes and been granted protection.
Intiqaam	Revenge for loss of honor.
'Ird	Family honor.
Jali	Exile. 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.
Khamsah	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.
Khulasiyyah	A signed agreement that states that the conflict over a particular crime is settled.
Al Mithaq	A signed compact agreeing to a cessation of fighting after settlement of a dispute.
Muzabin	Refuge seekers.
Al Nakhwa	Sense of honor. The offender's tribe goes to fellow tribes

	for help—to find a group that will go to the victim's tribe. The victim's tribe does not have to go to other tribes for support. They are in the power position.
Qabilah	Tribal confederation composed of multiple tribes, all of whom share a sense of solidarity and real or fictitious lineage.
Sharaf	A male's honor that can be won and lost and is determined by his own behavior. *Sharaf* is distinct from family honor (*'ird*), which is mainly controlled by the females in the family and can, for the most part, only be lost.
Sulha	The best of judgments. A ritualistic peacemaking or conflict management process between tribes or sub-tribes that deliberately excludes the government. Complete *sulha* ends all conflict between two parties, who afterwards decide not to hold a grudge against each other. Conditional *sulha* ends conflict between two parties according to conditions agreed upon during the settlement process.
Taqaliid	The traditions of the tribes.
Al Tha'r	Blood feuds or vengeance killing.
Urf or a'raf or adah	Tribal customary law.
Wasit or Arifa	Mediator or mediation.

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Introduction

In recent weeks, Sunni militants from the Islamic State of Iraq and al-Sham (ISIS)[1] have swept across northern Iraq, pushing aside the beleaguered Iraqi security forces (ISF), many of whom have simply dropped their weapons and fled. These advances have furthered the gains ISIS had made in the western desert province of al Anbar months earlier, and have positioned it to directly threaten Baghdad. While some commentators have downplayed the ability of ISIS to take Baghdad based on the large number of ISF (and Shia militias) in and around the capital, the Obama administration has responded by sending roughly 300 Special Forces advisors to Iraq to bolster the ISF in their attempts to defend Baghdad. However, even if the ISF successfully defend the capital, failure to reverse ISIS' current momentum in Sunni areas of Iraq could yet plunge the country into another civil war.

Luckily, the ISIS-led insurgency is by no means monolithic. Reminiscent of al Qaeda's rise in Iraq beginning in 2003, the ISIS campaign is currently supported by a host of actors, ranging from former Baathists to disaffected Sunni tribes at odds with a sectarian Shia government and its exclusionary policies. These alliances are born of convenience and a shared hatred of the current government of Iraq. But given the bloody history between Islamic extremists and al Anbar's tribes, each must be eyeing the other warily. As was the case during the years of heavy American presence in Iraq, a key to security going forward will be to peel away moderate Sunni tribes from the insurgency, turn them against the terrorists, and begin a legitimate national reconciliation process between Iraq's Sunni, Shia, and Kurdish populations.

While the path to enduring stability in Iraq involves effective national-level political accommodations, the task at hand is to extirpate ISIS to create space for negotiations among Iraq's various political and ethnic factions. Doing so will require partnering with local tribal forces in Sunni areas—and, if current news reports are accurate, the Obama administration is already considering ways to do so. If the president decides to take such actions, it will be critical for those implementing such a decision to understand the features of tribalism in Iraq and the role that tribal leaders play both in mobilizing the population and in resolving conflict.

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[1] ISIS is also sometimes referred to as the Islamic State of Iraq and Syria or the Islamic State of Iraq and the Levant (ISIL).

With that in mind, this paper is intended to serve as a primer on the salient aspects of tribalism in Sunni areas of Iraq, with an emphasis on al Anbar province. It provides a brief summary of the nature of modern tribalism, tribal structures and organization, and the role of tribal leadership. It also details important tribal customs designed to inhibit the escalation of violence. The research for this paper was conducted by the author while embedded as a CNA analyst with the U.S. Marine Corps in al Anbar province in 2007, and some of what follows first appeared in a chapter in Deborah Isser's *Customary Justice and the Rule of Law in War Torn Societi*es. We include this material as part of this occasional paper with permission from the United States Institute of Peace (USIP) Press Books.

Nature of Tribalism in al Anbar Today

Al Anbar province, which is about the size of North Carolina and has a mostly Arab Sunni population, has long been a tribal stronghold in Iraq (see igure 1). Every piece of terrain in al Anbar is claimed by a tribe or primary descent group.[2] Today, tribes such as the Albu Risha and Albu Mahal,[3] which played so prominently in U.S. counterinsurgency successes in 2006-2007 in such Anbari cities as Ramadi and al Qaim, are far removed from the nomadic military mini-states that T. E. Lawrence led against the Turks in the First World War. Sedentarization and urbanization have had transformative effects on the nature of tribalism in Iraq. Nomadic tribes rooted in pastoralism, commerce, and conquest have been replaced by settled village or city communities, mainly along the Euphrates River from Fallujah to al Qaim, consisting of extended families or clans.[4] Today's contemporary rural-urban hybrids are held together by traditional tribal characteristics of solidarity (*asabiyya*)[5], true (and more often fictitious) kinship ties, patron-client relationships, and tribal customs and laws.[6] Although traditional tribal organization is disappearing in the urban setting, modern tribes maintain elements of tribal culture and retain the ability to mobilize politically and militarily. In modern Iraq, tribalism lives in symbiosis with contemporary ideologies and social and political movements.[7]

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[2] William McCallister, "MNF-W Engagement: Engagement Model," *Small Wars Journal* (2007). Published electronically Jun. 2007, at www.smallwarsjournal.com/documents/ engagementmodel.pdf.

[3] For a list of the major tribes in al Anbar province, see the appendix.

[4] Faleh Jabar, "Shaykhs and Ideologues: Destruction and Reconstruction of Tribes under Patrimonial Totalitarianism in Iraq, 1968-1998," in *Tribes and Power: Nationalism and Ethnicity in the Middle East*, edited by Faleh A. Jabar and Hosham Dawod (London: Saqi, 2003), pp. 69-109.

[5] *Asabiyya* was defined by the historian Ibn Khaldun (1332-1406) as "solidarity, group feeling, or group consciousness."

[6] Reider Visser, "The Tribes of Southern Iraq: Resurgent Force or Anachronism in the Modern State?" in *Annual International Meeting of MESA*, Washington, D.C., 2008; Albert Hourani, "Conclusion: Tribes and State in Islamic History," in *Tribes and State Formation in the Middle East*, edited by Philip S. Khoury and Joseph Kostiner (Berkeley, CA: University of California Press, 1990), pp. 303-10.

[7] Jabar, "Shaykhs and Ideologues."

Figure 1. Al Anbar province, Iraq, with major population areas (in black) and tribes (in green italics).
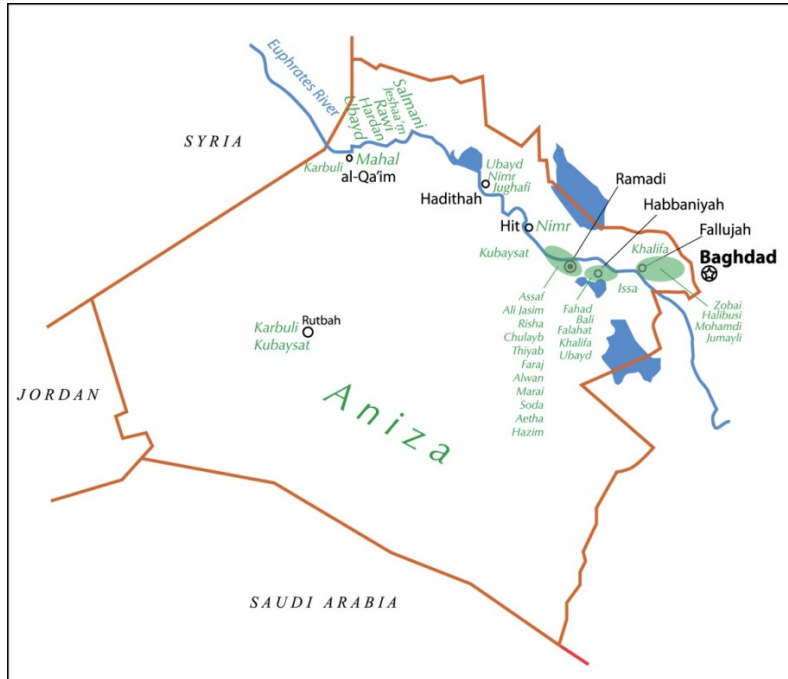
In recent decades, the tribal system has experienced something of a renaissance. According to some estimates, nearly 80 percent of Iraqis currently maintain some degree of tribal identity. In the wake of the first Gulf War and the subsequent weakening of Iraq's central authority, many Iraqis reestablished contact with their sheikhs and pledged allegiance in return for protection.[8] In al Anbar, the Sunni tribes became a crucial component in Saddam Hussein's strategy for maintaining control during the Shia revolt which followed the war. The Anbari tribal alliance was so important to the regime that al Anbar province came to be known to Iraqis as the "White Governorate."[9] Ultimately, the co-option and accommodation of Sunni tribes strengthened traditional institutions vis-à-vis the state. In the wake of the 2003 invasion by U.S.-led coalition forces, and the subsequent collapse of the central government, tribes continued to play an important social, political, and security role in al Anbar. With the state still struggling to provide security and basic services, tribes provide Iraqis with protection, access to economic resources, and a means for obtaining justice. As a consequence, the traditional patronage relationship between

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[8] Zeyad A. "Iraq's Tribal Society: A State within a State," www.baghdadmuseum.org/dq02.htm.

[9] Jabar, "Shaykhs and Ideologues."

tribal leaders and their constituents has been strengthened. Sheikhs represent centers of authority in competition with state officials, and the tribes form a parallel hierarchy that overlaps with government structures and political allegiances at every level.[10] Yet, the tribes are not separate from the rest of society (including urban populations) and should not necessarily be considered antithetical to the state. After all, many politicians, judges, and policemen themselves retain some degree of tribal identity.

Tribal Structure and Organization in al Anbar

The tribal system in al Anbar is a segmentary lineage system (see Figure 2). The smallest tribal unit is the house (*biet*), which resembles a single extended family with hundreds of members and performs a mainly economic function. The *biet* contains the *khamsah* group, which consists of all male children who share the same great-great-grandfather—in other words, all the men related through the paternal line to the fifth generation. The *khamsah* group acts as the key political/legal unit within the tribal segmentary system. It is committed to defending the interests of its members in any dispute and bears the obligation to avenge the death of a member (*al-Tha'r*) and to participate in any blood money payment (*diyya*) owed as a result of a member's action. Several *biet* make up a clan (*fakhdh*), and a number of clans make up the tribe (*'ashira*), which in al Anbar ultimately varies in size from a few thousand to more than 100,000 members. The *fakhdh* and *'ashira* perform political and military functions.[11]

Several tribes claiming common lineage or descent constitute a tribal confederation (*qabila*). The Dulaymi confederation, the predominant *qabila* in al Anbar, consists of about 50 main tribes and countless smaller clans and families. Many prominent Anbaris carry the last name "Dulaym," signaling that they belong to this broad tribal confederation. The unity of a tribal confederation is very loose and informal in military, political, and economic terms. Nevertheless, when two Dulaymi tribesmen meet, even if they have never heard of each other, they will feel a sense of affinity. While *asabiyya* among tribesmen of a *qabila* is always present, it becomes pronounced only when presented with an external hazard.[12]

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[10] David Kilcullen, *The Accidental Guerrilla* (New York: Oxford Press, 2009).

[11] William McCallister, "Anatomy of a Tribal Revolt," *Small Wars Journal* (2007). Published electronically Aug. 30, 2007, at www.smallwarsjournal.com/blog/2007/08/30-august-anatomy-of-a-tribal/.

[12] Sharon Otterman, "Iraq: Role of the Tribes" (2003). Published electronically Nov. 14, 2003. www.cfr.org/publication/7681.

Figure 2.   Hierarchy of tribal elements in al Anbar province, Iraq.
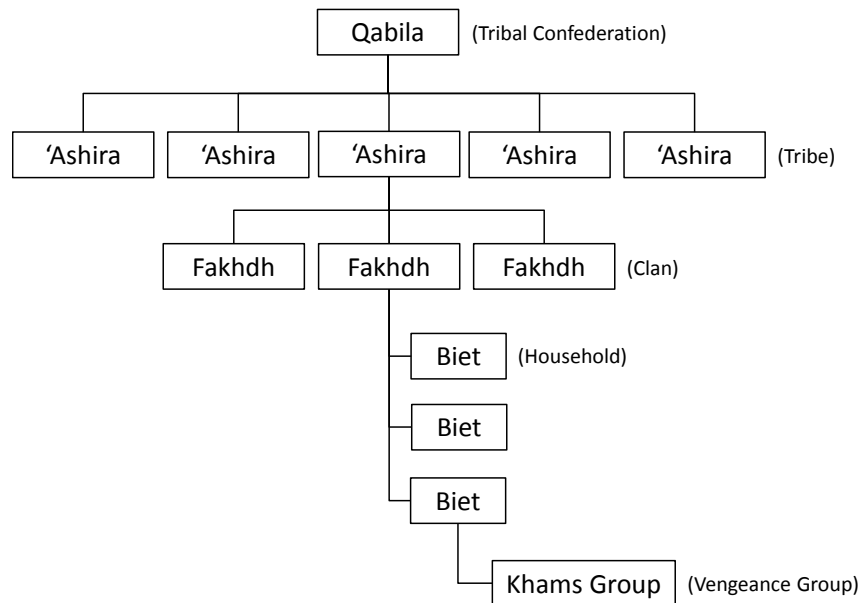
Neither the Anbari tribes' feelings of ethno-religious group unity or their membership in a confederation override their tendency to compete with one another.[13] According to Philip Carl Salzman's theory of balanced opposition, this segmentary model transforms threats and conflicts into an opposition between equals, usually between equal collective entities such as clans, tribes, and tribal confederations.[14] In al Anbar, tribes are in constant competition. Tribes challenge each other, form alliances, and break apart in order to improve their access to resources. A balance of power among lineages normally keeps the peace by guaranteeing that unjustified attacks will result in retribution and equivalent loss.

Tribal conflict resolution occurs at nearly every level of this lineage system. Sheikhs presiding over a settlement often reside one level above the perceived level of conflict. Located structurally equidistant in kinship from the parties in conflict, the sheikh is theoretically able to maintain his neutrality. Most disputes are dealt with at the *biet* or *fakhdha* level, more so than at the *'ashira* level.[15] Only cases of murder or

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[13] Todd Linn, "Iraqi Tribal Study – Al-Anbar Governorate: The Albu Fahd Tribe, the Albu Mahal Tribe, and the Albu Issa Tribe" (2006). Published electronically Jun. 2006. www.comw.org/warreport/fulltext/0709todd.pdf.

[14] Philip Carl Salzman, *Culture and Conflict in the Middle East* (New York: Humanity Books, 2008).

[15] Author interview with Iraqi judge, Ramadi, fall 2007.

serious inter-tribal disputes are typically dealt with at the *'ashira* level.[16] Following the sectarian violence that occurred in Baghdad during the civil war, the high demand for tribal dispute resolution resulted in more serious cases being resolved at the *fakhdha* level.[17]

Tribal Leadership

Each clan, tribe, and tribal confederation has its own leader, or sheikh.[18] Clan leadership is reserved to the outstanding *biet,* while the strongest clan provides the leadership of the tribe. In a tribal confederation, the strongest tribe holds the *sheikhal-mashayikh* position. The sheikh's position, though often hereditary, does not necessarily pass to the firstborn.[19] For centuries, sheikhs were appointed by a council of elders within a tribe. Many of the older sheikhs in al Anbar fled the country with the fall of the Baathist regime in 2003, or later during the insurgency. As a result, new sheikhs gained power and prestige by aligning with coalition forces and garnering reconstruction projects and employment for their tribes.

As the patrons of the community, sheikhs are traditionally responsible for protecting their people from harm and guaranteeing them a basic level of economic well-being. To maintain a credible deterrent capability, the tribal sheikh must be prepared to avenge every injury. Above all, a good sheikh is one who has established himself as a successful mediator, arbitrator, and decision-maker. Sheikhs can settle feuds, resolve property claims, and suggest marriages to strengthen tribal ties. They may also collect taxes for the benefit of their tribe, which are often used in funerals or for compensatory *diyya* payments in cases of disputes with other tribes. A sheikh's power is not limitless, and he may need to present matters for decision to a council of tribal elders or *majles.* Also, he must be attentive to the mood of his tribesmen: if he proves ineffective, he may lose the allegiance of his people and be replaced.

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[16] Katherine Carroll, "Tribal Law and Reconciliation in the New Iraq," *Middle East Journal* 65, no. 1 (Winter 2011).

[17] Ibid.

[18] Anbaris describe four levels of sheikhs. According to Sheikh Abdul Wahed of the Al-Janabi tribe (Fallujah, al Anbar), "I am what is referred to as a s*heikh 'aam* ("General" Sheikh), and we are generally heads over approximately four to five thousand family (tribal) members. There are only a few of us in the country. The next rung down is a *sheikh al-'ashira* (Sheikh of the Tribe). Below, *sheikh al-'ashira*, there is the *ra'is al-fukhth* (head of the branch or sub-tribe). Most, though, are the lowest rung of the tribal system, and these are *wajh as-sheikh* (literally, "face" or representative of the sheikhs). Author interview with LtCol (ret.) Patrick Carroll, fall 2007.

[19] Hanna Batatu, *The Old Social Classes and the Revolutionary Movements of Iraq* (London: Saqi, 1978).

Tribal Values and Social Norms

The Bedouin tribal ethos continues to influence all aspects of life in modern Anbari society. According to historian Phebe Marr, among the legacies of tribalism in Iraq are the "intense preoccupations with family, clan, and tribe; devotion to personal honor; factionalism; and above all, difficulty in cooperation across kinship lines."[20]

Group Identity and Generalized Reciprocity

Perhaps the most fundamental implication of tribalism is the strong sense of group identity and subordination of individual interests to those of the group. Tribesmen believe that their individual destinies depend on the character of their lineage and how it is perceived by members of other lineages.[21] The Bedouins' view is that a good and honorable life is possible only within the confines of one's own tribal people and that, therefore, refuge seekers, or *muzabin,* "are constantly tasting *balash,*" or social death.[22] Group norms guide individual behavior, and community and tribal affiliation is given priority over individual rights.[23] An expression of this collective identity is customary law, which regulates relations between the individual and the group. The focus of each group is to survive and prosper, and it can do so only if it preserves and reinforces the corporate pattern. As a consequence, Iraqi Arabs are subjected to strong family and community pressures to conform.

The pressure to conform and identify with the group is not just a matter of group survival—it is fundamental to the survival of the individual as well. In return for loyalty and solidarity with the group, the tribe offers protection. In cases of conflict with outsiders, tribesmen will mobilize quickly to defend their members. This generalized reciprocity works in absolute terms: whether the tribe is right or wrong, the individual must unconditionally support the tribe; likewise, whether an individual is right or wrong, the tribe must offer unequivocal protection. Iraqis say, "Support your brother even though he is guilty." 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.

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[20] Phebe Marr, *The Modern History of Iraq* (Boulder, CO: Westview Press, 2004).

[21] Salzman, *Culture and Conflict in the Middle East.*

[22] Sulayman N. Khalaf, "Settlement of Violence in Bedouin Society," *Ethnology* 29, no. 3 (1990): 225-43.

[23] Linn, "Iraqi Tribal Study."

Collective Responsibility and Blood Feuds

The concept of generalized reciprocity is most evident in the obligations of collective responsibility and vengeance. When individuals enter into conflict with outsiders, collective responsibility and collective liability are at work.

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. This system ensures a reasonable balance of tribal power, since the loss of one member causes the offending tribe to be comparably weakened in turn. In this way, no one group can gain primacy over the other.[24] 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. This loss of honor can immediately affect economic interests, political influence, and even potential marriage partners. A tribe's willingness to fight to defend its interests or obtain compensation must be known, so that others refrain from trespassing on the tribe. Thus, in the tribal context, not only is *al 'thar* a matter of vengeance, it further serves as a measure of deterrence and self-protection. Since retribution for an injury could be directed at any lineage member, tribesmen are far from indifferent about the acts of their kin, leading to considerable social pressure to avoid engaging in unjustified and risky behavior.

Still, there is a limit to the obligation of vengeance and collective responsibility. A reckless and violent individual who brings his tribe recurrent problems may find himself ostracized by his own tribe, thus relieving the group of blood liability.

Shame and Honor

Acquisition of honor, pride, dignity, and respect—and the converse (avoidance of shame, disgrace, and humiliation)—are key to the ethos of Iraqi tribal society.[25] Honorable behavior, or that which strengthens the group and serves its interests, is conducive to group cohesion and group survival, while shameful behavior tends to disrupt, endanger, impair, or weaken it.[26] Honor for the male, or *sharaf,* lies in fulfilling traditional masculine virtues of generosity, hospitality, self-esteem, honesty, integrity, safeguarding of women, and protection of the weak (see Figure 3). To

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[24] McCallister, "MNF-W Engagement: Engagement Model."

[25] David Pryce-Jones, *The Closed Circle: An Interpretation of the Arabs* (Chicago: Ivan R. Dee, 2002).

[26] Raphael Patai, *The Arab Mind* (New York: Hatherleigh Press, 2002).

increase his honor, a man is expected, above all else, to demonstrate courage in battle. Anbari sheikhs revel in their manhood and openly profess their readiness to take up arms against anyone who they perceived to have slighted it.[27]

Honor for a female lies in modesty and faithfulness. The absence of these virtues forfeits her honor and shames the men in the family, thereby permanently reducing another type of honor, *'ird,* which is held exclusively by male family members but is, to a large extent, determined by the behavior of female family members.[28]

Figure 3.   Model of honor as it pertains to shame among the tribes of al Anbar, Iraq.
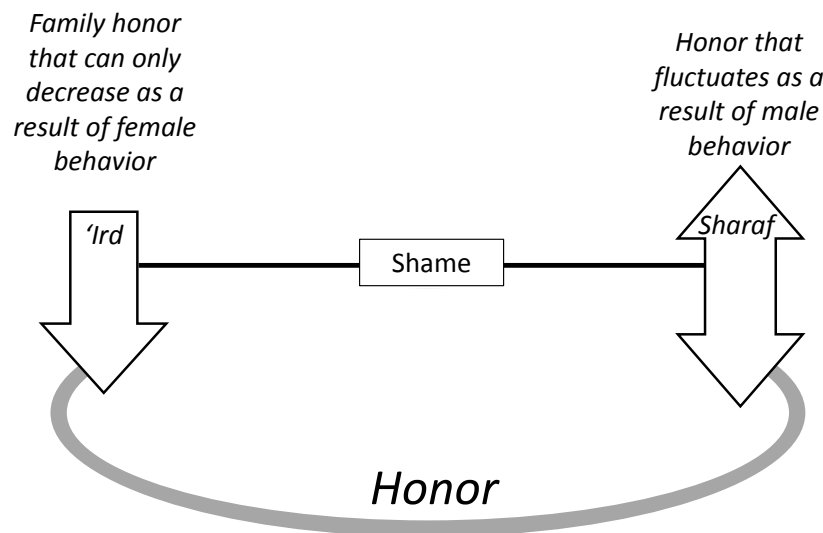
Hospitality

Practicing hospitality lavishly "whitens" one's face and can strengthen the group by securing potential clients and political allies in tribal disputes. Conversely, a show of inhospitality can "blacken" one's face and will reflect on the entire tribe or village, diminishing its reputation and negatively affecting its ability to form alliances or engage in economic activities with others.[29]

The rules of hospitality occasionally demand the greatest sacrifices from the host and may even oblige him to forgo an otherwise sacred obligation: avenging the

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[27] Patrick Carroll, "Sheikhs of Anbar," unpublished manuscript, 2010.

[28] Frank Henderson Stewart, *Honor* (Chicago: University of Chicago Press, 1994).

[29] Patai, *Arab Mind.*

murder of a kinsman. The law of entering protection, or *dakhala,* requires a man to receive into his company and protect anyone who comes and asks for sanctuary, even if the guest might otherwise be a legitimate victim of the host's blood revenge. The custom of *dakhala* represents one of the most important mechanisms that tribes use to contain conflict and suppress violence.[30]

The Role of Tribal Customary Law in Anbari Society

The primary function of tribal customary law in Anbari society is to preserve traditional social structures and values, thereby ensuring the strength and stability of the tribe. Tribal juridical traditions express and reinforce the shared values and beliefs of the tribe and provide sanctions for those acts that deviate from its norms.[31] Iraqi customary law and its associated conflict resolution procedures aim to satisfy the community's need for peace and stability, and each family's need for dignity and security. Tribal law is thus preoccupied with the restoration of harmony in the community, the maintenance of the *asabiyya* or group solidarity, and the return of honor to the victim and his family. Given these objectives, tribal law embraces restorative principles, with a focus on repairing broken relationships by bringing satisfaction and providing compensation for the harm done. Moreover, tribal law considers disputes in their broader social context, taking into account the greater interest of the community and not just the individual parties' rights and interests. According to one Anbari defense attorney interviewed by the author, "Tribal law is about stability more than it is about justice."[32] But to a tribesman, the restorative nature of tribal law and its emphasis on making a person whole, by returning honor, is true justice.

Tribal customary law is not limited to resolving conflicts that arise within the group, but also aims to limit conflict, as can be seen in the tribal customs of sanctuary (*dakhala*) and temporary truces (*'atwa*). According to former Anbar provincial governor Ma'moun Sami Rasheed al-Awani, tribal law can temper hatreds and prevent a feud from escalating.[33]

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[30] Khalaf, "Settlement of Violence in Bedouin Society."

[31] Walter Dostal, "Tribal Customary Law of the Zahran Confederation in Southern Hijaz," in *Shattering Tradition, Custom, Law and the Individual in the Muslim Mediterranean*, edited by Walter Dostal and Wolfgang Kraus (New York: Tauris, 2005).

[32] Author interview, Ramadi, fall 2007.

[33] Author interview, Ramadi Government Center, fall 2007.

The Process of Dispute Resolution and Reconciliation

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.[34] 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.

Conflict Control: Initial Calming Mechanisms

Standardized rituals understood by all tribes are designed to prevent the escalation of conflict before, during, and after dispute resolution and peacemaking. These customary rules are designed to temper anger and maintain honor until reconciliation or peacemaking can occur. For homicide or other serious crimes, customary obligations and rules amounting to sanctuary, temporary truces, cease-fire agreements, and temporary exile are used to prevent blood feuds and the spread of violence. This forces adversaries to stop fighting and enables them to do so without incurring shame associated with weakness or admitting defeat.[35]

Sanctuary and exile (dakhala *and* jali)

Immediately following a serious crime, the offender may seek *dakhala* (sanctuary) in a house in the community where the crime occurred.[36] The offender and, in some circumstances, his *khamsah* group are given full protection. The *dakhal* (or homeowner and protector) immediately goes to the victim's group to inform its members that the offender is his *dakheel* (protected). Sanctuary is a widely recognized and highly respected custom in Iraq. It is so strictly adhered to that offenders have even been known to seek *dakhala* in the very homes of their enemies. During the Baathist era, on many occasions, outlaws and individuals wanted by the government would take refuge with tribal sheikhs. Traditionally, *dakhala* is usually

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[34] Ann Blunt, *Bedouin Tribes of the Euphrates* (New York: Harper and Brothers, 1879).

[35] Linn, "Iraqi Tribal Study."

[36] Khalaf, "Settlement of Violence in Bedouin Society."

granted for three days, at which point the offender and his group must go into *jali* (exile) to a distant tribe outside their tribe's territory, or *dira*.[37]

The custom of *jali* has obvious functions. It secures immediate protection for the expelled offender and his family within the distant territory of their protector.[38] Second, *jali* protects the victim's group's honor by making its revenge obligation impossible to achieve, because the offender and his group are not within practical reach.[39] In certain cases, a payment, or "right of pasture," permits the offender's *khamsah* group to stay in their *dira* even before reconciliation has taken place.[40] The offender will likely remain in exile until the dispute has been resolved.

Intermediaries (al-mashaya), *cease-fires* (wujeh), *and temporary truces* ('atwa).

After a crime has been committed, a representative from the victim's *khamsah* group may go the offender's tribe and inform them that action will be taken against them: "We are now enemies."[41] To prevent retributive action, the family of the accused will immediately seek the help of local sheikhs, esteemed mediators, and other tribal notables. The tribe will send an emissary or a reconciliation commission (*al-mashaya*) to approach the aggrieved.[42] The initial goal of the *al-mashaya* is to separate the adversaries, making it physically impossible for them to continue the conflict. In cases where the victim's family refuses a peaceful settlement, family members will avoid the intermediary in order to not incur the loss of honor from refusing him the obligation of hospitality.[43]

During this initial phase, a preliminary cease-fire or *wujeh* (literally meaning "face," after the notables who agree to act as guarantors of the peace) is brokered, allowing the offender to seek refuge with a distant tribe. Once the accused is in exile, his group will ask for a temporary truce, or *'atwa* (literally meaning "gift" of restraint) that can last anywhere from one day to three months, to rally friendly members of the tribe before conflict resolution can begin.[44] This act of tribal mobilization is

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[37] Linn, "Iraqi Tribal Study."

[38] Khalaf, "Settlement of Violence in Bedouin Society."

[39] Linn, "Iraqi Tribal Study."

[40] Khalaf, "Settlement of Violence in Bedouin Society."

[41] Author interview with Iraqi judge with subject matter expertise, Ramadi, fall 2007.

[42] Al-Far'oun, *Al-Qadaa' Al-`Asha'iri*.

[43] Khalaf, "Settlement of Violence in Bedouin Society."

[44] Author interview with Iraqi-born cultural adviser, al Qaim, Iraq, fall 2007; Author interview with Iraqi judge with subject matter expertise, Ramadi, fall 2007.

referred to by some Iraqis, as *al nakhwa*, or "sense of honor."[45] Once the *'atwa* has been negotiated, conflict resolution or peacemaking ceremonies that lead to a permanent resolution can take place. Among some Iraqi tribes, once parties in a dispute agree to some form of mediation or arbitration, the offender's group may give a piece of cloth, often referred to as "the flag of Mohammed," to the victim's tribe, symbolizing a willingness to enter into conflict resolution. When the flag is posted by the victim's group, it means the dispute has been resolved.[46]

Customary Procedures and Facilitators for Resolving Disputes

Once the parties agree to resolve the dispute through peaceful means, several options are available. Mediation is generally used for minor cases, unintentional injuries, car accidents, or intra-tribal homicide. According to one informant, mediation is more appropriate if the offender has already confessed and lacked intent when committing the act.[47] Arbitration generally takes place if the dispute or crime is serious, the accused has not confessed, mediation was not successful, or the injured party makes a public accusation. Finally, in cases of grievous crimes such as homicide or blood feuds where there is concern over escalation of violence between tribes and families, the peacemaking traditions of *sulha* and *fasl* may be called upon.

Successful conflict resolution, to a great degree, depends on the respect, authority, and trust accorded the mediator or arbitrator. Dispute resolvers can be sheikhs, tribal notables, or specialized tribal judges sometimes called *wasit*, *al-farid*, or *arif*.[48] Depending on the circumstance, an *imam* or *sayeed* (religious leader) may also be called on to provide credibility and condone the proceedings under Islam.[49]

Peacemaking rituals: sulha and fasl

Serious disputes such as those involving homicide, injury, loss of honor, and intertribal warfare, which have the potential to disrupt entire communities and lead to further violence and long-term feuding, may be resolved through the peacemaking

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[45] Author interview with Iraqi informant, al Qaim, fall 2007.

[46] Author interview with Iraqi judge with subject matter expertise, Baghdad, fall 2007.

[47] Author interview with Iraqi judge, Baghdad, summer 2007.

[48] The position of tribal judge may often be hereditary, with sons of judges growing into the role through years of training. Among some tribes the tribal judge is the only one who can hear from the women or enter a woman's company without her father present. Source: Author interview with Iraqi judge with subject matter expertise, Ramadi, fall 2007.

[49] Author interview with Iraqi judge, Baghdad, summer 2007.

ritual of *sulha.*[50] The aim of *sulha,* meaning "peacemaking," is not necessarily to judge, punish, or condemn the offending party but rather to preserve the good names of both the families involved, restore lost honor, and reaffirm the necessity of harmony within the community.[51] *Fasl,* meaning "rendering of judgment," or "the solution," refers to the agreement that prevents the escalation of violence and ends the *sulha* process. The term is used by Iraqis to indicate both negotiated settlement that is paid (also known as *diyya*) and the process for determining its amount.[52] *Fasl* does not necessarily have to be a monetary payment; exile is also common. In Iraqi parlance, *fasl* refers to both the reconciliation process and the final outcome. In all cases, these peacemaking rituals take place within a communal environment, and generally do not involve government participation, as any need for government assistance would be considered shameful for the tribal leaders.[53]

There are two types of *sulha* ceremonies: public and private.[54] Public *sulha* usually takes place as a result of conflicts between two or more tribes, whether or not the specific guilty party is known.[55] In contrast, private *sulha* can take place between and within tribes when the crime and perpetrator are known, and is similarly intended to achieve restorative justice and prevent vengeance against the perpetrator's family.[56] The outcome of a *sulha* may be either partial (a peace treaty that suspends the fighting and establishes peace for a specific period) or comprehensive (a cessation of all hostilities and a formal end to the conflict based on a negotiated settlement).[57]

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[50] George E. Irani and Nathan C. Funk, "Rituals of Reconciliation: Arab-Islamic Perspectives," Kroc Institute Occasional Paper 19 (2000): 226-45. www.thefreelibrary.com/Rituals+of+reconciliation:+Arab-Islamic+perspectives.-a054895470.

[51] Muhammad Abu Hassan, *Turath Al-Badi Al-Qada'i [Bedouin Legal Heritage]* (Amman: Da'irat al-Thaqafah wa-al-Funun, 1987).

[52] Carroll, "Tribal Law and Reconciliation in the New Iraq."

[53] Kilcullen, *Accidental Guerrilla.*

[54] Irani and Funk, "Rituals of Reconciliation."

[55] Abu Hassan, *Turath al-Badi al-Qada'i,* 257-59.

[56] Ibid.

[57] Irani and Funk, "Rituals of Reconciliation."

Conclusion

Reversing the significant momentum that ISIS has garnered in recent weeks and eventually denying them sanctuary in Iraq will require the assistance of Iraq's Sunni tribes—as did the fight against al Qaeda in Iraq. Whether the United States steps in to help the government of Iraq engage these tribes remains to be seen, but if a decision is made to do so, it will be critical for policy-makers and implementers to have at least a working understanding of tribes and tribalism in Iraq's Sunni communities, and especially in the critical province of al Anbar. We recommend this primer as a pre-deployment reference, and field handbook, for those personnel.

Ultimately, long-term national stability in Iraq will only come from a legitimate national dialogue among Iraq's political elites that results in ethnic and religious accommodations. But at local levels, Iraq's tribes are fond of saying, "There is no security without us."

Appendix: Major Tribes of Al Anbar

Al Daleem

Albu Reesha

Al Halabsah

Albu Issa

Al Mahamda

Albu Nimer

Albu Mahal

Zoba'

Anza

Albu Alwan

Albu Ali Al Jasem

Al Salman

Albu Fahed (Ramadi)

Albu Khaleefa

Albu E'tha

Jamila

Al Janabiyeen

Albu Jaleeb

Al Kbeisat

Al Karabla

Albu Dhiab

Albu Mar'i

Al Jumailah

Albu Rudaini

Al-Falahat

Albu Issaf

Albu Assaaf

Albu Marai

Albu Thiyaab

Albu Hazeem
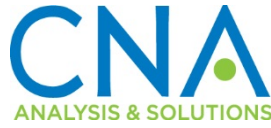
Albu Jaabir

Albu Sawda

Albu Ali

Ubayd

Kubaysi

Al Jagayefa

Albu Faraj

Albu Soda

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