

**Expert interview with Sheikh Nouri Al-Enezi (Prime Minister's Office, Tribal Committee)  
on the role of extrajudicial and mediative processes in the settlement of Iraqi tribal  
conflicts**

**1. Nature and frequency of conflicts**

• What are the underlying causes of conflicts settled with the help of sheiks, and how frequently do they occur?

- *The tribal Sheikhs mediate in resolving all kinds of conflicts that occur in the Iraqi society.*

*The frequency differs according to place and time.*

• Do these conflicts tend to occur in rural or urban areas?

- *Conflicts occur in rural as well as urban areas, but each has different nature and special ways to resolve them.*

**2. Conflict resolution rate**

• What is the success rate of out-of-court conflict resolution?

- *In my estimation, more than 80% of disputes are settled by tribal Sheikhs without resorting to the court at all.*

**3. Type and process of conflict resolution procedures**

• What is the role of Iraqi tribes and their sheiks in the management of internal and external conflicts?

- *Their role is very similar to that of firefighters, the Sheikhs of Iraqi tribes work permanently hard to contain any conflict that occurs and constitute a protective shield for the society that prevents prejudice to societal peace.*

• What conflict management traditions are used?

- *There are many traditions applied in conflict management, but in short, it is possible to talk about general steps, which can be summarized as follows:*

1. *Ensure that the parties to the conflict have a desire to resort to tribal traditions and that they will abide by what their elders (Sheikhs), decide.*

2. *Ensure that there is a third party as a guarantor for the parties in dispute, who will communicate with the parties individually to contain the situation and ensure NON-ESCALATION.*

3. *The context of the dispute and the nature of the events determine the guilty party, or decide to go to tribal arbitration.*

• What is the process of mediation under the traditional sulha procedure in practice?

1. *Identify the guilty party.*

2. *Request that both parties to stay calm and settle down (Atwa) after the start of the mediation process and no party has the right to violate this truce after that.*

3. *Determining the location and time of the reconciliation process, which will be mostly at the NON-guilty party's place as a kind of guilty confession from the other party.*

4. *Sheikhs from various tribes meet there to influence the course of the reconciliation process and ensure that the request for material compensation (if any), is not arbitrary.*

#### **4. Parallelism of state law and extrajudicial conflict management traditions at the tribal level**

Article 45 of the Iraqi Constitution of 2005 stipulates that:

The State shall seek the advancement of the Iraqi clans and tribes, shall attend to their affairs in a manner that is consistent with religion and the law, and shall uphold their noble human values in a way that contributes to the development of society. The State shall prohibit the tribal traditions that are in contradiction with human rights.

• How do state law and extrajudicial tribal conflict resolution traditions coexist in practice?

- *The tribal resolution of conflicts is an important factor that helps the stability of the society, and there is great satisfaction from the state and judicial organs with most of the solutions set by tribesmen to societal problems.*

- How is cooperation between mediating sheiks and the state judiciary structured in practice?
  - *There is no official organization for such relationship, but the judiciary always considers with satisfaction, the results of tribal sessions and adopt reconciliation as a positive reason to close some lawsuits, if there is no legal objection.*
- Are there references to the Sulha procedure in the Iraqi Civil Code, and if so, how does this play out in practice?
  - *The Iraqi legislator took into account the nature of tribal customs and adopted decisions for reconciliation between adversaries that take place in tribal councils as a type of dispute resolution.*

## **5. Practical relevance for Germany**

- What can we in Germany learn from traditional conflict management traditions with regard to the resolution of conflicts among refugees?
  - *We do not find a similarity between conflicts that occur in tribal society and those occurring between refugees.*