



**Max-Planck-Institut für ausländisches
und internationales Strafrecht**

International Alumni Summer School 2004

**Formal and Informal Means of Conflict Prevention
and Resolution in the Middle East**

Bad Staffelstein, 1-9 September 2004



**Jan-Michael Simon
Ernesto Kiza, Hassan Rezaei, Holger-C. Rohne**

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**MAX PLANCK INSTITUTE
FOR FOREIGN AND INTERNATIONAL
CRIMINAL LAW**

INTERNATIONAL ALUMNI SUMMER SCHOOL 2004

**FORMAL AND INFORMAL MEANS OF CONFLICT PREVENTION
AND RESOLUTION IN THE MIDDLE EAST**

BAD STAFFELSTEIN, 1.-9. SEPTEMBER 2004

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Report

1. Introduction

The International Alumni Summer School 2004 on Formal and Informal Means of Conflict Prevention and Resolution in the Middle East (IASS 2004) was held from 1-9 September 2004 in Bad Staffelstein/Germany. The IASS 2004 was organized by the Max Planck Institute for Foreign and International Criminal Law in Freiburg/Germany (MPI) under the direction of *Hans-Jörg Albrecht* and the coordination of *Jan-Michael Simon* in co-operation with *Ernesto Kiza*, *Hassan Rezaei* and *Holger-C. Rohne*. More than 40 scholars and practitioners from the Middle East and Germany actively participated in the IASS 2004. The venue was the historical Banz Monastery, a modern educational centre of the Hanns-Seidel Foundation. The financial support for the IASS 2004 was provided by the German Academic Exchange Service (DAAD).

The IASS 2004 follows the Experts' Seminar on Alternative Means to Retributive Justice in Violent Conflicts in the Middle East held in December 2003 in Istanbul. Both activities are part of a broad agenda of the MPI to bring together Alumni from the Middle East and other experts for an interregional and interdisciplinary dialogue on conflict prevention and resolution. In the Experts' Seminar in 2003 it was largely agreed by the participants that the wide range of traditional means to respond to violent conflicts in the Middle East can provide a vital cultural and social basis to build a bridge between tradition and the challenges that the present poses to the region's societies (see report at www.iuscrim.mpg.de/info/aktuell/docs/confIstanbul03_Report.PDF). At the same time it became clear that the exploratory approach of academic interchange between the Alumni is the appropriate means for uncovering the vast untapped sources of experience in the region.

Given the need to know more on local means to respond to violent conflicts in the region and due to the extent of lack of information, the exploratory approach of the Experts' Seminar in 2003 had to be extended both on the geographical and the substantial level. The Alumni and experts invited in Istanbul covered

- Afghanistan
- Egypt
- Iran
- Israel
- Jordan
- Pakistan

- Turkey
- West Bank & Gaza Strip.

In addition to these countries the IASS 2004 covered

- Iraq
- Lebanon
- Sudan
- Syria
- Tajikistan.

Based on the experience of the Experts' Seminar at the core of the IASS 2004 were the following goals:

- facilitating cooperation on issues of conflict prevention and conflict resolution both on the regional level between the Alumni as well as between them and Germany;
- improving the interregional and interdisciplinary dialogue;
- deepening skills in understanding and analysing structure and phenomenology of particular conflict settings in Middle Eastern societies as well as to the different approaches of conflict resolution.

2. Concept

Since the term and content of “conflict” is a complex reality with a multitude of dimensions, the contributions of the participants were guided by four main topical tracks:

- structural factors of conflicts
- setting and phenomenology of conflicts
- formal and informal approaches to the resolution of conflicts
- present challenges and future prospects of further research

This concept required the organizers to plan a multidisciplinary event where each Alumni and expert fits in the different tracks. Basically, participants from the following disciplines contributed to the IASS 2004:

- Law
- Sociology
- Social Anthropology

- Political Science
- Psychology
- Science of History.

In order to make the presentations from the different disciplines available to all participants and to ensure an interactive engagement, the IASS 2004 format consisted of three main activities:

- morning lectures
- working group sessions
- plenary discussions,

The IASS 2004 operated at a very high output level by treating and integrating all four tracks in one interrelated framework. In the morning lectures, two experts presented key topics of the corresponding track. Following the experts' presentations, the participants could address questions to the experts and discuss broadly the main points of interest. In the afternoon simultaneous working groups were organized for the presentation of research papers and in depth discussion. Each day concluded with a plenary session. In this session, one rapporteur presented a summary of the contributions in each working group, followed by a discussion in the plenary. A special session at the end of the IASS 2004 was devoted to define an agenda for future research and networking.

3. Participants

1. Abdullaev, Kamol	Professor of Political Science and History, Centre for Citizenship Education at the Tajikistan State University, Dushanbe	Tajikistan
2. Abu-Hassan, Mohammad	Abu-Hassan Law Firm, Amman	Jordan
3. Ahmar, Moonis	Director, Program on Peace Studies and Conflict Resolution at the Department of International Relations of the University of Karachi, Karachi	Pakistan
4. Al Kayar, Adel	Al Mostanseriyah University, Baghdad	Iraq

5. Albrecht, Hans-Jörg	Director, Max Planck Institute for Foreign and International Criminal Law, Freiburg im Breisgau	Germany
6. Al-Sarraj, Abboud	Professor of Law, Law Faculty of the University of Damascus, Damascus	Syria
7. Attaei, Hameedullah	Director, Rule of Law Program, Commission of the Afghan Human Rights Commission, Kabul	Afghanistan
8. Ayyubi, Sameera	Senior Project Officer, UNIFEM, Kabul	Afghanistan
9. Bar-Siman-Tov, Yaacov	Professor of International Relations, Department of International Relations at the Faculty of Social Sciences of the Hebrew University, Jerusalem	Israel
10. Braver, Efi	Deputy Chief, Restorative Justice Program, Ministry of Social Welfare, Israel	Israel
11. Fares, Samer	Professor of Law, Faculty of Law of the Birzeit University, Birzeit	Westbank
12. Gholami, Hossein	Assistant Professor of Law, Faculty of Law and Political Sciences of the Allama Tabatabaeei University, Teheran	Iran
13. Goldstein, Anat	Program Manager, Ashalim, Tel Aviv	Israel
14. Gurkaynak, Mehmet R.	Honorary President, Umut Foundation, Istanbul	Turkey
15. Hassanien, Emam-Khalil	Researcher, Egyptian National Centre for Social and Criminological Research, Cairo	Egypt

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|----------------------------|--|----------|
| 16. Hermann, Tamar | Professor of Political Science, Co-Director of the Tami Steinmetz Center for Peace Research
Members at the Faculty of Humanities of the Tel Aviv University, Tel Aviv | Israel |
| 17. Inceoglu, Asuman A. | Senior Researcher, Faculty of Law of the Istanbul Bilgi University, Istanbul | Turkey |
| 18. Irani, George E. | Professor of International Relations, Director of the Conflict Resolution Program at the Royal Roads University, Victoria | Lebanon |
| 19. Jamal, Amal | Professor of Political Science, Department of Political Science of the Tel Aviv University, Tel Aviv | Israel |
| 20. Jalali-Karveh, Mahmoud | Assistant Professor of Public International Law, Department of Law of the Isfahan University | Iran |
| 21. Khalidi, Dima | Researcher, Faculty of Law of the Birzeit University, Birzeit | Westbank |
| 22. Kiza, Ernesto | Researcher, Max Planck Institute for Foreign and International Criminal Law, Freiburg im Breisgau | Germany |
| 23. Landau, Simha | Professor of Criminology, Institute of Criminology at the Faculty of Law of the Hebrew University, Jerusalem | Israel |
| 24. Mahmoudi, Firouz | Head of Unit, High Council of Judicial Development, Ministry of Justice, Teheran | Iran |
| 25. Makki, Hassan | Professor of History, Faculty of Humanities of the International University of Africa, Khartoum | Sudan |

26. Miligui, Ahmed Essam El-Din	Professor of Criminal Law, Egyptian National Centre for Social and Criminological Research, Cairo	Egypt
27. Rabah, Ghassan	Judge, Beirut, Lebanon	Lebanon
28. Rahami, Mohsen	Professor of criminal law, Dean of the High Education Center of Qom, Qom	Iran
29. Rezaei, Hassan	Researcher, Max Planck Institute for Foreign and International Criminal Law, Freiburg im Breisgau	Iran
30. Rohne, Holger-C.	Researcher, Max Planck Institute for Foreign and International Criminal Law, Freiburg im Breisgau	Germany
31. Schelnberger, Anna Katharina	Section for North Africa and Middle East, Department of International Relations, Konrad Adenauer Foundation	Germany
32. Sebba, Leslie	Professor of Criminology, Institute of Criminology at the Faculty of Law of the Hebrew University, Jerusalem	Israel
33. Segal, Peretz	Program director, Ministry of Justice, Jerusalem	Israel
34. Shalhoub-Kevorkian, Nadera	Professor of Criminology and Professor of Social Work, Faculty of Law and School of Social Work of the Hebrew University, Jerusalem	Westbank
35. Shams, Mohammad Ebrahim	Assistant Professor of criminal law at High Education Center of Qom, Qom	Iran

36. Silverman, Emily	Head of Section USA, Canada, Israel, Max Planck Institute for Foreign and International Criminal Law, Freiburg im Breisgau	Germany/ USA
37. Simon, Jan-Michael	Head of Section Latin America, Max Planck Institute for Foreign and International Criminal Law, Freiburg im Breisgau	Germany
38. Soeger, Anja	Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), Regional Group 1020, Eschborn	Germany
39. Tellenbach, Silvia	Head of Section Turkey, Iran and Arab Countries, Max Planck Institute for Foreign and International Criminal Law, Freiburg im Breisgau	Germany
40. Trautner, Bernhard	GTZ Consultant, Section Regional Development / Middle East, Ministry for Economic Cooperation and Development, Berlin	Germany
41. Trotha, Trutz von	Professor of Sociology, Faculty of Social Sciences, of the University of Siegen, Siegen	Germany
42. Turner, Bertram	Senior Researcher, Max Planck Institute for Social Anthropology, Halle/Saale	Germany
43. Wardak, Ali	Reader in Criminology, School of Humanities and Social Sciences of the University of Glamorgan, Pontypridd	Afghanistan

4. Summary

The IASS 2004 was inaugurated by the director of the Max Planck Institute for Foreign and International Criminal Law, *Hans- Jörg Albrecht*. He welcomed the guests and introduced to the eight-day programme, encouraging all Alumni and experts to participate openly and active in the discussions. In his opening remarks, *Albrecht* underscored the need to establish public forums within the Middle Eastern academic centres on social control, conflict prevention and resolution and stressed the need to link these forums with the western research and academic centres. He expressed his hopes that the IASS 2004 would help to shed light on the structural factors, settings and the phenomenology of conflicts and how they can be controlled respecting human rights, in particular the value of human dignity. *Albrecht* concluded his introduction highlighting that for our intercultural understanding on crime and justice we need to discuss the interactions of formal and informal means of social control as an international research topic.

4.1 Structural Factors of Conflicts

In his lecture “History, the Kalashnikov Syndrome, and Conflict Resolution between the Global and the Local – some Sociological Remarks” *Trutz von Trotha* first stressed that the Middle East is a region in which inner conflicts, conflicts between states and the conflictual fabric of international relations are closely interwoven. Against this background *von Troth* discussed from a general analytical perspective the impact of historical experience and the presence of history – especially colonial history – for new forms of conflicts. In this context, violence related semantics of history face a constellation of phenomena which *von Trotha* refers to as the “Kalashnikov syndrome”. “Kalashnikov syndrome” describes a pattern of phenomena where violence, economic and social opportunities and the world of men who are physically most capable of violence are interlinked, erecting particular high hurdles on the road to peace. Finally *von Trotha* highlighted the rise of the local forces in conflict resolution as a direct result of the rise of the small war and the need for local and regional approaches rather than finding international and global solutions.

Bernhard Trautner presented an overview of the German Development Cooperation in the MENA-Region with regard to crisis prevention. According to *Trautner*, German developmental policies within the Middle East countries follow a two pronged approach, one on the institutional and conceptual level, and

the other on the operational level. *Trautner* explained that this strategy adopted by the German government in its Plan of Action in May 2004 is based on an extended definition of security which includes political, economic, ecological and social security and stability. *Trautner* stressed that the promotion of international law, the rule of law, and human rights as well as preventive policies, non-violent conflict resolution, civil sanctions, disarmament, arms control and arms export controls are at the core of the Plan of Action. Within this context *Trautner* described the work of the German Ministry for Economic Cooperation and Development (BMZ) as a strategy based on two levels. On the local level, the BMZ helps its partner countries in shaping global and regional frameworks for the support of development programmes and projects. Furthermore, and in addition to permanent monitoring, the BMZ assists non-governmental organizations in designing their work programmes. On the bi- and multilateral level, the policy of the BMZ supports the UN Millennium Development Goals (MDGs), the EU-Barcelona Process (MEDA 1994), the European Neighbourhood Policy (ENP) and the Strategic Partnership with the Mediterranean and the Middle East (both 2004). *Trautner* added that at the regional level, BMZ projects are oriented according to UNDP Arab Human development Reports (AHDRs). These projects are mainly implementing indirect actions such as education (primary and vocational), capacity building in indifferent sectors (water, economic frame conditions), and management of scarce water resources.

Yaacov Bar-Siman-Tov elaborated on “Structural and Cognitive Aspects of the Conflicts in the Middle East”. Focusing on conflicts on the international level, *Bar-Siman-Tov* suggested that in order to understand the phenomena of stability in the region, it is necessary to consider the relationships and connections that emerge between the regional conflicts. The basic argument was that the situation of simultaneous existence of various conflicts influences both the development of each individual conflict as well as the dynamics of their interactions. Whereas Middle Eastern conflicts can be classified on various bases, namely the political, economic, military, religious, ethnic and inter-community level, *Bar-Siman-Tov* approached the description rather from the perspective of actors involved in the different external or internal conflicts. Accordingly, he elaborated on several conflicts of high significance for the Middle East such as the superpower conflict, the Arab-Israeli conflict, the inter-Arab conflict, the Arab-non-Arab conflict (Iraq-Iran conflict), the Israel-non-Arab conflict (Israel-Iran conflict), the superpower-Arab conflict (U.S.-Iraq conflict), the superpower-non-Arab conflict (U.S.-Iran conflict) as well as the conflict between the U.S. and radical Islamic

groups. Focusing on their interlocking characters and their structural dimensions, *Bar-Siman-Tov* pointed to the ramification of developments between the conflicts, such as the diametrical effects of circumstances that bring forward an escalation for one conflict and de-escalation for another conflict in the region. He showed that conflicts in the Middle East can be of proxy nature, such as the Arab-Israeli conflict and the underlying tensions between the superpowers. *Bar-Siman-Tov* also pointed to the phenomena of formations of ad hoc coalitions between actors who are otherwise in conflict over issues of mutual importance, as it was the case e.g. between Israel and Syria during the latter's intervention in Lebanon in 1976 or regarding the support during the Iran-Iraq war. *Bar-Siman-Tov* stressed that in light of the dynamic situation in the Middle East such as the U.S.' hegemonic role and their occupation of Iraq as well as their conflict with radical Islamic groups, the continuous violent confrontation between Israel and the Palestinians, the emerging of Iran as a nuclear power, it is important to continue trying to understand better the dynamics of the mutual influences of the regional conflicts and how these dynamics affect regional stability.

Tamar Hermann elaborated on "The Role of NGOs in Conceptualizing Conflicts" focusing on the Israeli case. Having introduced the embedment of the Tami Steinmetz Centre for Peace in the Israeli civil society environment, *Hermann* explained why there is a societal need and desire to be organized in non-governmental frameworks. These frameworks can be rooted, for example, in the refusal of the political establishment or in the low accessibility of the political centre for interested actors of the civil society actors, i.e. due to an underprivileged sociological, economic, ethnic or religious standing. Standing in the immediate context of the lecture of von Trotha and Bar-Siman-Tov, *Hermann* further differentiated between the multiple domestic conflicts within the Israeli society, such as conflicts concerning loyalty and ethnicity, geographical and environmental matters as well as conflicts over economical and gender issues. *Hermann* divided them into those with an identity agenda on the one hand, and those with an issue based agenda on the other hand. Both agendas are pursued within the civil society concept but are presently unable to enter the centre of the political agenda, and accordingly are rejected in terms of public resources. According to *Hermann* this phenomenon is rooted in the dominance of the external Israeli-Arab/ Palestinian conflict which occupies most of the public's attention. However, *Hermann* concludes that the present activity of the Israeli civil society is not in vain: it rather prepares the framework and ensures, that if the external conflict will finally be resolved, the NGO environment will be able to present ready-made blueprints for dealing with those conflicts that are

presently considered as secondary conflicts – using the new structure of political opportunities – which will result in their re-positioning from the periphery closer to the political centre.

Amal Jamal explored some perspectives on “Structural factors of conflicts within the Palestinian society”, starting off with an overview of several rifts found within the Palestinian society. *Jamal* concentrated on the central splits within Palestinian political elites. His presentation facilitated the understanding of some underpinning socio-economic and socio-cultural factors as structural sources of conflict in the Palestinian society. *Jamal* highlighted the general impact, (dis-)unity and differentiations among prevalent political elites in a conflict. *Jamal* then turned to the existing hegemonies in the Palestinian society. First, he elaborated on the rift between the “returnees” on one side who returned from exile in the post-Oslo period and the “locals” who continued to live in the region throughout the years. The “returnees” aimed to maintain the hegemony of the dominant elite of the formerly exiled Palestine Liberation Organisation (PLO) as well as to re-institutionalize the power of the PLO in a new power structure. When returning from exile, this “Old guard” was challenged by the – mostly traditional – power structures that existed within the Palestinian “local” society. The latter increasingly claimed their share in the political power, especially in the establishing process of the Palestinian National Authority (PNA). *Jamal* explained that this resulted in a compromising power sharing with a continuous hegemony of the “returnees” by controlling key positions. Due to the then prevalent societal structures this power sharing has been characterized by features of a neo-patrimonial system where benefits are distributed according to family bounds. *Jamal* further elaborated on the National-Islamic elite split. Being evolved throughout the periods, the rift between the National-Islamic elite gained a new shape in the post-Oslo period. Besides the segmentations within the former PLO, the political rapprochement with the state of Israel led to sharp criticism among the Palestinian factions, especially from those of the Islamic movement who ultimately perceive the Palestinian cause as a matter of fighting instead of negotiation. Various studies showed that through the years the latter attitude gained increasingly public support. According to *Jamal*, the same holds true for the Islamic factions who provide active support to the society, specifically in the health and educational sector whereas the PLO and PNA failed to make such offers. As to the Al-Aqsa Intifada, although both the nationalist and Islamic factions are actively involved in the armed struggle, *Jamal* stressed the divisions between these groups.

Holger-C. Rohne discussed “Cultural Aspects of Conflict and Its Resolution with a Comparative Perspective on Sulha and Western Mediation”. Beginning

with general reflections on the impact of culture on the perception of conflicts and their resolution, he defined core terms in order to enable a comparative approach towards the two highly different conflict resolution mechanisms. *Rohne* introduced some cultural peculiarities, as e.g. the opposing perceptions and concepts of conflicts that can be found in Western and Arab societies. The former perceives a conflict as something normal and healthy as well as a potentially positive phenomenon which generally concerns the individual. Opposing to that, the latter understands a conflict as not normal and negative which endangers the collective and therefore has to be eliminated as soon as possible. Deriving from that, *Rohne* further elaborated on the related approaches to conflict resolution in the two cultural contexts which are significantly differing e.g. in terms of goals, basis and essential principles in the process. He explained that some aspects occur in both approaches but are based on a different understanding such as the content of the parties' autonomy. Especially the role of the third party and the process of decision-making remarkably reflect the related cultural dependencies. Finally, *Rohne* highlighted the potential of mutual enrichment between the two mechanisms which he deemed accessible for a systematic transfer, if contextualized (i.e. cultural peculiarities). In this regard, *Rohne* highlighted the unique importance of rituals that are an integral part in the Sulha process: Culturally embedded, the peculiar set of non-verbal communication tools provide more than the sole enforcement of the agreement; these tools constitute a 'reconciliatory' level of conflict resolution thus restoring the shaken social relationships, without an equivalent in Western mediation. *Rohne* concluded by saying, that discussion of perceptions of conflicts as well as goals and means of conflict resolution must take into account the particular cultural context upon which they are based.

4.2 Setting and Phenomenology of Conflicts

Hassan Makki elaborated on the "Conflict in Sudan with special reference to Islam, federalism and democracy". After giving a historical overview of Sudan, he addressed the crisis in Darfur or as he called it "the Southern Sudanese problems". According to *Makki*, the crisis in Dafur is a result of the lack of national identity between the Northerners and the Southerners, rooted in the colonial age. The British colonialists ruled the two regions during the colonial period separately. *Makki* stressed that no attempts were made by the British colonialists to unify the two regions. Rather, the colonialists restricted interactions between the Arabs Muslim North and the predominantly

Animists/Christian South according to the well known “divide and rule” policy present in all British colonies. *Makki* pointed out that the very aim of the colonialists and the Catholic Church in the South was to block Islam by creating a buffer zone in the South in order to hinder the interaction between Islam and paganism. According to *Makki*, today’s allegations of the West against the government in Khartoum are motivated by the Islamic background of the government. *Makki* suggested that the fundamental objective of the West is campaigning for the absolute separation of the state and religion which is practically impossible in Sudan, because religion in Sudan is a source of spiritual energy, motivation, mobilization and inspiration. He believes that the religion of Islam, Christianity and African religions are elements of stability in Sudan. Since the colonial period the Sharia, for instance, was a source of legislation. Concluding, *Makki* stated that a human rights based combination of Islam, federalism and democracy could solve the current problems of Sudan remedies.

Simha Landau elaborated on “Settings, Factors and Phenomena of Conflicts in Israel”. Based on theoretical concepts of conflict management and conflict resolution, *Landau* showed that the Israeli society deals with conflicts and the related concepts – namely self-help, avoidance, negotiation, settlement and toleration – on all societal levels both internally and externally. *Landau* first concentrated on the external Israeli-Arab/Palestinian conflict, introducing some of the effects which the Israeli-Arab struggle in general and the Al-Aqsa intifada in particular have had on the Israeli society, especially in terms of security and economic hardships. Concerning the internal conflict factors and phenomena, *Landau* discussed various divisions within the Israeli society. Starting off with an elaboration on the Jewish-Arab conflict within Israel, he stressed the growth of the societal rift due to ongoing violent confrontations inside and outside of Israel and its ramification in terms of social mistrust between these groups, discrimination against the Arab citizen and the mostly non-violent process of coexistence within Israel. *Landau* went on to introduce two conflict levels within the Jewish-Israeli society itself, namely the economic-ethnic conflict between Jews with Oriental and Western origin. Due to the differing educational and economical situation of the countries they were coming from, Oriental Jews found themselves in an inferior and disadvantaged position in comparison to their Western counterparts which had also a significant impact on their political and social position. Although the government attempted to overcome the rift between these groups, it is still present in the Israeli society. Turning to the level of normative or value system conflicts, *Landau* then described the rift between the secular and religious Jewish population. According to him, this rift caused a

general feeling among the secular population that their lifestyle is threatened by the concessions made to the religious parties (e.g. the ban on public transportation on the Sabbath, etc.) which has also led to expressions of aggressive sentiments. Finally, *Landau* focused on the political-ideological conflict between the political left and right in Israel. In the particular case of Israel, this conflict is of remarkable importance due to the fact that a main component of political disputes concerns the policy regarding the Israeli-Palestinian conflict. Conclusively, *Landau* presented some comparative data on the perception of the various societal conflict factors in Israel and discussed the means of conflict management employed to address these particular conflict settings.

Adel Al Kayar discussed “the Shiite-Sunni Conflict in Iraq”. He reported about his experiences in post Saddam Iraq regarding religious rivalry and sectarian conflicts, specifically between Shia and Sunni groups in the new political context. Although sharing a common history of values and practices in Iraq, he pointed out that the tension between Sunnis and Shiites are caused by internal and external political power factors. Concerning the internal factors *Al Kayar* identified religious authorities as the most important source of the sectarian conflicts. Regarding the external factors of the conflict between Sunnis and Shiites, *Al Kayar* stressed that the Sunnis were forced to define their position within the new power constellation under the Coalition Provisional Authority (CPA). In addition, he reported that the Iranian influence in general as well as the entrance of Iranian Intelligence members and Badr forces into Iraq, in particular, was another external factor to be taken into account for the sectarian conflict between Shia and Sunni groups. However, according to *Al Kayar* many external factors are not only determining the conflicts between Shia and Sunni, but also the tensions and conflicts between ethnic groups like Turkmen and Kurds in aftermath of the Saddam regime. Concluding, *Al Kayar* held that the conflict between Sunni and Shiite internally depends on the strength of the Iraqi Society (specifically regarding the followers of the former regime) and externally depends on the role of foreign powers in the internal affairs of Iraq (the neighbouring countries and the occupation forces).

Ghassan Rabah presented “A History of Conflict Resolution in Lebanon”. He emphasised that the sectarian composition of his country made it virtually impossible in the past to break away from its reputation of being a conflict ridden country. In Lebanon religion was never the main reason for conflicts. Rather religion was one element of escalation of the conflicts. *Rabah* presented an overview on the history of the conflicts in his country and explained how they

were resolved, either by internal mediation or through foreign intervention. He emphasised that although the Lebanese are convinced that they should all agree on a common formula, namely coexistence in order to prevent any potential conflict, the formula of coexistence was the reason for all the conflicts in the past. According to *Rabah*, coexistence is an obstacle preventing the Lebanese from forming a common identity and a common future. In line with this he stated that a common identity is virtually nonexistent as most Lebanese owe their alliance to their sect, instead of being committed to building a nation state. *Rabah* concluded in saying that although the Lebanese history is full of conflict he truly hopes that future will bring peace and prosperity.

Hassan Rezaei explained the role of Sharia discourse in producing violent conflicts in the Middle East. As a starting point he argued that the introduction of fundamentalist reading of Sharia in Iran, Sudan, Nigeria and Pakistan deepens ethnic and religious tensions throughout these countries, causing violent clashes and destruction, especially in post revolutionary Iran. *Rezaei* illustrated how the current mainstream Sharia discourse influences the Muslim minds and why without a deconstruction of the basic assumptions and presuppositions of Muslim jurists (in other words the ontology and epistemology of Islamic Sharia) peace cannot be achieved among Muslims. The present Sharia discourse in the Islamic countries is based on the assumptions that justify violence in human relationships. *Rezaei* argued, that this discourse is a power discourse, in the sense of domination, and stems from a culture of conflicting dualism and Manichaeism which, based on mistrust in humanity, claims that the human being should be corrected even by using violence, and that the protection of Islamic faith and established sanctities justifies the means. The critical position of *Rezaei* against existing official Sharia discourse provoked heavy reactions of some Muslim scholars in the panel who saw in his approach a big challenge for the established Faith of people in Sharia in particular, and Islam in general.

Silvia Tellenbach elaborated on “Blood feuds and how to bring them to an end – experiences from Turkey”. She reported that blood feud killings in the Turkish society, especially in South East and Eastern Anatolia (mostly among Kurdish tribes) are principally resolved outside the criminal justice system. According to *Tellenbach*, Islam does in no way promote blood feuds. Blood feuds seem to be omnipresent among the tribes living in the Arabian Peninsula at the time of the prophet. It was the Quran which restricted the killing of other persons. Blood feuds are mainly caused by the lack of resources and problems related to honour, in particular in the case of rape, kidnapping of a woman or women abandoning their husbands. Although the Turkish legislator had tried to solve the problem of

blood feud, specifically by means of applying criminal law, blood feuds still remain a problem. *Tellenbach* emphasised, that more complex societal and informal means of managing blood feuds are needed to solve the problem, such as strategies of avoiding face to face confrontation with the other family. In many cases it is the family of the first perpetrator which sells their estates and leaves the village to settle elsewhere. A different way to break the chain of retaliation is a marriage between both families. A girl of the first perpetrator's family is given to a man of the victim's family. Another way of managing the conflict is the reconciliation after negotiations lead by a mediator. This is a person of in a very high social position. It could be the chief of a tribe or a head of a famous family or a person coming from the religious sector. Today these tasks are carried out by mayors, governors, district administrators or members of parliament, the last often representing their clan.

Asuman Aytakin Inceoglu spoke about "Honour Crimes as a Social Conflict in Turkey". She analyzed the societal conditions in South-eastern and Eastern Turkey that lead to specific forms of cultural violence and collective mechanisms controlling women's behaviours and that facilitate violations of women's human rights. According to *Inceoglu*, Turkey witnesses a steady improvement in women's rights. The issue of "violence against women" has a prominent place in the national agenda since the 1980's, when Turkey ratified the Convention on the Elimination of All Kinds of Discrimination against Women (CEDAW). *Inceoglu* stressed that despite of this progress, customary and religious practice continue to be more influential on women's lives than laws, especially in South-eastern and Eastern Anatolia. In these regions polygamy, forced and/or arranged marriages in an early age, and the kidnapping of women is frequent. In some parts of these regions a woman failing to prove her virginity at the time of marriage, faces not only disgrace and humiliation, but she may even be killed ("honour killing"). *Inceoglu* said in South-eastern and Eastern cities, the number of young women and girls committing suicide is increasing year by year. According to *Inceoglu*, the majority of the people in this region who are under the influence of tribal and semi religious culture believe, that social order requires male control over women's bodies and sexuality, and that an uncontrolled female sexuality could lead to social chaos (fitna). *Inceoglu* concluded stressing that a woman has to feel like a free and equal individual whose gender is neither a misfortune nor a privilege.

Hussein Gholami elaborated on "Ethnical Conflicts in Iran". He presented a historical background of ethnicity in Iran. There are at least eight different ethnic groups living in different parts of Iran (Fars, Turk, Kurdish, Arabs, Turkmen, Baluch, Lor, Mazani, Gilaki, Tat and Taleshi). *Gholami* described the typology

of each ethnic group in terms of their geographical and demographical expansion. Historically the relations among ethnic groups in Iran were peaceful. However, in the 20th century conflicts and clashes among certain ethnic groups came up. *Gholami* differentiated between two major levels of conflicts, i.e. intra-group conflicts and inter-group conflicts with the ruling ethnic group (the ruling elite). In particular in the case of the Kurds-Fars conflict, *Gholami* referred to a series of powerful and interconnected political factors. *Gholami* identified as one major element in the eruption of the conflicts on the national level the policies of decentralization of the government. He concluded that although the Iranian community is a multi-ethnic society, the social and cultural borders among the ethnic groups intersect to the extent that socially and culturally, the Baluchi, Turkmen and Taleshi ethnic groups on the one hand, and Azaris, Fars people, Kurds, Lors and Arabs on the other hand, happen to have more similarities than differences between each other. According to *Gholami*, the social similarities among ethnic groups provide a very positive ground for the promotion of convergence and appeasing ethnic conflicts.

4.3 Formal and Informal Approaches to Conflict Prevention and Resolution

As a major interest, the IASS 2004 intended to promote the exploration and an in depth understanding of the most significant formal and informal means to respond to conflicts that can be found among Middle Eastern societies. The Istanbul Experts' Seminar revealed a remarkable variety of indigenous systems and regional distinctions still prevalent. Thus, a crucial task was to explore the present interplay between formal and informal approaches and the related societal reactions in the countries represented at the IASS 2004.

George E. Irani elaborated on “Rituals and Tradition of Conflict Prevention and Resolution in the Arabic-Islamic Culture”. Coming from a comparative perspective, he drew the attention to the major differences between western methods and approaches of conflict reduction and Islamic-Arabic methods such as different concept of individuality and role of the rituals. *Irani* stressed that mediation between Arabs and Israelis shall be conducted on the basis of values which all hold to be legitimate. For the role of the United States of America to be legitimate in Arab eyes, diplomats must adopt a more neutral stance – a stance which guarantees the fundamental human needs and the essential aspirations of all parties for self-determination, security, and development. According to *Irani*, in order for peace to take hold beyond small elites in Israel and in the Arab countries, policymakers and foreign mediators have to prod Arabs, Israelis, and

Palestinians to come to terms with their local histories and grievances, a process which may be facilitated through indigenous rituals and processes of reconciliation. The importance of perceptions and misperceptions, as well as communal psychological “baggage” must be taken into consideration too. By highlighting the problem of applying Western modes of conflict control and reduction in community-based societies where patriarchy and religious values are paramount, he criticized the application of what he called “Western conflict resolution techniques” in Arabic cultures since they are either too mechanistic or based on therapy-oriented formulas. *Irani* emphasized on the role of the United States of America in peacemaking in the Middle East and said that the US rather than merely viewing itself as a force for stability, should conceive of its role as active facilitator-helping to empower other countries to evolve culturally relevant models of reconciliation, democracy, and development.

Nadera Shalhoub-Kevorkian talked about “Tribal Justice and Gender perspectives in the Palestinian Society”. In her presentation, *Shalhoub-Kevorkian* explained how the Palestinian society has developed an informal legal mechanism to prevent the spilling of blood in cases of deviant or criminal actions by an individual family member under the Israeli occupation. She maintained that because of the lack of unity regarding the occupation and its consequences, the Palestinians in the West Bank and the Gaza Strip tend to use the informal system, including the tribal justice system, to solve their problems and conflicts. This system is based on the tribal/traditional courts that functioned in tribal society. *Shalhoub-Kevorkian* stressed the urgent need for a serious intervention in gender related issues. She was particularly critical in discussing how the formal and informal legal systems silence victimized women and how the patriarchal system is empowered during times of political instability. *Shalhoub-Kevorkian* concluded by saying that the formal and the informal legal system work hand in hand impeding that sexual crimes and ‘honour’ issues reach the formal system, leaving it to the power and discriminatory control of the informal patriarchal system to handle it.

Kamouldin Abdullaev explained the process of “Conflict resolution in Tajikistan” with a view to the Tajik civil war at the beginning of the 1990s and the subsequent peace process. *Abdullaev* stressed that the Tajik peace process was one of the best-coordinated UN-sponsored peace processes in recent history and provides an excellent example for a successful negotiation between a government and Muslim militants. The violent conflict between pro-Communist Kulabis and Gharmi-dominated Islamists was resolved with the support of the United Nations and regional governments (mostly Russia and Iran). The

international situation in the 1990s favoured the Tajik peace process. All governments in the region were concerned about the rise of the Taliban in Afghanistan and feared a “Talibanization” of Central Asia. This situation had a deep impact on the policy of the main sponsors of the conflict parties so that they reconsidered their activities in Tajikistan. The Tajik peace process was marked by a characteristic common to many peace processes all over the world, more exactly a collision between a ‘security first’ approach versus more wide, comprehensive, representative and transparent peacemaking. Despite of its numerous shortcomings, the Tajik model of inclusion seemed to be more promising form of dealing with Muslim policies in Central Asia when compared to the ‘combat/control’ strategy proposed by Tashkent. *Abdullaev* concluded however, that in the long-term, the important dilemma of secularism versus Islamism remains unresolved in Tajik politics because the inclusion of political Islam was induced and forced from outside and the peace process was not open and transparent for the Tajik public.

Firouz Mahmoudi discussed the topic of “Informal Justice in Iranian Law”. He explored informal means of conflict prevention and resolution in Iran both before and after Islamic revolution of 1979. *Mahmoudi* differentiated between informal justice in urban and rural areas of the country. He explained various systems of internal authority among tribes and rural communities in Iran, like Khans, Kadkhods, Rishsefids and Kalantars. According to *Mahmoudi*, until the revolution of 1979 Khans and landlords had the central power in the rural society. The Khans and landlords and kadkhoda had a strong power in the formal administration and informal jurisdiction for dispute resolution. But after the revolution of 1979 informal mechanisms were restricted in favour of formal institutions. According to *Mahmoudi*, this policy has changed recently. Whereas the Islamic government immediately after the revolution of 1979 tried to control all aspects of social life and therefore abolished all pre-revolution developments in the field of community based mechanisms of dispute settlement, now after more than two decades of the revolution the central government allows and encourages informal justice practices on the local level. Concluding, *Mahmoudi* highlighted major reforms currently underway in the Iranian legal system towards restorative justice and the expansion of the role of communities in conflict resolution.

Mohammad Abu-Hassan elaborated on “Tribal Reconciliation (El-Sulh) in Jordan”. He remarked that the most significant examples of conflict resolution among Bedouins are known as “reconciliation” (Sulh), and Kafalah, which guarantees the continuity of the reconciliation process and builds a solid base for

establishing peace between the parties of a conflict. The most common procedure for fulfilling this process is by consultation (Jaha) with the peacemaking group of mediators who negotiate between the disputing parties. *Abu-Hassan* described the Jaha as a tribal solution that enables parties in dispute to reconcile their differences. He illustrated both the peacemaking group, Jaha, and the reconciliation Sulh as remnants of an established tribal judicial system that existed in the Arabian Desert much before the modern state. He emphasized that even the suspension of the Jordan Tribal Law in 1976 had no significant impact on the practice of tribal customs and traditions in Jordan. Finally, referring to the transferability of tribal reconciliation to other contexts *Abu-Hassan* pointed out that Western intellectuals have studied the concept of Jaha and its role in Sulh in Arab Moslem societies in order to analyze the elements of success to be included in international strategies of conflict resolution in the region. Concluding, *Abu-Hassan* encouraged western researchers to study *Sulh* in the Bedouin life.

Efi Braver spoke about “Victim Offender Mediation and Restorative Justice Programs in Israel”. From the perspective of coordination and active mediation in criminal cases, *Braver* focused on the Victim-Offender-Mediation (VOM) program in Israel which is pursued among juveniles. Successful in other countries, VOM gained attention also in Israel and is now being implemented. It follows the general goals and methods of Western mediation which were presented in an overview by *Braver*. The process of implementation is accompanied by research evaluating the effectiveness of VOM in terms of conflict resolution, satisfaction etc. One of the main results of the evaluation was that the victim’s most important goal for participating in VOM was not to gain compensation but that the offender accepted the responsibility for the harm caused by his action. Finally, *Braver* presented a typical case of VOM. This example highlighted the particular tasks of VOM in Israel within a society with contrasting cultural backgrounds and resentments. The case study further illustrated the creative and multifaceted potential of effective conflict resolution which, according to *Braver*, is not provided by the formal justice system.

Samer Fares introduced aspects on “Formal and Informal Justice in the Palestinian Society”. In order to ensure the understanding of the complexity of intermingled concepts within the Palestinian justice system, *Fares* first elaborated on conceptional definitions of “formal justice” and “informal justice” in the Palestinian case. This was followed by a chronological overview of influencing factors and legal frameworks that were influencing the Palestinian justice system over time and are still present when discussing justice systems in the Palestinian context. Due to rapid political changes and the challenges for the

state authority, the concepts of formal and informal justice experienced highly varying levels of interplay. During the Jordanian period (1948-1967) the interplay between these concepts was determined by the authority of Jordan and the transfer of the Jordanian legal system (e.g. of the Jordanian criminal code). The take over of authority by Israel from 1967 led to the prevalence of the informal justice system over the formal one due to the mistrust of the Palestinian society in the modified system supervised by Israel. The Oslo accord brought forward the establishment of the Palestinian Authority (PA) which took over the judicial authority in the areas under its control. Generally, the PA supported the work of the local *sulha* committees, which in return served as an indirect way to strengthen the PA's power, especially in the areas that were not transferred to its control (Area C and – most importantly – Jerusalem). To the extent that the PA established new courts, the Palestinian confidence in the formal system grew, especially in civil and commercial matters. However, the intifada in the year 2000 changed the judicial situation completely. The continuous struggle with Israel led to the destruction of PA's facilities, which led once more to an increasing importance of the informal system to solve all kind of conflicts. After an overview on the impact of informal mechanisms in the practiced formal system, *Fares* concluded that the codification of *sulha* has to be considered in any of the future PA's legislative activities.

Mohsen Rahami discussed the topic "The Constitution – a Means of Conflict Prevention in Iran". He focused primarily on the question of religious-ethnic plurality of the Iranian society as a matter of concern for drafters of the Iranian Constitution both before and after revolution of 1979. Building upon the ideals of the Islamic Revolution, in particular of the theory of Islamic Government of Ayatollah Khomeini as an indigenous, integrated model of democracy and Islam, *Rahami* discussed the role of the Constitution of the Islamic Republic of Iran in settling ethnic, factional and religious conflicts throughout the country. *Rahami* argued that the Iranian Constitution, despite of its shortcomings especially regarding the question of neutrality of the state, in itself can provide a fair and balanced opportunity to all minority and ethnic groups to actively participate in political and social activities without resort to violence. *Rahami* discussed three key principles of Iran's Constitution, namely democracy, respect of Islamic faith and liberty and their impacts on the avoidance and settlement of racial and religious conflicts. He highlighted the efficacy of the intervention of clerics in conflict prevention and resolution and criticized the Constitution that had changed the position of the clergy from a mediator to a political actor. *Rahami* concluded that in particular this position of the Constitution must be reformed.

Mohammad Ebrahim Shams elaborated on “the role of Sadat in resolving conflicts in holy cities of Iran”. After presenting an overview on the background of retaliation in Islam, *Shams* stated that despite retaliation being part of the criminal law of Iran, there are considerable means for reconciliation and to rescue of the killer from being killed himself. The constitution of Iran does not permit the Iranian government to abolish retaliation. However, according to the Sharia the respected members of community like Sadat and clerics may intervene in a case actively and support the criminal justice system by all means to resolve the conflict and prevent retaliation. The presentation of *Shams* culminated in the presentation of a video with the title “reconciliation at last-minutes” from the Iranian Judiciary. In this film a real case of a murder facing the death penalty was documented. *Shams* emphasized that the role of Sadat depends on the extent of religiosity in the cities, being most effective in the holy cities of the country.

Abboud Al-Sarraaj elaborated on “Alternative Means for Retributive Justice in Violent Conflicts in Syria”. *Al-Sarraaj* examined both formal and informal means of conflict prevention and resolution in Syria. He reported that although the Islamic Law (Sharia) was the basis for the Syrian customs of reconciliation (Sulh), the secular legislation and judiciary played a significant role in Syria regarding alternatives to retributive justice. *Al-Sarraaj* said that Islam admits the waiver of retribution as a result of the victim’s pardon or his/her acceptance of blood money brokered by the family or wise men. The Penal Code of 1949 contained provisions that admit for dropping a charge for offences requiring an application for prosecution in case of a subsequent reconciliation contract between the victim and the offender. In addition, the judiciary pays considerable attention to agreements between the perpetrator and the victim within the context of Art. 243 (“mitigating reasons”) of the Penal Code. In particular and despite the absence of a legislative provision concerning grave crimes such as murder and severe injuries, *Al-Sarraaj* emphasised that the judiciary paid considerable attention to agreements between the perpetrator and the victim even in cases of serious violence. He concluded, stressing that the aim of any reform should be not to solve the problems of violent disputes through imposing or intensifying punishment but rather through conciliation, tolerance and pacification and focussing on the resolution of the basic conflict that led to the crime.

In his short intervention *Mehmet R. Gurkaynak* emphasized on the value of the “social psychological” paradigm in conflict resolution and that the focus of any intervention should be on formation and change as well as tools to overcome cultural differences. *Gurkaynak* pointed out that, since the cultural differences are in large part emotionally based, efforts to overcome these differences must focus

on the emotional level. He concluded by saying, that more than individual psychology social psychology is critically important.

Bertram Turner examined the legal sphere as an arena of competition between the transnational active Islamist Salafiyya movement and other legal actors, including the state, for control over local legal practice in a rural area in southwest Morocco. He said that over a period of several years Salafiyya activists became increasingly influential in rural Morocco. Based on his observations in the field, *Turner* showed how external intervention in local conflicts leads to a re-evaluation of social and religious behaviour and to the negotiation of how socially deviant action is perceived. He described how transnational religious activity in a plural local legal setting is creating new plurality and provoking a reconsideration of local legal identity and social belonging instead of homogenizing legal practice in accordance with religious dogma. *Turner* concluded that the challenge of the folk legal repertoire by Salafiyya indoctrination generated a sort of ritual reinsurance of the law as a community task, even in cases where the arena was provided by the state court. According to him, in the competition over legal superiority, the position of the Salafiyya had been transferred on the level of equity. From then on it was one competing set of Islamic and legal ideas among others propagated by one organization on the village level among others.

Sameera Ayyubi reported about the role of women in formal and informal justice in Afghanistan. She said that war, internal displacement, insecurity, the poor economic status of women, forced marriages, and violence against women are the main determinants for women's marginalization and invisibility in all spheres of social life in Afghanistan. However, *Ayyubi* stressed the undeniable significant role that Afghan women played in preserving to a certain degree social order and education for peace in the family during the armed conflicts and the collapse of the communities in the 1980s and 1990s. *Ayyubi* then criticised the Jirga, a Pashtun model that is a local/tribal institution of decision-making and dispute settlement in Afghanistan, as a male-only institution. She draw attention to the fact that in serious murder cases, Jirga might be employed to prevent retaliation by marrying women from the offender's tribe to close relatives of the victim. According to *Ayyubi*, these practices not only violate the law of the Afghan state but also constitute a violation of human rights. Although she acknowledged the significant progress regarding situation of women since the emergence of Afghanistan's interim and then transitional government in 2002, she stressed that many problems regarding women's full and equal participation in society still remain. In many parts of the country, women confront violence.

Women in particular at the local and tribal level are voiceless and humble. They are the less-powered body of families who are supposed to obey all decisions. Literacy rate among Afghan women is 5% which is major factor for the lack of access to justice of women. *Ayyubi* concluded by saying that, although the new Afghan constitution provides the citizens of Afghanistan, both men and women, with equal rights and duties before the law, the situation of inadequate access to justice, traditional practices affecting women's life, violations of their rights and women abuse are the main hurdles for women's peace making role in the Afghan society.

Peretz Segal gave a presentation on "Restorative Justice in Jewish Tradition and the Present Israeli society". *Segal* introduced the understandings of retaliation in ancient Middle Eastern legal systems, focusing on the comparison of principles of the Law of Hammurabi and the principle of talion in Jewish Law. He showed that although the principle of talion is the basis of Jewish criminal law, its historical developments and contexts as well as its Biblical interpretation coincide with some of the modern themes of restorative justice. *Segal* then turned to the present situation, stating that Jewish Law on the one hand and the Israeli legal system on the other hand, are disconnected issues. *Segal* said that although Israel is a Jewish state, and the Basic Law of Humane Dignity and Liberty articulates that it is a Jewish and democratic state, there is no sequence between the historical corpus of Jewish Law and the criminal law of Israel, which is based mostly on the English Law. Accordingly, Jewish Law in Israel is merely a cultural matter of the traditional literature that the legal system may reflect on but it is neither part of the positive law of the State nor a customary practice in the communities that adhere to Jewish tradition. Present activities in terms of Restorative Justice in Israel are therefore generally new features with no direct connection to Jewish Law or tradition. *Segal* presented the current situation and developments in Israel regarding the establishment of Restorative Justice mechanisms. Based on the support of the Ministry of Justice support, these efforts concentrate on introducing principles of Restorative Justice to the Israeli society (especially regarding intercultural settings) and establishing programs and centres as well as training mediators. Further, guidelines for cooperation in the formal justice system are developed. All stages are accompanied by research which evaluates the impact and effectiveness of these programs.

Emam Khalil Hassanien elaborated on "The Interrelation between Sinai Sulh Traditions and the Formal Justice System". He explained how the cycle of revenge and blood feud in the south of Egypt led the legal authorities to rely on customary solutions based on reconciliation as a way to achieve social security

between tribes and families. *Hassanien* highlighted the importance of custom in the Bedouin society as the main social mechanism to achieve social control, widely accepted among the Bedouins to maintain their social structure. Custom councils are composed by a group of custom judges. The composition of the custom councils depends on their subject matter: there are custom judges for personal affairs and others for the property related disputes, attacks against women, as well as for murder and other violent crimes. The procedures differ according to the subject matter. Concluding, *Hassanien* highlighted the limited role of customary procedures in serious conflicts that affect the society as a whole and stressed that those conflicts which have an impact beyond the tribal relationships are to be addressed by the formal justice system.

Moonis Ahmar elaborated on the “Interrelationships between the Formal and Informal Justice in Pakistan”. He presented an insight into the complexities of the justice system dealing with violent conflicts in Pakistan. *Ahmar* reported that Pakistan is a unique country in terms of dealing with conflicts. There are at least four parallel systems: Criminal and Civil law, Sharia laws, the Ombudsman office, the Jirga and the Panchayat system. According to *Ahmar*, there is a lot of confusion and chaos in the administration of justice and the process of conflict resolution because all the four systems are contradictory to each other. *Ahmar* reported that the vast majority of people who want to seek justice are denied justice. Most important, he considers the tribal and feudal complex of Pakistan as the major impediment for establishing a uniform and fair system of justice. The dichotomy in Pakistan’s justice system is the sole reason for a dysfunctional judiciary of the country. *Ahmar* referred to two categories of the informal justice system: the Jirga system and Panchayat system. He clarified that Jirga and Panchayat systems have no religious mandate and are purely based on traditions and culture of various groups of people living under the influence of tribal and feudal settings. However, those who support Jirga and Panchayat try to give the impression that they are merely practicing the Islamic way of justice. Concerning the role of woman in conflict resolution *Ahmar* said women are the victims of conflicts in a male dominated chauvinistic society and are unable to play a role in conflict resolution. Moreover, the killing of women in the name of honour continues across the country. In the last part of his speech, *Ahmar* examined the Shia-Sunni conflict and its origins in the Pakistani society. As a consequence of the Martial Law regime of General Zia under the guise of Islamisation which coincided with the outbreak of the Islamic revolution in Iran in 1979, Iran covertly supported Shia groups in Pakistan, whereas the Sunni groups were supported by Saudi Arabia and Iraq; Pakistan became a battleground of sectarian conflict with foreign states supporting their respective groups.

Ali Wardak examined the “Structures of Authority and Informal Conflict Resolution in Afghanistan”. He described the key dimensions of justice in post-Taliban Afghanistan, namely Sharia, traditional institutions of informal justice (*jirga*), the Afghan interim legal framework, and human rights standards embodied in the new Constitution. Despite of their apparent incompatibly, *Wardak* tried to give a coherent model for a new justice system in post-war Afghanistan. According to *Wardak*, there should be a meaningful interaction between local-traditional institutions of informal justice like *Jirga* and a district level court of justice, on the one hand, and between these two and human rights standards, on the other. He claimed that this model has the capacity to deliver justice expeditiously and in cost-effective ways. *Wardak* stressed that this model has a strong potential to act as a channel of communication between ordinary people and a modern participatory state in new Afghanistan.

Anat Goldstein presented her paper on “Family Group Conference – an Example of Informal Conflict Resolution in Israel”. With a special focus on juvenile cases, *Goldstein* highlighted that Family Group Conferencing (FGC) brings together “East and West”. The goals pursued by FGC are to empower the youth’s family in the response of his deviant behaviour and to support the restorative process between the parties both materially and immaterially leading to “reintegrative shaming”. *Goldstein* understands the FGC process as an initial process that leads to the healing of the victim in terms of emotional hurts and thus seeks for emotional resolution of the conflict. She explained that her FGC project is focused only on juveniles and still in its pilot phase. According to her, so far the overall results of the project are increased feeling of safety on the victim’s side as well as the preventive effects on the offender’s side and further beneficial influences in his/her social performance concerning family relations, school etc. After being perceived as successful in its pilot phase, the FGC was granted further support of both the Israeli Ministries of Welfare and Public Security. Furthermore, new initiatives are started in Israel to use FGC in other fields, as e.g. conferencing as an alternative to pre-trial juvenile detention. Finally, taking into consideration possibilities of a cross-cultural application of FGC, *Goldstein* presented a case study of the FGC project in which Christians, Muslims and Jews joined together in correcting the harm and restoring relationships for the sake of the victim and the young offender.

Dima Khalidi introduced into aspects of “Tribal Justice in the Palestinian Society”. After defining core terms, *Khalidi* gave an overview on basic principles of tribal law, mainly rooted in Bedouin tradition. Deriving from findings of a current research project, she elaborated on some sociological aspects of informal justice mechanisms in the Palestinian society. She pointed to the fact that formal

and informal means are valued by the actors of the two systems as complementary rather than conflicting. *Khalidi* stressed that the factors that influence the people's choice to resort to informal means of resolving disputes go beyond the formal judiciary's capacities and enters into the realm of religious, political and societal issues. Thus, a major concern of the research is to reveal the particular impact of social variables including gender, age, financial and social status, geographical differences as well as political affiliation. According to preliminary findings, *Khalidi* reported the significant role that the parties' societal power often plays for the outcome of a settlement, pressuring both mediators and the weaker party to give in to demands of the influential party in order to restore the societal order. Further, she pointed to findings that show the increased importance of religious principles in resolving disputes according to perceptions within the Palestinian society. Differences in responding to conflicts could also be seen between the town's and the camp's population as well as in terms of age and gender. The latter regularly goes along with the denied hearing of particularly female-victims as such or silencing them altogether, especially in cases of sexual offences. *Khalidi* concluded with an outlook of the study's further research goals, such as to give recommendations how the judiciary can be tailored to take into account the Palestinian legal tradition, both in formal and informal terms.

Hammeedullah Attaei presented a paper on "The Role of Sharia in post-Taliban Justice". *Attaei* explained how violent conflicts arose from problems with land ownership during the reign of Taliban and how the Taliban resolved these conflicts by applying harshly the Sharia. Regarding the present situation, *Attaei* reported that the illegal occupation of properties by so called Mujahedin commanders is one of the main challenges to the Afghan peace process. Following this introduction *Attaei* focused on the rule of law under tribal culture in Afghanistan. He reported that the Sharia-based penal system follows tribal culture firmly and thus varies from one place to another according to the tribe's circumstances. Although according to the law, Afghan courts must reject any intervention, as a matter of fact no ruling is possible without consulting with the tribal elders. According to *Attaei*, it is the forceful compromise under the high pressure of tribal authorities, rather than the court rulings that are most effective in resolving conflicts in Afghanistan.

Mahmoud Jalali-Karveh elaborated on "Theory and Practice of Arbitration as a Peaceful Means of Dispute Settlement in the Iranian Legal System". *Jalali-Karveh* focused on the arbitration from the Islamic point of view since the Iranian formal legal system is an amalgamation of traditions and scholarship emanating from the Islamic Sharia. Before Iran had an organized system of law

disputes were resolved by religious authorities or Ulama or Mojtahedin, the head of the village or Kadkhoda, and senior people or Rishsefidan. Any decision made by the arbitrators was religiously obligatory and the parties had to comply with. *Jalali-Karveh* reported that due to the Islamisation of the arbitration rules after the revolution of 1979, arbitrators that lacked the Islamic qualifications were no longer accepted. Its main institutions were abolished and according to the 1980 Law on the Establishment of General Courts disputes which used to be within the jurisdiction of arbitration institutions were now in the jurisdiction of the courts of peace. It took more than two decades time that Islamic lawmakers understood that experiences from the old institutions of arbitration (dating back to the Constitutional Revolution form 1906) were valuable. This new understanding led the judiciary to re-establish the old system which was in force before the Islamic Revolution. Finally *Jalali-Karveh* criticised that Iran has been arbitrating on the international level since 1981 about 4000 disputes with the United States of America, whereas in the domestic field Iran does not consider arbitration to be important for the resolution of disputes.

Ahmed Essam El-Din Miligui elaborated on “Conflict Settlement in Egypt in a Comparative Perspective”. He highlighted the role of Islam as an integrated part of the Egyptian heritage in the settlement of conflicts throughout history. *Miligui* emphasised that there exist many examples in the Islamic heritage that show clearly how the principle of peaceful conflict settlement can be applied even in cases of intentional killings, but also in other fields of law such as family and civil matters in general. He highlighted that Islam considers criminal cases –as a rule – to be a private matter between the two parties of the offence. Regarding conciliation in the formal justice system *Miligui* referred to a law from 1998 that introduced a new system for conciliation in the criminal procedure of Egypt. Accordingly, courts are allowed to mitigate the sentence if they recognize the existence of a conciliation agreement. Finally *Miligui* presented the results of his field research on conflict settlement in Sinai whereby he studied the impact of the official law and law enforcement authorities on the life style of the tribes in Sinai. The main conclusion from this research was that the valley people prefer in many cases to resort to the customary judge in order to have a quick settlement for the dispute. According to *Miligui*, this also holds true not only for disputes between the new settlers in Sinai and the original inhabitants but between the new settlers themselves. Concluding, *Miligui* remarked that the government officials themselves resort to the customary judge to settle many disputes, especially if these disputes are of great seriousness such as cases of murder and vendetta.

Leslie Sebba presented reflections on “Formal and Informal Conflict Resolution in International Criminal Justice”. *Sebba* examined related international approaches of conflict resolution from a victim’s perspective. He started with the observation that retrospectively recent decades have witnessed a revolution in the attitudes of western criminal justice systems to the victims of crime. The victims’ situation and status has been increasingly discussed and considered in terms of the domestic evidence and sentencing system as well as on the procedural level. On the international level, *Sebba* observed similar trends: the domestic western justice systems the international tribunals in the post-World War II period, was solely offender oriented and reparation was generally demanded by the prevailing state rather than the victim. *Sebba* pointed to the later changes, such as the UN’s ‘Declaration on the Rights of Victims of Crime and Abuse of Power’ in 1985 and emphasized that the framers of the Rome Statute were clearly aware of the victim-oriented developments in numerous domestic criminal justice systems and – beside others – provided for the establishment of a Victims’ Trust Fund which is viewed as – although not sufficient – a significant contribution to a more comprehensive approach to conflict resolution. The Statute is also accessible for other means supporting the resolution of conflicts, such as apology or symbolic gestures. *Sebba* concluded that the dichotomy between formal justice – as handed down by a court – and informal dispute negotiation can be resolved by a formula that incorporates both types of institutions (as shown in the establishment of the Truth and Reconciliation Commission in South Africa) while the particular perceptions and subsequent developments in the societies concerned should be taken into account. However, *Sebba* stated, the significance of the establishment of the International Criminal Court (ICC) should not be underestimated, particularly in the innovatory role bestowed upon victims and its impact in terms of conflict resolution.

Finally, in a short intervention *Jan-Michael Simon* reflected on the “Role of Criminal Law in Post-Conflict Societies”. He pointed out that international criminal justice, which is rooted in public international law, is based on the European model of the State and criminal law as the most obvious expression of the State monopoly on the use of power to guarantee social peace. As a result, the co-existence and parallel functioning of both State-administered systems of criminal justice and forms of local justice practices are excluded from the current international criminal justice paradigm. Hence, they play no part in international criminal justice efforts to cope with violent conflicts. *Simon* explained that, at best, forms of local justice practices designed to cope with the violence are

considered as complementary to the predominant model of practicing international criminal justice, as had been pointed out recently in a report of the Secretary-General of the United Nations. *Simon* remarked that in countries where forms of local justice play a mayor role in the organisation of society, the application of the current international criminal justice model to conflicts in these countries is likely to obstruct its own declared goals, hindering local justice practices to establish social peace in post-conflict situations. *Simon* stressed the need of generating knowledge about the interrelations between plural legal approaches in coping with the violence of conflicts.

4.4 Multicultural Aspects in Conflict Resolution

Following the participant's request an additional session on multicultural aspects in conflict resolution was held ad hoc. The session started with an introductory lecture of *Amal Jamal* on "Multicultural Aspects in Conflict Resolution". *Jamal* elaborated on some of the main characteristics of multicultural theories. He pointed to the critique of liberal and republican principles of social and political order, namely the neutrality of the state, the politics of elite hegemony and reflections on individual and collective rights. *Jamal* further explored the interdependency of individual and society, specifically in terms of cultural peculiarities in the context of identity and the "choice for the good". He then introduced to the dialectics of difference and the indispensability of recognition, especially regarding the centrality of identity as a factor which is conditioning human relations. In a second part, *Jamal* elaborated on the implications and the importance of multiculturalism for conflict resolution in both theory and practice. He stressed the essential component of mutuality in terms of inclusion and equalizing as well as sharing responsibility and power. Concluding, *Jamal* stressed that multiculturalism helps to incorporate formal and informal cultural forms of the pursuit of justice and conflict resolution.

5. Results

- The IASS 2004 succeeded in building a bridge between Alumni and experts from the Middle East who, due to the conflicts in the region, are normally not able to meet and debate on these conflicts. The fact that clergy men from Iran and orthodox Jews from Israel met for several days in a catholic Monastery in Germany to discuss "Formal and In-

formal Means of Conflict Prevention and Resolution in the Middle East” tells its own tale.

- The IASS 2004 offered an open and stimulating atmosphere. The discussions were both broad and deep, cross examinational and informative. Participants acknowledged that there can be nothing more important for scholars, policy makers, and commentators of Islam and its relationship with the West and Israel than to engage in open and honest intellectual discussions.
- The IASS 2004 provided a unique forum for Alumni and experts from different disciplines to discuss and plan future collaboration as well as expand cooperation with other researchers in the field of conflict prevention and resolution.
- All participants of the IASS 2004 stressed the need to expand the regional collaboration on conflict prevention and resolution in the Middle East. It was also emphasised that Western universities and research centres must contribute in collaborative efforts in theory and practice regarding the prevention and management of conflicts in the region.
- All participants acknowledged that the academic approach to the IASS 2004 topic has the potential to build bridges of understanding and tolerance between the three significant Abrahamic religions i.e. Muslim, Jews and Christians in the region. One of the main conclusions to be drawn from the discussions at the IASS 2004 is that these three religions share many cultural roots, including a shared commitment to peace, and that clashes between them are conflicts about symbols rather than of civilizations.
- Participants of the IASS 2004 identified an urgent academic need to deepen studies on the institution of Sulh as an indigenous, comprehensive concept of peace among almost all Muslim countries. Due to the strong involvement of families, elders, tribal and religious authorities in the process of conflict prevention and resolution in the Middle Eastern societies, grass-root training on conflict resolution skills is needed for community members in general and religious mediators in particular. The latter must combine knowledge from fields related to conflict resolution and from Islamic Sharia.

- Regarding the substance of conflict management models in the Middle East, the discussion at the IASS 2004 clarified that the Islamic model of conflict resolution and management could hardly be based on the classic principles of the western models of mediation or conferencing, especially regarding its role in family and inter-personal conflicts. The participants' reports revealed that any Islamic model relies on community involvement at all stages of the process and that it encourages solutions based on religious principles and morals, not necessarily western-like individually-based interests.
- Regarding the terminology to be employed in a dialogue on and subsequent research activities about conflict resolution in the Middle East, in order to avoid the confusion over what the term "conflict resolution" means, the discussion at the IASS 2004 showed, that it may be more effective to use terms like Sulh, practice of Ijtihad (or reinterpretation of sacred texts for new solutions), and Shura (or consultative decision-making). This is because an Islamic model will include more techniques than just mediation or arbitration as understood in western context.
- Concerning the broad topic of conflict resolution in general and the context of international criminal justice in particular, the discussions at the IASS 2004 clearly ratified the hypothesis expressed by the organizers, that without a maximum knowledge of local relations and local conflict regulation, including the knowledge of local institutions of conflict regulation, and without the inclusion of local institutions of conflict regulation in international strategies, any support from abroad will fail as a result of local resistance. Social and cultural anthropologists are essential for this local knowledge.

6. Prospects for Further Research

The historical and cultural richness of the Middle Eastern societies and the role of the state in Islamic countries provide a unique basis to understand the variety of means to address violent conflicts in different societies with a common background. The events in Istanbul and Banz in the last two years explored the ground on which future research could be based on, specifically in the field of comparative criminal law and criminology. One of the main future research prospects resulting from the explorative activities in the region is to study the

role of and relationship between retaliation, mediation and punishment in addressing violent conflicts. Whereas Criminal law science can contribute to explaining the normative concepts of criminal punishment and violence as well as its relationship with mediation and reconciliation, Criminology can produce knowledge on how and to what extent criminal punishment contributes to social order and compliance with law and how order is established if formal systems of enforcement and justice are only one alternative among others. Therefore, research on “retaliation, mediation and punishment” offers a fertile scientific ground, where the productive combination of the comparative approach and the unique interdisciplinary environment of the MPI for Foreign and international Criminal Law can generate both an empirically rich and theoretically innovative research outcome.