CIVIL PEACE IN THE WEST BANK AND GAZA STRIP

RECOMMENDATIONS FOR CIVIL SOCIETY INITIATIVES

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EXECUTIVE SUMMARY

The concept of “civil peace” proposes that civil society actors can take steps to diminish internal violence when the state is unable to do so itself.¹ In line with this concept, the USAID-funded Civil Society and Democracy Strengthening (CSDS) and Supporting the Rule of Law Reform (known locally as “Arkan”) projects investigated the roles civil society can play to prevent escalation of chaos and violence in the West Bank and Gaza Strip (WBG) and to help rebuild a society with respect for the rule of law and effective and legitimate judicial and policing apparatuses.

The formal justice system is the primary means of ensuring public order and civil peace, along with a citizenry that respects this system of justice and the rule of law. But according to civil society leaders and legal experts interviewed for this study, the formal system of justice in the WBG has not assumed this role fully. Therefore, the research team explored the possible roles of non-governmental actors in creating civil peace in the short term and in strengthening the formal system of justice in the medium to long term.

In parallel to the formal system of justice, the team found, informal and traditional systems of justice remain effective in reducing violence and increasing social harmony, especially with respect to non-political crimes and murders. However, informal mechanisms do not guarantee due process, are easily manipulated by the powerful, and largely fail to protect more vulnerable members of society (e.g., women, children, and weaker family members) at levels established as international standards by treaty and practice. Over the long term, no informal system can fully supplant a formal governmental system that builds and maintains the rule of law.

In recent years, Palestinian civil society organizations (CSOs) have launched a number of initiatives targeting the peaceful resolution of internal disputes, crime reduction, adherence to international human rights and justice standards, and government reform. Civil society leaders and legal experts indicated that some initiatives have successfully encouraged changes in government policy and practices and have generated a general appreciation for the importance of rule of law and peaceful dispute resolution. However, CSO interventions to reduce factional violence at the national level have had only a limited effect, primarily through pressure on political leaders to resolve differences peacefully. At the local level, however, CSO initiatives such as the development of codes of ethics have had greater success in reducing conflict.

Based on the findings of four workshops with civil society leaders and legal experts, more than two dozen interviews, and the analysis of the research team, the projects propose four general and five specific recommendations for civil peace initiatives. On the general level, recommendations include:

¹ The term “civil peace” was coined in 1971 by African novelist Chinua Achebe in a short book by that name. The book explored issues of violence and civil society in post-independence Nigeria on the heels of the Biafra civil war.
• Civil society and donors should continue supporting the formal system of justice because there is no civil society alternative to functioning state institutions in the long term.
• Civil society and donors should consider carefully the political context for planned interventions.
• Initiatives will be more effective if CSOs and donors improve networking and coordination and if they engage grassroots organizations such as women’s clubs, cooperatives, charitable associations, and youth clubs.
• Civil peace initiatives should also involve religious leaders.

Following from the general recommendations, the research team developed specific recommendations for short-term and longer-term civil society initiatives. If factional tensions and the Palestinian Authority financial crisis continue in the short term (i.e., during 2007), civil society efforts should be concentrated in four areas:

• Developing codes of ethics and civil peace committees.
• Continuing advocacy efforts opposing internal violence and encouraging the peaceful resolution of disputes.
• Investigating creative approaches for engaging and perhaps professionalizing informal systems of justice.
• Monitoring adherence to the rule of law, international standards of justice and human rights, and political tolerance.

If an agreement between major factions is sustained and the development of Palestinian Authority institutions is reinvigorated, the research team recommends five areas where civil society can have an impact on civil peace in the medium to long term (the second half of 2007 and beyond, although some initiatives could start earlier, if the situation warrants):

• Conducting advocacy and legislative reform efforts related to civil peace.
• Building a culture of the rule of law, peaceful resolution of disputes, and deepening democratic values in society, including but not limited to initiatives related to:
  — Rule of law awareness for the general population.
  — Rule of law education in schools.
  — Legal education in universities and better connecting university law schools to the general population.
  — Methods of encouraging the use of professional mediation, as opposed to traditional forms of mediation (sulha), to resolve disputes.
• Supporting long-term efforts to strengthen the formal system of justice and rule of law.
• Developing a citizens’ movement for civil peace.
• Reinvigorating voluntary work.
SECTION I: INTRODUCTION AND METHODOLOGY

A. Introduction

This assessment focuses on roles civil society can play in preventing escalation of chaos and violence and in helping to rebuild a society with respect for the rule of law and effective and legitimate judicial and police apparatuses. The study’s conception of civil society encompasses non-governmental organizations (NGOs), think tanks, and charitable organizations, as well as grassroots women’s and youth clubs, unions and syndicates, traditional family structures and dispute-resolution mechanisms, local government units, and universities and university institutes.

The assessment did not consider violence resulting directly from the conflict with Israel or inter-Palestinian violence outside of the WBG. Instead, the research team addressed the various dimensions of internal violence, including but not limited to:

- Conflict between political factions and militias.
- Conflicts between clans (extended family units).
- Violence within families (including violence against women and children).
- Other forms of crime and violence internal to the Palestinian territories.

The assessment has four main sections. First, we provide overviews of the level and sources of intra-Palestinian violence. Second, we look at existing systems of formal and informal justice and dispute resolution. Third, we examine current civil peace initiatives in Palestinian civil society. Finally, we put forward recommendations about opportunities and limitations for civil peace initiatives in the WBG. The appendices include a list of workshop participants and interviewees.

This report is the product of a joint effort between the USAID-funded CSDS and Arkan projects. Dr. Glenn E. Robinson of the Naval Postgraduate School, Dr. Feras Milhem of Birzeit University, and Walid Salem of The Palestinian Center for the Dissemination of Democracy and Community Development (Panorama) contributed to the study, working closely with the project teams. The final study and its recommendations are the product of the entire team and do not necessarily reflect the individual views of any one author.

B. Methodology

The primary research for this study was conducted during 12 days of fieldwork in December 2006, with supplemental information gathered in January and February 2007. The assessment process had three elements. First, the team conducted four workshops with civil society actors and legal professionals — one each in Gaza, Nablus, Ramallah, and Bethlehem. Second, the team conducted face-to-face interviews with individuals who interface with or are close observers of Palestinian civil society. This included academics who follow civil society and issues pertaining to the theory of civil peace, local government officials who regularly interact with civil society actors, and individuals connected with both the formal and informal legal sectors. Third, we conducted a modest amount of document review and research to complete the assessment.
The workshops focused on potential civil peace interventions in the context of three scenarios about the political environment: that the situation deteriorates further, that it remains about the same, and that it improves in the months ahead. We focused first on what could be done in 2007, with limited discussion of initiatives beyond that point.

Adhering to the U.S. government’s “contact policy” for the WBG, the assessment team did not meet with representatives from Hamas, the Palestinian Front for the Liberation of Palestine, the Democratic Front for the Liberation of Palestine, or other organizations prohibited under the contact policy or their affiliated CSOs. The team also did not meet with employees of the Palestinian Authority, including members of the police and serving officials of the Ministry of Justice. As such, the assessment does not incorporate the views of these players into its analysis and recommendations. Following the contact rules, we also did not contact the Palestinian Central Bureau of Statistics (PCBS) or the Ministry of Justice for data on crime and court performance that has yet to be publicly released.
SECTION II: LEVELS AND SOURCES OF INTERNAL VIOLENCE

Almost all workshop participants and interviewees said that the level of civil peace has deteriorated since the January Palestinian Legislative Council (PLC) elections. Quantitative evidence shows that declines in civil peace started earlier but that there was an increase in murders resulting from factional disputes in 2006.

According to the Palestinian Independent Commission for Citizens’ Rights (PICCR), the number of murders in WBG rose to 322 in the first 11 months of 2006, compared to 176 murders in 2005. As shown in Exhibits 1 and 2, most of the increase in the murder rate can be attributed to a rise in the number of murders due to political reasons and the “misuse” of weapons. Further, a total of 40 of 41 of the deaths resulting from political disputes and 71 of 83 deaths from the misuse of weapons were in the Gaza Strip. A majority of fatalities from family and clan disputes were also in Gaza (54 of 88), showing a higher level of violence in Gaza generally.

Exhibit 1. Murders in WGB, 2005 and 2006

<table>
<thead>
<tr>
<th>Year</th>
<th>West Bank</th>
<th>Gaza</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>79</td>
<td>97</td>
<td>176</td>
</tr>
<tr>
<td>2006</td>
<td>86</td>
<td>236</td>
<td>322</td>
</tr>
</tbody>
</table>

Data for 2006 through November.
Source: The Palestinian Independent Commission for Citizens’ Rights

Exhibit 2. Murders in WBG by Cause in the First 11 Months of 2006

<table>
<thead>
<tr>
<th>Cause</th>
<th>Number of Murders</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political Disputes</td>
<td>41</td>
</tr>
<tr>
<td>Random Chaos and &quot;Misuse of Weapons&quot;**</td>
<td>83</td>
</tr>
<tr>
<td>Family Disputes</td>
<td>88</td>
</tr>
<tr>
<td>Other causes (ordinary criminal activity, honor crimes, security related, and unknown causes)</td>
<td>110</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>322</strong></td>
</tr>
</tbody>
</table>

Data through November 2006.
Source: The Palestinian Independent Commission for Citizens’ Rights

The increase in the murder rate continued trends from earlier years and in other crimes. For example, the Palestinian Central Bureau of Statistics records an increase in the number of kidnappings and attempted kidnappings from 50 in 1999 to 202 in 2005. Exhibit 3 provides data from the PCBS on other selected crimes for the years

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2 Data for the last month of 2006 is not yet available from PICCR. The release of official government data on crime is expected in the second quarter.

3 Deaths due to the “misuse of weapons” has become a common term in WBG to refer to the deaths of innocent bystanders and individuals killed unintentionally by the firing of weapons.

4 The PCBS has not released data for 2006.
1999 to 2005. A majority of participants attributed the increases in ordinary crime to worsening economic conditions, weakened policing and judicial systems, and the proliferation of weapons, especially in the Gaza Strip.

### Exhibit 3. Reported Criminal Offenses in the Palestinian Territories, 1999 to 2005

<table>
<thead>
<tr>
<th></th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rape/Attempted Rape</td>
<td>88</td>
<td>85</td>
<td>73</td>
<td>40</td>
<td>85</td>
<td>98</td>
<td>105</td>
</tr>
<tr>
<td>Kidnapping/Attempted Kidnapping</td>
<td>50</td>
<td>77</td>
<td>64</td>
<td>52</td>
<td>126</td>
<td>167</td>
<td>202</td>
</tr>
<tr>
<td>Theft</td>
<td>2,580</td>
<td>2,195</td>
<td>2,218</td>
<td>2,486</td>
<td>3,597</td>
<td>4,660</td>
<td>5,075</td>
</tr>
<tr>
<td>Assault</td>
<td>6,415</td>
<td>5,806</td>
<td>5,491</td>
<td>3,970</td>
<td>5,283</td>
<td>5,812</td>
<td>6,572</td>
</tr>
<tr>
<td>Using or Trading in Narcotic Drugs</td>
<td>391</td>
<td>566</td>
<td>432</td>
<td>310</td>
<td>654</td>
<td>691</td>
<td>881</td>
</tr>
</tbody>
</table>

Source: Palestinian Central Bureau of Statistics.

Opinion polls show that the general public also thinks that violence and general security chaos have increased in the last year. A December 2006 poll conducted by the Palestinian Center for Policy and Survey Research found that 90 percent of the 1,270 people surveyed describe the current conditions as very bad. Only 2 percent described the situation as good. A total of 87 percent said they and their families lack safety and security. In an earlier poll from the Jerusalem Media and Communications Center (September 2006), conducted before the upsurge in inter-factional violence in the last half of 2006, 47.3 percent of Palestinians said internal violence had increased since the formation of the new government.

The breakdown of law and order has also had a negative impact on Palestinian business, according to interviewees. They noted that robberies of businesses rarely get investigated, and even more rarely are criminals found and convicted. One businessman noted that he would no longer go to the police when a violation of the law occurred in his business; rather, he would seek third-party intervention. To enforce contracts, business leaders say they often use non-formal means, such as contacting family members or using third-party mediation like *sulha* (see Section III below). In general, businesspersons noted that they usually work only with longtime, trusted partners. In that way, they have greater assurances that contracts will be honored.
SECTION III: FORMAL AND INFORMAL SYSTEMS OF JUSTICE AND DISPUTE RESOLUTION

A majority of workshop participants and interviewees said that formal systems of justice are still developing in WBG and that these systems are only partially effective in dispute resolution. At the same time, they reported that traditional means of justice have continued to operate in WBG.

A look at data on the formal justice system’s caseload may indicate some improvement in its performance prior to the January 2006 PLC elections. As shown in Exhibit 4, both the number of cases filed and the number of cases decided by the civil court system (nithami courts, which hear both civil and criminal cases) declined from the start of the second intifada in 2000 through 2002, then increased from 2003 to 2005. These numbers appear to show some improvement in the court system’s performance leading up to the 2006 PLC elections, although other factors could affect the data and more research is warranted. Data for 2006 were not available at the writing this report, but interviewees and the project team noted that the court system was not operational for a large portion of the year, primarily due to a general strike by public sector workers.5

Exhibit 4. Number of Civil and Commercial Cases Filed and Decided, 1999 to 2005

![Exhibit 4](image)

The number of convicted criminals in Palestinian detention facilities shows similar trends, with a drop in the first two years of the second intifada and an increase between 2003 and 2005.6 According to the PCBS, there were 1,871 convicted

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6 Much of the prison and police station infrastructure in the WBG was destroyed during the Second Intifada, especially in cities.
offenders in Palestinian detention facilities in 1999. This number dropped to 711 in 2002 and rose to 1,530 in 2005.

The formal legal sector should be considered the primary mechanism for dispensing justice in WBG. However, workshop participants and interviewees noted that disputes are commonly resolved through traditional mechanisms, often in parallel with the formal system. They added that the use of these mechanisms has increased over the last year.7

<table>
<thead>
<tr>
<th>Overview of the Formal Justice System</th>
</tr>
</thead>
<tbody>
<tr>
<td>The formal system of justice includes civil (nithami) courts (which hear both civil and criminal cases), Shari’a courts, sectarian courts (for non-Muslims), and military tribunals. The formal civil court system consists of 20 magistrate courts, 11 district courts, two appellate courts, and one Supreme Court. Under recent (and disputed) legislation, the Supreme Court also may act as a constitutional court. There are currently 143 judges in these courts.</td>
</tr>
<tr>
<td>While some codification of law occurred in the late Ottoman period, the first full modern expression of law occurred during the British Mandate and largely replicated the British common law tradition. This law is still largely in effect in the Gaza Strip today. When Jordan annexed the West Bank following the 1948 Arab-Israeli war, it extended its own (French tradition) law to the West Bank. Because of this split, Gazan and West Bank law grew in different trajectories until 1967 — and even afterwards, as Israel did not extend its law to the occupied Palestinian territories. Rather, it enforced its own military orders and essentially left Palestinian courts alone and marginalized.</td>
</tr>
<tr>
<td>A major challenge for the Palestinian Authority upon coming to power was to unify these two quite disparate legal systems. It has done so by promulgating a series of new laws (favoring the French tradition) that apply to both Gaza and the West Bank.</td>
</tr>
<tr>
<td>Legally, Shari’a courts have formal legal sanction for personal status issues such as marriage, divorce, custody, and inheritance. To enforce decisions of Shari’a courts, an order still must be issued through the civilian court system and implemented by the police. The weakening of the Palestinian police and the civilian courts in recent years has undermined enforcement for both court systems. That said, several interviewees said that decisions of the Shari’a courts tend to have more “moral authority” than those of the civil courts, and thus are more likely to be enforced through society without need for civilian court and police intervention.</td>
</tr>
</tbody>
</table>

Traditional dispute resolution in WBG happens through three overlapping institutions. First is tribal law (al-‘asha’iri). When an offense is committed by a member of one family or clan against another, a system of reconciliation by third parties, known as ‘atwa, is employed. No penal aspect is typically associated with this system, which usually results in the payment of blood money (diya) from the family of the guilty party to that of the aggrieved. Upon settlement, the ‘atwa document is signed and the dispute is resolved. The state is not involved in tribal customary law in its traditional application, although criminal investigations and formal court proceedings often are conducted in parallel to the ‘atwa reconciliation process.8 In such cases, it is not

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7 A number of informed respondents indicated this to the assessment team, although additional research would be required to substantiate this claim. Some data do exist for the resolution of clan murders through semi-formal sulha intervention, but those data have not been examined by any researcher of whom we are aware.

8 For example, an ‘atwa agreement published in the second week of February over a gas station explosion in Al Bireh (near Ramallah) specified damages and called for a truce between the families, while at the same time encouraging a continuation of Palestinian Authority investigations into the incident. The agreement also noted that the gas station was fully licensed and insured, which would allow for appropriate compensation for some of the victims. For a general discussion of the relationship between traditional and formal dispute resolution mechanisms, see Samer Fares, Feras Milhem, and Dima Khalidi, “The Sulha System in WBG: Between Justice and Social Order,” Practicing Anthropology 28:1 (2006). A detailed analysis of informal justice in WBG can be found in Informal Justice: Rule of Law
uncommon for the court system and police to consider an ‘atwa agreement when deciding whether to proceed with prosecution or during the punishment phase of the trial.

A second, but similar, system of dispute resolution is sulha, or traditional mediation. While the tribal mediation system only involves major crimes, typically murder, the sulha system may apply to a range of disputes between two parties. The mediators could be any respected figures, including family elders, factional leaders, religious figures, and others acceptable to both parties. The reconciliation process by these third party individuals proceeds much like the tribal ‘atwa system, until agreement is reached. No penal function is included. As with ‘atwa, the use of the sulha system does not exclude parallel action by the formal justice system to assert the right of the people (haq al-‘am) in criminal cases. However, it is common for the police and courts to take sulha agreements into account, even dropping charges in some instances.

The main difference between the two systems is regional: tribal justice (al-‘asha’iri) is used primarily in tribal areas of the southern West Bank and among Bedouin communities in the Gaza Strip, and the sulha system can be found in use everywhere in the West Bank and Gaza.

Third, the informal system of justice includes a hybrid, state-tribal reconciliation process. In this case, the process of third-party mediation that is found in ‘atwa and sulha is the same, but it has the imprimatur of the Palestinian Authority presidency. Beginning under Yasser Arafat and continuing under Mahmoud Abbas, the Office of the President has vetted and selected more than 200 rapid-response conciliators in the West Bank (a smaller number have been identified in Gaza). These conciliators come from respected backgrounds and carry an official mediator card signed by the president. The formal backing of the president ensures that their interventions are powerful and respected. The conciliators mediate between parties only when a killing has occurred, and they can be called upon by the aggrieved family or a local official to respond before conflict between families escalates.

As with other traditional systems of dispute resolution, the function of the hybrid system is reconciliation, not judicial punishment. However, in some cases the offender is held in custody (in rural areas some jails were not destroyed) during the mediation process. In every case, a strong and cooperative relationship between the formal institutions of justice (including police and courts) and the conciliation program appears to exist. The terms of reconciliation do not prevent the state from pursuing legal action against the guilty party, but as a practical matter, formal judicial proceedings often come to an end after the conclusion of a mediated settlement between the families.

This hybrid system represents a unique but ill-defined meshing of formal and informal sectors of justice in WBG, and it carries with it some of the same due process and equal justice problems that characterize the informal system in general. In addition, there is no legislation regulating or providing legal sanction to this system.

_and Dispute Resolution in Palestine, National Report on Field Research Results, Institute of Law, Birzeit University, 2006._
Workshop participants and interviewees noted that while traditional means of justice are effective in limiting violence and preserving social order, they should not serve as a substitute for the formal system of justice. In particular, traditional means of justice favor stronger families over weaker families. Women also are highly disadvantaged in this system, as are the young and victims of crimes within families. As formal mechanisms of justice are strengthened and gain legitimacy, one should expect traditional means of justice to become less influential in society, eventually fading away. Nevertheless, traditional systems have value during this transition, especially where state institutions are weakened.\textsuperscript{9}

Workshop participants and interviewees also noted that traditional means of dispute resolution have little role in resolving factional disputes. These disputes usually are resolved at the political level, although there are reports of clans taking action against those who killed their members and of factions paying compensation to the families of unintended victims of inter-factional violence.\textsuperscript{10}

\textsuperscript{9} Traditional dispute resolution mechanisms still operate in Jordan in parallel to a well-developed formal justice system, and Jordanian papers regularly publish sulha and ‘atwa agreement between families. Therefore, the development of a functioning formal justice system does not necessarily mean that traditional means of dispute resolution will automatically disappear. As is argued in the text in the case of WBG, the agreements do not necessarily take the place of formal criminal investigations and prosecution.

\textsuperscript{10} Some interviewees also argued that the prevalence of strong clan systems in areas like Hebron, especially where clan and faction affiliation are cross-cutting, have lowered the level of violence in these areas. This claim would require more research to substantiate.
SECTION IV: CIVIL SOCIETY AND CURRENT CIVIL PEACE INTERVENTIONS

Palestinian civil society was formed and evolved largely in the absence of the state. By the 1980s, Palestinian civil society was a primary mobilizer of the population and provided primary health care, education, agricultural extension, and other services. It also had an important role in consolidating national and factional identities, with many large NGOs closely linked to the internal and external leadership of the major Palestinian factions. The 1993 Oslo accords and the establishment of the Palestinian Authority reduced the breadth of civil society activities. At the same time, tension between the NGO sector and the newly formed Palestinian Authority arose as each sought to define their respective roles. At the same time, the NGO segment of civil society increased its level of professionalism and moved away from close affiliation with political factions, partly with the help of international donor funding.11

In recent years, Palestinian civil society has launched a wide range of initiatives targeting the peaceful resolution of internal disputes, crime reduction, and government reform, including advocating for increased adherence to the rule of law, quality policing, and a better functioning court system. For example, Muwatin and the Aman Coalition have developed a plan for security sector reform, and other CSOs report regularly on human rights abuses by the police and monitor the court system’s performance. NGOs also have contributed to debates over the new penal code; provided training in human rights, women’s rights, and other topics to members of the security services; and conducted rule-of-law awareness training and civic education to the general public, including youths and children.12

Traditionally, civil society has had only limited involvement in factional disputes. One exception to this rule, the Arab Thought Forum, worked with all political factions in the lead-up to January 2006 legislative elections to develop a code of conduct for political parties and candidates and then established committees at the regional and national levels to monitor and resolve violations.13

With regard to commercial disputes, civil society has taken initial moves to establish alternative dispute resolution mechanisms and to train lawyers in their use. In WBG, there is currently one commercial alternative dispute resolution center, and at least one syndicate offers specialized dispute resolution services to its members. In total,

Regional Variations in Civil Peace Activities

In conducting the study, the research team found that residents in areas where there was higher levels of violence, for example Nablus and Gaza, said there was a greater need for civil society activism. In the Gaza City workshop in particular, participation levels were higher than in any other city, despite the fact that there was fighting near the venue on the day of the event. Popular demonstrations in Gaza against the violence also started before similar demonstrations in the West Bank, and there have been higher levels of involvement by women.

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11 Although many NGOs retain links to political parties and factions.
12 For example, the Mandela Institute in WBG helped train police and security personnel on the rights of prisoners in the 1990s.
13 This code of conduct for the elections initiative was funded by USAID through the CSDS project, with limited technical assistance from the National Democratic Institute for International Affairs, which was also funded by USAID for this work.
only a few dozen lawyers passed the only iteration of the state examination for
arbitrators and were licensed in accordance with the Palestinian Arbitration Law (Law

Representatives from the business sector report that arbitration is underutilized in
WBG for two reasons. First, the fees charged for professional arbitration are too high.
Second, arbitration decisions still require recourse to civilian courts for enforcement.
A staff lawyer at a major bank said that he rarely uses arbitration, as he would often
be forced to go to court to enforce the decision or to face an appeal of the decision by
the losing party.14

Community-based organizations (CBOs) and small CSOs in remote areas have much
stronger influence in their communities, but they are less likely to be involved in civil
peace initiatives. Most of these organizations provide basic services to the local
population, specialized services to selected target groups such as the disabled, and
community and recreational activities (such as sports completions). Cooperatives also
operate throughout the WBG, some focusing solely on women. While a few of the
larger charitable organizations are well-funded and have strong capacities, most
Palestinian CBOs have weak administrative systems and low levels of donor funding.

Few CBOs and smaller civil society organizations have been involved in civil peace
activities or activities related to the rule of law, although there are some exceptions.
For example, the Rural Development Committees recently worked with the Hebron
municipality, police, and taxi drivers to establish agreed-upon parking areas for taxis
and minibuses departing to villages around Hebron. Previously, the taxi and bus
drivers fought over parking areas, and passengers were confused. Seven months after
the initiative started, Rural Development Committee representatives said that the
initiative has nearly eliminated violence over parking places and loading and
unloading zones for various destinations.

In the last quarter of 2006 and beginning of 2007, there was an increase in civil
society initiatives specifically targeting a reduction in factional violence. Some of
these activities were directed by large NGOs and NGO networks, others by smaller
opposition political parties, grassroots CBOs, and individuals. Examples of recent
civil peace initiatives include:

- The youth movements of various factions at Al Quds University in Abu Dis
  agreed on a code of conduct committing them to the peaceful resolution of
disputes. A similar agreement was concluded at American University in Jenin. In
this case, the initiative was led by the faculty of the law school.
- Community leaders, faction leaders, and family heads in Aseera Ash-Shamaliya,
north of Nablus, signed a code of conduct to prevent factional violence from
spilling over into their village. Community, family, and faction leaders in Hebron
also committed to preventing conflict and led marches opposing factional
violence. In a related development, 39 families in Beit Hanoun in north Gaza
signed a code of conduct condemning internal Palestinian violence, saying they

14 The leader of the alternative dispute resolution center Tahkeem, added that lawyers and judges are
unclear on the legal status of arbitration decisions and the conditions under which decisions can be
appealed.
were all part of one larger family. (Fighting among families in Beit Hanoun has resulted from both factional and non-factional reasons, with non-political, clan-on-clan violence claiming more than a dozen lives in the last year.)

- The Palestinian NGO Network launched a campaign against inter-factional violence in early February. The network and several other NGOs and civil society groups also issued a series of press releases condemning internal fighting throughout 2006.

- Several groups of women conducted sit-ins and protests against factional violence in Gaza during the last half of 2006 and the beginning of 2007. Children also led protests in Khan Younis, Jericho, and other locations, and there were protests against factional violence organized by various civil society groups and small political parties in Ramallah and Gaza City during the same period. While none of these demonstrations was very large, several garnered considerable media attention.

- The Palestinian Mufti called on President Abbas to put an end to the “security chaos” in the West Bank and Gaza and to prevent looting in the wake of attacks on shops by armed men in Ramallah and other locations. The sheikh of Al Aqsa and other religious leaders in Jerusalem also issued a statement condemning internal fighting during January 2007.

- After an attack on a branch of the Bank of Palestine by armed men, the Palestinian Bankers Association conducted a half-hour work stoppage to protest the violence. A group of Palestinian businesspersons also released a statement calling for an end to factional violence and a return to the rule of law. In general, business associations and groups have led calls for the formation of a unity government and an end to security chaos.

In conclusion, the assessment team found that most individual civil peace initiatives are uncoordinated and in some cases unknown to the wider civil society community. The team also found that most NGO advocacy initiatives lack strong grassroots elements and tend to be elite-driven efforts directed by selected government officials, legislators, international donors and diplomats, and civil society leaders.

At the level of factional violence, the research team found that civil peace interventions have had a limited effect at the national level — a view shared by most workshop participants and interviewees. Civil society can effectively demonstrate opposition to the fighting, advocate for dialogue and agreement, and act as the “conscience” of society in opposing the violence. However, in the end, workshop participants and interviewees argued that solutions must come from the political level. In the case of severe factional violence, they added, the state and formal justice system cannot be trusted to intervene — especially the police and security forces, which have become more politicized and a party to the conflict. Finally, civil society leaders and the research team recognized that public efforts to oppose factional disputes could be personally dangerous in some periods.

At the local level, respondents said that civil society has had a greater influence in reducing conflicts in selected cases, for example by introducing codes of conduct and ethics in villages and on university campuses.

With regard to the strengthening of the formal system of justice and rule of law, informants argued that civil society has a larger potential role and greater potential
impact. This role is discussed further in the recommendations section below (see Section V).
SECTION V: RECOMMENDATIONS

The following recommendations are based on the outcome of the workshops and interviews, as well as the research team’s judgments. The recommended actions primarily are for initiatives to be implemented by civil society leaders in WBG, not necessarily with funding from USAID or other international donors. Each organization and donor should weigh specific recommendations carefully in light of their own programmatic considerations and should explore the ideas further with a wide range of civil society leaders, legal experts, and other stakeholders prior to implementing new initiatives.

We divided the recommendations into three categories: general considerations for program design, and specific recommendations for short-term interventions, and specific recommendations for longer-term interventions.

A. General Recommendations

Together with the specific recommendations discussed in the next section, consideration of the following four general recommendations during the development and implementation of civil peace initiatives will help to improve their effectiveness.

A1. Continue Efforts to Strengthen Formal Systems of Justice and Rule of Law

We recommend that civil society and donors continue projects designed to support the formal system of justice, including initiatives that strengthen the court system, professionalize civilian police forces, train lawyers and judges, and build awareness of the importance of the rule of law (see more detailed discussion below). Civil society initiatives and informal justice mechanisms can mitigate violence to an extent, but they are not a long-term substitute for functional state institutions. Moreover, while demonstrations and similar activities have some impact in pressuring factional leaders to resolve disputes within the bounds of the rule of law, civil society initiatives alone cannot lower the level of factional violence.

Informal justice mechanisms dispense justice unevenly based on the relative powers of the various parties, and they do not afford equal protection to women or address crimes in accord with international standards of due process and respect for individual rights. Therefore, while they are effective in reducing conflict, cannot take the place of formal systems of rule of law and justice. Initiatives that recognize the importance of informal systems of justice may be appropriate in the near term, but these should be considered only interim steps.

A2. Match Level of Intervention with the Context

In the coming months, the ability of civil society organizations to take action will depend strongly on the context in which they will operate. A decrease in factional violence will open the door to more activities, and an escalation of violence will reduce opportunities. Civil society and donors should remain cognizant of the changing context and be ready to redesign programs and redirect resources accordingly. For example, under relatively positive internal conditions, civil society
actors could be able to work with the police to educate them on human rights and other issues. Such programs could be greatly expanded in the right circumstances, but in the context of national factional violence, the police would likely be drawn into the conflict, making it difficult for CSOs to implement such programs for reasons of personal security and principle.

Externally, civil society leaders said progress on the broader political front will matter. Advances in the Middle East Peace Process (MEPP), with an accompanying easing of restrictions on movement, return of international funding and revenue transfers to the Palestinian Authority, and other factors, will enable open the door to a wider range of activities and more tangible results.

**A3. Match Initiatives to CSO Capabilities and Reach Deeper into Palestinian Civil Society**

To make civil peace initiatives more effective, CSOs should be cognizant of their relative strengths and reach out to grassroots organizations and CBOs in northern and southern West Bank and in the Gaza Strip. As discussed in Section IV, many large NGOs are very good at addressing national issues with policy makers, including providing highly technical advice and assistance and policy work. Some of these organizations are also very capable in monitoring adherence to the rule of law and international standards. That said, many large CSOs do not have a strong grassroots presence and hence are unable to mount popular campaigns or change social practices.15

We recommend that large NGOs with strong capabilities increase their reach into communities by coordinating with grassroots organizations and CBOs already operating throughout the West Bank and Gaza. Donors also should seek to identify new partners beyond the “elite” NGOs and encourage the building of grassroots networks in overall program design.

**A4. Strengthen CSO Networking, Awareness, and Cooperation**

Virtually all of our respondents complained about a lack of cooperation among Palestinian CSOs. Organizations often work in a stove-piped fashion, unconnected with one another. All of their efforts, including civil peace activities, would be enhanced through better cooperation and better awareness of what each is doing.

We recommend that methods for communication, networking, and information-sharing be improved. A CSO Internet portal was developed by the Welfare Consortium, but its future funding and sustainability are uncertain. Such a portal, whether the current one or a replacement, could help CSOs to share information about their activities and resources. A list-serve also could enhance awareness and pave the way for cooperation among CSOs. Even a blog on CSO activities could be valuable in promoting cross-fertilization. All use of new media should be in Arabic.

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15 This conclusion was shared by participants in a February 2007 conference by the Peace Coalition. See *Al Quds*, February 15, 2007.
We also recommend that donors encourage cooperation by integrating networking and coalition-building into project designs and making these issues factors in the grant-selection process. In addition, donors should take steps to better coordinate their own programs.

B. Specific Recommendations

The specific recommendations presented below are based on the workshops and interviews conducted for this study, as well as the views of the research team, including Arkan and CSDS senior technical staff members. We have divided the recommendations into short-term interventions that could produce results in the current unstable environment and medium- to long-term recommendations suitable for implementation in a more stable environment.

B1. Short-Term Initiatives

B1a. Develop Codes of Ethics and Civil Peace Committees

CSOs could play a key role in educating Palestinian communities on accepted “rules of the game” for resolving disputes non-violently. Workshop participants saw the development of codes of ethics and related dispute-resolution committees as an area where CSOs could improve civil peace in the short term, citing examples of current efforts (see Section IV). To be more effective, code of ethics initiatives should work on both the national and local levels. The participants also suggested that civil society should engage all major stakeholders — including political, social, and religious leaders — in the development of codes and monitoring mechanisms.

In an environment with heightened political sensitivities and tensions, donors should carefully weigh the costs and benefits of supporting code of ethics initiatives. If support is provided, it should be low profile, and donors should consult CSO partners closely to ensure that their assistance is not counterproductive.

B1b. Continue Advocacy Efforts Opposing Internal Violence and Encouraging the Peaceful Resolution of Disputes

As discussed in Section IV, late 2006 and early 2007 saw an increase in the number of public demonstrations and other initiatives opposing violence among factions. If the current instability continues, we recommend that these initiatives continue and that CSOs and other civil groups, including small political parties, work to build larger networks and coalitions around this issue. These initiatives could be used as a basis for the formation of more sustainable citizens’ movement, as discussed below.

Popular calls and movements against internal violence should not be expected to solve the problem of factional violence, but these movements can generate public pressure on political leaders to resolve their disputes peacefully within the bounds of the rule

16 Since its election initiatives from 2004 through 2006, the CSDS project has made networking and coalition-building major elements in the competitive grant-selection process. In addition to forming a coalition of more than 20 local organizations to conduct voter education during the election period, it has funded coalitions of CSOs to conduct joint democracy and governance after-school programs and to strengthen the visibility and capabilities of grassroots women’s organizations. For more information on these and other initiatives, contact the CSDS project.
of law. These activities should be generated from within civil society and by Palestinian citizens themselves. The efforts would lose credibility if it appeared that they are driven by external parties. Donors should be cautious and play a low-profile role if they choose to provide support.

**B1c. Investigate Creative Approaches for Engaging and Perhaps Professionalizing Informal Systems of Justice**

Traditional and customary systems of dispute resolution remain very strong in Palestinian society and help to reduce crime and violence, especially non-political violence. However, these systems tend to reflect the balance of power in society. Law schools and civil society organizations should investigate creative ways of engaging the informal justice system, while at the same time being careful not to jeopardize the long-term development of the formal system of justice. As noted in Section III, Birzeit University already is conducting research into the informal justice system and its place in the development of rule of law in WBG.

As part of this initiative, civil society leaders, donors, and others should investigate the possibility of further formalizing the hybrid system for reconciling clan disputes resulting from murders (described in Section III). If intra-Palestinian violence continues or worsens, this system could be expanded to apply to non-lethal types of disputes, such as other forms of inter- and intra-familial disputes. Some forms of criminal violence also could potentially be resolved with this system.17

Engaging traditional systems of dispute resolution likely would be met with some skepticism on the part of trained legal professionals. In the workshops and interviews, a majority of legal professionals expressed caution about supporting informal and customary systems of dispute resolution, warning that initiatives should not weaken the formal judicial and policing systems and should reinforce their role as the centerpiece of dispute resolution in WBG.

**B1d. Monitor Adherence to the Rule of Law, International Standards of Justice and Human Rights, and Political Tolerance**

In nearly all countries, civil society has a role in the external oversight and monitoring of the formal (and informal) systems of rule of law and law enforcement. Even in the worst of times, CSOs function as a sort of conscience for society, reminding factions and others that their actions are not consistent with international standards of human rights, rule of law, professional law enforcement, etc. As noted in Section IV, this is a traditional strength of several Palestinian CSOs. They should continue these efforts regardless of the level of factional fighting, although it will be more difficult and potentially dangerous in times of greater political polarization. CSOs should conduct monitoring efforts independently, without interference from donors, to retain their neutrality and credibility in the eyes of the public and decision makers.

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17 It would be problematic to employ this system with regard to factional violence, as Hamas would see it as a Fatah institution.
B2. Initiatives with Medium- to Long-Term Impacts

B2a. Lead Advocacy and Legislative Reform Efforts Related to Civil Peace

Along with monitoring, advocacy is a traditional strength of Palestinian CSOs. In workshops and interviews, participants recommended a list of reform areas that civil society should address, ideally by working with a functioning PLC, executive, and judiciary. Selected targets for advocacy efforts include but are not limited to security sector reform, judiciary independence, appropriate use of weapons and gun control, and legal and enforcement structures and practices related to gender-based and domestic violence.18

Participants recommended that advocacy activities move beyond workshops and other elite-level discussion and make more extensive use of public demonstrations, civic actions, and other mechanisms. They also recommended greater use of the media, including radio and satellite television, and the establishment of broader and more sustained networks and coalitions to pursue advocacy objectives.

B2b. Continue to Build a Culture of the Rule of Law and Peaceful Resolution of Disputes, Deepening Democratic Values in Society

WBG is still a developing democracy, with recent elections only one step in this process. Civil society should focus on deepening the understanding of democracy, democratic institutions for dispute resolution, and the rule of law in society. Possible interventions might include:

- **Strengthening rule of law awareness programs for the general population.** Participants recommend that awareness, advocacy, and other initiatives could be combined, moving programs beyond workshops to provide participants, particularly youths, with the opportunity to effect change and “learn by doing.”
- **Strengthening rule of law education in schools.** Participants recommended that new initiatives to strengthen rule of law education in schools be launched. Civil society initiatives might include working with the Ministry of Education on developing civil peace curriculum, teaching peaceful dispute resolution techniques, or creating overall plans to reduce violence within schools.19
- **Strengthening rule of law education in universities and better connecting university law schools to the general population.** In general, participants noted that law schools tend to be elite institutions where instruction is mostly theoretical and focused on memorization. We recommend that rule of law education be strengthened with increased use of the Socratic method and other interactive teaching techniques (continuing and possibly expanding Arkan and other donor-funded activities already under way). Law schools also could improve the study of comparative legal systems. To improve teaching and to provide needed services to the population, the creation of legal clinics, such as the new clinic at Al Quds University (Abu Dis), also should be encouraged. Clinics help young lawyers gain

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18 For specific recommendations in this area, see A Question of Security: Violence against Palestinian Women and Girls, Human Rights Watch, Volume 18, No. 7(E), November 2006.
19 For example, Al-Mawrid Teacher Development Center is currently working with the administration of UNRWA schools to develop a five-year strategy to reduce violence in schools. This effort is funded by USAID through the CSDS project.
experience and provide access to legal services to Palestinians who do not have the ability to pay, increasing access to the formal legal system and encouraging its use. To the extent that legal clinics tackle issues related to the occupation, some donors may find supporting such efforts politically sensitive.

- **Identifying ways to encourage the use of professional mediators, as opposed to traditional forms of mediation (sulha) to resolve disputes.** Professional mediators work to resolve disputes without recourse to the formal system of justice. WBG does not have many trained mediators, and the distinction between mediation and arbitration (see below) is poorly understood. As mediation is not necessarily a foreign concept in WBG — it could be seen as a professionalized version of traditional practices already in existence — we recommend that civil society organizations and donors examine how professionalized mediation could be encouraged. For example, traditional mediators’ willingness to accept some level of professional training and eventually even certification could be assessed.

### B2c. Support Long-Term Efforts to Strengthen the Formal System of Justice and Rule of Law

Civil society — including law schools and legal and human rights CSOs — traditionally have provided technical support for the development of the formal justice system. These organizations are valuable because they often have better resources and expertise than the government. The list of possible civil society initiatives targeting the development of the formal system of justice is long — in addition to assistance to the judiciary, civil society interventions could include human rights and prisoners rights training for the police and security forces, assuming these institutions show a commitment to reform.

To supplement the formal judicial system in civil and commercial disputes, civil society and donors should re-examine arbitration in the Palestinian context, recommending new initiatives to increase its use, including possible changes to the Arbitration Law and a licensing process for arbitrators.

### B2d. Develop Citizens’ Movement for Civil Peace

Grassroots citizens’ movements have begun to take hold in a number of Arab countries in the past couple of years. The best know of these movements is Kifaya in Egypt. In this and other cases, protests were non-violent and powerfully expressed the sentiments of common citizens. As noted in Section IV, WBG has seen episodic displays in which ordinary citizens have taken to the streets to oppose internecine violence, including sit-ins and public demonstrations. These developments are encouraging, but they have not been well-organized or sustained. A citizens’ movement against intra-Palestinian violence could prove powerful.

As in Argentina with the mothers of the “disappeared” and in Israel with Women in Black, such a movement in WBG could involve or even be led by women, especially mothers affected by internal conflict, as they have high levels of credibility in society.

When asked about the possibility of creating a citizens’ movement, workshop participants and interviewees were split. Some viewed it as a good idea, while others doubted whether circumstances in WBG were suitable for such a movement. The
skeptics stressed the high levels of political polarization in Palestinian society, including Palestinian civil society. If launched, the citizens’ movement should be above politics and not seen as an instrument of one faction or political group. As such, a civic movement should be issue-oriented, appealing to both political activists and regular citizens alike. Such a movement may appeal to some younger Fatah cadres, as well as non-partisan Palestinians who are fed up with the current violence.

If a citizens’ right movement is to happen, it must come from Palestinian CSOs. They are the only institutional base that can legitimately organize and implement such a program. In addition, the wider the coalition of CSOs involved, the better. Donors should not play an open role in this initiative. Even the appearance of foreign support would open the movement to criticism that participants have a hidden agenda supported by foreign interests.

**B2e. Reinvigorate Voluntary Work**

Voluntary work programs that link urban and rural youth, rich and poor, and young people from various regions of WBG have helped to overcome parochial identities, promote national identity, and create networks of friends in the past. One way to sustain notions of civil peace over the long term could be to strengthen cross-cutting personal ties and networks through a reinvigoration of the voluntary work programs of the 1970s and 1980s. As with education, training, and some advocacy activities, voluntary work initiatives would be directed at long-term change, rather than short-term impacts.

WBG employed a vigorous program of voluntary work in the 1970s and 1980s. Universities, high schools, and political factions all had programs that required young people to undertake voluntary work in broader society. The most common form was for students to assist in agricultural harvests in the countryside, often harvesting olives. Such community voluntary work was a requirement for graduation for universities and was promoted strongly by factions. The spirit of voluntarism has weakened substantially in WBG since Oslo, and programs to undertake voluntary works have weakened as well. Universities still have the requirement, but it appears to be much less important and satisfied more easily today. Restrictions on movement also have made voluntarism more difficult. The breakdown of law and order in WBG may be linked to the weakening of personal ties developed through voluntarism — not as a cause, but as a mitigating factor that has been diminished.

Palestinian CSOs can play a lead role in designing and implementing volunteer programs. These efforts would be more successful if they had the support of the Palestinian Authority, especially the Ministry of Education. Implementing voluntary work programs could have the secondary benefit of increasing the grassroots base for moderate CSOs by mobilizing youths and addressing some of the real, material needs of the Palestinian community in WBG. Donors should consider supporting voluntary work programs, if well-designed and thought out. If the programs remain politically neutral, it is difficult to see any obvious downside to donor involvement.