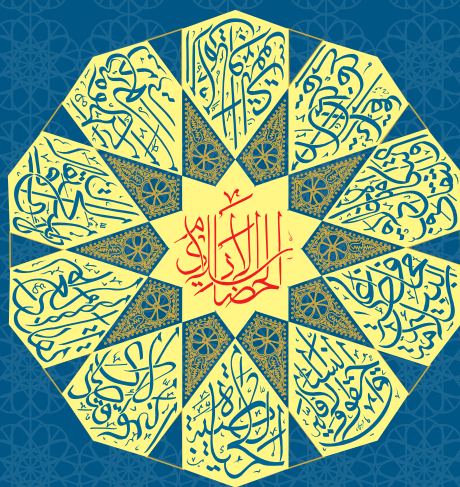


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FORGIVENESS AND RESTORATIVE JUSTICE IN ISLAM AND THE WEST: A COMPARATIVE ANALYSIS

*Ramizah Wan Muhammad**

Abstract: Restorative justice, as a viable alternative to retributive justice, emerged in the West during the 1970s and 1980s. It emphasises respect, dialogue, and collaborative decision-making. This study explains the principles of the restorative justice system and describes various Islamic principles and values akin to restorative justice. Such a study is warranted by the fact that the compatibility of restorative justice with Islamic principles and values is under-researched in the social sciences and humanities. This study, based on primary sources and case studies, found that Islam encourages amicable settlement of disputes through mediation and arbitration while ensuring justice, fairness, and equity in all situations. Similar to restorative justice, Islamic principles emphasise respect, honour and dignity, and mutual obligations and responsibilities in righting wrong. Prophet Muhammad (SAW) and his successors applied these principles, and such a system continues to be practised in certain small villages in contemporary Muslim societies. However, unlike Western restorative justice, Islam places particular emphasis on forgiveness as a value, thus limiting the cycle of retribution and retaliation detrimental to society. Islam considers forgiveness as a great virtue that brings forth gratitude, heals broken relationships, and establishes peace at individual and social levels. Islam aims at constructing a just society which empowers victims, offenders, and the community. Unlike the Western concept of restorative justice, the shariah incorporates elements of restorative justice with a heavy emphasis on forgiveness, with or without an apology.

Keywords: Restorative justice, Retributive justice, Islamic criminal law, forgiveness, *Qisas* and *ta'zir*.

Introduction

“Restorative justice” emerged as an alternative to retributive justice during the 1970s and 1980s. Since then, the American Bar Association has encouraged courts throughout the United States to adopt victim-offender mediation (VOM), which is an empirically grounded form of restorative justice. Also, the Council of Europe is supportive of the use of restorative justice in criminal matters,

and the United Nations has adopted a set of principles that encourage member states to adopt restorative standards as part of international human rights law.¹ Restorative justice holds offenders directly accountable to the people they have violated.² It aims to restore the losses—emotional as well as material—suffered by victims through negotiation and problem-solving methods.³ Some scholars tend to equate restorative justice with forgiveness, arguing that restoration of losses may encourage the victim to forgive the offender.⁴ The system, however, does not explicitly incorporate forgiveness. As Howard Zehr points out, “Restorative justice is not primarily about forgiveness or reconciliation ... it does provide a context where this might happen.”⁵

Though not clearly spelt out, the concept of restoration is found in Islam, as well as in many religious traditions, which inter-alia encourage forgiveness. This study explains Islamic principles and values akin to restorative justice and elaborates upon their meaning, which explicitly promotes forgiveness and the conditions under which it might flourish. The study begins with a discussion of the meaning and processes of restorative justice and the role of forgiveness in such a system. This is followed by an elaborate examination of Islamic principles and values promoting restorative justice, along with examples. This paper argues that Islamic principles and values do promote restorative justice, with or without repentance.

Restorative Justice and Forgiveness

Clifford Dorn defined restorative justice as “a philosophy of justice emphasising the importance and interrelations between offender, victim, community, and government in cases of crime and delinquency.”⁶ According to Howard Zehr, who was the first to articulate this theory, restorative justice is a process that allows “those who have a stake in a specific offence to collectively identify and address harms, needs and obligations in order to heal and put things as right as possible.”⁷ It is “a process of bringing together the individuals who have been affected by an offence and having them agree on how to repair the harm caused by the crime....”⁸ It differs from a retributive justice system which is oriented towards punishing the offender rather than restoring the balance between the offender, victim, and others. In restorative justice, the goal of the process is to redress victims, offenders, and communities in a way that all stakeholders agree is just. The offender, instead of being incarcerated, is obliged to apologise and compensate the victim before being reintegrated into the community.⁹ Those with a stake in a particular offence will deal with the offence, its consequences, and its future implications with the assistance of a facilitator. The restorative process could be delivered through the adoption of “any form which reflects

restorative values and which aims to achieve restorative processes, outcomes, and objectives.”¹⁰ The important thing is that it must involve the victim, the offender, and the community in a search for solutions which promote repair, reconciliation, and reassurance.¹¹ The offender could be fined, asked to provide an apology and express regret, be placed on probation, be required to provide services to the victim or to the community, or be just forgiven by the victim. In the restorative process, parties other than the victim—the offender and community representatives—are rarely present. Currently, such a process is usually applied to juvenile offenders. In fact, restorative justice had its beginning in North America during the mid-1970s in a case involving two young men who vandalised a large number of properties in Elmira, Ontario.¹² The case took various forms of restorative justice, including, *inter alia*, compensation, conciliation, and pardon.

The restorative justice system is characterised by certain underlying principles or values that permeate the discourse. These principles “include an emphasis on the interconnectedness of individuals and the community and respect for all those affected by crime.”¹³ Interconnectivity refers to the belief that the wrongdoer and victim live in the same community and are inter-connected. The respect for those affected by the crime is shown by the inclusion of all stakeholders, the victim, the offender, and the community in the restorative process. All three parties are held accountable to each other. The offender is liable to give back in a way prescribed by the victim and the community. The community helps the offender to avoid committing any more crime and helps enforce any reparations agreed upon by the victim. This process helps promote a safe community, the development of competency, and accountability. Consequently, restorative justice is occasionally referred to as “balanced justice” or “balanced restorative justice.”

There are a number of practices associated with restorative justice. One widely recognised example is victim-offender mediation (VOM), which tries to balance the needs of both victims and offenders. With the assistance of trained mediators, the victims and their offenders are brought together to discuss the steps needed to make things right. Nearly 300 such programs exist throughout the United States. Almost half of these programs deal with juveniles dealing with offences such as vandalism, theft and burglary.¹⁴ There are also healing circles (HC), rooted in the traditional sanctioning and healing practices of Native American cultures. HC bring together not only the offender and victim, but also their family members, community members, and government representatives in a process of resolving harms that resulted from the offender’s conduct.¹⁵ There are also victim assistance programs (VAP) that provide services to victims, and ex-offender assistance programs (OAP) providing services to offenders while they are in prison and on their release.

Restorative justice recognises the contribution forgiveness can make to the well-being of both victim and offender. According to Zehr:

Forgiveness is letting go of the power the offence and the offender have over a person. It means no longer letting that offence and offender dominate...Real forgiveness, then, is an act of empowerment and healing. It allows one to move from victim to survivor.¹⁶

Trudy Govier argues that "The memories that accompany forgiveness will be memories that exclude resentment and allow us to 'let go' while retaining the knowledge that these things were done, and they were wrong."¹⁷ Forgiveness, among other things, makes it possible for victims to reassert their power over their own lives. It is, as Martha Minow points out, "a way to choose to be different from those perpetrators, to embrace a different set of values."¹⁸

Forgiveness helps offended parties to experience gradual reductions in bitterness and revenge motivations. To Luskin, "Forgiveness is the experience of peacefulness in the present moment."¹⁹ It draws out the sting, as Desmond Tutu points out, in the memory that threatens to poison our entire existence.²⁰ Studies have been conducted showing that forgiveness leads to victims feeling an increased sense of security and less intense feelings of revenge against the offender. Forgiveness also gives the offender an opportunity for reintegration with those close to them. Therefore, some scholars emphasise the importance of forgiveness to any lasting restorative process. Despite the recognition of its positive contribution, forgiveness has not received prominence in the conceptualisation of restorative justice, often being marginalised. This is due to several reasons. One, forgiveness is probably the most difficult of all human virtues to practise. Two, it is assumed that an emphasis on forgiveness may lead the victim to think that the facilitators are minimising the significance of the offence. Three, some even see forgiveness as a sign of weakness, arguing that only those without the courage to confront evil with force, as it ought to be confronted, forgive. Thus, forgiveness is seen as the last resort of the weak, a refuge for those who have no resources to do anything else. Mark Umbreit further spoke of the need to avoid talking about forgiveness so that the victim does not see it as an imposition.²¹ There are others who dispute the alleged benefits of forgiveness. Fred Luskin summarises the problem well:

Some of us confuse forgiveness with condoning unkind actions. There are those who think that we forgive in order to repair the relationship with the offender. Some of us are afraid to forgive because we think we will not be able to seek justice. Some think that forgiveness has to be a precursor to reconciliation. Some of us think that forgiveness means we

forget what happened. Others of us think that because our religion says we should forgive, we have to be able to. Each of these conceptions is wrong.²²

Islam and Restorative Justice Principles

Restorative justice is based on assumptions of interconnectedness between individuals and the community, and of respect for all those affected by crime. This interconnectedness obligates all parties involved in the crime to “right the wrong,” i.e. to repair the harm done and restore justice to all parties involved.²³ The Qur’an refers to Muslims as “people united by faith”, expressed by the word *ummah*: “This *ummah* of yours is a single *ummah*, and I am your Lord, so worship me” (al-Anbiya’, 21:92). The word *ummah* occurs sixty-two times in the Qur’an. According to the Qur’an, “the believers are but brothers, so make reconciliation between your brothers and fear Allah that you may receive mercy” (al-Hujurat, 49:10). The term brotherhood used in the Qur’an is comprehensive; it includes both men and women and imparts a sense of community, friendship, and unity built upon common values. Muslims are enjoined to “hold firmly to the rope of Allah all together and do not become divided” (Ali Imran, 3:103). They are allies of one another. They should purify their hearts of all animosity and hatred towards fellow believers (al-Hashr, 59:10). The Prophet (SAW) said: “Do not hate each other, do not envy each other, do not turn away from each other, but rather be servants of Allah as brothers. It is not lawful for a Muslim to boycott his brother for more than three days.”²⁴

Islam emphasises human dignity for all those affected by crime. Human dignity (*karamah*) is a value that is pervasive in Islamic jurisprudence. Human dignity refers to the “inviolability of the human person, recognition of a set of rights and obligations, and guarantee of safe conduct by others, including the society and state.”²⁵ The Qur’an extends an unqualified recognition of dignity to all human beings irrespective of caste, colour, and creed. Sometimes it is referred to as respect for persons, which is a natural and absolute right inherent in every human person from the moment of birth. In Islam, the most deserving of all respect is God, the Creator, Cherisher and Sustainer of the universe. Obeying God, however, necessitates respecting the honour, reputation, and privacy of others—which, in turn, means staying away from backbiting, lying, slander, and gossip that will sow discord. The Qur’an forbids these sins: “O you who have believed! Avoid much suspicion, for some suspicions are sins. Do not spy, nor should anyone backbite the other” (al-Hashr, 59:12). As Hashim Kamali points out, the use of the term “human dignity” in Islamic discourse is almost similar to the concept of human rights as used by Western scholars.²⁶

Shariah, the Islamic legal system, protects human dignity and thus promotes a just society.

Susan C. Hascall points out that “both restorative justice and Islamic criminal jurisprudence emphasise the dignity of the individual, and support opportunities for rehabilitation and healing for all parties.”²⁷ However, they differ in terms of their source. Human dignity, in Islam, is due to a person’s status as *khalifat Allah* (Allah’s representative) on earth. It is divinely ordained. The Qur’an makes an explicit affirmation of human dignity: “We have bestowed dignity on the children of Adam (*laqad karramna bani Adama*)...and conferred upon them special favours above the greater part of Our creation” (al-Isra, 17:70). In the Western conceptualisation of restorative justice, however, human dignity emerges from the writings of classical philosophers reinforced by the Judeo-Christian belief that Man is made in the image of God. Nevertheless, the goals of the restorative justice movement and Islamic criminal law, in general, are the same: to create a just society that respects the dignity of individuals and empowers victims, offenders, and the community as a whole.

Like the concepts of *ummah* and human dignity, justice (*‘adl*) is a central theme in Islam. Muslims are required to stand firm for justice, even if doing so is detrimental to their own interests.²⁸ From the Qur’anic standpoint, justice is a supreme virtue which stands next, in order of priority, to *tawhid* (unity and sovereignty of Allah). In the Qur’an, “God commands justice and fair dealing...” and warns believers not to let “the hatred of a people [swerve] you away from justice” (al-Nahl, 16:90). In implementing justice, Muslims are required to follow the standards and guidelines set by revelation. Justice requires the offender to take personal responsibility for the offence committed. A person’s actions should be just, or “good”, in the sense that they are in line with God’s will as revealed in the Qur’an and Sunnah.

The Charter of Madinah, a formal agreement between the Muslims and non-Muslims of that city, which was promulgated shortly after the migration (*hijrah*) of Prophet (SAW) in 1AH/622CE, established an important precedent of tolerance within the community and became the foundation of principles such as legal equality, communal autonomy, and religious freedom.²⁹ The Farewell Sermon delivered by Prophet Muhammad (SAW) just before his death reinforced the concept of peaceful coexistence and the principles of human dignity and equality expressed in the Charter of Medina.

Restorative Justice in Islam

It is evident that the values emphasised in the restorative justice movement and

Islamic criminal law, in general, are similar. The aim of these values is to craft a just society which empowers victims, offenders, and the community. Under the shariah, crimes are classified into three broad categories: *hudud* (plural of *hadd*, i.e. the “limit” set by God), *qisas* (just retaliation), and *ta'zir* (discretionary punishment).

Hudud crimes are considered a violation of public order, i.e. of the fundamental values of the community. These crimes offend God as they violate His *hudud* (boundaries) and the punishment of these crimes is “the right of Allah,” or *haqq Allah*.³⁰ The *hadd* crimes include adultery (*zina*), theft (*sariqah*), terrorism (*hirabah*), false accusation of adultery (*qazf*), alcohol consumption (*shurb al-khamr*), rebellion (*baghyu*) and apostasy (*riddah*). The punishments for these crimes are found in the Qur'an and range from applying lashes to amputation and execution. The punishment system is comparable to the determinate sentence imposed by some judges in the United States.

In general, these punishments cannot be pardoned by the victim or by the state. However, no punishment is to be meted out if there exists any doubt concerning the offence committed. This is based on Prophet Muhammad's (SAW) advice to exclude *hudud* in case of doubts. Thus, in case of doubts, it would be advisable to resort to other alternatives, such as pardon, conciliation, compensation, fines, warning, etc. This is where restorative processes could step in. Scholars are of the opinion that with regard to the offence of *qazf*, the parties should resort to conciliation and settlement before reaching the authorities. Some scholars advise that crimes such as *qazf* and *sariqah* should be settled amicably before reaching the court.

The Qur'an prescribes legal retribution for murder - “the free for the free, the slave for the slave, and the female for the female” (al-Baqarah, 2:178). *Qisas* crimes, according to Cherif Bassiouni, fall into two categories: intentional and unintentional homicides (i.e. murder, voluntary and involuntary homicides, or manslaughter) and intentional and unintentional physical injury.³¹ *Qisas* crimes are considered as harm against the individual and society. Retaliation for murder is prescribed in the Qur'an, but:

If something of a murderer's guilt is remitted by his brother, this should be adhered to in fairness, and payment be made in a goodly manner. This is an alleviation and a mercy from your Lord; and for him who commits excess after that, there is a painful chastisement. (al-Baqarah, 2:178)

Thus, the victim or his next of kin may waive retaliation by accepting financial compensation (*diya*) or by forgoing the right altogether.

Ta'zir crimes are recognised in the Qur'an and Sunnah but no punishment is specified in either of the divine sources. *Ta'zir* crimes include embezzlement, perjury, sodomy, usury, breach of trust, abuse, and bribery. Public authorities, the ruler, or a judge are at liberty, within the spirit of the shariah, to punish such acts. Since the punishment for *ta'zir* crimes is human-made, they permit the implementation of restorative justice with little resistance.³²

Noticeably, the Qur'an prescribes a range of options; including reconciliation, compensation, and pardon, when dealing with offenders of *ta'zir* crimes. In *sulh* (conciliation), victims and offenders arrange a mutual agreement so that the case is solved amicably. The Qur'an, in many verses, encourages family members to show mercy and forgo the *qisas* penalty. The term *sulh* is used thirteen times in the Qur'an, with one verse categorically stating that "reconciliation is the best" (al-Nisa', 4:178). People in conflict are called upon to resolve their tensions through arbitration and amicable settlement: "If two parties of the believers happen to fight, make peace between them ... with justice" (al-Hujurat, 49:9). Prophet Muhammad (SAW) reportedly insisted on conciliation as it was more rewarding than praying and offering charity. Muslims throughout history have resorted to conciliation for the purpose of restoring peace and love. Judges are required to consider conciliation before entering into the merits of civil or criminal cases. Conciliation is a "contract based on consent for the purpose of settling disputes pacifically."³³ Its objective is to "end conflict and friction."³⁴ Conciliation is analogous to arbitration. Conciliation is conditional upon the approval of the victim or the consent of his or her family members.

A number of scholars suggest that community notables should assume the role of mediator and conciliate between offenders and victims on a voluntary basis. These notables may even donate money collected from various organisations to the victims on behalf of the offenders as an assurance for such settlement. The suggested role of these notables is similar to the role carried out by non-governmental organisations and activists who dedicate themselves to restorative justice actions.³⁵ Conciliation aims at ending conflict and reaching a pacific settlement and may involve an agreement between parties by which the offender partially compensates the victim, or his or her family. Conciliation is encouraged in Islam as it stands mid-way between systematic retaliation and pardon.

Restorative justice has not been fully integrated into the criminal justice process in any Muslim majority state. However, there are some states where restorative-style processes are used. For example, in Bangladesh there are several ordinances like the Muslim Family Laws Ordinance (1961), the Village Court Ordinance (1976) and the Conciliation of Disputes Ordinance (1979), that outline processes to resolve civil disputes and other minor offences through an informal dispute resolution practice known as *shalish*. In Pakistan and

Afghanistan, attempts have been made to integrate restorative principles into community justice through the local *jirgas*—tribal assemblies of elders which make decisions through reconciliation committees.³⁶ Turkey enacted the new Code of Criminal Procedure in 2005 to integrate victim-offender mediation into the Turkish criminal justice process. In Malaysia, institutions such as the Legal Aid Department, administrative tribunals, and corporate bodies recognise the benefits of mediation as a means of resolving disputes. The Malaysian Mediation Centre (MMC), established under the auspices of the Bar Council, provides a proper avenue for dispute resolution through mediation. Similar functions are performed by the Kuala Lumpur Regional Centre for Arbitration and the Legal Aid Department. The Syariah Court Civil Procedure (Federal Territories) Act 1998 introduced a *sulh* mechanism for dispute resolution. *Sulh* proceedings are conducted in a Majlis Sulh in the presence of the affected parties and chaired by a *sulh* officer whose role is to assist in reaching an amicable settlement.³⁷

Forgiveness, Islam and Restorative Justice

In Islamic criminal law, forgiveness is strongly emphasised. Victims are encouraged to forgive the offender and exercise mercy in the context of *qisas* and *ta'zir* crimes. Imam 'Abd al-Hamid al-Ghazali (450-505AH/1058-1111CE) defines forgiveness as an abdication of someone's right to punishment without resentment and with contentment.³⁸ Ibn al-Qayyim al-Jawziyyah (691-751AH/1292-1350CE) maintains that forgiveness is the act of relinquishing the right of avenging with the feelings of *ihsan* and generosity.³⁹ The Qur'an and Hadith encourage believers to forgive because it reflects a higher virtue. There are several terms that relate to the concept of forgiveness, such as '*afw*, *safhu* and *ghafara*. The term '*afw* means to pardon, to excuse a fault, waive a punishment, or amnesty.⁴⁰ *Safhu* means to turn away from a sin or a misdeed.⁴¹ *Ghafara* or *maghfirah* means to cover, to forgive, and to remit.⁴² These terms repeatedly appear in the Qur'an. Thus, '*afw* appears 35 times, *safhu* 8 times, and *ghafara* 234 times. Most of these verses refer to Allah as forgiving. Others exhort human beings to forgive in order to earn rewards from Allah and to be righteous. The Qur'an declares, "The reward of the evil is the evil thereof, but whosoever forgives and makes amends, his reward is upon Allah."⁴³ According to Abul Kalam Azad:

The scope of Divine forgiveness, as depicted by the Qur'an, is vast and unlimited. However serious the sin committed, whatever the nature of one's wickedness and whatever the period in which one has lived in sin, the moment one feels repentant and sincerely knocks at the door of mercy, the response is forgiveness.⁴⁴

As stated earlier, the Western literature dealing with restorative justice does not consider forgiveness as a necessary step in achieving reconciliation. Forgiveness is neither an expectation nor a goal of restorative justice. Nevertheless, some scholars include forgiveness as a component of the process, even though others emphasise the pragmatic (instrumental, strategic, etc.) nature of reconciliation in which forgiveness is not a necessary component. There are some who believe that forgiveness may help pave the way for building relationships between conflicting parties, but argue that it would be presumptuous for anyone to expect a victim to forgive the offender. It is wonderful if forgiveness takes place, but it is not a necessary outcome of restorative justice. Tim and Alice Chapman point out: "There have been over 17,000 youth conferences since 2003. Yet over the past 12 years, practitioners or researchers have very rarely mentioned forgiveness when discussing restorative justice in Northern Ireland."⁴⁵

Forgiveness has often been regarded as a sign of weakness. It is argued that a strong person should make the other party pay for his/her misdeeds and then forgive. Institutional and ethnic identities in society regard revenge as a sign of strength. This weakens the will to coexist and renders it difficult to make amends. Contrary to these arguments, in Islam, forgiveness is considered a strength, which is why so many Muslims struggle to fully embrace it. Forgiveness demonstrates courage, integrity and trust, all of which assist in building collaboration and connections. Forgiveness is a noble virtue reserved not for the few but a quality to be cultivated by each individual as it benefits the well-being of all concerned. Forgiveness promotes the notion of justice, which, according to the Qur'an, "is next to piety." Forgiveness also contributes to the upliftment of just individuals and societies. The Qur'an points out that evil can be prevented by virtue, that rage should be met with patience, ignorance with knowledge, and offences with forgiveness. Through forgiveness, humans earn mercy and forgiveness from Allah and the friendship of those who have wronged them. This ensures peace and tranquillity in the family and in society. Forgiveness also helps the reinstatement of the offender as a moral citizen and facilitates the offender's reintegration into the community.

In Islam, forgiveness is consistently presented as part of human morality (*akhlaq al-nas*). Islam provides believers with the choice to forgive, encouraging forgiveness over revenge. It is a higher virtue to forgive even if the appropriate response to a crime would be an equivalent retaliation. According to the Qur'an, the believers "when they are angry, they forgive" and that "the rewards for forgiveness and restitution are given by Allah" (al-Shura, 42:40). The Qur'an, in al-Baqarah, verse 2, reminds believers that "To speak a kind word and to forgive people's faults is better than charity followed by hurt." Forgiveness of others allows people to seek forgiveness for their own wrong-doing in the afterlife and

also improves relationships with people. The victim has the authority to forgive the offender and decline the right of punishment. Such a decision is virtuous and can restore and build relationships.

Forgiveness is also related to justice (*'adl*), which is paramount in Islam. Arguably, the retributive system is a punitive form of justice that focuses on punishments in proportion to the crime committed. However, such retributive measures may often exceed what was due, which in turn may lead to an escalation of violence. The Qur'an, therefore, reaffirmed "the law of equality... in cases of murder" but suggests an alternative to retribution: "But if any remission is made by the brother of the slain, then grant any reasonable demand, and compensate him with handsome gratitude...." (al-Baqarah, 2:178-179). Thus, the suggested alternative is to accept blood money as compensation and offer forgiveness. As suggested by Sachedina, "the alternative to retributive justice assumes that no peace can result from retaliatory measures until forgiveness enters to provide the healing process needed to restore human relationships."⁴⁶ It is clear, therefore, that the Islamic conception of justice is closer to what is known as restorative justice. This is a form of justice that undertakes the "restoration to wholeness of those whose lives and relationships [that] have been broken or deeply strained by a criminal offence...."⁴⁷ The Qur'an, in al-Shura, reads: "The recompense for an injury is an equal injury thereto (in degree): but if a person forgives and makes reconciliation, his reward is due from Allah." Likewise, the Qur'an states: "But indeed if any show patience and forgive, that would truly be an exercise of courageous will and resolution in the conduct of affairs" (al-Shura, 42:40-43). Forgiveness, therefore, must not be at the expense of justice but be a part of justice through the restoration of human dignity to both the victim and the perpetrator.

Should forgiveness be contingent upon repentance by the offender? Islam emphasises repentance as a precondition for divine forgiveness. There is no substitute for repentance as a means of attaining divine forgiveness for sins, although on occasion God's mercy and forgiveness will extend to even an unrepentant sinner. With regard to the repentance of an offence that affects the rights of other people, repentance will certainly assist in forming a better bond between the offender and the victim. Forgiveness in response to repentance by an offender enables a new and healthy relationship to be forged. However, forgiveness does not require repentance by the offender. The victim may or may not ask for repentance before forgiveness. Indeed, the believers should imitate the Prophet (SAW) and forgive those who have not asked for forgiveness. The Prophet (SAW) was known for forgiving his enemies. He forgave those who persecuted him in Ta'if without their request and prayed to Allah to forgive them "because they did not know what they were doing." In Hudaibiyyah, the

Prophet (SAW) freed the eighty captured enemies and let them go back to their camp.

The most cited historical event of forgiveness was the Prophet's (SAW) triumphant return to Makkah and his declaration of amnesty to those who had fought him and persecuted his followers. He led almost 10,000 soldiers into an enemy's stronghold, yet there was no bloodshed. Despite the continuing hostility between the Makkan Quraysh and the Muslim community of Madinah, the Prophet (SAW) ordered no slaughter of his enemies nor killing of the inhabitants of Makkah: "...in the hour of triumph, every evil suffered was forgotten, every injury afflicted was forgiven, and a general amnesty was extended to the population of Makkah."⁴⁸ This significant act of forgiveness and reconciliation is a virtue well-founded in Islam. It also won the hearts of pagans and stimulated large-scale conversions to Islam.

Muslim scholars have also written extensively about forgiveness. Ibn Hazm, for instance, considers elements of forgiveness to be the height of virtue. He wrote:

Do not deliver your enemy to an oppressor, and do not oppress him yourself. Treat him as you would treat your friend, except for trusting him . . . The greatest of good deeds is to refrain from punishing your enemy and from handing him over to an oppressor . . . Magnanimity consists not of mingling with our enemies but of showing mercy to them while still not trusting them.⁴⁹

Abu al-Hassan al-Mawardi (360-450AH/974-1058 CE) considered forgiveness to be a virtue. He argued that those who are virtuous, grant forgiveness to root out "animosity, envy and strife" even to those who are undeserving.⁵⁰

A number of contemporary Muslim scholars have also discussed the role of forgiveness in the broader context of facilitating peaceful coexistence between Muslims and non-Muslims. Khaled Abou El Fadl argues that Islam is a tolerant religion and moral ideals like compassion and forgiveness are central to its teaching. He argues for developing mechanisms to reflect these ideals institutionally, even though this was not always the case historically.⁵¹ An-Na'im, another contemporary scholar, is concerned with human rights, inter-communal relations, and improvement of justice in Muslim societies, all moving toward forgiveness and reconciliation.⁵² Lastly, there is Fethullah Gulen who writes within the mystic tradition and argues for forgiveness and tolerance by referring to the Charter of Madinah and the Farewell Sermon. To him, forgiveness and tolerance are obligations and not simply a virtue. According to Gulen: "We should have such tolerance that we are able to close our eyes to the faults of others, to have respect for different ideas, and to forgive everything that is forgivable."⁵³ He

considers forgiveness a virtuous imitation of the character of Allah. Forgiveness is the natural result of true faith in Islam. He argues:

How can we not forgive when we know that salvation from the fire of suffering in our inner worlds, caused by our own mistakes, is possible only by drinking from the river of forgiveness? And even more so, if we know that the road to being forgiven passes through forgiving.⁵⁴

Gulen argues for forgiveness when the offence is forgivable and that it is appropriate even if the offender has not offered an apology. Fethullah Gulen has inspired many movements, primarily the Hizmet, which means “service”. Hizmet has no formal structure, no visible organisation and no official membership, yet has grown into perhaps the world’s biggest Muslim network. Gulen has followers all over the world, and who are especially active in education. They claim to have established more than 500 places of learning in 90 countries.⁵⁵ His followers are most active in Turkey, however, where there are said to be millions of Hizmet followers. Throughout the 1970s, when Turkey was engulfed in political violence between left-wing and right-wing groups, Gülen “invited people to practice tolerance and forgiveness.” This kept violence under control until the Military coup of 1980 which caused a major shift in Turkish politics.⁵⁶

Several Muslim communities practise the theology of forgiveness, as outlined above. Forgiveness has been a tremendous resource in peace-building efforts in various Muslim societies. Mohammed Abu-Nimer has documented several contemporary instances from urban and tribal Muslim communities where “Islamic values of forgiveness are applied to resolving conflicts, preventing violence, restoring order and harmony, and creating cohesiveness and unity among rival communities.”⁵⁷ He highlighted the case of the Palestinian Intifada movement (1987-1993), where the struggle against oppression was coordinated through an appeal to non-violence. The United National Leadership of the Uprising (UNLU), the coordinating group for the Intifadah, declared a day of forgiveness to allow those who had caused dissension in the Palestinian camp to surrender their weapons and work together against the occupation through non-violent means.⁵⁸ Many Palestinians responded to the call, surrendered their weapons, and joined the Intifadah movement.

A similar effort was visible in the Indian anti-colonial movement led by Abdul Ghaffar Khan, who defined Islam as consisting of ‘*amal* (selfless service), *yaqin* (faith), and *muhabbat* (love). He took Prophet Muhammad (SAW) as a role-model and tried to inculcate values of patience and righteousness in the face of persecution. He founded a movement called the Khudai Khidmatgars (“Servants of God”), which promised, among other things, “to refrain from violence and from taking revenge...to forgive those who oppress me or treat me with cruelty...

to refrain from taking part in feuds and quarrels and from causing enmity.”⁵⁹ Khudai Khidmatgars carried out campaigns designed to persuade the British to end the tyranny of occupation, despite the atrocities the latter brought upon them. Ghaffar Khan joined forces with Mahatma Gandhi and carried out non-violent protest until the British government agreed to allow India home rule.

Forgiveness, as Sachedina points out, “provide[s] the healing process needed to restore human relationship.”⁶⁰ No peace can result from retaliatory measures.⁶¹ The Qur’an urges the believers to replace retribution with magnanimity and let forgiveness, kindness, and generosity prevail during disputes and wrong-doing. In giving primacy to the act of forgiving, Islam wants to overcome the cycle of violence and, by extension, repair relationships. Islam did not deny retribution as a form of enacting justice, only stating that forgiveness is valued higher. Forgiveness is the best alternative to retributive justice and is closer to restorative justice.

Conclusion

Restorative justice emphasises respect, dialogue, and collaborative decision making and is a viable alternative to criminal justice processes which emphasise blame, stigmatisation, and punishment. While the restorative justice trend emerged in the West in the 1970s and 1980s, the primary sources of Islam have encouraged, from the very beginning, the amicable settlement of disputes through mediation and arbitration while ensuring justice, fairness, and equity in all situations. It is conceivable that contemporary practices of restorative justice borrowed a leaf from the Islamic dispute resolution models prescribed in the Qur’an and the Sunnah which have long been practised by some Muslim communities.

Islamic principles of dispute resolution, just like restorative justice principles, are based upon an assumption of mutual obligations and responsibilities in righting wrong. Islam, as in restorative justice, emphasises respect for all those affected by crime and obligates the believers to treat each other with respect, honour and dignity. In all their dealings, believers are required to stand firm for justice, even if it is detrimental to their own interests. Muslims are required to implement justice by following the standards and guidelines set out by revelation. Islam aims at crafting a just society which empowers victims, offenders, and the community.

Islam teaches us not to act with vengeance but to forgive if the interests of the public are not infringed. Forgiveness is a value strongly emphasised in the Qur’an. Allah forgives those who refrain from punishing when they hold the right to do so. Just like all other good deeds, Islam advises forgiveness be extended

for the sake of *taqwa*, as a manifestation of love and respect for Allah rather than material ends. Islam considers forgiveness to be a sign of grandeur, and the Prophet's (SAW) example as a forgiving figure marks this fact. Forgiveness brings forth gratitude, heals broken relationships, purifies man from negative thoughts, and establishes peace at individual and social levels.

In criminal court proceedings, communication between the offender, victim, and community is not taken into consideration. The possibilities of expressing remorse and forgiveness, which typically emerge in restorative dialogue, are thus prohibited in the sentencing processes of the criminal justice system. The relationship between the positive effects of restorative justice attested to by victims and offenders and the concept of forgiveness is not clearly spelt out. In restorative justice, participants infrequently use the word forgiveness, even though they identify with some of its characteristics. Islam brings forgiveness to the fore, putting an end to the cycle of retribution and retaliation, which ultimately damages the community. Prophet Muhammad (SAW), mentioned in the Qur'an as the ultimate role model, consistently chose forgiveness over retaliation. His behaviour is the best example of forgiveness and compassion. While the crimes against him were often vile and demeaning, the Prophet chose kindness over anger, keeping true to the Qur'anic verse: "Keep to forgiveness (O Muhammad), and enjoin kindness, and turn away from the ignorant" (al-A'raf, 7:199).

Policy recommendations

- It is essential that the concept of restorative justice be fully integrated into the criminal justice system in Muslim majority areas.
- There is a need for Muslim scholars and activists to emphasise forgiveness as a value in the restorative justice system in general.
- The criminal justice system must incorporate the principles of reforming the offender and reintegrating him/her into society.
- The right to pardon the offender in criminal cases should be included in the Penal Code/Criminal Procedure Code.
- The criminal justice system should allow communication between offender, victim, and the community, thereby taking into consideration expressions of remorse and forgiveness, thus putting an end to the cycle of retribution and retaliation and promoting peace and harmony in the community.

Notes

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1. See J. Braithwaite, 'Setting Standards for Restorative Justice,' *British Journal of Criminology* 42, no. 3 (2002): 563-77; United Nations Office for Drugs and Crime United Nations Office for Drugs and Crime, *Handbook on Restorative Justice Programmes* (New York: United Nations, 2006).
 2. M. S. Umbreit, *The Handbook of Victim-Offender Mediation: An Essential Guide to Practice and Research* (San Francisco: Jossey-Bass, 2001).
 3. Ibid.
 4. D. Moore, 'Shame, Forgiveness, and Juvenile Justice,' *Criminal Justice Ethics* 1, no. 2 (1993): 3-25.
 5. Howard Zehr, *The Little Book of Restorative Justice* (New York: Good Books, 2014), 6.
 6. Clifford K. Dorn, *Restorative Justice in the United States: An Introduction* (Englewood Cliffs, N.J.: Pearson Prentice Hall, 2008), 3-4.
 7. Zehr, *Little Book of Restorative*, 40.
 8. J. Braithwaite, 'A Future Where Punishment is Marginalized: Realistic or Utopian?' *UCLA Law Review* 46, no. 6 (1999): 1727.
 9. F.T.Cullen, B.S. Fisher, and B.K. Applegate, 'Public Opinion about Punishment and Corrections,' *Crime and Justice* 27, no. 1 (2000): 45.
 10. A. Morris, 'Critiquing the Critics: A Brief Response to Critics of Restorative Justice,' *British Journal of Criminology* 42, no. 3 (2002): 600.
 11. Howard Zehr, *Changing lenses: A New Focus For Crime And Justice*. 3rd ed. (Scottsdale, PA: Herald Press, 2005), 181.
 12. Dean Peachey, 'The Kitchener Experiment,' in *Mediation and Criminal Justice: Victims, Offenders and Community*, ed. Martin Wright and Burt Galaway (London: Sage Publications, 1989), 14-26.
 13. Susan C. Hascall, 'Restorative Justice in Islam: Should Qisas be Considered a Form of Restorative Justice?' *Berkeley Journal of Middle Eastern and Islamic Law* 4, no. 1 (2011): 39.
 14. Mark S. Umbreit, William Bradshaw, and Robert B. Coates, 'Victims of Severe Violence Meet the Offender: Restorative Justice through Dialogue,' *International Review of Victimology* 6, no. 4 (1999): 321-43.
 15. See Gordon Bazemore and Mark Umbreit, 'Balanced and Restorative Justice: Prospects for Juvenile Justice in the 21st Century,' in *Juvenile Justice Sourcebook: Past, Present, and Future*, ed. A. R. Roberts (New York: Oxford University Press, 2004), 467-510.
 16. Zehr, *A New Focus For Crime And Justice*, 47.
 17. Trudy Govier, *Forgiveness and Revenge* (London: Routledge, 2002), 61.
 18. Martha Minow, *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence* (Boston, MA: Beacon Press, 1998), 16.
 19. Fred Luskin, *Forgive for Good: A Proven Prescription for Health And Happiness* (New York, NY: HarperCollins, 2003), 68.

20. Desmond Tutu, *No Future without Forgiveness* (New York, NY: Image Books, 2000), 271.
21. Mark S. Umbreit, *The Handbook of Victim-Offender Mediation: An Essential Guide to Practice and Research* (San Francisco: Jossey-Bass, 2000).
22. Fred Luskin, *Forgive for Good*, 68.
23. Zehr, *Little Book of Restorative*, 17.
24. *Sahih al-Bukhari* no 5718, at Abu Amina Elias, 'Hadith On Brotherhood: Be Servants of Allah As Brothers And Sisters,' *Daily Hadith Online*. Available at: <https://abuaminaelias.com/dailyhadithonline/2011/10/03/brotherhood-means-to-reject-hate-envy-and-cruelty/>. (Accessed on: 15 June 2018).
25. Mohammed Hashim Kamali, *Shari'ah Law: An Introduction* (Oxford: One World Publication, 2008), 1.
26. *Ibid.*, 126, 201, and 291.
27. Hascall, 'Restorative Justice in Islam,' 36.
28. Abd Ar-Rahman I. Doi, *Shari'ah: The Islamic Law* (London: Ta-Ha Publishers, 2008), 26.
29. M. Hamidullah, *The First Written Constitution in the World* (Pakistan: Kazi Publications, 1986).
30. B. Makdisi, *Al-Foroui*, vol. 6 (Beirut: Books World, 1751), 188.
31. M. Cherif Bassiouni, *The Shari'a and Islamic Criminal Justice in Time of War and Peace* (New York: Cambridge University Press, 2014), 140.
32. See Ramizah Wan Muhammad, 'Restorative Justice in Islam,' *Journal of Islamic Law Review* 12, no. 2 (2016): 191-213.
33. M. Sarkhasi, *Al-Mabsout* (Beirut: Educational Publishing, 1096), 143.
34. O. Nasfi, *Tulbat Al-Talaba fi al-Istalahat al-Fiqhiyah* (Baghdad: Amera Press, 1142), 144.
35. Gordon Bazemore and Jeanne Stinchcomb, 'A Civic Engagement Model of Re-entry: Involving Community through Service and Restorative Justice,' *Federal Probation* 68, no. 2 (2004): 14-24; Katherine Beaty Chiste, 'Faith-Based Organizations and the Pursuit of Restorative Justice,' *Manitoba Law Journal* 32, no. 1 (2008): 27-60.
36. Zahid Shahab Ahmed, 'Combining Modern and Traditional Justice Techniques: The Jirga in Pakistan,' *Peace Insight*. Available at: <http://www.insightonconflict.org/2010/08/jirga-restorative-justice/>. (Accessed on: 25 February 2018).
37. Noor Aziah Moh. Awal, 'Sulh as an Alternative Dispute Resolution in Malaysia for Muslims,' paper presented at the 3rd *ASLI Conference*, China, 25-26 May 2006.
38. Muhammad bin Muhammad Abu Hamid al-Ghazali, *Ihya' 'Ulum al-Din (The Revival of Religious Sciences)*, vol. 3 (Beirut: Dar al-Marifah, 1962), 182.
39. Ibn al-Qayyim al-Jawziyyah, *al-Ruh (The Spirit)* (Bayrut: Dar al-Kutub al-Ilmiyyah, 1975), 24.
40. See al-Qur'an, al-Shura, 42:40; al-Baqarah, 2:187; al-Maidah, 5:95, etc.
41. Al-Qur'an, al-Baqarah, 2:109; al-Hijr, 15:85; al-Zukhruf, 43:89 and others.
42. Al-Qur'an, al-Baqarah, 2:263; al-Shura, 42:37; al-Zukhruf, 43:43 and many more.
43. Al-Qur'an, al-Shura, 42:40.
44. Mawlana Abul Kalam Azad, *Basic Concepts of the Qur'an: Being a Resume*

- of the Views Advanced in the Commentary of Surah al-Fatihah, the Opening Chapter of the Qur'an* (Kuala Lumpur: Islamic Book Trust, 2003), 61.
45. Tim Chapman and Alice Chapman, 'Forgiveness in Restorative Justice: Experienced but not Heard?' *Oxford Journal of Law and Religion* 5, no. 1 (2016): 135.
 46. Abdulaziz Sachedina, *The Islamic Roots of Democratic Pluralism* (New York: Oxford University Press, 2001), 105.
 47. Walter J. Dickey, 'Forgiveness and Crime: The Possibility of Restorative Justice,' in *Exploring Forgiveness*, ed. Robert D. Enright and Joanna North (Madison: University of Wisconsin Press, 1998), 108.
 48. Syed Ameer Ali, *The Spirit of Islam* (New Delhi: Kitab Bhavan, 2000), 78.
 49. Ibn Hazam Al-Andalusi, *In Pursuit of Virtue*, trans. M.A. Laylah (London: Taha Publishers, 1990), 188.
 50. Majid Fakhry, *Ethical Theories in Islam* (Leiden: Brill, 1991), 166.
 51. Khaled Abou el Fadl, *The Place of Tolerance in Islam*, ed. Joshua Cohen and Ian Lague (Boston: Beacon Press, 2002), 13-22.
 52. Abdullahi Ahmed An-Naim, *Islam and the Secular State: Negotiating the Future of Shari'a* (Harvard: Harvard University Press, 2010).
 53. Fethullah Gülen, *The Necessity of Interfaith Dialogue: A Muslim Perspective* (Somerset, N.J.: The Light, 2004), 33.
 54. Fethullah Gülen, 'Forgiveness,' *Fethullah Gullen*. Available at: <http://en.fgulen.com/recentarticles/903-forgiveness.html>. (Accessed on: 17 January 2017).
 55. Bishkek and Istanbul, 'Global Muslim Networks: How Far They Have Travelled,' *The Economist*. Available at: http://www.economist.com/node/10808408?story_id=10808408. (Accessed on: 26 February 2018).
 56. Tamer Balci, 'Islam and Democracy in the Thought of Nursi and Gulen,' in *The Gülen Hizmet Movement: Circumspect Activism in Faith-Based Reform*, ed. Christopher L. Miller (Newcastle upon Tyne: Cambridge Scholars Publishing, 2013), 82.
 57. Mohammed Abu-Nimer, *Nonviolence and Peace Building in Islam: Theory and Practice* (Gainesville, Florida: University Press of Florida, 2003), 109.
 58. *Ibid.*, 177.
 59. Eknath Easwaran, *Nonviolent Soldier of Islam: Badshah Khan, A Man to Match His Mountains* (California: Nilgiri Press, 2002), 111.
(2001:105)
 60. Sachedina, *The Islamic Roots*, 105.
 61. *Ibid.*

References

- Abdullahi Ahmed An-Naim. *Islam and the Secular State: Negotiating the Future of Shari'a*. Cambridge, MA: Harvard University Press, 2010.
- Abou el Fadl, Khaled. *The Place of Tolerance in Islam*. Edited by Joshua Cohen and Ian Lague. Boston: Beacon Press, 2002.
- Abu-Nimer, Mohammed. *Nonviolence and Peace Building in Islam: Theory and Practice*. Gainesville, Florida: University Press of Florida, 2003.
- Ahmed, Zahid Shahab. 'Combining Modern and Traditional Justice Techniques: The Jirga in Pakistan,' *Peace Insight*. Available at: <http://www.insightsonconflict.org/2010/08/jirga-restorative-justice/>.
- Ali, Syed Ameer. *The Spirit of Islam*. New Delhi: Kitab Bhavan, 2000.
- Andalusi, Ibn Hazam al-. *In Pursuit of Virtue*. Translated by M. A. Laylah. London: Taha Publishers, 1990.
- Azad, Mawlana A. K. *Basic Concepts of the Qur'an: Being a Resume of the Views Advanced in the Commentary of Surah al-Fatihah, the Opening Chapter of the Qur'an*. Kuala Lumpur: Islamic Book Trust, 2003.
- Balci, Tamer. 'Islam and Democracy in the Thought of Nursi and Gulen.' In *The Gülen Hizmet Movement: Circumspect Activism in Faith-Based Reform*. Edited by Christopher L. Miller, 82. Newcastle-upon-Tyne: Cambridge Scholars Publishing, 2013.
- Bassiouni, Mahmoud Cherif. *The Shari'a and Islamic Criminal Justice in Time of War and Peace*. New York: Cambridge University Press, 2014.
- Bazemore, Gordon, and Jeanne Stinchcomb. 'A Civic Engagement Model of Re-entry: Involving Community through Service and Restorative Justice.' *Federal Probation* 68, no. 2 (2004): 14-24.
- Bazemore, Gordon, and Mark Umbreit. 'Balanced and Restorative Justice: Prospects for Juvenile Justice in the 21st Century.' In *Juvenile Justice Sourcebook: Past, Present, and Future*, edited by A. R. Roberts, 467-510. New York: Oxford University Press, 2004.
- Bishkek and Istanbul. 'Global Muslim Networks: How Far they have Travelled,' *The Economist*. Available at: <http://www.economist.com/node/10808408?storyid=10808408>.
- Braithwaite, John. 'Setting Standards for Restorative Justice.' *British Journal of Criminology* 42, no. 3 (2002): 563-577.
- Braithwaite, John. 'A Future where Punishment is Marginalized: Realistic or Utopian?' *UCLA Law Review* 46, no. 6 (1999): 1727.
- Chapman, Tim, and Alice Chapman. 'Forgiveness in Restorative Justice: Experienced but not Heard?' *Oxford Journal of Law and Religion* 5, no. 1 (2016): 135.

- Chiste, Katherine Beaty. 'Faith-Based Organizations and the Pursuit of Restorative Justice.' *Manitoba Law Journal* 32, no. 1 (2008): 27-60.
- Cullen, Francis T., Bonnie S. Fisher, and Brandon K. Applegate. 'Public Opinion about Punishment and Corrections.' *Crime and Justice* 27, no. 1 (2000): 45.
- Dickey, Walter J. 'Forgiveness and Crime: The Possibility of Restorative Justice.' In *Exploring Forgiveness*, edited by Robert D. Enright and Joanna North, 108. Madison: University of Wisconsin Press, 1998.
- Doi, Abd Ar-Rahman I. *Shari'ah: The Islamic Law*. London: Ta-Ha Publishers, 2008.
- Dorn, Clifford K. *Restorative Justice in the United States: An Introduction*. New Jersey: Pearson Prentice Hall, 2008.
- Easwaran, Eknath. *Nonviolent Soldier of Islam: Badshah Khan, A Man to Match His Mountains*. California: Nilgiri Press, 2002.
- Elias, Abu Amina. 'Hadith On Brotherhood: Be Servants of Allah as Brothers and Sisters,' *Daily Hadith Online*. Available at: <https://abuaminaelias.com/dailyhadithonline/2011/10/03/brotherhood-means-to-reject-hate-envy-and-cruelty/>.
- Fakhry, Majid. *Ethical Theories in Islam*. Leiden: Brill, 1991.
- Ghazali, Abu Hamd al-. *Ihya' 'Ulum al-Din: The Revival of Religious Sciences*, vol. 3. Beirut: Dar al-Marifah, 1962.
- Govier, Trudy. *Forgiveness and Revenge*. London: Routledge, 2002.
- Gülen, Fethullah. 'Forgiveness,' *Fethullah Gullen*. Available at: <http://en.fgulen.com/recentarticles/903-forgiveness.html>.
- Gülen, Fethullah. *The Necessity of Interfaith Dialogue: A Muslim Perspective*. New Jersey: The Light, 2004.
- Hamidullah, Muhammad. *The First Written Constitution in the World*. Pakistan: Kazi Publications, 1986.
- Hascall, Susan C. 'Restorative Justice in Islam: Should Qisas be Considered a Form of Restorative Justice?' *Berkeley Journal of Middle Eastern and Islamic Law* 4, no. 1 (2011): 39.
- Jawziyyah, Ibn al-Qayyim al-. *Al-Ruh (The Spirit)*. Beirut: Dar al-Kutub al-Ilmiyyah, 1975.
- Kamali, Mohammed Hashim. *Shari'ah Law: An Introduction*. Oxford: One World Publication, 2008.
- Luskin, Fred. *Forgive for Good: A Proven Prescription for Health and Happiness*. New York: HarperCollins, 2003.
- Makdisi, B. *Al-Foroui*, vol. 6. Beirut: Books World, 1751.

- Minow, Martha. *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence*. Massachusetts: Beacon Press, 1998.
- Moh. Awal, Noor Aziah. 'Sulh as an Alternative Dispute Resolution in Malaysia for Muslims.' *Paper presented at the 3rd Asian Law Institute (ASLI) Conference*, China, May 2006.
- Moore, David B. 'Shame, Forgiveness, and Juvenile Justice.' *Criminal Justice Ethics* 1, no. 2 (1993): 3-25.
- Morris, Allison. 'Critiquing the Critics: A Brief Response to Critics of Restorative Justice.' *British Journal of Criminology* 42, no. 3 (2002): 600.
- Nasfi, O. *Uulbat Al-Ualaba fi al-Istalahat al-Fiqhiyah*. Baghdad: Amera Press, 1142.
- Peachey, Dean. 'The Kitchener Experiment.' In *Mediation and Criminal Justice: Victims, Offenders and Community*, edited by Martin Wright and Burt Galaway, 14-26. London: Sage Publications, 1989.
- Sachedina, Abdulaziz. *The Islamic Roots of Democratic Pluralism*. New York: Oxford University Press, 2001.
- Sarkhasi, M. *Al-Mabsout*. Beirut: Educational Publishing, 1096.
- Tutu, Desmond. *No Future without Forgiveness*. New York: Image Books, 2000.
- Umbreit, Mark S. *The Handbook of Victim-Offender Mediation: An Essential Guide to Practice and Research*. San Francisco: Jossey-Bass, 2000.
- Umbreit, Mark S., William Bradshaw, and Robert B. Coates. 'Victims of Severe Violence Meet the Offender: Restorative Justice through Dialogue.' *International Review of Victimology* 6, no. 4 (1999): 321-343.
- United Nations Office for Drugs and Crime United Nations Office for Drugs and Crime. *Handbook on Restorative Justice Programmes*. New York: United Nations, 2006.
- Wan Muhammad, Ramizah. 'Restorative Justice in Islam.' *Journal of Islamic Law Review* 12, no. 2 (2016): 191-213.
- Zehr, Howard. *Changing lenses: A New Focus for Crime and Justice*, 3rd ed. Pennsylvania: Herald Press, 2005.
- Zehr, Howard. *The Little Book of Restorative Justice*. New York: Good Books, 2014.