

## **Abstracts**

2nd Biennial International Conference on Restorative  
Justice:

# **Restorative Justice as a Bridge between Silk Road Civilizations**

May 3-4. 2018, Tarbiat Modares University

**Conference Convenor:**  
Dr. Mohammad Farajiha

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### **Letter of the Conference Convenor**

When the idea of holding a biennial conference on restorative justice in Tehran was raised during the closing ceremony of the first conference (May 2016), this notion, seemed slightly farfetched and over-ambitious. At the time, it was perceived that no new developments would come to forth in this arena and that the newly published Encyclopedia of Restorative Justice and a few other publications and book translations would suffice.

Nevertheless, the deep roots of restorative ideas in the context of Iranian culture and conceptual transformations of restorative justice as an evolving paradigm showed that restorative justice, unlike many other technical subjects of criminal law, is far more fluid and fertile than being confined to merely a one-off conference or a few articles. If we accept that, one of the grounds for the emergence of the concepts of restorative justice was the frustration with the lack of efficacy of traditional criminal interventions, it must be acknowledged that the result of empirical research around restorative interventions will inevitably shape the future of the policies and programs of restorative justice.

Along with the evolution of the concept of restorative justice and the expansion of its territory, today, restorative justice is not just a trait for "justice," but a fundamental change in the way of thinking and living. For this reason, besides the word "restorative justice", today we deal with concepts such as restorative culture, restorative life, restorative family, restorative city. These concepts appeared fortunately just as our destiny and social and political life needed it the most. In the light of the guiding philosophy and principles of restorative justice, we learn how to talk to each other, how to find a solution instead of emphasizing on punishment for the crime, and how to build a network of thoughts and ideas supporting restorative and non-punitive interventions.

In the restorative justice discourse, public opinion is no longer a tool used maliciously, but is among the main pillars of the formation of non-punitive interventions. As John Braithwaite remarks, there is no reintegrative shaming feeling against the police, the judge, or the media, but we usually feel ashamed in front of those whom we respect and trust the most.

The restorative justice approach is, in fact, a form of contemplation and reflection that is exercised to deal with the many unpleasant aspects of everyday life. The trend of restorative justice advocates finding a solution to the problems that resulted in the act of crime, rather than to punish the criminal. This restorative notion is rooted in the fact that following being acquainted with the criminal's personality, culture and the social context which the crime was committed, one is less likely to be a proponent of punitive justice and retribution.

The Second International Conference on restorative justice, in fact, should be considered as a restorative family meeting with the restorative justice family members, representing various university disciplines as well as the diverse cultures of the Silk Road. In fact, the Silk Road is no longer considered as a trade route, but a crossroad for dialogue between cultures, religions, as well as justice systems and a bridge linking Eastern and Western civilizations. One of the aims of this conference is to create an atmosphere suitable for dialogue between experts and specialists from various academic fields representing Eastern civilizations. Despite the efforts of various disciplines of the Social sciences and humanities to identify the problems of the human community and provide solutions for a sustainable and harmonious human interactions, it seems that these sciences are far removed from each other because of the specialization and divisions of sciences, and have lost the ability and skills of dialogue and communication. Restorative justice is an avenue to gather legal and experimental criminal law sciences, mysticism, philosophy, religion, literature, sociology, psychology, and other thinkers who unconsciously deal with concepts and mechanisms of restorative justice on a daily basis.

What makes the importance of discussing the issue of restorative justice in the context of traditional and indigenous Asian cultures more relevant is the restorative capacity available in the context of native cultures and the mystical and religious teachings of Asian societies. It seems that the communal culture of the east, the role that family members play when a crime is committed, the participation of the people harmed by the crime in finding solutions to the consequences of the crime and trying to maintain emotional and human interactions is far more prone to adopting patterns of restorative justice than Individualism dominating in some Western societies. While part of Eastern cultural traditions and indigenous concepts are based on the unofficial resolution of disputes, over the last few years these concepts have been marginalized on the pretext of modernizing and reforming the criminal justice system. The experience of the civilizations and legal systems of the Silk Road countries to create synergies and interactions between informal and formal justice and how to benefit from the gains made by the

combination of these two patterns should be an attractive and informative notion.

Holding 18 pre-conferences in various universities throughout the country that are located along the Silk Road and providing more than 10 workshops for law teachers, law students, police officers, prosecutors, judges, and members of the Dispute Resolution Council showed that the familiarity of the administrators of the criminal justice institutions with the concept and application of restorative justice in the realm of their activity has had a significant impact on the nature of the criminal justice system and the transition from retribution to restoration. Asian countries have a noticeable experience in this field. In addition to social control and other cultural factors, the emphasis of the criminal justice system on implementing restorative responses has resulted in a reduced number of reported crimes. Criminals who admit guilt and own up to their wrongdoings and take their responsibility for their actions and behaviors as well as aim to repair the harm they inflicted, face more lenient sentencing.

Once again, I am pleased and honored to have the chance to be among more than 20 of the most respected scholars from various Asian, European, and North American countries at Tarbiat Modares University in Tehran to share their experiences, and points of views.

Finally, I must express my sincere gratitude to Professor John Braithwaite who generously and without any expectation provided his kind assistance throughout both conferences. Moreover, I must appreciate Professor Denis Woung and members of Asia and Pacific association which supported the Center for Legal Studies at Tarbiat Modares University in organizing this conference.

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### **Rehabilitation of Offenders with Restorative Justice Values**

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In this paper, the author suggests to integrate the values of restorative justice in the rehabilitation of offenders. The values of restorative justice namely respect, responsibility, reintegration and restoration are used as the foundation in the development of a rehabilitation framework. These four values are identified as the author examined them in a research study that explored the potential of restorative justice in commercial organizations based in Singapore (Abdul Rahim, 2015).

Restorative justice seeks to restore relationship by repairing the harm from a conflict or an offence (Braithwaite, 2002; Braithwaite & Strang, 2001). The concept is evident in several jurisdictions in Asia (Steels, Goulding & Abbot, 2014). As highlighted by Wong (2014), countries such as China, Singapore, Taiwan and Thailand has adopted the principles of restorative justice as part of its criminal justice system. For instance, Thailand and Singapore has adopted the family group conferencing as part of its sentencing measures (Boriboonthana & Sangbuanglumlum, 2013; Chan, 2013).

Restorative justice is not a new approach and the principles are part of an alternative sentencing option. However, the author argues that the translation of these principles into practices can be further strengthened. With this understanding, this paper introduces an overarching framework in working with offenders that is based on the values of restorative justice. The framework will guide the practitioners in the provision of restorative practices and support the offenders to fully internalize the values of restorative justice.

**Keywords:** Restorative Justice, Rehabilitation of Offenders, Responsibility.

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### **Comprehensive Model of Mediation in Commercial Offenses and Crimes**

Hossein Aghaei Janatmakan<sup>1</sup>

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Obviously, globalization has increased with the increasing level of trade exchanges by creating new economic values and growing joint needs, and the need to strengthen the constructive relationship between economically mutually beneficial countries has increased. Silk Road countries and civilizations, while also benefiting from some kind of shared influence on trade facilitation, but increasing mutual standards as well as attempting to systematize and update business-trade needs can help to make these relationships more effective. Play a significant role. The high business interactions between Iran-Turkey, Iran-China, Iran-India itself indicate the growing importance of this focus on restorative justice. In this regard, paying attention to strategic and comprehensive mediation will not only make the traders of these countries free from the confusion in the way of pursuing the rights derived from the victimization of these crimes, but by creating mechanisms for mediation and prompt handling. The related crimes and offenses will also increase the confidence needed to this level of business and its dynamism. To this end, in the first step, recognition of the various domains of commercial mediators is proposed, and for this purpose, the related mediation agents can be categorized in the course of the subject areas to the person-centered domains. For example, mediators related to protecting consumers' rights, or areas such as food products, industrial products, and the like, can be categorized. Continuing with the anticipation of related specializations in the form of members of teams of two or more multilateral mediation axis. Ultimately, with the transnational agreements on the creation of neutral third parties and the setting of guidelines in this regard, the proper and technical performance of such mediations can be added. As an example, international agreements may specify that commercial litigation between Iran and India by China or Turkey will be the subject of mediation, or India will mediate commercial litigation between Iran and Turkey. As it is known, the level of coordination is high and transnational, therefore, for political dilemmas, this direction provides for restorative justice in a specific way. Therefore, mediation as one of the most important components and pillars of restorative justice must be reconciled with transnational interactions, and this should be ensured in a transnational intellectual.

**Keywords:** Mediation, Offenses and Commercial Crimes, Silk Road Civilizations.

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**The Approach to Restorative Justice to Traditional Processes of Reconciliation and Compromising in Murder: A Case Study in Ilam Province**

Hadis Ahmadi<sup>1</sup>

Despite the ups and downs preceding the rules for the enforcement of penalties and achieving the rather relative justice, juristic concluded that even the most democratic countries in the world are not able to enforce justice to the extent that it compensates all the losses to the one who incurred a loss. Accordingly, in most societies, in order to avoid disrupting the rights of the one who incurred a loss and people around the offenders, and in order to comply with the restorative justice of public or governmental organizations, as well as local reformers, some provisions were made for spontaneous intervention in cases of emergency and through mediation between the parties of the dispute in order to prevent the occurrence of damages and irreparable losses that may be inflicted by the one who incurred loss or to the offenders or to his/her relatives. After the establishment of security or the presence of security authorities, ensuring that the incident does not go far beyond what is happening, along with judicial investigations, will use all their efforts to resolve the local problem and correct the phenomenon. And these cases will mostly come to conciliation depending on the opinions of the parties and the place of crime.

This paper, using library studies and investigating 14 murder cases between 2008 and 2013 and an interview with 14 official and local mediators, tried to compare the mechanisms of mediation in Ilam province with the principles of restorative justice. In the province of Ilam, despite the plurality of ethnicities and localities of the inhabitants, and considering that they are all Shie and faithful to the principles of Islam, the effects of the interference of peacekeepers or, in some cases, local elders are usually far more significant. Since the basis of this intervention is based on the consent of the parties and its affiliates, the greatest amount of time and expenses is spent for obtaining this satisfaction in intervention. In pursuit of this, other disagreements have been negotiated at subsequent meetings, and the summing up of them would include compensating all or part of the damages and losses incurred, or the full satisfaction of the parties of the dispute.

**Keywords:** Restorative Justice, Mediation, Murder, Consent, Local Community.

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**Does Restorative Justice have a Feminine Face? (Reflections on Gender-Based Criminal Studies)**

Farhad Allahverdi<sup>1</sup>

The contrast between the Paradigm of restorative justice and the retributive justice is traditionally formulated with dichotomies such as "Violation of law / harm to the victim ", "criminality / accountability", "formal / informal", "active / passive". These dichotomies have been reconstructed in concept of "feminine-masculine" in gender- based studies specifically difference feminism. Carroll Gilligan who presented this theory for the first time in her book "Different Voice" (1982) explains how theorists of Moral Development, such as Lawrence Kohlberg, by limiting their researches on interviewing white boys only, reduce The Ethical View of Girls, and ignore the fact that female ethics was qualitatively different than male's. While male ethics emphasizes on justice and rights, female ethics is the ethics of care, a concrete ethics that does not reduce the facts to abstract principles, emphasizes on the role of relational ethics of women, and taking maternal ethics, highlights Non-violence and emotions instead of equality and rationality. Some criminologists developed dichotomy of "justice / care" to criminal justice and taking literary metaphors and Hellenistic myths defended from ethic of care model that is based on "concrete", " relational ", " Emotional" and "feminine" figures, contrary to equality model which is "abstract", "rational", "right-centered" and "masculine". Accordingly, there is a relationship between the theory of "reintegrative shaming " and "ethics of care" as a feminine ethics. The gender based criminal studies have been criticized for three reasons: essentialist approach to the ethics, feminizing the humanity and reproduction of attitudes of subordinates toward women. Taking attention to these criticisms, this article seeks to illustrate feminist insights and achievements in the criminal justice context. Taking "Ethical attention", "empathic understanding" and " rational consciousness" serious as important essentials of ethics of care improves efficiency of restorative justice program and mechanism.

**Keywords:** Ethics of Care, Restorative Justice, Feminine Justice, Gender, Empathic Mediation

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**Evaluation of Possibility of Using Restorative Justice Programs about the First Juvenile Violent Experience for the Purpose of Prevention of Recidivism (Case Study about Repetitious Delinquent Prisoners 18-25 Ages)**

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Moansoure Ghanbarian

Violence contains large spectrum of juvenile`s crime. According to the psychological findings, adolescence period is demanding enjoyment period and high excitement and this period is ready for committing violence. juvenile`s decision making is subject to environment and juvenile`s foresight is less than adult`s foresight and when they have to take decision fast, their psychological immaturity cause making false decision. Other factors such as violent sample also effect of this course.

Essential question in this essay is; does the restorative approach work for the first juvenile violent experiences? And does it effective in prevention of recidivism? This essay`s findings show that almost these juveniles were exposed petit culture and violent sample and nevertheless they need to be accepted and talked, but never these means criminal justice help them. In this essay about 30 repetitious juvenile delinquents inmates convicted to robbery or blackmail were interviewed. according to the essay`s findings they commit at least once, simple violence for example theft, battery in the 14-18 ages and then, the first attitude toward them was arresting and sending them to formal institutes such as jail or rehabilitation in the criminal institutions.

The interviews show that after this process, juveniles use to penal reaction and after that, without fear commit violence and crime. According to their statements, the cause of this problem was, not understanding juveniles and talking with them. So according to this essay, punishment and rehabilitation was ineffective for rehabilitation and violence prevention, vice versa facilitate recidivism crime. It seems in the adolescence period, punishment is ineffectiveness and data shows that we need to take restorative justice programs as the best reaction (response) for solve the problem of juveniles and prevention of violence and repetitions violence.

**Keywords:** Restorative Approach, Violent Crime, Juvenile, Recidivism, Prevention of Crime.

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### **Intercultural Restorative Justice, a Procedure for Development and Establishment of Restorative Justice**

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Judicial procedure of restorative justice, which is known as an effective and valuable procedure in case settlement, has not been a formal method in legal and judicial system of countries for long, and it traces back to the 70<sup>th</sup> 80<sup>th</sup> decades. However, historically it is very old and has been used in setting interpersonal and intergroup conflicts in societies since long time ago. Because of the advantages that this procedure has over the other approaches (Retributive justice and Rehabilitative justice), it deserves to be more known and applied. Certainly in all cultures and societies, different ways and instances of it existed and still exist which we can identify and make use of through historical and comparative studies, phenomenology, etc. However, one of the best procedures in the study of human issues is intercultural study. If each issue is studied intercultural, we can definitely come to a better understanding of the problem and we can find its aspects, advantages better and sooner. Through this procedure, we can detect exchanges and harmonize these experiences better. In recent decades, a trend in philosophical thought known as intercultural philosophy has emerged which is a great supporter of intercultural procedure in investigating and proper understanding of the issues. In this view, the ideal way to find facts and use human's spiritual resources is intercultural dialogues. Teachings of this philosophical thought can be a guide as well as a grate theoretical basis for judicial intercultural studies. The ultimate goal of this philosophy is better understanding and development of peace and friendship among cultures. Therefore, we can make use of the findings of this philosophical approach to do intercultural studies on restorative justice and its development and establishment. This study which is done with analytical – descriptive method aims at presenting intercultural study procedure in restorative justice and points to its advantages over other procedures of study like historical, comparative study and phenomenology with the help of intercultural philosophy. In other words, the aim of this study is to introduce and emphasize on intercultural studies on restorative justice for better use of this judicial trend by means of the teachings of intercultural philosophy.

**Keywords:** Restorative Justice, Intercultural Philosophy, Intercultural Restorative Justice, Comparative Restorative Justice.

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**Restorative Justice in the Framework of Peace Studies: A Glance at Iran-Zamin's Culture and Traditions**

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Peace studies is a relatively recent field of interdisciplinary studies that combines law, political science, sociology, etc. together and has an unbreakable tie with culture and history of nations; this field of study, does not prescribe a pre-existing rule for achieving lasting peace instead in every society, with emphasis on the customs and agreed upon rules of that society, the paths to achieve lasting peace are studied. But perhaps the common ground of all these paths is the reduction of violence and achieving the restorative justice, so that with the transition from the classic image of the angel of justice who always has a sword, there is a different image of justice on the screen, that rather than having unresolvable paradox between peace and justice, both of them would pursue the prosperity of society. This approach is rooted more in the thoughts of the eastern thinkers, here specifically the land of Iran, rather than in modern western mentality. One of the obvious manifestations of this way of thinking can be observed in the culture of tolerance and consideration of the public interest of the Iranian people that have paved the road for the survival of Iranian identity throughout a history of invasions and cultural interactions with neighboring civilizations.

In this paper, first we will take a pass on the concepts of peace and justice, and reach to their standing conflict in order to replace it with a new coherent and harmonious structure, and then while studying history and culture of Iran-Zamin, we will analyze the reflection of restorative justice in Iranian mindset from ancient times till today and scrutiny the role this viewpoint can play in peace studies.

**Keywords:** Restorative justice, Peace studies, Iran-Zamin, Tolerance, Culture.

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### **Facing the Restoration of Offender and Victim of Rape by Focusing on the Mediation of NGOs**

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Creation and expansion of alternative methods and re-defining of shares either governmental or civil actors, in providing criminal justice play an important role in new criminal policy approach, due to present limitations in judiciary system and also ineffectiveness of measures based on suppression.

Therefore, restorative justice attitude which is in fact some aspects of compensative justice can have important role in rehabilitation of norm-breaking and infamous criminals in traditional and common societies, just because of its focus on utilitarianism reaction and nothing more.

The present paper, with focus on the role of NGOs that able to take effective steps as a mediator relying on their experienced and trained staff and also with study the present methods has been taken by leading countries relating modern discourse and exposure approaches, tries to study the chances of providing confrontation possibilities between parties of sexual violence crimes in form of restorative justice framework.

Hence, writers of the present paper try to, by suggesting the following question, analyze one of the most important effects of restorative justice “mediation” through NGOs in the area of restoring the effects of sexual violence.

In terms of wide area of psychological effects and suppressed hatred of rape victims, how effective can the role of NGOs be, in helping victims of such crimes to heal yet along with correction and social rehabilitation of sexual violence through monolith shaming approach?

Since the restorative justice using shaming devices and restorative process in confrontation, intervention based on indemnity, mediation and retaliation through NGOs can provide great deal of help in creating sense of security, respect and empowerment.

The present research, using theoretical issues based on analytical methods tries to analyze related information and data. The theoretical findings of this research shows birth of some kind of victimizing and crime fear syndrome among rape victims which insurance logic and discourse groups can have high effects of adjustment of consequences in such syndromes.

Mentioned NGOs, with playing the role of professional mediator, via confronting the victim and perpetrator, can not only cope with the fear of crime repetition and increase the sense of “self-security” in the victim, but also increase the sense of regret along with self-control in the sexual violent as well.

**Keywords:** Restorative Justice, Mediation, NGOs, Reconciliation, Rape.

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### **Restorative Programs in Problem-Solving Courts (PSCs): Challenges and Solutions**

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One of the four main methods of the specialized courts known as "problem-solving", "therapeutic" or "collaborative justice" courts to make responsible the offenders and address underlying legal problems of them is "restorative justice" programs, along with clinical treatment methods, therapeutic jurisprudence and procedural justice. The courts, which consist of a wide and various ranges of drug, youth, mental health courts, etc. in countries such as the United States, Australia, and Canada, do not use the same or similar restorative programs, and in some of PSCs these programs have conflicted with other court programs or have become the last priority of the court. The reason for this can be found in the basic purpose of the establishment of each of these courts or the type of their programs; so that it can be said that the restorative justice, despite the emphasis on considering the needs of the victim, offender, and community, is more "victim-oriented" than "offender-oriented." This matter apparently makes impossible use it as a comprehensive approach in all types of PSCs which are basically "offender-oriented". Indeed, the first generation of PSCs, such as the Drug Courts and the Mental Health Courts, structurally deals with offenders who are facing behavioral health problems and is trying to treat and rehabilitate them instead of imposing the incarceration. On the other hand, Domestic Violence Courts (DVCs) seek to increase the certainty and severity of legal responses to offenders, obligate them to be responsible, and support the victim. Therefore, theoretically and practically, DVCs are primarily concerned with the security of the victim and implementing the principles of restorative justice (the necessity of compensation and the restoration of crime effects on victims); While the principles of therapeutic jurisprudence, which require the rehabilitation of the offender through behavioral health interventions, appear to be less significant in these trials. The differences between the basics of the various kinds of problem-solving courts, failure of the restorative programs on the assumption of the victim's dissatisfaction, being victim-oriented of restorative justice programs and ignoring the therapeutic goals of the offender in some crimes are some of the challenges. However, the positive aspects of the implementation of restorative programs in problem-solving courts, such as the therapeutic effects of the confrontation between the victim and offender and his/her reintegrative shaming, can be the strong points for concurrent and more implementation of the restorative and therapeutic programs. Present paper, by "analytical & descriptive" method and by analyzing the laws and judicial procedures and using library resources, *firstly* examines the challenges of various types of specialized PSCs, using restorative programs *and then* by a comparative study from the above point of view analyzes the Iranian judicial system which without changing the traditional structure of the existing criminal courts and without using the specialized title "problem solving" for the court, but with the aim of the effectiveness of the decisions and verdicts, has used some restorative

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programs and principles of problems solving directly in their new laws or indirectly in judicial procedures, *and finally*, provides Iran's criminal justice system with solutions for more effectiveness of restorative justice programs; Such as structural, educational and cultural reforms.

**Keywords:** Restorative Justice, Problem-Solving Courts, Problem-Solving Approach, Therapeutic Jurisprudence, Challenges and Solutions.

### **Practical Strategies of lawyers in the Restorative Discourse**

Mohammad-Ali Babaei<sup>1</sup>

Lawyers as advocates provide legal information to the judges in the administration of justice. In the criminal justice discourse, the presence of a lawyer, along with the principle of innocence, the principle of proportionality of the crime and punishment, the principle of defense, and the equal treatment of the parties in the proceedings are known as fair trial principles. In this approach, it is believed that the sovereignty as the distributor of justice in society has the authority and prerequisites for ordering. This supremacy of the sovereignty, which may be abused to prosecute the accused person and end in oppression, is controlled and adjusted to the principles of fair trial and defense rights of the accused, including the right to assistance from a lawyer. By adopting these principles in the form of regulations, including the Code of Criminal Procedure, 1392, the Iranian legislator has stated its commitment to complying with the provisions of these principles. Attorneys and Bar Associations are also often aimed at highlighting this role in the community and, on this basis, insist on independence from the ruling powers.

Along with the criminal justice discourse that has been seriously criticized over the past few decades, another discourse with the participation of other crime activists, centered around the victim, is aimed at using the capabilities of civil society, including the lawyers to resolve disputes arising from the commission of the offense. This Discourse which is known as the restorative-compromise based discourse.

Regardless of its newness, the discourse of restorative justice has been subject to fundamental criticism, which is criticized mainly as a comparison of restorative justice with criminal justice. One of these criticisms is the non-intervention of a lawyer in the mediation-based restorative process. In fact, the lack of intervention by a lawyer in the mediation process is seen as a violation of the defense rights of the accused in restorative justice. Although such objections can be accountable, in the discourse of restorative justice, there needs to be a different role for lawyers compared to what is found in criminal justice. Unfortunately, too much emphasis on the role of the lawyer in defending the rights of the accused of governance has diminished the role of reconciliation and reconciliation and the duty of peace and reconciliation between the offender and the victim in certain crimes, and this lowers the role of the constitution of the lawyers. Has reduced the positive attitude of the general public to the profession of lawyer. The reasons for not paying attention to the recent role of lawyers, in addition to the incomplete structure of the institution of lawyers and regulatory authorities, are rooted in the social culture of law and practice in the Iranian society. Failure to foresee the necessary mechanism by the supervisory authorities. This important task, which has been emphasized in Article 31 of the Law on Amendments to Some Rules of the Judiciary 1356 is the supremacy of the sense of legal claim for peace of mind, the material benefits arising from legal action for a lawyer. And finally, the culture of referring to a lawyer, which is mainly aimed at the formal resolution of criminal cases, is one of these reasons. In practice,

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the lack of interest of lawyers and perhaps the forgetting of this important duty of the lawyer is quite evident.

In practice, drawing practical strategies for the role of restorative-compromise based of lawyers can be done in two ways: First, use of the existing legal capabilities and the duty and duty of the lawyers referred to in Article 31 to be vigorously pursued to the grounds for its implementation. The board of directors of the Bar Associations, as one of its main responsibilities, should take the necessary steps to educate and enhance the knowledge of Lawyers in this field. In addition, incentive measures such as the exemption from payment of annual membership fees, the perceived actions of lawyers active in peace and the reconciliation of the victim and the offender as a mitigation in penalties.

Secondly, in the current structure and the rules governing the lawyers, fundamental reforms are made and the duty of lawyers to establish peace and reconciliation between the client and the other party, such as the duty to defend and enforce rights in the judicial authorities, is recognized and its rules of execution by the legislator The Bar Associations are also required to be monitored. In addition, along with the existing incentive measures that can be applied to them in the current situation, by reforming the income tax regulations of the business and in coordination with the tax office, lawyers will be exempted from taxes if they seek peace and compromise, whether explicitly or entirely exempt.

In this article, we will try to look at the basics of the implementation of the restorative and reinstatement of the attorneys, the practical strategies in the present situation and the suggestions needed to create a favorable situation.

**Keywords:** Criminal Justice, Restorative Justice, Defendant's Defensive Rights, Peace and Reconciliation, Lawyers.



## **Restorative Mechanisms in Domestic Sexual Violence**

Zahra Babazadeh<sup>1</sup>

Domestic sexual violence, as one of the manifestations of violence against women, can be categorized under both sexual and domestic violence. Due to its repetitive nature, corollary physical and psychology harm, and profound effect on the most private part of women's body, it carries the consequences of both types of violence. Addressing this issue despite the international concerns as regards the human rights, local demands and victim's dissatisfaction with the inadequacy of existing criminal responses is considered an untapped and challenging issue in Iran. Lack of trust for the male dominated criminal justice system, reporting sexual violence being a taboo, silence of the legislature on defining the scope of submissiveness of women to men, difficulties in providing proof for the crime, the non-recognition of the victimization of domestic violence for women, and the non-restorative nature of the responses are among the factors influencing the increase in the unreported incidents of this crime. This study aims to investigate the gaps in judicial restorative responses and identify the needs of victims of domestic sexual violence. It uses a qualitative approach and a case study method to conduct deep interviews with the victims and judges in criminal and family courts.

The findings indicate that present restorative responses regarding this issue seek to reconciliation with the aim of closing such files, thus avoid dealing with the issue professionally and solving the causes of the problem. Factors such as power imbalance in family relationships and men being entitled to have any form of intercourse without being held responsible create an impasse for restorative justice procedures. In the investigated cases, physical and psychological security of victims was neglected and there was not any mechanism for holding the offender responsible or obtain his commitment to stop the violence. In such case, merely the consent—under coercion—of the victim led to the issuance of a suspended sentence. In the sampled sentences, the amount of blood money was not even commensurate with the material damage of the victim. This article while criticizing the existing practice and studying comparative literature, suggests that depending on the level of victimization, the judicial support responses could focus on preserving the family by holding the offender responsible by monitoring his obligations, stopping the violence, and improving disrupted relationships. Alternatively, it can focus on proposing ways to compensate the victim's material and spiritual damages. In addition to observing the principles of restorative justice, the "level of wife's victimization" for adopting a criminal-restorative approach and the "time factor" to start the restorative process are the most crucial points that should be considered.

**Keywords:** Sexual Violence, Family, Restorative Guarantee.

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**Feasibility of Implementation Restorative Justice Programs in the Business Environment**

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Since the activities of business enterprises and the creation of a dynamic business environment boost the economy by increasing production, income, employment, investment and saving, and ultimately boosting the quality of life and well-being of the people and increasing the life expectancy in a community, more countries are working to create an appropriate business environment, and a lot of corrective action is being taken. In terms of business environment, the factors affecting the performance of economic units such as the quality of the governing bodies, the stability of laws and regulations, the quality of services, etc. that change them is out of the power and authority of the managers of the economic enterprises (Meydari and Ghodjani, 2008). Many laws and regulations have been passed to monitor and control economic activities and the business environment, and various organizations with reducing goals and preventing plans, monitor and control the place of business. But this may not be enough alone. Because the society in which we live, should benefits from the lowest cost and most interests of legal rights. Thus, restorative justice programs that have entered into legal literature for several years, aim at compensating for losses and harms, restoration and strengthening of relationships among people and repairing and treating problems so that the victims are restored, promote legal order. This article studies implementation effects of restorative justice programs in controlling the repetition of trade violations and identifies the mechanisms, opportunities, threats and actors of restorative justice in business context of Iran. Research findings show the importance of involvement of NGO, trade unions and councils in the implementation of restorative justice programs.

**Keywords:** Business Enterprise, Business Environment, Economic Violations, Restorative Justice, Popular Societies, NGO.

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**Parents and Teachers Community Restorative Functions: Case-Study of High Schools of Kish Island**

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Schools and families are considered as the most important socialization and developmental environment for juvenile. Due to specific physiological and psychological changes, adolescence is very sensitive. An occurrence or absence of harmful behaviors during this period depends on the behavior of parents and teachers. This is a matter of great importance for a teenager to spend this period in a much smaller geographic area than metropolises, and only in family and school. Due to the many cultural and ethnic differences seen on the Kish Island, the way of education and how to resolve conflicts and interpersonal conflicts between teenagers also varies. Therefore, the role of the school is very important in using a comprehensive educational and training model to bring culture closer to students and their families. Among the programs of restorative justice in schools, it is possible to hold meeting such as circle time, training mediation to teachers and students in their friends, participative Conflicts Resolution to them and etc. this paper is based on descriptive- survey method through interviewing 9 number of managers and consultant of the Kish Island's girl and boy high schools and distributing a poll paper among 322 students of these schools. The results show due to the fact that there is a shortage of consultant in their schools and their limited hours in each school, major focus is on the students educational planning. And in a few schools, individuals are selected as advisers to enhance the sense of responsibility of students, to creation student associations for preventing drug addiction and to hold classes for increase self-esteem of students. The purpose of this paper is to explain plans of restorative justice in schools and creation of the restorative culture with regard to the capabilities of each school by holding courses and training for parents and consultant, and informing them for more participation than affairs of their children and preventing and reducing student deviations.

**Keywords:** Restorative Justice, Mediation, Restorative Culture, Kish Schools, Participation, Education, Crime Prevention.

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**Humanizing Education and Reconnecting People: The Potential of Restorative Justice in Education**

Martha A. Brown<sup>1</sup>

Restorative Justice in Education (RJE) is about building and nurturing relationships, creating just and equitable learning environments, and resolving conflict peacefully. RJE promotes the understanding and practice of the universal values of all people: respect, honesty, trust, humility, sharing, inclusivity, empathy, courage, forgiveness, and love. Upholding and practicing these values through restorative processes like the Circle allow people in schools to connect with each other on a deep level and then reconnect with each other when there has been harm.

Creating a restorative school is a long and arduous journey. It calls upon educators, parents, community members and students to reconsider the historical and traditional approach to schooling, especially approaches that rely on punishment and other authoritarian methods to gain compliance to the rules. In this presentation, Dr. Brown will share the lessons learned from studying the implementation of RJE at two middle schools in Oakland, CA, which she writes about in her book, *Creating Restorative Schools: Setting Schools Up to Succeed*. Understanding a school's state of readiness to take the journey from punitive to transformative is an important first step. Readiness includes examining discipline policies and organizational structure, but even more importantly, it includes assessing the relational ecology of the school. Components of a healthy relational ecology that both supports transformation and is a result of RJE implementation are:

- High levels of relational trust between all members of the school community
- High levels of listening and feelings of "being heard"
- A focus on relationships first, everything else second

When members of a school community trust each other, listen to each other, and value their relationships with each other, they are well-suited to work through the changes that occur over time when implementing RJE. These changes humanize education and reconnect people. Students become more engaged with their academic learning as they develop bonds with the adults in their schools. Adults feel safer, enjoy their jobs more, and experience less stress. Parents and community members also become more engaged with restorative schools. The transformational changes a restorative school undergoes can be measured by collecting baseline data through surveys, interviews, observations, and focus groups and then comparing changes over time to that baseline data.

**Keywords:** Restorative Justice, Education, Schools, Students.

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## **Restorative Justice in France: Practical Aspects**

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For many centuries, alternative ideas about justice have been hijacked by a state justice more concerned with sanctioning crimes *in abstracto* than with reintegrating the persons directly involved into their communities. At last, France has joined the wide movement rediscovering universal practices of humanistic conflict resolution and is seeking to align them with the fundamental principles of human rights and the basic rules of contemporary criminal procedure. Restorative justice and the measures it promotes have been integrated into the French penal law reform of 2014, supported by the then Minister of Justice, Ms. Christiane Taubira. The enthusiasm for this new criminal law philosophy continues to increase both with professionals in the criminal justice system and with the direct stakeholders who have suffered or are still suffering from the consequences and repercussions of an offence.

The implementation of restorative justice in France since the 2014 law was passed is bound to ensure that the measures that restorative justice promotes will become widespread and perennial. Despite many practices already implemented, and notwithstanding a broad scientific interest in restorative justice internationally and promising evaluations of restorative justice practices, France is still an exception in this regard because of a low interest of the academic community and researchers in the fields of criminology. Notwithstanding these limitations, restorative justice is now well underway in France.

Waiting for implementing circular (adopted only on march 15th 2017), the Judiciary is not totally involved in the development of Restorative measures. Nevertheless, at the regional and local levels, Conventions have been signed between judges, penitentiary probationers and victim support services. As RJ measures are not procedural acts, jurisprudence doesn't exist yet.

Concerning relationships with « East countries », Restorative justice programs are, at this moment, only shared and disseminated in overseas french territories in Pacific ocean (Tahiti, Raiatea, french Polynesia ; New Caledonia) and in french departments in Indian ocean (Reunion and Mayotte islands).

Let us give a boost to this promising development by supporting the optimism of action and discarding the pessimism of intelligence. At the same time, let us give ourselves the means of scientifically assessing its effectiveness and efficiency as the time has come in France for criminal and restorative justice to be complementary.

**Keywords:** Legislation, Criminal Justice System, Judiciary, Different Measures, Implementation and Evaluation, Role of the Professionals as Facilitators, Communities' Members, Place of the Communities in Large.

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## **A study on Practice Mode of Restorative Justice in Taiwan**

Chai Hann-Hsi<sup>1</sup>

The concept of restorative justice, from notion to practice, has been applied from criminal cases (including adult and juvenile delinquency) to the campus, the military and even the workplace. The process of restorative justice must be involved the relevant core knowledge and skills by well-trained practitioners and with dialogue between the offenders and victims in the restorative conference facilitated by practitioners. This is restorative justice practice mode.

The main countries in the world that promoted the practice of restorative justice all have their own practice mode, which not only served as the basis for the restorative justice practice but also serve as the benchmark for the supervision. The practice mode of the restorative justice practice mainly uses the helping skills through communication to form the restorative dialogue. This means the practice mode of restorative justice has its own cultural background. The Victim Offender Mediation (VOM) mode in North America shows the guidelines, the UK adopts the Best Practice Guidance same as New Zealand, while Australia has different practice mode based on the practice type taken by the provinces. Most practice has shaped into VOM. For non-government organizations such as the International Institute for Restorative Practices (IIRP), the "Real Justice" practice mode has proposed which via the script structure that helps practitioners to conduct restorative conference successfully. At the same time, there is no need to engage in intensive mediation or counseling training sessions. No matter what, they all initiated in dialogue as goal-oriented and presented brief principles as the partitions' practice steps.

In 2011, Taiwan implemented a restorative justice program, and its national policy explicitly adopted the Victim Offender Mediation (VOM). However, no guidelines were put forward. As NGO, the Chinese Restorative Justice Association promoted the Conflict Mediation (CM) model in 2016 as a practice mode for restorative justice and is also fully employed by the Air Force's Restorative Procedures. The "Conflict Mediation Mode" is based on VOM's guiding principles, (Real Justice) script mode, and practical experience to institute a systematic concept of the overall restorative justice practice, including sensitive pre-session interviews, conducting restorative conference by steps with empowerment, as well as guidance questions that make people full of confidence and support.

In this article, by studying practice mode of restorative justice in various countries, we presented the practice mode of restorative justice concerning the humanities and culture of Taiwan. That is the Conflict Mediation Mode. According to the authors' many years of practical experience (the restorative justice program and related training program), the CM mode is not only to help practitioner master the restorative justice agenda successfully, but also to provide guidance for the supervision. At the same time, this is suitable for use in the training program of restorative justice. Taiwan's restorative justice program will be legislation by regulation of The Judicial Reform Conference in 2017, and restorative justice program will be enacted into the judicial procedures. This also means that the restorative justice will be refined and rigorous. Thus, the establishment of a practice mode is the cornerstone of development.

**Keywords:** Practice Mode, Restorative Justice, Victim Offender Mediation.

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## **A Study of Ethical Issue of Restorative Justice Program in Taiwan**

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Restorative justice in Taiwan is regulated by the Ministry of Justice and beyond the legal proceedings, that the parties are referred to a mediation platform where they may have a dialogue facilitated by practitioners. The focus of dialogue is on resolving the conflict between two or more parties in the litigation, on repairing wound and then seeking truth, apology, comfort, responsibility and recovering justice.

Among the facilitators' selection criteria, there are empathy, warmth, and enthusiasm for life. These also are the qualities of helper. As the practitioners of restorative justice with helper role, they are involved the case of criminal ligation and bound by the '*Investigation Shall Not be Public Principle*'. When practitioners learned more of the litigation information as a volunteer, it is necessary to follow the ethical norms not to overstep the neutral role. However, after many years of service, I have seen and heard distrust or ambiguities to practice in hesitation.

When list some important incidents, it could easy understand the ethical issues: the parties have no sense at all when they first heard the restorative justice and the practitioners need to clarify and explain the whole concept of restorative justice. Would the explanation meet the requirement of parties? Would it constitute the cause and effect relationship? Either in a case of persuading parties to participate the restorative justice program, did the persuading be satisfied the need of practitioner to help the parties? Or in a parent-child conflict incident, how the practitioners maintain the standard between family moral principles and practice ethics? And would it possible for a restorative justice program case *mutatis mutandis* the rule that entire proceeding on the trial date shall be recorded in audio, and if necessary, in video which based on Code of Criminal Procedure? And what is the ethical nature of this rule? When a practitioner publishes case stories from restorative justice program, with the exception of privacy protection, is there any other ethical considerations? What are the legal effects of the above points?

Professional ethics can standardize the professions and maintain quality of the service. Thus established the trust form the public. This is the care value of the restorative justice program core value. According to the report of Judicial Reform Conference in 2017, the Judicial Yuan did actively research and study to implement the restorative justice into the law. This is an opportunity to accumulate ethical issues in restorative justice practice as a feedback references to subsequent legislation, and it is of great research value for the future restorative justice program to operate move towards a positive direction and reform social atmosphere.

**Keywords:** Restorative Justice, Ethics, Privacy.

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**Assessing the Feasibility of Instituting Supervision via Conflict Mediation on the Restorative Justice**

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Taiwan has promoted Restorative Justice Program since 2010. The goal is to hold interested offenders and victims the opportunity to express their felling directly, and to be involved in developing a restitution plan to remedy the injury caused by the crime. The Office of President issued “The Outcome Report of The Judicial Reform Conference” in September 2017. As related to restorative justice, it mainly focuses on legalization. That means to study and research putting restorative justice program onto the Code of Criminal Procedure and Juvenile Delinquency Act as a legal source. The report indicated “building up the training and supervision mechanism for facilitators” and this should be hoped to establish systematic, practical and standardization courses and supervision training. Meanwhile, the report suggested the government to set up training centers with the reference of the international community and to entrust or subsidize suitable academic institute for empirical research. This article is to the establishment of a feasibility review for the restorative justice in response to the relevant claims.

At present, the practice mode of restorative justice is multiple in Taiwan and has not constructed a complete one. The authors have been involved in practicing restorative justice in the past few years and have actively participated in the training of various fields that applied of restorative justice as local trainer. Especially, we have attempted to construct a suitable working structure from practical experience - Conflict Mediation Mode, CM. The CM Model was approved by the District Prosecution Service in the substantive practice and was established a overwhelming acceptance among practioners.

Together with practitioners share the same interest and established the Chinese Restorative Justice Association, CRJA to promote the concept and practice of restorative justice. The CRJA accept the commission of the Air Force Command of the Republic of China to assist in promoting restorative justice to deal with the conflicts within the organization. Thus, the Air Force has also become the first armed force in the world to apply restorative justice as a solution to conflict incident. As a matter of fact, the CM model not only has the opportunity to be used as a restorative justice program in the Air Force and has become a work-case mode, but also virtually produce the effective performance of control and supervision.

In the light of the current practice of restorative justice in Taiwan, the effective supervision mechanism has not been yet constructed and the practitioners of the District Prosecution Services still have the need to enhance their core knowledge and skill of the restorative justice. However, in response to the restorative justice

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program and the demanding after legislative process, this article suggest that we could learn the guidance from counseling and transform it into restorative justice supervision so as to enhance the service efficiency and core skills of practitioner, and forward to an advanced level of restorative justice.

**Keywords:** Restorative Justice, Conflict Mediation, Supervision.

## **The Role of Mediation of Woman Police in the Prevention of Repeat Juvenile Delinquency**

Sayyad Darvishi<sup>1</sup>

The appearance of restorative justice approach is one of the developments that came about attitude to criminal justice and thinking that monitors crime in the past two decades and strives provides openness and re-socialization of the offender and preventing repeat offending with tools like mediation in addition to protecting the interests of all victims of crime, by repairing broken relationships. As per the Criminal Procedure Code the examination and investigation of children by the attorneys should be carried out by female employees, the purpose of this study is explaining the role of female police mediation in preventing the repetition of juvenile delinquency in police counseling and social work police.

**Research Methodology:** The research method in terms of purpose is functional and is descriptive analytically in terms of the nature of the study. Since the most important and effective way to get acquainted with the theoretical foundations of mediation and the role of the female police in preventing the repetition of juvenile delinquency, is to refer to the sources and writings of scholars, and the works of scholars in this field, The research has also tried to using observational, library, and documentary methods, using vector encryption tools and examining the performance of medical advisers and medical staffs in a five-year period, provide a clear and precise picture of the ideas presented in this area and the actions taken in practice and then be described and analyzed. To measure effectiveness, four dimensions of services supplied to the community and customers of the organization, mental reflection and customer satisfaction (Citizens), improvement and promotion of community conditions, unwanted and negative results from service delivery were measured.

**Findings and results:** The results of the research indicate that the ultimate climate for the police mediation process, including the advent of efficient police advisers, especially female police advisers, which have a more effective relationship with teenagers, can educate and empower the local community, especially the family, creating shame and strengthening the responsibility of the delinquent, enhancing the possibility of criminal recidivism and prosecution and prevent the repetition of juvenile delinquency by influencing the individual and social conditions of the offender. The results also show that although this police program is based on scientific findings, but due to the institutionalization of the traditional police approach to peace and reconciliation which has a long history in the police of Iran and restorative justice approach that is a new method in spite of its usefulness to organizational costs such as human resources and support is far from the goals set in the crime prevention approach based on mediation and police restorative justice.

**Keywords:** Restorative Justice, Police Mediation, Prevention of Repeat Offending, Female Police, Counseling and Social Worker.

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### **Lack of Restorative Justice for Immigrant and Marginalized Women**

Homa Davoodi<sup>1</sup>

Restorative justice is an approach based on customary and social rules aimed at reconciliation, which intends to prevent as much as possible the involvement of the parties in the formal investigation process and rely on social rules and culture of peace and democracy and promote the language of communication.

Several factors play a role in the success of restorative justice. For example: cultural convergence between compromisers and parties to the lawsuit, and the existence of the individual or community associations and community institutions that can be trusted as mediators.

Immigrants have a remarkable distance in terms of social relationships, customary rules with the host society. for this reason, they usually do not have such trusted marginalization, especially when it is in conflict with the main society as a subculture, have no social mechanisms to resolve disputes within itself .These groups are often afraid of entering strangers in their communities.

In this way, immigrant and marginalized women who are victims of violence, especially domestic violence, fewer can use restorative justice .As a result, violence against them is doubled and their victimization will be aggravated. These women sometimes do not have the opportunity to appeal to official authorities.

When immigration and marginalization are as increasing factor in the crime rate, designing and making available remedies for these groups by community associations or NGOs, can also be effective in preventing crime and reducing its rate, and has undeniable role in the restoration of the effects of violence against immigrant or marginalized women.

**Keywords:** Restorative Justice, Violence against Women, Immigration, Marginalization

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### **Chinese Restorative Justice: Characteristics and Current Practices**

Dennis S. W. Wong<sup>1</sup>

Restorative justice has gained significant recognition worldwide in recent decades and has become a prominent concept for achieving fair and just outcomes within the criminal justice process. To explore the evolution of RJ in China, Wong and Mok (2013) conducted a content analysis of 252 Chinese academic journal articles published between 1 January 2006 and 31 December 2010 (hereafter called ‘the Previous Study’), and the findings were published in the *Handbook of Asian Criminology*. The review searched all scholarly printed journals by using the keyword ‘*huiyuxing sifa*’ in the China Academic Journals Full-text Database of China. The study, which is the first of its type, provided readers with valuable insights into how RJ and related practices are conceived in China, and whether Western RJ models are welcome by Chinese academics and policy makers. To maintain update-to-date knowledge, Wong continued their review of Chinese literature on RJ (hereafter called ‘the Present Study’). Similar to the Previous Study, the Present Study reviewed all journal articles in the China Academic Journals Full-text Database, but with both the keywords ‘*huiyuxing sifa*’ (restorative justice) and ‘*tiaojie*’ (mediation) in the paper title and keywords. The period of research was from 1 January 2011 to 31 December 2014. In total, 588 articles were identified for review. Through the content analysis of journal articles on restorative justice and mediation, this paper finds that most of the authors focused on analysing how RJ could be used at different levels of the CJ system. The finding reconfirms the common assertion that participants in Chinese mediation are normally encouraged to resolve conflicts through moral persuasion. Furthermore, the Chinese method of performing RJ assists contemporary Chinese people to rejuvenate themselves in a way that can help citizen to retrieve the altruistic virtue, a sense of mutual caring, and an additive empathy or a healing heart for resolving disputes and forgiveness after settlement. In sum, the characteristics of Chinese restorative practices and challenges facing its development in China will be discussed.

**Keywords:** Restorative Justice, Practices, Mediation, China.

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**The Use of Harmony Approach in Conflict Management: The Role of Lawyer  
in the Belt and Road Initiative**

Dong Cai<sup>1</sup>

"The Belt and Road Initiative" is "peaceful cooperation, openness and tolerance, mutual learning, mutual benefit and win-win" spirit of the silk passing the torch, is China of deepening reform and opening up, the depth of integration into the world, to promote extensive interoperability, common development of major strategic initiatives. In the promotion of economic prosperity along the national and regional economic cooperation in the process of Chinese citizens, enterprises will be more high-quality production capacity, excellent products, the advantages of funds to invest in the world, to seek cooperation; at the same time, the various countries and regions will also usher in emission and flow into the personnel, materials, funds, in the process of communication together, will all kinds of contradictions and disputes inevitably occur. The thought of harmony and as the essence of Chinese traditional culture, pay attention to "harmony", pay attention to the time and location, and pay more attention to people, recognize the existence of heterogeneity and different, also acknowledged the integration and re balance, seek win-win in seeking common ground, and unified things. Uphold the idea of harmony and restorative regeneration concept to settle disputes as "The Belt and Road Initiatives" contribution to the construction of the wisdom of Chinese lawyer.

This paper will explain the role of lawyers in the construction of "The Belt and Road Initiatives" from the following aspects: The communicator of Chinese culture, the guide of foreign investment, the defector of foreign affairs, the defender of common interests, the coordinator of crisis management, and the builder of the new system.

**Keywords:** Restorative Justice, New Silk Road, Lawyer.

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**Restorative Justice in Schools, Purposes, Barriers and Mechanisms for its Sustainable Implementation**

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Restorative Justice in Education (RJE) is an innovative interdisciplinary approach inspired by Restorative Justice (RJ) in the criminal justice system. This novel approach has also been replicated in other settings such as RJ at the workplace. RJE is a new concept in the Iranian educational system. The current study aims to investigate the necessity of adaptation of RJ from the criminal Justice system to the educational settings, analysis its unique application, discuss its challenges and lastly suggest the sustainable implementation methods of RJ for the Iranian schools. The method which is used in this research is a documentary analysis of the U.K. and the US literature and practical findings on the use of RJ in schools. This study examines unique strategies of RJE in the both “reactive” and “preventive” steps following a discussion on RJE basic theories. Accordingly, RJE as a reactive strategy is limited to the acceptance of responsibility by the criminal, reparation of harmed, and finally prevention of recidivism. Whereas, the implementation of RJ at the preventative level has a noticeable educational (e.g. literacy enhancement) and social (such as accountability acceptance) effects. Findings of this research advocate the unique experience of RJE at the “proactive” level. The present study proposes an initial introduction to RJE throughout the schools in Iran, with a particular emphasis on the proactive stage (Before the occurrence of harm). Thus, the study discusses barriers to the implementation of RJE such as time shortage, financial barriers, and the staff’s acceptance (with regards to the efficacy of RJE). Finally, solutions for the sustainable operation of RJ are recommended to the educational authorities in Iran.

**Keywords:** Restorative Justice in schools, Proactive Strategies, Reactive Strategies, Barriers and Solutions.

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**Compromise on Honor Crimes (Case Study: Discourse Analysis of the Documentary; a Girl in the River: The Price of Forgiveness)**

Mohammad-Saleh Esfandyari<sup>1</sup>

The impact of art, and especially cinema, on the emergence of specific discourses is one of the most important tools available to the present world. In the same vein, the use of such capacity is also considered by the pressure groups as a way of applying social responses. For now, restorative justice, as a pattern of responding to a criminal phenomenon, has been involved in such a process. The advocates of such a paradigm, with a support approach and rival groups, aiming at opposing, in the form of film and documentary, have also expressed their views. The documentary "A Girl in the River: The Price of Forgiveness " can be analyzed in such a setting.

The film investigates the occurrence of an honor crime and the reaction of police, lawyers, the two sides' families and local community in Gujranwal city, Punjab, Pakistan. The documentary depicts the story of a 19-year-old girl named Saba who, without his father's permission, seek refuge in a family to marry their son; something that she faced with her father's and her uncle's intense reaction, aiming at killing her, but she survived. Consequently, two different reactions appear. On the one hand, the police, Saba, her husband and her lawyer are demanding punishment for perpetrators. On the other hand, the local community of elderly and Saba's husband family (with the exception of her husband) believe that compromise is the best solution. Although the compromise is finally being brought to court in the wake of local community insistence, the film discourse suggests that the director, Pakistani mistress at Stanford University in the United States, chooses scenes, material, specific songs and focuses on the views of the criminal reaction advocates are aiming at denouncing the innocence of the oppressed and punishing the perpetrators. From this perspective, the approach to restorative justice that is available through compromise through community-based society is interpreted in the context of men's power and oppression to women, rather than as a restorative process. The main message of this documentary is social creep, such as the increase of educated women, Internet access, familiarity with other cultures; etc. has changed the new generation perspective in Pakistan. From the perspective of this group, in the current Pakistani society, the use of traditional restorative justice in honor crime is not due to the consent of both parties to the effectiveness of such measures, but because of the domination of a masculine perspective on the one hand and a defect in the criminal justice system on the other. Generally, the dominant discourse in this film can be seen as a present situation in Pakistan, where traditional restorative mechanisms are in contrast to the growth of women's rights movements. Given this approach, the lack of attention to the systematization of the process of traditional restorative justice in the form of laws and regulations can lead to their removal and tendency towards criminal responses.

**Keywords:** Honor crimes, Pakistan, Traditional Restorative Justice, Compromise, Criminal Response.

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**Restorative Justice and Peace in Transitional Societies in Light of Sustainable Development 2015-2030**

Reza Eslami<sup>1</sup>

This article first reviews the major goals of restorative justice including sustainable peace which aims at conflict resolution in transitional societies. The article also studies the peace process in order to achieve mutual understanding, respect, implementation of the rights of minorities as well as social groups which, in turn, leads to peaceful coexistence in post conflict countries. The article then argues that restorative justice plays an important role in securing sustainable peace and has an impact on gathering all parties involved including victims, perpetrators, and the society at large. The article examines whether the Sustainable Development Goals (SDG 2015-2030) could play a strategic role in transitional societies so that restorative justice may lead to sustainable peace, and provides for states' obligations and responsibilities concerned. The article concludes that the SDG, in general, and the Goals 1-5 and 16, in particular, may help transitional societies achieve peace through restorative justice.

**Keywords:** Restorative Justice, Peace, Transitional Societies, Sustainable development Goals.

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**Customary Justice as Restorative Justice: Bridging between State Courts and Tribal Councils in Afghanistan**

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The state justice system in Afghanistan has improved in recent years. Yet it is still unpopular and unable to solve the countless disputes that arise in Afghan society every day. In rural areas in particular, tribal councils called *jirgas*, *shuras*, and *marakas* are used as primary forums of dispute resolution. Their legitimacy rests upon consensus within the communities. While the Afghan state follows European models of criminal justice, which predominantly aim at retribution and punishment of the offender, the tribal councils are a living example of restorative justice. They focus on reparation and instauration of positive social relations. Victim, offender and other members of the community are actively involved in a process of mediation. However, council decisions sometimes violate rights that the state guarantees its citizens – particularly women’s and children’s rights. Furthermore, their decisions are not registered or recognised by state authorities. Linkages between the two systems are needed.

The paper presented at the conference is divided in two parts. The first part describes relations between the state justice system and the tribal councils from historical, normative and comparative perspectives. The second part discusses recent approaches to redefine the relationship between the two systems and concludes with the authors’ own proposal which uses the “Basic Principles on the Use of Restorative Programs in Criminal Matters” (ECOSOC 2002) as starting point.

**Keywords:** Customary Justice, Tribal Councils, Basic Principles of Restorative Justice,

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### **The hybrid justice systems of Melanesia**

Miranda Forsyth<sup>1</sup>

This paper proposes a conceptual framework of hybridity to investigate the interwoven and co-constituting relationships between formal and informal criminal justice systems in Melanesia (South Western Pacific). It will discuss the ways in which these diverse justice systems, with their roots in very different legal traditions and understandings of the centrality of the individual/ the family / the tribe, today manifest in a rich array of innovative justice mechanisms.

Drawing upon critical legal pluralism's recognition of the agency of individual actors in creating law, it will also discuss the ways in which individuals work within and between different systems to sew together new networks to satisfy a wide range of justice needs, far beyond those provided by either the state or customary justice institutions. Using the example of dealing with the issue of sorcery accusation based violence in Vanuatu and Papua New Guinea, it will demonstrate the way in which local justice agents draw from the language and value systems of human rights, restorative justice, customary law and also national law in order to craft their responses. At times the outcomes promote individual justice, and at other times they disenfranchise particular members of the community in efforts to safeguard the welfare of the community as a whole. The issue of sorcery accusation related violence is a useful lens through which to investigate the hybrid nature of legal systems. Although it may initially appear that different legal systems take fundamentally different approaches to the issue, the ways in which they interact on the ground demonstrates their inherent entanglement.

**Keywords:** Melanesia, Hybrid justice Systems, Restorative justice, Violence.

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## **The Terrorist Within and Restorative Justice**

Theo Gavrielides<sup>1</sup>

Every time there is a national or international tread to security, the immediate reaction of politicians, criminal justice agents and the media is to declare “war” against those who are threatening, and call for special meetings to toughen up immigration rules, security policies and protocols. This is particularly true when it comes to terrorism, extremism and radicalization. I claim that the road that we have taken is leading international society to becoming more polarized than ever, while the "them" (terrorists) and "us" (victims) rhetoric dominates political speeches and media presentations (Gavrielides, 2015). Marginalized and vulnerable groups are called to pay the price as they witness their human rights protections against the powerful being gradually eroded.

The paper identifies the forces that create a perception of insecurity and a reality of control, while proposing an alternative vision that is bottom-up, user-led and founded upon the values of restorative justice. The paper uses the newly Erasmus+ funded Youth Empowerment and Innovation Project (YEIP) as an example that illustrates a youth-led methodology for evidence-based EU security and social cohesion policy that is more aligned with the realities of the groups its aims to reach.

**Keywords:** Restorative Justice, Terrorism, Control.

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**Sociological Debate on Restorative Justice: Based on Durkheim's Social Organism Theory and Habermas's Theory of Communicative Action and Discursive Ethics**

Salahaddin Ghaderi<sup>1</sup>

The central idea of restorative justice is to Putting Right. In the sense that it involves the offender's responsibility and accountability to take steps to restore victim's harm (and perhaps the local community) as much as possible. The sociological presumption of such an idea, drawn society as a social organism. Based on this, this article to identify, explain, and analysis restorative justice, and presentation of strategies and modalities for it by sociological debate focus on Durkheim's view of the sociology and the relationship between social actors (offender, victim of crime, local communities). So Durkheim's social organism view is the main theoretical basis for restorative justice in the paper, But Habermas's three Theories (Communication Rationalism, Discursive Ethics, and Communicative Action) Are explained with an emphasis on offenders in order to "Putting Right". Finally, the paper focuses on two strategies for social accountability and partnership, describing how to deal with and apply restorative justice.

The methodology of the study is descriptive-analytic. The Statistical community and the target group of the article, from the three sides of the area of restorative justice (offender, victim and local community) focused on offenders (as those who themselves are victims of specific social conditions and injustice), should be looked at in the process of restorative justice.

**Keywords:** Social Organism, Communicative Action, Discursive Ethics, Social Accountability, Partnership in Restorative.

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**Circle Time and Life Skills for Social and Emotional Learning in Primary School**

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Armaghan Hoodeshenas  
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Fereshteh Derakhshan  
Pariya Maghsoodi

In the era of change, technology, and crisis, due to increasing violent behaviors in schools and its adverse consequences, it is necessary to pay attention to teaching and learning new skills in students. This article, by Circle Time and Life Skills training, studies the promotion of social emotional learning among students. Circle Time methodology, focusing on the creation of a climate in which individuals are respected and valued, affords the opportunity for the teacher and students to communicate with each other about issues which promote self-esteem, selfworth and positive behaviour, and reduce bullying of students. It involves students sitting in a circle with their teacher using specific techniques and strategies for development of social emotional skills. In this study, qualitative research was undertaken in five primary school classrooms. Methods included observations, analysis of teacher journals and pre-and post-observation interviews. The theoretical and conceptual framework adopted for the research had empowerment of students as a central principle, supported by theories of rational and emotional theory. Benefits included satisfaction for teachers and students, a sense of safety, ease of communication and improving learning. The data from this study showed that students experienced considerable improvement in all key domains of social and emotional learning areas, including self-awareness, self-management, anger control, relationship skills, conflict resolution, problem solving and responsible decision-making.

**Keywords:** Circle Time, Life Skills, Primary School, Reduce Bullying, Social and Emotional Learning

## **Function Solution of Social Customs of Criminal Disputes in Criminal System of Afghanistan**

Hossain Gholami<sup>1</sup>

Khadem Hussain Rahimi<sup>2</sup>

Restorative justice is underway as a new phenomenon in criminal justice. This phenomenon is a response to the classic challenges of criminal justice. Its first formation and promotion is started through assessment of the role of local patterns and native social customs of solution of criminal disagreements of some countries. Educational and research institutions theorized it and criminal justice systems of countries examined and practiced it until its functionality exposed. With regard to the natural ambiguities and gaps of criminal justice system and more than three decades war and insecurity in Afghanistan, the criminal justice system of the country is facing considerable amount of problems and challenges resulted in its dysfunctionality in prior. Issues such as limitation of human resources, structural weakness, shortage of technology and financial resources, are the biggest challenges that the criminal justice system of Afghanistan is facing. This research is conducted for explanation and initialization of restorative justice and for the purpose of analyzing the role and functionality of social customs of public participation in criminal justice system of Afghanistan so that its findings may help reduce the above-mentioned problems. Assessment of these performances are done with practical approach and using methods of collection of interviews and questionnaires. With regard to subcultural varieties of this country, different customs and people participation mechanisms are available in this area which had its functionality and with regard to dysfunctionality of criminal justice system of Afghanistan, they have kept these traditions among different tribes of Afghanistan. Findings of this research show that native aspects of people participation in this country such as Jirga, Marka, Shura, Mokai and Ora can have valuable effectiveness and functionality in different aspects of criminal justice of Afghanistan. Can promote humanitarian aspects of procedures, facilitate rehabilitation of criminals and increase grounds for reintegration of victims and society in a meaningful way.

**Keywords:** Reintegration, Rehabilitation, Social Customs of Public Participation, Functionality, Jirga, Marka, Shura, Mokai, Ora, Criminal Justice System of Afghanistan.

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**Restorative Justice and Miscarriages of Justice: From Prevention to Remedy**

Jamshid Gholamloo<sup>1</sup>

Restorative justice seeks solutions to the problems and harms that resulted from crime; the solutions that have some very important features: often, occur outside of the courtroom, the participation of the defendant/offender is voluntary, focusing on harms, victim needs, and response to them are a main concern, and the essence of the process is dialogue. Approximately, the criminal justice process is the opposite of these features. In criminal proceedings, the proceedings are conducted in the police and court, the defendant is required to attend, proving the accusation, convicting and blaming the offender is a central issue and the nature of the process is adversarial. There are significant differences between approaches of restorative and criminal models; while in the restorative model attention is paid to victim's needs and to heal of him/her, in the criminal model, proving of accusation and punishing and blaming of perpetrator are important. One of the serious defect of the criminal proceeding is miscarriages of justice. Sometimes the criminal justice system is affected by various errors and misconducts in different stages of the process, which reverses justice and convicts the innocent and exonerates the criminal. This claim is legally confirmed by the anticipation of trial reopening mechanism and the compensation for damages resulting from wrongful arrest. How is the condition in the restorative process? And what are the restorative justice suggestions to the criminal justice system to compensate the harm which have done to the innocent victim? It seems that the nature of the restorative model does not provide grounds for mistake or misconduct; the role of actors of this pattern (such as the mediator) is defined in a way that, contrary to the actors involved the traditional criminal justice model (Such as the police and the investigator and the judge) are not concerned with proving the crime, collecting evidence, sentencing and closing the case in order to culture of finality. Moreover, due to the voluntary attendance and participation of the accused/perpetrator, there is no strong possibility of illegitimate obtaining of evidence such as false confession, which is one of the most important causes in miscarriages of justice.

**Keywords:** Restorative Justice, Criminal Justice, Miscarriages of Justice, Prevention, Restitution.

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## **Challenges of Applying the Restorative Mechanisms in Death in Prisons' Cases**

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The covered and invisible nature of custody and prison, along with contexts and some other factors, confront the life of prisoners with an irrecoverable risk. The death of captives either due to non-criminal behaviors, such as underlying disease, deceased's suicide, or due to criminal behaviors, results in right expectations of next of the kin for an independent judicial trial. Lack of independent mechanisms for complaint, investigation and finally proceedings on the one hand, and make several obstacles and disappointing complications in front of litigation with lack of requirement association of criminal justice's formal agencies on the other hand, almost in all cases, disappoint the complaints about the expected result. Furthermore, in many cases, authorities of criminal justice by early and generally oriented comments and also by using their media power, before any autonomous investigation on behalf of judicial authority, with characterizing of victim to some criminal or at least unmoral labels and at the end victim blaming trying to demonstrate a deform picture of him/her that not only not deserve to any criminal support but probably deserve to be dead. Examining of few formal responses to death in prison cases may show the trace of a kind of duality in the conduct of official actors of criminal justice. As if the prisoners' right to life has not in the same degree of importance in their mind. In fact, by some evidences we can see a kind of categorizing between victims to us and others victims. However, the restorative mechanisms may as a successor for formal methods of criminal justice may by recognizing of victimization, providing transparent information of the fact and contributing families and relatives in the process of investigation and proceedings at least mitigate their pains in part.

Yet, as, first of all, applying restorative mechanisms, require the acceptance of fault by offender, contribution of victim in process of proceedings along with the civil society's surveillance and on the other hand as generally in death in prisons' cases a combination of official actors such as the police, custody/prison authorities or staff instead of a special person are accused, challenges such as denying the whole fact or making it less important and reversing the reality for example through foist the death as suicide, make it impossible to officials of custody/prison accept that a crime have been committed. Meanwhile, marginalizing the complainants with both obstruction for them and threat them to not litigate, indeed, dull the participation of victims; and finally making the highest degree of restriction for media as representatives of civil society reporting related news to these cases and also holding the court in a secret way through security and political excuses disappear the civil society's surveillance. This article aimed to with a qualitative method, using and analyzing reports, evidences, interviews, news and formal information about death in prison cases, both identifies the restorative capacities in response to these cases, and examines the challenges of applying these capacities. In this way, fundamental and accepted principles of restorative justice are analyzed alongside the almost permanent properties of death in prison's cases to illustrate in which extent can count on this restorative substitution in these cases.

**Keywords:** Right to Life, Death in Custody or Prison, Restorative Mechanisms.

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## **The Role of Community and Civil Society in Applying Restorative Justice Practices**

Ali Gohar<sup>1</sup>

Restorative justice system is both old and new. Its old as its roots date back generations and it is found in one form or another in different communities of the world e.g. Sulha in Arab countries, Jirga in the Pashtun Belt of Pakistan and Afghanistan. The Restorative justice system can also be said to be new as these traditional conflict resolution systems need to be updated with modern ideas to make them compatible with the realities of the modern world. However, the overhaul of the Restorative justice system is not possible without community, civil society and government support.

To achieve the desire objective of restorative Justice Implementation different steps need to be taken. Since RJ is worked effectively in developed world the focus is now on the developing world, where indigenous conflict resolution systems are still in use, research needs to be carried out how to keep it relevant in the modern world. Commonalities need to be found between the indigenous conflict resolution system and Restorative justice system and then ways need to found to bridge the gap between the two systems. For this each of the different sections of society e.g. those from the academia, the media, community and civil society will need to level the ground for its implementation. After introduction, capacity building of stakeholders is most important to train and practice restorative justice in order to achieve desired results i.e. access to speedy and easy justice at their doorstep. Publicity of the resolved cases through media and lobbying for Government legal cover (by passing relevant legislation) is needed as well in order to place the restorative justice system on a sustainable foundation.

The lawyer community, the police and judiciary are a few institutions which are opposing restorative justice system implementation as they take it as a threat to their authority. Training the members of these institutions, raising awareness about the potential benefits of restorative justice system and updating of local indigenous conflict resolution systems will make it easy for community and civil society to embrace restorative justice system. Alongside this highlighting the achievements of the community in helping the individuals groups in resolving disputes, minimizing pressure on police, judiciary and law enforcing agencies as well as lobbying the Government to give proper legal cover to RJ in the law of the country are further steps which can be implemented. Adopting the above steps will make the process of introducing restorative justice system easy as Gandhi very rightly said, “first they ignore you, then they laugh at you, then they fight you, then you win”.

**Keywords:** Restorative Justice, Civil Society, Dispute-Resolution.

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**Realization of Restorative Justice Approach in the Light of the Teachings of  
Peacemaking Criminology with an Emphasis on Religious-Humanism  
Approach**

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Milad Taherian<sup>2</sup>

Peacemaking criminology is among critical criminal law approaches challenging the performance of criminal justice agents and principles of the basics for criminal eligibility and blaming believing the need to avoid violence, particularly the official violence of criminal institutions. The most important and primary base for peacemaking criminologists discuss in justification and realization of their goals and teachings is “religious-humanism” base, which is based on the axes of negation of violence, the need for loving, the efforts to create peace and to avoid undue suppression. Peacemaking criminologists refer to the teachings of Buddha, Jesus Christ, Gandhi's thoughts, and Martin Luther King's Movement, learning from all these that human must seek peace in society through peacemaking means and as long as the community is not composed of peacemaking and philanthropist people, the occurrence of aggression will be a common practice in that society.

The most important feature of this criminology is the rejection of violence and the need to reduce human suffering. Accordingly, any reaction with violent nature is rejected in peacemaking criminology, and because in the nature of the punishment suffering and agony are embedded, the base of punishment is not desirable for peacemaking criminologists. Peacemaking criminologists consider crime as violence that if punished creates a double suffering and acts as exacerbating the affairs. Hence, the practical aspect of peacemaking criminology is the realization of restorative justice instead of criminal justice. But the challenge that restorative justice faces and peacemaking criminology tries to solve it, is that restorative justice starts from the end ignoring human. Although human minds seek peace, reconciliation and change and only lack of implementation procedures for resolving disputes prevents reconciliation from reaching its desired points, the upside of peacemaking criminology is its positive attitude toward humanity and trust in human ability to forgive, transform, change and reinforce these two traits. In other words, restorative justice calls for the restoration of the relationship between the criminal and victim with the two aspects of human transformability for the criminal and the power to forgive for the victim, whereas it considers no measures to actualize these two potential human qualities. In peacemaking criminology, it is necessary to enhance the methods of restorative justice by emphasizing the religious and human principles and rear peacemaking people demanding change to reach actualize the practices of restorative justice using education and media tools. Accordingly, this study tries to explain the religious-humanism principles of peacemaking criminology and thus the realization of restorative justice, and since the Orient has been the origin of many peacemaking thinking and the heavenly religions, through

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this study, the capacities and background of Oriental thinking are accentuated in welcoming restorative justice.

The study has used library resource and descriptive-analytical methods where the authors have tried study the contexts for the use and expansion of welcoming the approaches of restorative justice at the stage of responding to crime by explaining the fundamental depth of forgiveness and friendship in religious-humanism thoughts and the emphasis that religious-humanism basics have on the importance and value of peace. In this regard, the present paper first introduces peacemaking criminology briefly and then focuses on approaches of the criminology discussed with an emphasis on religious-humanism grounds to build a different worlds and human and reveal its relationship with prescribing the expansion of restorative justice measures and adopting a minimalistic approach to criminal law. It is noteworthy that this study, given the span of the study, it will not deal with the common themes of the religious-humanism principles in connection with peacemaking criminology and explaining their examples in religious teachings of the Orient and will suffice to Islam.

**Keywords:** Restorative Justice, Restoration the Relation between victim and offender, Peacemaking criminology.

### **Zoroastrian Tradition and Restorative Justice**

Farzaneh Goshtasb<sup>1</sup>

In the Zoroastrian tradition, sin is categorized into two types: Hamēmālīh sin and Ruwānīg sin. The Hamēmālīhsin is done to other people but Rumānīg sin is done to oneself ; and both the sins will be increased if they aren't compensated. Except remunerating (as money, lash or other penalties), there are three other ways to atone the Hamēmālīhsin: patīt (confession), kirbag (goodness and virtue) and āmurzišn (ask forgiveness). In Zoroastrian tradition, confession is called "patīt" which means "to return". For atoning the sin, confession is necessary but not adequate, it means the sinful person can not compensate his sin only with confession, but he must atone it with remunerating or doing virtue equivalent to the sin or asking forgiveness from the person who is offended. In the Zoroastrian texts, it is emphasized that the sinful person should not be reproached and his secret should not be revealed. Doing virtue and good deeds (kirbag) is another way to atone the sin. The good deed which is done to atone the sin should be equivalent to each other, and there is the same measures and scales for evaluation of the good deeds as the measures for the sin such as tanāpuhl/ tanāfur, xwar, bāzā, etc. Generosity and boon (Persian: Dād-o-dahiš) is the most important kirbag in the Zoroastrian tradition, and one of the most generous works is devotion (Persian: Vaqf) which has kept its position and importance until now and current tradition. Vaqf is a good deed which stays and grows till the resurrection and "tan īpasēn". The third way to atone a sin is asking forgiveness. There is some sins which cannot be compensated with any punishment or penalty or good deed and asking the forgiveness from the offended person is the only way for atoning the sin. Accusation is one of those sins which is not atoned unless the victim forgive the sinner. These different ways except remunerating for compensating the sin, redressing the harmed person as a result of crime, and restoration of the sinner together with protection of his reputation is some important factors in Restorative justice, but are not important in Retributive justice. Asking forgiveness, intercession and friendly meeting are some of the processes of Restorative justice which is preserved until now, in the current Zoroastrian tradition. In some reports of the Zoroastrians community, formation of some meetings and councils for resolution of the disputes was mentioned, and as the last solution, if two person couldn't compromise, they went to Fire Temple (Zoroastrian dialect: Dar-e-mihr) and swore and entrust the justice to Mihr-Izad, the arbitrator of human beings.

**Keywords:** Restorative Justice, Zoroastrian Tradition, Sin.

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## **The Approach of Restorative Justice to Students Offences and Delinquency in Schools**

Roya Habibi<sup>1</sup>

In the last few decades, due to the increase of violence in schools, in the one hand, and the growing trend of juvenile offences on the other hand, the need to employ a set of constructive and intervening methods to prevent and encounter violations in schools is felt more than ever before. Today, with the growth of restorative justice programs around the world and their focus on institutions and educational centers, the advocates of this approach are seeking restorative measures to resolve violations and conflicts among students. According to them, the use of restorative methods with emphasis on the school's constructive role, as the most important institution for preventing and reducing crime and delinquency in the community, provides the students with unlimited opportunities for solving conflicts in a fair and innovative way. The main question is that, despite the prevalence of restorative mechanisms, what is the Iranian schools reaction to the students' violent behaviors and conflicts, and what mechanisms have been envisaged for satisfying the complainant and how to deal with those students? The purpose of this study is to describe the application of restorative processes in dealing with the students' violent behavior, and to evaluate practical procedures in Tehran schools in this regard.

This research is descriptive-analytical study and to answer the questions, theoretical literature as well as in-depth interviews with 22 managers, counselors and students from 7 schools of the 2, 5, 6 And 12<sup>th</sup> Tehran districts have been used. The results of the research showed that in the event of violence and delinquency by students, the responsiveness and direction of schools to these issues could differ, depending on the type of educational model they defined and determined for themselves.

The neglect and denial of the issue, with the incentive to maintain the reputation and validity of the school, the expulsion (permanent and temporary) of the student and his compulsory transfer to another school, and the involvement of official authorities such as the police, are examples of the traditional mechanisms used by most schools in responding to delinquency and violations. The use of such a mechanism through the application of negative-positive methods based on punishment and isolation has led to an intensification of harms and increased violence among students. However, there are a few schools that use new educational models like a cognitive model to resolve conflicts and disagreements among students.

The use of this educational model, in spite of its differences with the approach of restorative justice in the foundations, has been practically able to achieve the same results as restorative justice seeks to achieve through creating an opportunity for students to experience from events and confronting the consequences of their misconduct in an informal and friendly meeting and encouraging them to accept responsibility, along with appropriate supervision and guidance from a counselor; and in practice, they will reduce violence and misbehavior of the students.

**Keywords:** Restorative Justice, Violence, Schools, Juvenile Offenders.

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**Restorative Justice in the Context of Judicial Interpretations: From Interpretation In Favor of the Accused to Interpretation in Favor of Restorative Justice**

Mohammad-Reza Haddadzadeh<sup>1</sup>  
Mohammad Naiminejad

Restorative justice in Iran has surpassed the level of academic literature in recent years and has entered the legislature's discourse and criminal policy authorities. Articles 1 and 82 of the Criminal Procedure Code and standard and amnesty circulars for the past two years have been evidence of this claim in a way that The regulatory framework provides for the development of restorative justice in Iran's criminal justice system. However, Iran's judicial system moves slowly to accept restorative justice. This problem is not only in legal material, but also in the logic of judicial interpretations. Traditionally, propositions such as "narrow interpretation" and "interpretation in favor of the accused" have been shadowed over Iran's criminal law as indestructible patterns of interpretation methods and interpretations, and the minds of judges are also dominated. Some models of Iran's criminal law have a broad interpretation and the choice of different interpretative methods results in very different results. On the other hand, the system for assessing evidence in criminal cases also has significant powers for judges. It can be used in the interests of restorative justice, especially in cases where the law does not have a remedial interpretation. By resorting to these discretionary powers, it is possible to uphold restorative justice or, at least, to undermine the results of its implementation.

Interpretation in favor of restoration does not have to distort the foundations of criminal law by intermingling in the position of narrow interpretation and interpreting in favor of the accused, but because the restorative justice seeks to resolve the problem, and not the punishment of the accused, if the issue is not resolved and the ineffectiveness of restorative efforts will undermine the scene in advance. We have not the opportunity to use the restorative capacity of the law, and without reconsidering the conventional interpretive patterns, restorative justice will have lost.

In this paper, we investigate the damage sustained by restorative justice from conventional methods of interpretation. In this way, we will use judicial experience and the analysis of judges' opinions. Secondly, we will examine the possibility of restorative interpretations of some of the materials of the criminal law that have been neglected and the results of it and, finally, we will examine the impact of the system of criminal evidence evaluation on the realization of the goals of restorative justice.

**Keywords:** Restorative Justice, Interpretation, Evidence Evaluation, Penal Law.

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### **Elements of Restorative Justice in Legal Text: Mādayān ī Hazar Dādestān**

Nadia Hajipour<sup>1</sup>

The madayan ī hazar dādestān or the Book of Thousand Judgments is a text in the Pahlavi script and language belonging to the late Sassanian era. This text is not a law book, but a collection of legal transcripts registered in the court and related documents, wills, interpretations of lawyers, etc. in the field of law. Its content is exclusively legal without referring to religious matters; Even questions relating to religious institutions connected with the Zoroastrian church, such as fire foundations, charitable endowments, and pious gifts, are discussed only from a legal point of view. The laws in this text are more civic and rarely refer to criminal law. Issues such as partnership, marriage, divorce, distortion statements in court, payment of a debt, surety, inheritance, rent, adoption, etc., are each given in a specific chapter. Restorative justice, with emphasis on the restoration and compensation of the damages to the victim, and the responsibility of the perpetrator against the crime committed, will create reconciliation and peace between the groups and ultimately in the community. In order to achieve this, elements such as volunteering, expression of truth, encounter, agreement, support, and non-public are put together. which mādayān ī hazar dādestān shows the existence of these elements: 1 - Volunteering: The punishment of a capital offence (margzān) was death. whenever he surrendered himself voluntarily, in fact, prepared to compensate for the damage, so the death penalty was canceled from him. 2-Expression of the truth: Whenever a person was inclined from the distortion statements to the right, he was not condemned because the investigation was placed in the right direction for the elimination of the damage. 3- Encounter: using the pronouns "I" and "you" in the text, shows that the two people were faced and talked to each other. Also, the existence of legal offices to the highest number in each region indicates that issues were solved in there. The two sides, negotiated and agreed with the presence of persons such as the mediator, the inspector and the citizen. 4. Agreement: Then two people could agree on how to compensate for the damage and how to compensate for it. In the text, small robberies should not be referred to the court, which indicates the possibility of agreement and resolution of the issue in the family, tribe and legal offices. 5. Support: The support of the two parties and their families has been paid attention in the text. Magician punishment was confiscation of property that was confiscated for the victim's family in sasanian era. The property of a person entitled to death was also confiscated, but their livelihoods were reduced to the criminal family that was unwittingly involved. 6. Non-public: It is explained in the text of mādayān ī hazar dādestān that the court sessions were held open, except in special cases that required the formation of a public court.

**Keyword:** mādayān ī hazar dādestān, Pahlavi, Middle Persian, Restorative Justice, Volunteering, Expression of the Truth, Encounter, Agreement, Support, And Non-Public.

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## **Application of Restorative Justice Programs in Schools and Educational Environments**

Mohammad-reza Hasani<sup>1</sup>

Today, restorative justice programs are at the various levels of the community, school, police, and the courts. School is one of the areas that, according to experts, is more appropriate to the pattern of restorative justice. Schools are responsive to those aspects of structure, policy, organization, curriculum and education that have contributed to injury by application of restorative justice in problem solving. The remedies in schools are based on the principles of restorative justice rather than punishment. The first goal of restorative practices is to hold classroom communities supported by clear agreements, valid communications and specific tools for expression of issues in a useful way. When restorative justice models are used in the school environment, it is clear that they focus on the goals of education by emphasizing accountability, compensation and restoration of the community. School-based restorative justice practices, in line with restorative justice programs, generally use different models of relationships between students, teachers, employees, and school community. In this way, the primary function of restorative justice, rather than the elimination of students and increasing the potential for separation and anger and return to crime, is to create a re-link between the student and the school community. Schools, in contrast to the legal system, provide a special context in which the damage to society is clearly formulated and compensated. For example, identifying members of the community in schools is easier and can play a positive role in the process of restorative justice. In addition, schools, unlike the legal system, have the capacity and knowledge for implement long-term and sustainable strategies. At the level of schools, global-scale restorative justice programs have been used that three of their most important practical examples are: circles, mediation or congresses and junior peers. The present article, with emphasis on three models or applications of restorative justice in schools, describes the methods and requirements for their implementation. 90% of street criminals are dismissed from school, which requires a major change in the principles and rules of educational environments. Nowadays, disciplinary approaches in schools are more punitive and sometimes accompanied by removal of students from the school environment. For example, students involved in the use or sale of drugs are face to knock-out or rejection reaction. Crime and disciplinary offenses or violent behaviors among students may occur to various causes such as ignorance, excitement, curiosity, get identity, and so on, which is considered to be in adolescent age requirement. The adoption of an appropriate disciplinary approach in line with developments in various areas of life, including media and communication technologies, is a basic necessity. It seems that implementation of this type of discipline in schools in Iran is due to the existence of a community-based and family-oriented culture in Iranian society. The patterns of restorative justice programs can be completely informal, field or arena for discussing issues such as presence, absence, delay, conflict, drug and bullying.

**Keywords:** Restorative Justice, Schools, Community.

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**The Study of the Possibility and Implementing Restorative Justice Mechanisms in Medical Crimes**

Shima Hashemi<sup>1</sup>

Handling the cases of medical crimes is sometimes of great complexity and difficulty in some respects. These complexities are to be dealt with from different angles. As to the victims' side, they, concerning their typology and the classification of victimization based on vulnerability, are divided into vulnerable women, vulnerable children, vulnerable elderly, vulnerable persons with disabilities, and finally vulnerable minorities. Thus, such medical cases may include one group of vulnerable victims (persons with disabilities and patients) and sometimes several groups of them (e.g. a sick elderly or child). Secondly, the criticality of the offenders' job as doctors, who presumably secure peace, tranquility and trust, makes it much more difficult to have a punitive treatment in the realm of medicine. Finally, the subject is specialized and it might not be feasible to deal with it easily due to the integration of causes. Since there is no correspondence between the criterion of determining the amount of the doctors' inadequacy or negligence by related experts and the legal criteria, it would be too challenging to investigate how much the inadequate or negligent doctors are responsible.

Simply defined, criminal justice focuses on the offender and implements justice through the enforcement of a sentence. In contrast, restorative justice revolves on the victim and tries to compensate the losses and seek a way to recompense the consequences of the crime via those engaged; this way, initiation of a restorative dialogue among the parties to gain their consent is an axiom of such justice.

Because doctors do not intend most of their medical crimes, do not surrender to the verdicts of the board of legal medicine's commission on the amount of loss, believe in what they have done to a given patient, and never consider themselves guilty, they do not cooperate nor do they sympathize with the victims. Therefore, it seems fundamentally not feasible to apply restorative justice hereof. Through a library research based on a plenty of fundamental studies, most of which have been applied, we intend to do a feasibility study of the implementation of restorative justice in medical crimes, and its advantages and disadvantages, as we give some resolutions for making the existing situation optimal.

**Keywords:** Restorative Justice, Medical Crimes, Victim, Offender.

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**A comparative study of Restorative Justice between Hong Kong and Taiwan**

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Au Yeung Tsz Yau<sup>2</sup>

This paper compares and contrasts the current practice of Restorative Justice (RJ) in juvenile justice between Hong Kong Special Administrative Region (HKSAR) and the Republic of China (i.e. Taiwan). In Taiwan, the Ministry of Justice has included RJ, in the form of Victim-Offender Mediation (VOM), as discretion in criminal justice system under the scheme of “Restorative Justice Initiative” (RJI) since June 2010. Comparatively speaking, there is no such inclusion of RJ in the criminal justice system in Hong Kong currently. Instead, it is only adopted as a voluntary programme run by certain non-governmental organizations such as the Methodist and the Centre for Restoration of Human Relationships. These organizations mainly target at juvenile delinquents; for instance, those who involve in petty crimes that are not serious enough to be prosecuted by the police in court or those who engage in school bullying. Recently, Taiwan is planning to formally develop an ordinance for RJ as stated in the Judicial Reform 2017. On the other hand, there is no such planning in Hong Kong at the moment.

Considering the existing obstacles faced by Hong Kong and Taiwan in implementing RJ into their criminal justice systems, some suggestions are provided to both jurisdictions in order to make use of RJ in handling youth cases at different stages. Apart from the legislation, Hong Kong is also recommended to use RJ for the Police Superintendent’s Discretion Scheme (PSDS) as a pre-sentence diversion. While for Taiwan, it is suggested to standardize the current procedures throughout its jurisdiction.

**Keywords:** Restorative Justice, Criminal Justice System, Hong Kong, Taiwan.

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## **From Hermeneutic to Hermetic; an Approach to the Evolution of Restorative Justice**

Bahman Hoseinjani<sup>1</sup>

It has been more than four decades since the emergence of the restorative justice discourse, as a new alternative approach for the criminal justice, and it has been written a lot of about in various languages. Despite tremendous efforts made by lawyers, criminologists and sociologists, it is yet not significantly and comprehensively applicable in the worldwide. In addition, different viewpoints exist regarding its originalities. Some prominent researchers from west countries have connected it to Jesus Christ, whilst other eastern ones have related it to Confucius, Buddha and Islam's orders. It is believed as an ever-lasting archetype among eastern and African countries: such as Hejie in china, Jidan in Japan, Naya Panchayat in India, as well as Khun Bas in Iran and some other Middle-eastern countries and culture of Ubuntu in Buntu-speaking African countries. But other researchers argue that restorative justice is a new phenomenon in the west and it has fundamental heterogeneity with other institutions and cultures apparently similar in the east. This challenge is the result of hermeneutical comprehension and an attempt to self – understanding of self –orientation at restorative justice, which decreases the chance of familiarity with a lot of cultures and the power of recognizing them at the discourse of restorative justice; owing to this fact that hermeneutic in recognition and perception is self – oriented and self-superior. It, prior to anything, tries from little thing finds large proportion and gathers them under a tent using an overlapping strategy.

The Hermetic pattern, as an achievement of intercultural philosophy for amending the deficiency of hermeneutic pattern, leads to a deep recognition of other cultures and other individuals especially victims and offenders; not as they are understood but rather as they are. Perception and understanding, in the hermeneutic approach, are superficial and horizontal, but in hermetic approach are profound and vertical. In the Hermetic approach, versus the hermeneutic one, there is neither superiority nor inferiority and others cannot be realized using analogy as they are. The result of this approach change, by spring from the eastern and western culture to transculture of restorative justice, considering the nature of each culture and preserving it against other cultures, makes the evolution of the restorative justice. The main aim of this interdisciplinary research is to use intercultural philosophy achievements in the field of restorative justice.

**Keywords:** Restorative Justice, Hermeneutic, Hermetic, Intercultural Philosophy, Transculture.

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**The Role of Lawyers in Obtaining the Consent of the Plaintiff in Violent Crime,  
in Line the Development of Restorative Procedures**

Moosa Hosseinvand<sup>1</sup>

On the path to human development, we see the decline of human and social values and the overcoming of personal and material affairs in different parts of our social life. As the basis of many occupations (including lawyers, medicine, judiciary, education, religion propagation, etc.) has come to reverence and realization of these values, today, contrary to their intrinsic goals, they are more of a source of income and living of life. The profession of lawyer is one of these professions, which, despite the fact that it is essentially designed to achieve justice and help the oppressed person in the exercise of his rights, but distance from the mainstream, so that victory in any case, defeat and overcome On the opponent, satisfaction of the client and, ultimately, the acquisition of the money has become a primary concern of lawyers. That leads to serious damage to the holy profession of lawyer.

Therefore, by changing the attitudes of criminal justice systems towards restorative justice, it is necessary to consider the opportunity and use the role of lawyers in restorative procedures and helping the culture of reconciliation and restoration in line with the goals of the lawyer. In this context, crimes such as deliberate murder, assault, rape, etc., committed by the perpetrator on the basis of violence and cruelty, are less likely to be addressed by restorative justice doctrines. because in these crimes, you can hardly expect the victim to show the culmination of his human behavior and forgiveness, against the brutal conduct of the criminal. In such cases, the necessity of obtaining the consent of the plaintiff for the reduction of the punishment of the offender and the restoration of the relations between the parties on the one hand, and the difficulty of persuading the victim on the other, requires recognition of the role of lawyers, as reliable and well-informed parties to legal and social issues. This matter is very Significant and important. Nowadays, considering the reduction of traditional relations and traditional methods of resolving disputes for eliminating offenses and disputes, and increasing the recourse and reliance of people to legal authorities and lawyers, the role of lawyers must be considered. In addition to playing his inherent role, the client's representative, the lawyer can act as a mediator and trustee by communicating with all individuals involved in violent crimes such as the client, the other party and his lawyer, the families of the parties and the judicial authorities, Inspired by the goals and principles of restorative justice, on the other hand, it reduces the criminal burden of the incident and, on the other, strives to strengthen the human and social relationships and to compensate for the injuries sustained to excellence and development of human and social values.

In this paper, using library resources and study judicial actors decisions, as well as interviewing some lawyers, the role of attorneys in the administration of restorative culture and remedies through the assistance of the perpetrator and victim of violent crimes in the judicial system is analyzed. In this way, we will be able to assess the doctrines of restorative justice in the Iran judicial system before and after the emergence and adoption of this new model in response to the criminal phenomenon.

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Finally, with a critical look, we have tried to explain the existing mechanisms and possible solutions, to broaden and strengthen the role of lawyers in the development of restorative procedures in order to eliminate the situations of violent crimes.

**Keywords:** Restorative Justice, Attorney, Compromise, Crime Prevention, Violent Crimes.

**Beyond the Democratic Peace: John Rawls and a Theory of Transitional and Restorative Justice**

Hossein Houshmand<sup>1</sup>

The purpose of this paper is to investigate a conception of transitional and restorative justice in John Rawls's political philosophy. Rawls divides theory of justice into ideal and nonideal theory. Ideal theory "assumes strict compliance and works out the principles that characterize a well-ordered society under favorable circumstances," but nonideal theory "is worked out after a conception of [ideal] justice has been chosen," and "asks how this long-term goal might be achieved, or worked toward, usually in gradual steps" (John Rawls, *The Law of Peoples*, 1999, p. 89). He maintains that there are two kind of nonideal theory: noncompliance theory and transitional theory. Noncompliance theory is deals with circumstances in which political regimes refuse to comply with the requirements of justice or human rights, such as when states engage in wars of aggression. Transitional theory is concerned with unfavorable conditions, namely, the conditions that basic institutions do not exist, due to the natural limitations, historical contingencies, or extreme poverty. This paper focuses on issues arising in nonideal theory, particularly in transitional theory and examine how such societies can reasonably proceed towards a more just condition. As some scholars said that the primary goals of transitional justice are providing recognition to victims, promoting civic trust, and strengthening the rule of law. Within the realm of transitional justice there are a variety of approaches to realize these aims, which one of the major approaches is restorative justice. I argue that in the aftermath of outlaw states and mass atrocity, a strictly neutral or a cosmopolitan egalitarian conception of justice, which defended by comprehensive liberalism, is inappropriate to restore values, sense of justice and repair social ties. A thinner, more pluralistic and freestanding conception of justice may, therefore, be needed. I suggest that Rawls's conception of global justice in his *The Law of Peoples* might be a most reasonable one. When confronting problems in nonideal theory, Rawls says that we must look for "policies and courses of action that are morally permissible and politically possible as well as likely to be effective" (Rawls, *The Law of Peoples*, p. 89)

**Keywords:** John Rawls, Non-Ideal theory, Transitional Theory, Restorative Justice, Global justice, Human rights, Decent society.

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### **The Attitude of Lawyers to Restorative Justice Practices**

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The paradigm of restorative justice in Iran has been recognized since the era of identifying, introducing, and defining the theoretical framework in the framework of the various new legal rules. As some of its mechanisms are described in Article 1 of the Criminal Procedure Code in the form of mediation and agreed justice as part of the definition of criminal procedure. Article 82 also provided for a referral to mediation, and its code was communicated after a three-year hiatus in 1395 after an overview. Nevertheless, what today is posing as a major challenge to restorative justice is the use of restoration programs by criminal justice system agents at implementation stage. The fact that judges, prosecutors, police lawyers, and even the extent to which they are reluctant to rehabilitate programs and want to replace it with the formal system of investigation is a matter that requires case study, assessment and review in various sectors involved in the criminal justice system is designed to determine the extent to which restoration mechanisms are applied in practice, and the challenges and obstacles it faces from the point of view of the practitioners. Among the agents of the criminal justice system, attorneys have a significant role in the implementation of the restoration program due to the relationship with the parties to the dispute, judicial authorities, courts, and the police. Although the current law does not deal with the restorative role of the attorney, but some of its effects can be identified in dispersed legal documents including Article 31 of the Law on Amendments to some of the Rules of the Court of Justice, adopted in 1356, as well as the provisions of the Arbitration Rules, which are set forth in the seventh Code of Civil Procedure Act of 1337, and today lawyers practically use it. With this explanation, you can now talk about restorative lawyers along lawyers who are known through legal procedures to settle claims. Attorneys familiar with the restorative process, are skilled in applying them, they have passed the relevant courses with the restoration program and used it in practice and suggest them to the parties. Despite the recognition of the restorative role for a lawyer in the current regulations, there seems to be a significant gap between reaching the desired point. What, on the one hand, is the need for regulations in which the restorative roles of lawyers are clearly identified and collected in a collection and on the other hand, we need to measure the extent of the implementation of remedial programs by lawyers in order to understand the challenges and barriers ahead with the use of restorative programs by lawyers. The present research is an attempt on the way to achieving the recent goal. The population of this study was 21180 all lawyers of the Bar Association of Isfahan. According to the Morgan table, 322 individuals were selected as the sample population according to a random sampling method. The researcher-made questionnaire and its content validity were confirmed by 5 experts

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and its reliability was 0.81 using Cronbach's alpha coefficient. The number of items in the questionnaire was 35, and the 5-point Likert comparison was used to answer the questions.

The findings of the research show that the moderately average responders did not have much information about restorative processes, mostly not familiar with the restoration program during the internship, they do not show much interest in solving the affairs in this way. According to them the use of remedies by a lawyer indicates that he is incapable of prosecuting a case. In addition, from the point of view of lawyers, there are not enough grounds for adopting restorative strategies in the criminal justice system. Also, over average respondents do not consider restorative role for lawyers. According to the results, it is suggested that in order to know more lawyers with restorative mechanisms during the internship training period, special workshops familiarizing with restorative justice should be held. It is also necessary at the legislative level that legislator anticipates more significant restorative roles for lawyers, and in some cases, to resolve the dispute through formal means only in the event of the failure of the restorative processes to be accepted. In addition, it is suggested that the lawyers' clubs are practically linked to the mediation units and their effective cooperation. In addition, reviewing the work of lawyers and identifying attorneys interested in using restorative mechanisms and considering various exemptions or discounts for them by the Attorney at Law can encourage them to apply for restorative programs.

**Keywords:** Restorative Justice, Lawyer, Restorative Attorney.



### **Civilization of Penal Reaction and Tendency to Restorative Justice**

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Sociological study about Penal Reactions shows that changing in Social Emotions has efficient role in tendency toward Non-Punitive Criminal Policy. In fact, the more social emotions go toward Civilization, the more citizens in their social relations go away from violence. Changing in penal reactions and tendency toward Restorative responses are Examples of refinement of social emotions.

Tragedy of Torture that was previously welcomed by collective conscience, today becomes a disgusting issue. This research shows that how changing in the social emotions causes elimination of harsh and Physical punishments. Based on the findings of this research Psychological and cultural changes in society cause increasing the forces that controls violence. As a result, collective conscience shows a clear tendency toward Restorative and Non-Punitive response.

This research with Meta-analysis method shows that how Refinement of social emotions causes Transition from another control to self-control. Thus, harsh punishments as forces for another control in the process of civilization give their place to Non-Punitive responses.

However, we must not forget that refinement of social emotions is not No swing process. Sometimes, as a result of some special social conditions collective conscience shows clear tendency toward punitive penal reactions. Penal Populism is important sample of this mater.

**Keywords:** Restorative Justice, Process of Civilization, Collective Sensitivity, Non-Punitive Punishment, Punitive Emotions.

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## **Responsive Regulation in the Case Of Exchange Crimes**

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The securities market's code has passed by the Parliament in 2005. Protecting the rights of investors and developing a transparent market are the main goals of the legislator in passing this law. In this regard, some articles of this code are about violations, crimes and punishments. In general, abnormalities in the securities market divide into three categories: Disputes, violations and crimes. Articles 36 and 37 of the Securities Market Act are about "Judging Board". According to these articles, cases should be start in "Compromise Committee" at first. The Compromise Committee is the effects of restorative justice. The committee is trying to resolve disputes through mediation and negotiation between the parties. This method is about resolution of professional disputes, and now the criminal justice system is implemented. Chapter 6 in this act has mentioned some crimes and punishments. Although prediction of punishment for some criminal behavior is necessary and approved by the theorists of restorative justice, failure to predict the methods of restorative justice in the relevant laws and regulations is a serious weakness of this law and other laws. This research provides some suggestions for dealing with violations and crimes against criminal acts, in the Responsive Regulation's method. It is obvious that paying attention to the goal of the legislator in criminalizing is important. Certainly, mere criminal dealing with the offender is not the only lawmaker's goal. Because the removal of the offender from the regulatory cycle may lead to the bankruptcy of the production unit and the unemployment of thousands in the economic cycle of the country, resulting in many social problems. So in the first step, depending on the type and character of the offender, it is necessary to begin with the basics of John Braithwaite's pyramid. It seems that in this theory, criminal plays a pivotal role which should be examined carefully . In some case, failure to enter the guilty in criminal justice system, and Disciplinary proceedings, will provide the legislator's goals. Therefore, it seems that considering disciplinary system can have better effects on criminal cases than legal ones. The main question in this research is that, is it possible to deal with abnormalities in the system of restorative justice, especially with regard to Responsive Regulation's theory? By answering this question, this research will analyze the Responsive Regulation's pyramid in violations and offenses.

**Keywords:** Exchange Crimes, Restorative Justice, Criminal Justice, Responsive Regulation.

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**A Study on the Employment of Restorative Justice in the Military Taiwan  
Example with Different Influence on Parties' Preference**

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Restorative Justice, the hot topic of contemporary jurisprudence, has made the process for conflict resolution transformed from formal criminal justice procedure to a measure that accentuates rehabilitation the relationship among victims, offenders and community. Meanwhile, it introduces the ideology and practice of restorative justice to the measures dealing with conflicts in academy, family and workplace. Republic of China Air Force is the explorer in utilizing Restorative Justice as a mechanism to solve frictions raised from military internal affairs. In order to survey Restorative Justice practice in the military and find out the impacting factors that indicates parties' willingness to participate. From the reading of academic references and analysis of expert's views delivered in seminar, there are five facets at the intervention phase, and their 17 criteria factors.

This article employed "Consistent Fuzzy Preference Relations, CFPR" through a questionnaire conducted by experts to calculate the relative weight between the facets and each of their criteria factors and ranked their relative importance. Issues were thus founded and forwarded to referrals and practitioners for future policymaking with the hope that they may be served as guidelines and referred by military or other organizations in promulgating Restorative Justice.

**Keywords:** Restorative Justice, Criminal Justice Procedure, Military.

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## **Peace, Reconciliation and Mediation in the Seventh-Century Teaching Literature**

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One of the instruments of promoting culture and education of people in human societies is literature with its various branches, including poetry, story etc. Nowadays, the influence of literature should not simply be reduced to the learning of its moral teachings, but by making it applicable to the all aspects of routine life, to promote the culture and solve the social and political problems, we can use the moral teachings of mystics and scholars. Because they always behind Poems, anecdotes etc. have tried to teach the matters beyond the appearance to the community and its governors.

Despite the fact that the talks about restorative justice has been born not more than a few decades, the nature of this arguments about peace and reconciliation there have been in ancient culture and literature of this country and the aristocrats and intellectuals trained with religious teachings, use their poems and stories like an instrument to transfer these concepts as well as ethical concepts.

Meanwhile, the works of poets such as Maulana and Saadi more other books, contain practical points and are more popular among the general public. The issues that have been considered in these works and can be used in arguments of restorative justice include: Avoiding War and Conflict and Emphasizing Humanity, Having Humility, Tolerance, Attention to Virtues and Avoiding Vulgarities, The Need for advices of the Elders and the Prophets, Emphasizing Peace, Reconciliation and Friendship, Apologizing, Repentance of the kindness of Parties in the Past, Avoiding Stubbornness, pride, Gossip, schismatism, suspicion, pessimism, extremism, and encouragement of goodness against the defeat, as well as the outrageous consequences of continuity of disagreement, lack of reminding disputes and perversions, loyalty to the covenant, and etc. That attention to them is useful before disputes arise, in the settlement of disputes and in the establishment of peace and reconciliation, is beneficial. So, for example, we can consider some anecdotes like Miserable Gossiper and wicked who is booster the war of others, the minister and his advisable lies to save a man, the struggle of Saadi with the claimant in the expression of wealthiness and poverty and its emphasize on the necessity of the patriarch, and also the story of the Jewish king who were killing Christians and schismatism by his minister and etc. .

Knowing these points and their application can, on the one hand, help the leaders of education and culture and, on the other hand, help the workers, counselors, mediators and individuals involved in resolving disputes that are brought in the dispute councils or courts. Perhaps, according to the ancestors who have been

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educated with such books, we find that the morale of forgiveness and peace and reconciliation have grown among them, whereas ethics and these educational concepts have been taken away from today's life, there has been an increase in disputes and Hostilities and more violence among people.

In this research, the authors, with library resource and descriptive-analytical method, describe the effects of peace and reconciliation in the mentioned works in terms of the capacity of these resources for the purpose of culture and solving social problems, especially in the time of conflicts between people. They have pointed out that not only these solutions, which have more common points with the culture of peoples of this land, can be used in solving the disputes but also because of the global success of these works, we can reach the common language and culture in the legal literature and The issues of restorative justice, which is capable of providing to other countries, especially the Persian language territories. Therefore, they have suggested that, by updating the topics discussed in these works and creating the unity of the ancient texts with the contemporary human verve and attitude, there must pay more attention to the solutions to conflict prevention and resolution, as well as the emphasis on peace and reconciliation, in narratives and literary works, in particular the so called works.

**Keywords:** Reconciliation Justice, Peace, Reconciliation, Mediation, Educational Literature.

### **Friend- vs. Enemy-oriented Criminal Policy**

Sara Kiani<sup>1</sup>

The more that punishment is dissociated from being a tool to condemn and protest against the actions of respectable people and turned into an instrument to eliminate the sources of danger, the further it will get from a humane perspective, and the subject of punishment (which is the human) would turn into a “tool” for maintaining public security. Since today’s criminal law has no choice but to address the dangers through what is technically called security measures, we can hardly find a criminal justice system free of enemy-oriented expressions. So far, this emphasis on security has led to the formation of an enemy-oriented criminal law. The outcomes of this enemy-oriented approach, including the dehumanization of criminal laws, maximum criminalization, inflation of criminal laws and lack of tolerance toward crime and criminals, have not only failed to actually reduce crime rates but have also affected other areas, such as crime prevention, leading them toward an increased tendency to use technical and situational crime preventions. Furthermore, this orientation is heading toward replacement of crime prevention by crime prediction. The purpose to development of a peace-oriented criminal policy is to lead the criminal law toward being more friend-oriented. This way we can moderate the effects of retribution in our criminal policy and substitute community-oriented friendliness for offender-based justice. In such a criminal policy, peace always takes precedence over justice. This shift from security-oriented to peace-oriented criminal justice policy with emphasis on the capacities of criminal law, such as forgiveness, pardon and restorative justice, aims to diminish the dominance of the enemy-oriented attitude in criminal law and reinforce the opportunities for friend-orientation through institutionalization of friend-oriented values, and maybe even influence the legislator’s literature. This kind of criminal policy in no way lacks the concepts of justice and security, but tries to define peace-orientation in a way that eventually, even security measures are designed with an emphasis on peace rather than safety. We can also find a substantial body of literature in religious sources regarding this very subject, which can be used as a basis to develop more friend-oriented approaches. Finally, this article seeks to prove the theory that peace-orientation will lead to a friend-oriented attitude, as opposed to security-oriented discourse that brings about an enemy-centric frame of mind and distracts the criminal law from its original function, which is to bring the criminals back to society, take their human rights into consideration and hold them accountable through punishment. In an enemy-oriented perspective, punishments often involve some sort of seclusion from society and are thus counteractive; this viewpoint seeks out dangerous signs that conform to the concept of a criminal enemy in order to eliminate all peace-oriented processes requiring the presence of the criminal in society.

**Keywords:** Security, Peace, Justice, Enemy-Oriented, Friend-Oriented

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## **Towards the Formulation of the First Fields of the Proper Model of Restorative Justice in Iran**

Gholam-Hassan Kooshki<sup>1</sup>

By expanding the literature of restorative justice and reflection and expressing its benefits in improving the efficiency of the criminal justice system, finding an ideal model for operating its thinking is one of the most important issues in Iran's legal system. To design and formulate the structure of the model of restorative justice must be considered two categories of components. Substantial and substantive components that include the feasibility of four crimes at article 14 of the Islamic Penal Code to enter the process of restorative justice and Structural and procedural factors for the implementation of restorative justice programs in Iran are one of the most important areas of development and improvement of the approach restorative justice.

One of the important issues of this article is that, considering the principles of the Iranian criminal justice system, Can a two-stage system be considered for the prosecution of criminal cases In the first step, cases through the mechanisms of restorative justice can be addressed and if it does not succeed, enter the criminal stage. In the New Rules of Criminal Procedure and Islamic Penal Code 1392, developments in this area have begun, but due to the capacities of the Iranian legal system, we can see a more progressive process. To be able to use the capacity of this system, a new rethink, including in the most unpardonable sense of crime within the scope of the crimes subject to the process of restorative justice must be happened. The spread of the crimes under the above process in order to promote this concept in the system of criminal justice can be a major step.

On the other hand, along with conceptual evolution, it has to design structures and institutions that fit this issue. Formulating the background and the bases for developing a proper legislative model for this important Can be the result of this article.

Hence, in this paper, achievements and fields of this field pursue a policy of criminal law in Iran have been considered. On the other hand, the indicators and fields of the first design of the model of restorative justice in the legal system of Iran with analytical method are discussed.

**Keywords:** Restorative Justice, Model, Criminal Justice, Reconciliation, Criminal Procedure.

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**Legislation in Field of Restorative Justice: Study of Article 10.1 of French Criminal Procedure Code**

Rouheddin Kordalivand<sup>1</sup>

Since the 1990s, French legislator has been predicted some restorative measures in criminal law such as criminal mediation for adults and custodial rehabilitation for children with educational goals. Since adaptation of the “personalizing and reinforcement of penal sanctions” Act On August 15, 2014, restorative justice has found a better place in France criminal law. By adding article 10-1 in its Criminal Procedure Code, It anticipated specific measures in the area of restorative justice that could have been implemented at all stages of the criminal procedure.

According to this article “in case of acceptance of the crime committing, victim and offender can receive restorative justice measure in any criminal procedure and in all stages even during the execution period, the purpose of restorative justice is to take any action in order to enable victim and offender to participate in process of resolving disputes arising from the crime, specifically compensation caused by it.

Restorative justice measures are applicable if victim and delinquent have enough information about this action and express their consent of participation. Restorative justice measure is applied by a well-trained and independent third party, and will be enforced under the supervision of a judicial authority or under the supervision of a Prisons Organization. Restorative justice measure is confidential except in the following cases: an agreement between the parties that there is no confidentiality, in case of necessity of prevention or suppression of a crime, which makes great benefit and justifies the informing of prosecutor in restorative justice measure.

The restorative justice follows the principle of independence. Even though it requires a criminal procedure but at the same time, the restorative justice measure has a completing and independence factor. In the other words these measures does not consider as “procedural measure “and It is not subject to the application of the strategic principles, as foreseen in the preliminary article of the Criminal Procedure Code –about fair trial-. Also, the success or failure of the restorative justice measure is not an obstacle to a criminal response. The criminal process will continue in parallel even though application of restorative measure facilitated the compensation and it will have positive impact in sentence enforcement. From the executive point of view, the restorative justice measure intended in this article has no restrictions and included all type of infraction (crime, tort, contravention) in France criminal law.

In this article after the introduction of the legal framework, field of application, executive arrangements and Judicial control related to restorative justice measure to critique the effectiveness or ineffectiveness of such an action and also looks at the usefulness or inability to inspire it from the perspective of comparative law.

**Keywords:** Restorative Justice Measure, Independence, Complementarity, Confidentiality, Satisfaction.

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**Reviewing the Definition and Evidence of Effectiveness of Victim Offender Mediation in Taiwan**

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Victim offender medication (VOM) has been used in many jurisdictions as a form of restorative justice practice. Numerous empirical studies have proved VOM as promising in terms of reducing recidivism, increasing perception of fairness and satisfaction in both juvenile and adult criminal justice systems. There is a growing interest in adopting VOM for working with offenders and victims in various crimes, including more serious crimes, such as violent crimes.

It is exactly the case in Taiwan where VOM has been adopted in dealing with both violence and property crimes. Since the Taiwan Ministry of Justice formally listed promoting restorative justice practice as a priority of justice reform in 2008, more than 1700 cases have been referred to the district prosecution office restorative justice programs. Until the end of October 2016, 1498 cases have been handed over to the restorative justice facilitators; among them 804 cases have had dialogues between victims and offenders.

Using qualitative data drawn from observation and interviews, this study intended to disentangle the complexities of “effectiveness” of Victim Offender Mediation in an Asian context. It aims to answer three questions: firstly, what are the meanings and definitions of “effectiveness” to the different stakeholders in RJ project, namely service receivers (participants), the facilitators, and the criminal justice practitioners? Secondly, what sort of evidence has been collected in terms of measuring effectiveness? Lastly but by no means the least, what are the hindrance and its inspiration for pursuing “evidence based practice” of Victim Offender Mediation in Taiwan?

**Keywords:** Restorative Justice, Effectiveness, Reducing Recidivism.

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## **Evaluation of Mediation Institution on Domestic Violence in Afghanistan**

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The intellectual and cultural context of the Afghan community has made it difficult for women victims of family violence to access to justice. The customs of the sovereignty of "patriarchal culture" have led the society to make women refer to the criminal justice institutions less often. The economic dependence of women on men on the one hand; the problems of criminal justice institutions such as lack of easy access to them, the existence of corruption, lack of expertise, length of the process, and generally their inability to weaken or suppress violence, encourages women to resolve and family divorces through civic participation and family members in the shortest possible time.

However, mediation is the most acceptable cultural option in Afghan society. The female victims of domestic violence also find mediation available, unambiguous, and culturally acceptable in order to provide justice and solve their problems. Also, the United Nations research report on "Afghan Women's Justice in 2014-2015", shows that about 65 percent of home-grown domestic violence is resolved through mediation.

The present study, alongside evaluating the mediation as one of the major programs for restorative justice in domestic violence, has come to the conclusion that although the mediation has facilitated women's access to justice, but sometimes due to the lack of Specific rules governing the mediation process, the rights of women victims of domestic violence have been violated and have resulted in their secondary victimization. Hence, as regards features of the mediation, efforts should be made to empower mediators, including the alignment with the cultural context and the requirements of Afghan traditional community, and the well-being and willingness of women victims of domestic violence to this institution.

In this research, by descriptive-analytical method, alongside explaining the capacity of the mediating to use the qualitative method of field study, the data on the referral of women victims of domestic violence to the mediation a were evaluated and analyzed.

**Keywords:** Domestic Violence, Restorative Justice, Access to Justice, Mediation, Delinquency.

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### **Restoration Based on Justice and Through Benefaction Ladder**

Firouz Mahmoudi Janaki<sup>1</sup>

If justice, either in power sharing or wealth distribution, is considered as doing justice, insisting on right, respecting the entitled and his/her merits or appropriate and coordinated actions, criminal justice based on retribution and its accompanying intellectual tradition would be the manifestation of such rightfulness (justness) as follows; punishment against crime; punishment based on crime and its proportion to the severity of the crime; neither more severe nor less light. Responding crimes beyond this framework will not be serving the justice as everyone would expect but that would be the expediency, which may manifest itself as the cover for justice or its substitute. Restorative justice, as it is known these days, focuses on the restoration of criminals, victims, and community to cement and improve their volatile and strained relationship through dialogue and compromise. This attempt, done either without any mediator or by the mediation of the community and its members, touches upon benefaction more than justice. Since people expect the government to administrate justice and expect the community members to show benefaction. Justice hinges on weighing up the merit; when justice is administrated and served, expecting forgiveness and benefaction would be beside the point. However, restoration of the relationships is based on dialogue and benefaction, which is above justice, since it is giving more than merit or ignoring one's own rights. Benefaction is the basis for restoring relationship that provokes emotions that are sweeter than emotions brought about by serving justice, especially when the justice is served formally by its governmental power. Serving justice requires exercising and maintaining discipline among individuals and institutions (structural and institutional justice). Justice to restore relationships is served through external "obligation"; however, restoration through "internal and private obligations" is based on observing moralistic principle and showing kindness will be more fruitful and yielding than doing or seeking justice. As Sa'di (Iranian famous poet) said, "how wonderful is mercy at the time of rage" and "help the unfortunates and wretches while in power", benefaction lead to restoration and stable friendship not administration or serving the justice alone. Justice and benefaction are two wings of the peaceful coexistence; however, Justice rests at the bottom of the private and social demands and benefaction is the peak of humanity that enlivens human life as God says in Holy Quran "Allah orders justice, and good deeds, and giving to one's kindred". In restorative justice, restoration is closer to benefaction and kindness than justice is; however, it is not possible to weigh up benefaction based on justice. When the "right" is demanded and retained, benefaction will appear. Knowing justice paves the way to expect benefaction and improve the strained relationship through prudence and compassion. Restorative justice aims to make both sides of the criminal litigation meet face to face voluntarily to discern the truth and achieve mutual understanding and agreement that serves the foundation of peace and ease of mind. In this regard, telling the truth and demanding the right is the starting step; cementing and improving the relationships is the final step, which is feasible

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through benefaction ladder or kindness scaffolding. Understanding this aspect of restorative justice often leads to comprehending the restorative institutions in (intellectual) tradition. Community participation, the presence of community members and informality of the process motivates us to seek approaches that are appropriate to its nature in a manner that if we try to open new avenues for such restorations through criminal laws, we would have to keep them away from the formalities inevitably, which is required by formal justice seeking process. Otherwise, making the restorative justice formal (formalization) will not lead to anything beyond criminal justice.

**Keywords:** Justice, Restoration, Benefaction, Kindness, Criminal Justice, Restorative Justice, Formalization.

### **Restorative Justice Tools in Medical Crimes**

Manoush Manouchehri<sup>1</sup>

Considering the defected relationships between physician and patient, medical crimes are from among those crimes which are not focused before seriously harming the society. Even criminalization of physician default in many fields has not yet been accepted by a certain part of the society, especially the physicians' society. The statistics of occurrence of such crimes enhances when confronting such crimes is weak, whether in terms ore prevention and surveillance systems or at the stage of punishment and criminal and disciplinary systems.

Judicial procedure concerning medical crimes processing indicates that the entire judgment process regarding such cases is based on forensic medicine commissions, composed of physicians and their issued opinions are taken intact as the basis for the issued judgment. The quality of such opinions, manner to compose the same, and the issuing authority are all in a way that result in patient loss of trust and notwithstanding the fact that the opinion is issued for or against the patient, generally the judge limits his/her judgment to composing an independent and justified judgment and his/her knowledge and decision play a less-effective role concerning such judgments.

The second issue regarding such crimes is the position of the physician. As mentioned earlier, due to the special and traditional social respect and prestige enjoyed by physicians, prosecuting them is considered as incorrect, whether by the medical or non-medical societies and usually, and especially concerning medical default, the physician, as the violating practitioner thereof, is seen as being away from justice and the defending physician as the oppressed party, or simply such petition is failed to attract support. Therefore, enforcing justice, which is seen as the final target of any policy, faces problem while dealing with such crimes. Justice is both right and duty. Justice is enforced when, as a minimum, all fulfill their duties in the professions they practice and respect others rights. Eventually, the society is absorbed to restorative justice unconsciously. In restorative justice, in which the parties to the crime (offender and offended) decide on the manner to examine the criminal consequences and all the parties are involved to achieve peace and comfort, then justice enforcement shall be more assured and satisfactory, because perhaps the most severe punishments fail to compensate for the harm inflicted to the society. On the other hand, is more focused on the fact the offenders harm the society, and even themselves, rather than envisaging the crime as a mere law-breaking action. Therefore, a bigger part of the society is involved in the process of confronting crime. Also, it focuses more on number of compensated or prevented damages rather than number of inflicted punishments. Here, we try to explore practical solutions considering the foregoing issue, i.e. weakness in enforcing medical crimes. In this regard, two solutions and possibility to enforce the same are examined considering the advantages, disadvantages and social accessibility. The first solution is amending current bylaws on medical crimes, to direct the society towards criminal justice. Will

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the law have the ability and capacity to amend and/or compile a different bylaw? Is weakness in enforcing justice is due to the weakness of such type of regulations? Will the justice system, medical society and patients accept such to be amended regulations, and in other words, will those regulations be enforceable?

And the second solution is restorative justice tools. In this part, the tools which may be applied concerning medical crimes to enable society, patient and physician directly restore the damages caused by such crimes and generate enforcement of justice all around the crime and also throughout the society. After that the benefit of using such tools and permanency of such benefit will be focused and eventually, the possibility to include such tools into the regulations and reforming Soft Law and Hard Law will be analyzed.

**Keywords:** Restorative Justice, Medical Crimes, Victime, Offender.

### **The Role of Advocates in Mediation in Financial Crime**

Sara Meshkin<sup>1</sup>

Monesa Mahdawi<sup>2</sup>

Mediation, which is one of the strategies for restorative justice, is a way for the parties to resolve their dispute by negotiating. Therefore, the coordination and agreement of the parties to identify conflicts will be achieved by a third party who is called mediator. In this regard, the defense lawyer as one of the actors of the criminal justice system, as well as one of the determinants of the implementation of the legitimate criminal law, can play an important role in mediation, especially in the mediation in financial crimes that often has a direct victim. In financial crimes, the relations between the two sides are less damaged in comparing with violent crimes. As a result, there is more hope for the restoration of such crimes the main victim's demand is financial compensation, not punishment for criminal. Therefore, given the plurality, the diversity and importance of these crimes and their destructive effects on the economic system, and the failure of the criminal organizations to combat these crimes, and given the active and influential role of lawyers in the criminal justice system, as a mediator in criminal law and victimized, the criminal justice system can be turned into an effective and accountable system for combating such crimes.

The research findings indicate that by reducing the public aspect of the financial crimes which have specific victim; such as fraud, betrayal; the use of lawyers as mediators, on the one hand, Protecting victims from crime and compensating for the damage caused by the crime, and, on the other hand, preventing undesirable effects of labeling on the perpetrators, which impeded their socialization.

In this paper, using the descriptive-analytical method and through reference to various documents, it has been attempted to demonstrate that the active participation of attorneys as mediators, who have a deep understanding of the damage of their clients, and the way to recoup it with their help Along with the criminal justice system, can be very effective in resolving such crimes.

**Keywords:** Restorative Justice, Mediator, Financial Crimes, Efficient System.

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## **Reducing Sexual Harassment with Restorative Justice**

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In recent months, "sexual harassment" was one of the most important titles in media over the world. Many politicians, capitalists, and Hollywood directors were on the charge. Many forms of sexual harassment are seen in public and work environments, and the proportion of women as victim is more than men in almost all countries. For example: Sexy satirical jokes, Expression of sexuality versus women and sexual assault.

Sexual abuse is one of the less reported crimes in comparison to violence or rape, and the victims of these abuses tend to be concealed, especially in traditional social structures, women are more likely to leave than to report sexual harassment.

Thus, harassment not only has serious consequences for the victim and leads to recidivism, but also many offenders are unaware of the criminal nature of their actions and deny them in the judiciary. Furthermore silence and absence of effective laws in our country, more than the rest of the world, it has fueled this crime. For this reason, restorative justice to sexual harassment has been not revenge, but to compensate for the damage done to the victim. Using the circles of friends and local groups and negotiating between the victim and the abuser can be used at various stages of crime prevention, especially in the third phase of prevention, which aims to prevent repetition of mischief and the awareness and involvement of the perpetrator. This article tries to answer this question that how we can use restorative justice mechanism in reducing sexual harassment. This paper, with a descriptive-analytical approach and a library resource examines such mechanisms with regard to the characteristics of women's abusive behavior as one of the examples of crime.

**Keywords:** Sexual Harassment, Restorative Justice, Prevention, Participation of Abuser.

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**Legal and Professional Requirements Development of the Role of lawyers in the  
Realization of Restorative Justice**

Tahereh Mirbagheri<sup>1</sup>

For a long time, the lawyer has just been following the legal process leading to the issuance and implementation of the vote having the role of an agent wanted the outcome of the Criminal proceedings solely on the basis of legal grounds.

In spite of the general belief that lawyers are solely motivated to obtain full Honorarium, they tend not to participate in the development of restorative justice but things like that The human willingness of the lawyer to relieve the client as a victim or delinquent which will sometimes not be realized except through the realization of restorative justice ,And professional lawyers' ethics in accordance with the oath of attorney Which leads him to choose the closest way to realize the rights of the client ,As well as, long, complex and costly process of handling ,That may sometimes not result in the favorable outcome of the lawyer and his client after this long process ,has led to Lawyers playing an active role in the development and improvement of restorative justice. In this way, the client will be relied and protected from regulatory challenges. So with regard to the presence of lawyers in most cases with 1.Educational discourse on restorative justice as a separate course for law students enrolled in lawyers' professions, 2. Appoint a part of the lawyers training course to ethical justification of the role of lawyers in restorative justice And holding theoretical and practical sessions to empower practitioners in this field, 3.Establishing a collaborative contribution by defining certain tasks and responsibilities for lawyers And The co-operation of the lawyers of the parties through a Justice Discourse Circuit In order to achieve restorative justice in each of the stages of treatment And preferably before the start of legal proceedings and 4. Finally, consider the percentage of the Honorarium to appeal for lawyers who seek to enforce restorative justice. The expansion of the culture of restorative justice among lawyers and in many cases, preventing from the entrance and continuation of the proceedings in the courts of justice, that inflationary criminality will be its consequences.

**Keywords:** Restorative Justice, Lawyer, Development.

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**Legal Framework for the Application of Restorative Justice in Environmental Crime, with an Emphasis on the Fundamental Principles of Environmental Law (Comparative Study of Iran and France law)**

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Today, the fundamental principles of environmental law have played an active and sustained role in repair and compensation innovations. Among these, judges' attention to the principles of payment by polluters and the restoration of the status quo and environmental compensation can play an effective role in protecting the victim and restoring the environment, because today the removal of damage from the victim and the restoration of the status quo are considered as the most important aspects of restorative justice. The fundamental principles of the French Environmental Code of 2005 and the Code of the Environment France have been explicitly identified. The payment was made by the polluter and restored to the former state of Clause 3 of Section 11-1 has identified all costs related to reducing pollution and environmental action. Section 4 of the Environmental Charter also recognizes environmental compensation. Therefore, in the French legal system, the court by referring to these principles, decide to restore the environment and the elimination of damage from the victim.

In Iran's law, there is no trace of identifying these principles as law, which explicitly refers to these principles, and these principles are set forth in the Environmental Law Doctrine, but it seems that in order to cite the law, In accordance with the law of civil liability, Section 1 of this Law violates the right that damaged to any right created for individuals by law. The right to a healthy environment is one of the rights envisaged by law and part of the public rights, because the constitutionally section 50 of the Constitution explicitly prohibits all destructive economic activities of the environment. Article 1 of the Civil Liability Act is a reminder of the principle of environmental damages that can be remedied by the offender in a way that is regarded as a compensatory and restorative ruling. The restoration seems to be the same as the former. It can be deduced from the provisions of Section 2 of the Civil Liability Code and 329 Civil Law, and this is the interaction of civil liability with criminal liability. In environmental cases, the court should, if it is possible to eliminate the damage, order to restore the status quo because the least hassle has been created for the offender and the environment is being restored.

In this research, an analytical-descriptive approach review the feasibility of the application of restorative justice in environmental crime in the light of civil liability law and civil law of Iran and the judicial process of the courts. Innovation of this study is also that previous researchs only carried out theoretical aspect of the debate, and recognize the principles of environmental law that have a restorative aspect have been neglected. This issue will examine in this study.

**Keywords:** Environment, Environmental Charter, French and Iranian Law, Civil Liability Law, Compensation Principle, Restitution Principle.

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### **Relationship between Restorative Justice and Social Justice in the Islamic Criminal Policy**

Seyed Mahmoud Mirkhalili<sup>1</sup>

Justice is one of the most important goals that the Criminal Justice Organizations seek to achieve. This goal is not achieved by the unconditional implementation of punishment as recommended by the classical school. Today, in criminological theories, the role of state in crime due to the failure to carry out the missions in the criminal policy, it is considered. So impose all responsibility for the offender and ignoring the fact that government has the highest role in their emergence, is not compatible with the foundations of justice. From the point of view of the criminal policy of Islam, the criminality of common people, In criminology, they are referred to as the blue collar criminals, counted as a kind of slip or social illness, which should be subject to the highest degree of tolerance in the response. (Imam Ali: Nahj al-Balaghah letter 53) In this view, the crimes committed by the state men and those who are close to them, it is referred to by the nature of betrayal, but in other cases, that include a mass of people's behaviours specially lower classes, it must be as much as possible using criminal Response Moderators, by creating reconciliation and reconciliation in society, a quiet and peaceful environment will be provided. So, given the government's participation in the crimes, Restorative justice compared to absolute justice, it can better serve the justice in criminal law. In the teachings of Islam, there are some aspects of restorative justice, titles like encouraging crime hidening, Recommending to pardon, Attention to amendment between relatives, referring to arbitration, advising to intercession, emphasizing on repentance.

**Keywords:** Restorative Justice, Social Justice, Islam Criminal Policy.

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## **The Need for Restorative Interpretations of Criminal Law in Rape Cases**

Sepide Mirmajidi<sup>1</sup>

The practice of the traditional task of judging i.e. to match a behavior with a general legal rules is not always possible, and sometimes the judge has to act based on the discretion. Judicial discretion comes from various factors, such as the relative indeterminacy of law and legal propositions, the intrinsic ambiguity of the language and the nature of the fluid judgments. Early studies show that the severity of rape punishment and the lack of ranking criminal sanctions on the one hand, and the failure to recognize the experience of victimization due to stereotypical and often masculine ideals of a "innocent victim", on the other hand, has led to a refusal to issue a death sentence on the basis of the discretion, and became an untenable procedure in the Iranian judicial discourse. However, the existence of institutions such as repentance, proclamation of victim's consent, and note 2 of Article 224 provide appropriate legal capacities for shaping restorative procedures and interpretations in rape cases.

Restorative justice by recognizing the experience of victimization without blaming the victim, focusing on solving disputes rather than paying attention to problems, giving a central role to the victim and being able to act even in cases where the probability of a conviction is low, can compensate for the harms caused by the crime as well as the secondary victimization and respond to the needs of the victim, since victim is been given an opportunity to restore his/her self-esteem, the lost power and to express narration of victimization with his/her interpretations and words. By increasing the sense of responsibility of the perpetrator, a suitable ground for compensation and apology from the victim is provided. By adding new values to the formal justice system, such as trying to eliminate the pains of victim and creating shame and sense of responsibility in the perpetrator, largely prevents the repetition of crime, and ultimately by increasing the satisfaction and active participation of victim and maximizing the sense of realization of justice in individuals, condemn violence in a way that is useful to all parties involved in crime and society.

The main issue of the paper is to provide an accurate understanding of restorative justice in rape at the normative and practical level. At the normative level, identifying the demands and needs of the victim of rape, examining the capabilities of the traditional system of justice to address these needs, and ultimately introducing restorative justice programs for this group of victim is discussed. At the practical level, the role of judges in restorative interpretations of the legal capacity of rape cases is also studied. This is undoubtedly possible with the judicial discretion, which can, with the relative individualization of justice for this group of victims, bring the structure and objectives of criminal justice closer to the maximum extent possible with restorative doctrines. Therefore, this qualitative research seeks to study Iran's judicial discourse in terms of restorative procedures and interpretations in this area through interviewing judges, studying cases of rape and participatory observation.

**Keywords:** Rape, Restorative Justice, Judicial Discretion, Victim, Offender.

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### **Police, Restorative Justice and Social Cohesion**

Abdulrahman Mirzakhani<sup>1</sup>

Sayyad Darvishi<sup>2</sup>

Social cohesion can be defined as feeling the integrity of the community, friendly and affectionate relationships, the amount of social relations and group engagement based on shared values and manners. Social cohesion is a social concept that wants to organize similarities and distinctions in society. Since crime offends conscience of the community, the justice system, including the police, makes it possible to cause damage with the approach of restorative justice that requires the victim, delinquent, and local community. In this paper, while highlighting the components of social cohesion, the role of restorative justice approach in realizing social cohesion through police mediation was examined.

Method: Existence Research in terms of purpose is applicable, by nature is explanatory-descriptive and based on the data type it is quantitative-qualitative (hybrid). Sampling in the qualitative section was determined purposefully and its number was determined based on theoretical saturation. In quantitative section of work, statistical society of research is including of heads and officers of the Police Prevention Provinces for 175 people. Sampling at this stage is randomly categorized based on Cochran formula 85 people were calculated.

Findings: The statistical society of this research has expressed the relative coherence as the most important component of the components considered, for the realization of social cohesion through the approach to restorative justice.

Conclusion: Enhancing the cohesion of the relationship means deleting and mitigating the effects of relational disorder indicators as a component of the greater convergence of the parties to the lawsuit, due to the functions of restorative justice, can play an effective role in creating social cohesion in society.

**Keywords:** Social Cohesion, Restorative Justice, Social Organizations, Law Enforcement, Police.

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### **Institutional Preventive Strategies with the Restorative Justice Approach**

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Hamid Ataee<sup>2</sup>

Ali Hashemi<sup>3</sup>

Rapid environmental change has forced all organizations, including the police, to pursue their strategic plans for the success of the organization, in line with these changes. Today in this turbulent environment, one of the success factors of organizations, especially in service organizations, is to pay close attention to customer-oriented approaches and to attract the satisfaction of service providers. The police organization, as one of the important service organizations to maintain order and security and prevent crime in the community during the various police stages, in a changing attitude from hardware police to software police, has introduced new approaches to security and realization of crime prevention and counteraction missions. One of these approaches is restorative justice. In the restorative justice approach, the solution to the problem is prior to the coercive encounter. The present research is a practical purpose, by nature is explanatory-descriptive and according to the type of data, it is qualitative. Sampling was done purposefully and among senior police officers and its number was determined based on theoretical saturation of sixteen people.

**Findings:** The statistical society of the research have named actions like priority to crime prevention to deal with it, combating crime instead of offender, achieve victim access to their rights and software actions instead of hardware as the most important institutional prevention strategy with Restorative justice approach.

**Results:** Prevention of crime with the help of some aspects of restorative justice is cheaper, more efficient, and more durable, such as eliminating the cause of the offense or assuring the offender's commitment that there is no repeat offense. In addition, in compared with harsh and physical behaviors it greatly reduces feeling of insecure.

**Keywords:** Discipline Prevention, Institutional Strategies, Restorative Justice, Local Community.

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**Practical Challenges for the Independence of the Mediation Process of the Official Proceedings in the Iranian Penal Justice System**

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Due to the major differences between the criminal procedure and the restorative procedure in terms of subject, purpose and supervisory authorities, the goals of restorative justice in the framework and structure of criminal procedure can not be realized. Therefore, this process requires an independent framework and structure of the criminal procedure. The principle of mediation independence, as one of the restorative procedures manifestation, means that the mediation process is independent and adheres to its criteria, principles and methods. Although the mediation process is often conducted under the supervision of a judicial authority, this cannot change the form and the process of mediation implementation and exclude it from its principles. Recommendation No. 5 of the Council of Europe, in the General Principles, explains the existence of this principle: "Mediation services should have sufficient independence within the framework of the criminal justice system." But it should be noted that the independence of the mediation process from the formal procedure is separated from the relationship between the two processes. Despite this emphasis on the independence of the formal procedure process from the restorative process, it is always believed that there is a connection between these two processes, Article 21 of the Basic Principles on the use of Restorative Justice Programs in Criminal Matters of the United Nations (ECOSOC) also stipulate this connection. It should be noted that, if this relationship does not have specific frameworks and criteria, the principle of mediation process independence faces to challenge. However, there will be unofficial mediation in all crimes outside the framework of Articles 82 and 83, but according to Article 82 of the Criminal Procedure Code, the referral of the matter to the formal mediation process in Offenses of six to eight degrees are subject to the consent of the parties with the judicial authorities and according to Article 83 the result of the mediation should be confirmed by judicial actor. The mediation Regulations in criminal matters also has a great deal of authority over judicial authorities such as creation the structure of the Mediation Institution, mediator appointment, mediator's qualification, and so on. The legislator appears to have the power to connection these two processes, but given the experience of the dispute resolution councils, there is a concern that, over time, the judicial process will be diverted mediation institution from its initial goals and functions, and only help reduce cases, and the referral of the case and the way in which it will be handled, regardless of the principles and methods of restoration, and overshadow the independence of mediation. Also, due to control of the judicial authorities on the mediation process, there is little difference between mediation Institution and the formal procedure, which reduces public trust in the mediation Institution and does not achieve its intended goals.

**Keywords:** Independence of Criminal Mediation, Criminal Procedure, Judicial Procedure, Mediation Regulations.

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### **Restorative Mechanisms of the Baloch Folk: Case Study of Shariat and Bojar Council**

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Mohammad-Ali Khozeimeh<sup>2</sup>

On the plateau of Iran, as the highway of the Silk Road, there are different tribes, each with special traditions to resolve disputes. The study of each of these traditions shows that the traces of the pattern of restorative justice can be searched in the heart of these traditions. One of these tribes is the Baloch folk, which has lived in region of the Sistan and Baluchistan since past. In this folk, two traditions of "Shariat Council" and "Bojar Council" are used to resolve conflicts, in which many indicators of the model of restorative justice are observed. The Shariat is a term in the sense of a place in which some people are gathered together and attempted to end the conflicts according to the law of the muslim prophet. Bojar also literally means ethnic support, and the Bojar Council refers to a place in which members of the clan gather around and donate funds to an individual in need. According to the findings of this article, when committed by any one of the crimes against the physical or spiritual integrity of individuals (in particular murder), the elders of the folk commit intercourse and communicate with the elders of the victim's folk elderly and try to find in a place such as the home of the elders or mosques provide for the parties to meet. In this session, called the Shariat Council, after reading the verses of the Holy Quran, one of the chosen Movlavis (Sunni clergy), the guardian family guided the victim's family based on the response from Dar Al-Efta<sup>3</sup> and expressed their rights from the Sharia point of view. Referring to the religious teachings, he passed them and invited the prohibition of the continuation of hostility, depending on the financial condition of the victim's family, to receive the Diyeh or to grant it. In the event of a final agreement, the cases are being met and confirmed by the families of the perpetrators and the victim, the elders of the two tribes and clergy's are in charge of the meeting. At the same time as the elders' activities for holding the Shariat Council, the elders of the perpetrator's tribe also separately gather members of the clan in the Bojar Council and collect donations to pay the Diyeh or other amounts that may be claimed by the victim's family. The findings of this paper show that many of the restorative indicators in this approach are apparent for example, the victim's participation and his family are optional, the local community has a strong role in resolving, there are no official authorities, a social blaming prevent reoffending and by apologizing of the perpetrator, victim is satisfied. This article attempts to identify and present these mechanisms with using the field study and ultimately analyze these mechanism form restorative perspective. Accordingly, it will try to be present at the Shariat and Bojar Council to find how they are held and the useful materials to be extracted and presented. Also, in interviews with tribal elders, clerics, as well as perpetrators and victims who have participated in these councils, their views on this mechanism are to be obtained. Finally, findings will be analyzed based on the principles of restorative justice.

**Keywords:** Restorative Justice, Baloch Folk, Shariat Council, Bojar Council.

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3- This is a place in the Macci Mosque of Zahedan that composed of clerics to answer of the religious questions.



**Opportunities and Challenges for NGO's Mediating between Victim's Family and Offender to Achieve Peace and Forgiveness in Cases of Capital Punishment for Murder; Based on Experiences of Imam Ali Society ,Also Known As "Society of Students against Poverty (SOSAP)", in "Teflan -E- Moslem" Project.**

Reza Moshtaghi<sup>1</sup>  
Katayoun Afraze<sup>2</sup>

SOSAP, an active NGO in the field of social harms, has been trying to mediate between victim's family and offender in cases in which a person who had committed murder under the age of eighteen is sentenced to capital punishment. The goal of mediation is peacemaking between victim's family and offender and find forgiveness from victim's family which leads to annulment of capital punishment in such cases.

Mediation in such cases has special circumstances which have to be considered, otherwise it will lead to more harms. SOSAP mediators experience shows that mediator should not act in a way that the victim's family may think she is taking side with the offender and just wants to save the offender from death penalty. They should find the mediator as a person who shares their pains and is supporting their rights and interests. Mediator's attachment to the society of slum areas and the oppressed strengthens the belief that the mediator understands their pain and is willing to reduce it.

Having prepared the victim's family to face the offender and her family, SOSAP mediators make arrangements to get them encounter in such a way that their resentments are relieved and get a better picture of the other side, despite the demonized image they may use to have which could encourage victim's family to apply their right for capital punishment.

In addition, 'Teflan –e -Moslem project strives to encourage the spirit of restorative and peacemaking behaviors and reduce the pressure on the families planning to forgive the offender through advertisements, mass media, holding annual gathering of "Teflan –e –moslem" and expressing gratitude toward those families who have forgiven such offenders in the gatherings.

After finding forgiveness, restoration process and social work functions continue and mediators keep in touch with victim's family to decrease their sufferings and to appreciate their pacifying decision. Moreover, in order to reintegrate the offender in the society and control damage effects, some processes and obligations are assigned to the forgiven offender.

There are several challenges in NGO's mediation between the offender and victim's family, such as getting involved with such cases lacking expertise and trying to achieve forgiveness through paying unusual blood price, the pressure from the society on victim's family in some areas in order to apply death penalty and discouraging forgiveness of the offender and receiving blood price, lack of

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knowledge in offender and his family on how to repair the practiced harm and their incapability in approaching victim's family.

It can be claimed that involvement of NGOs mediating in murder cases while they are equipped with expertise knowledge is a successful pattern of mediation. In this pattern, sympathizing with the two parties and reducing their pains, can somehow restore the effects of the practiced harm.

**Keywords:** Restorative Justice, NGOs, Mediations.

**From Hamurabi's Criminal Justice to the Restorative Justice of the Hittites: A  
Look at the Restoring of the Process of Responding to Delinquency in the  
History of Criminal Law**

Seyyed Poria Mousavi<sup>1</sup>

The process of responding to delinquency in the traditional criminal justice system, often in the form of punishments of a different nature, especially physical punishments, and also a strict one, goes back to human creation, But in the form of the sovereignty of criminal responses about 4100 years ago (2100 BC), it is time-consuming. That is why, according to urukagina's decree, the king of the city of Legesh, as the first command with a criminal nature, followed by the Ore-Nemur Law, known as the Ore King of the Nemur city, is the first law that has this nature. Despite the modernization of criminal sentences throughout ancient history and in other laws, such as the Ashnuna law and the Lipit-Eishtar rule, until the reign of Hammurabi, the sixth king of the first dynasty of Babylon, forty-three years (1792-1505 BC) This land governed, it did not exist in the scope of the process of responding to delinquent practices that were almost universal. But by writing Hammurabi's commands as the king of Babylon (Ancient Mesopotamia), the first criminal law remained in the history of criminal law. But, looking at the materials of the old law, it is well understood that his approach and process of responding Criminal offenses have been severely punished with heavy punishments and rude and unreasonable evidences. Despite the firmness of Hamurabi's law and the rigorous criminal policy that he had taken in responding to delinquency (so that parallel to his criminal justice could speak of criminal policy, not criminal policy ) About a century and a half after his reign (1650-1500 BC), and In the Asia Minor, the Hittite laws point out that in compare with Hamurabi's criminal justice, a more lenient approach has been made. As the use of terms such as (Indemnity) and (compensation) implies this, this can be used as a model for the abduction of the two above-mentioned laws, that one without any conditional death penalty And the other with a completely different approach to Indemnity and compensation as a response. Hence, Article 14 of the Hammurabi Law states that when a person from the Hittites steals a person from the people of Lowiain land of hattian and takes him to the land of Lawia, then 12 people were previously paid for compensation, but today the abductor must pay 6 people and compensate him by his property. On the other hand, regarding the commission of theft as one of the offenses against property, even though it has the attribute of harshness, two of the abovementioned approaches are already in place. So, according to Article 23 of Hammurabi's Law: If someone commits robbery and then arrests, then he will be killed. But according to article 94 of the Hittite Act: If a man comes into someone's house without permission in order to steal, he must compensate for all damages. In the past, he has to pay 40 silver bags as a fine, but today he has to pay 12 sacks of silver. If he steals a significant amount, he will be compensated for a lot of damage and, if he has stolen a small

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amount, he will be subjected to a small amount of damage and he will have to pay damages by his property.

However, for the purpose of comparing these two laws and looking at other ancient laws in ancient Mesopotamia, it is well thought out on the basis of documents that have been discovered, extracted and available so far. The first text that has historically been somehow With regard to the subject of restorative justice, thematic and conceptual relationship is the Hittite Code, which is typically from the perspective of two mechanisms for Indemnity and compensation which is one of the main components of it, signifies the identification of the cradle of civilization and the birth of restorative justice in Asia Minor and southern Turkey (Benghazi district). An issue that has become a global phenomenon and part of human rights today.

In this paper, with a look at the criminal justice of the Age of Hammurabi, (a) it seeks to ensure that the foundations of restorative justice during the Hittites (B) are flourished and, in the end, in addition to mentioning historical documents that identify this era as a land that has started restorative justice, some of its materials will be analyzed and adapted to some of today's institutions (b).

**Keywords:** History of Criminal Law, Ancient Mesopotamia, Hittites, Indemnity, Compensation.

### **The Role of the Lawyers in Mediation on Offences against Ownership**

Seyed Doraid Mousavi Mojab<sup>1</sup>  
Ali Pashaei<sup>2</sup>

Criminal mediation as one of the most important aspects of restorative justice has a special status in criminal policy. In recent years, with the detection of shortcomings in the criminal justice system and the costly nature of criminal penalties, as well as their ineffectiveness in making offender responsive and providing appropriate responses to the victim, criminal mediation is considered as one of the programs for restorative justice in the legal systems.

Lawyer as the judiciary system's arm and one of the main criminal justice servant has found new positions and functions consistent with developments in criminal justice, along with its' traditional functions, which with the implementation of mediation, can play a role in peace and reconciliation and play an important role in helping and enforcing criminal policy. In offences against property that has high capacity to carry out restoration programs, lawyers should have more flexible opinions and logic than other lawsuits, and create peace and reconciliation in the interest of their client through mediation between the parties; Because the most important concern for the victim of financial crimes is the financial compensation, more than the execution of punishment offenders, that has been incurred through the occurrence of a crime; Thus, the role of the attorney in the criminal mediation of financial crimes is not only necessary, but also has significant results and effects in the process of realizing justice and the rapid compensation of losses and damage to the victim.

The research methodology in this paper is analytical descriptive, and the method of data collection is basically on library study. In this way, we will explain and analyze the subject by studying resources, including books, dissertations, theses and articles, both internal and external, and then sculpting materials related to the subject of research. Then, through a field study and a deep semi-structured interview with lawyers and judicial authorities, it seeks to address through the viewpoint of lawyers and prosecutors to how to play a role in criminal mediation in crimes against ownership, and the views of a number of lawyers in this area are being investigated.

Findings of the research show that the vast majority of lawyers are not familiar with the concept of the restorative justice and mediation, and in the assumption of action, theirs is far from what is needed in the conventional methods of restorative justice. The efforts of lawyers in peace and reconciliation are often aimed at securing the interests of their client, which undermines the principle of impartiality as one of the principles of mediation. On the one hand, lawyers are faced with challenges in resorting to restorative approaches that can completely distort mediation and reconciliation, among which the most important one are to overcome the culture of revenge on the culture of compromise and understanding and

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Forgiveness that the victims prefer to achieve their rights through formal and judicial process, other than through peace and reconciliation; On the other hand, the lack of supportive mechanisms for lawyers in pushing the case towards peace and reconciliation has made some of them unwilling to seek peace and reconciliation in order to get all their wages. Also, the lack of a criminal enforcement in the event of non-compliance by both parties with their obligations and the domination of the general aspect to the private aspect in some crimes against property, have caused lawyers some problems in resorting to peaceful acts.

**Keywords:** Restorative Justice, Criminal Mediation, Offences against Ownership, Lawyer, Victim.

**Judge's Restorative Readings of Criminal Rules and Regulations in Preliminary Investigations with Emphasis on Crime against Property in the Light of Judicial Procedures**

Mehdi Musazadeh<sup>1</sup>

When a behavior criminalization, the perpetrator as a person who disturbs the public order of the society deserves punishment. But in practice implementation of criminal rules and regulations have led unsuccessful experiences to communities, so that Unsuccessful incarcerations, increased rates of recidivism, rate of injuries from punishment are examples of these problems.

Because of inefficiency use of criminal instruments, some judges do not have the tendency to enforce rigid criminal rules and, by moderating them and using the capacities and legal powers, interpret and use criminal law to solve citizens' problems. In this regard, the methods and solutions of restorative justice “because of their nature and adaptation to the needs of individuals and society” have a special place in judicial decisions. Thus, the principles of the Restorative procedure apply in the context of criminal proceedings.

In this research at two phrases this questions are answered: How judge in the crimes against the property in the preliminary investigation take action to restorative justice in the context of a criminal procedure by abandoning criminal rules and regulations? The purpose of this study is to explain and to analyze the restorative behavior of judges from criminal rules and regulations in the direction of and in favor of a restorative procedure, except for cases where the legislator gave them this Permission. Therefore, the scope of this research is outside of the scope 82 Article. In this descriptive-analytic research, for demonstration of the various behaviors of judges in crimes against property at preliminary investigations stage and Comparison it with the foundations of restorative justice, information has been collected by case study of judge's decisions in criminal cases against property. An example of these behavior of the judges are: Violation of the principle legality of the prosecution, Granting repeatedly opportunities to Parties for doing corrective negotiations, inattention to elements of crime, issuance of very mild decisions and restorative interpretations From criminalization that has been done and etc.

**Keywords:** Recovery Justice, Financial Crime, Judicial Readings.

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### **Softening of Criminal Law, and Restorative Justice as it's Latest Demonstration**

Ali-Hossein Nadjafi<sup>1</sup>

Criminal Law is in fact the armed arm of State and it's legal system. Therefore, the right to punish which consists to restrict the rights and freedoms of citizens through criminalization, penalty - setting and sentencing belongs to state ; Criminal Law is, in essence, violent. It legitimizes penal restrictions which are in some kind physical and/or psychological violence. State employs these violences for responding to illegitimate criminal violences. Law enforcement agents and agencies also by their behaviors, appearances, and equipments shape and externalize violences in order to arrest, judge, sentence and punish criminals. Therefore, Criminal Law can be a source of propagation of physical and psychological violence in society and inter-individual relations.

However, One can see that criminal Law, under the influence of classical schools and thinkers (such as Beccaria and Bentham), criminological -victimological schools, political event that is to say the advent of democracy as a way of Governance and the creation of the U N O which opens the era of Human rights and finally under the impact of critical approaches in criminology, has been gradually humanized and softened. The latest factor of softening is restorative justice: Substantial criminal Law has become, less retributive and degrading, less violent, more communitarian - restorative; Criminal procedure ,based also on this factor, became more flexible allowing criminal and victim to be more active in criminal process for finding a negotiated solution to their penal conflict ; thus dialogue- based criminal justice model has become in parallel of confronting - based criminal justice model as a way to respond to delinquency. The last but not the least, criminal procedure now a days obeys to the principals of Fair Trial and Fair treatment, respecting the human dignity and rights of both criminal and victim, canalizing thus the violence of the actors of criminal justice ...

One can note that since nearly one decade the Iranian penal legislator also has adopted the strategy of softening - lightening, as it was briefly described before. For example, Restorative justice model and Reconciliatory justice model in parallel of classical criminal justice model have been adopted in the new criminal procedure code 2014; Communitarian - restorative punishments have been introduced in the new penal code 2013 for some criminal offenses ...

This article proposes to study first the main fundament of the aforesaid strategy, then its special manifestation in the Iranian Criminal Law , with focus on restorative aspects, and finally to evaluate such a strategy and its demonstrations in the Iranian cultural - judicial -police context.

**Keywords:** Restorative Justice, Retributive Justice, Mediation, Reconciliatory, Restorative Punishments, Communitarian Sanctions, Fair Trial, Fair Treatment.

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### **The Restorative Justice System in the Light Emile Durkheim S Functionalism Theory**

Amir Hassan Niazipour<sup>1</sup>

The restoration of justice within the framework of a strategic policy has been a criminal policy \_makers in these decades. As in a number of areas of criminal policy, restorative justice has a system. Because, in the light of it provided an area for defamation, repairing damages, compromise between of offender and victim, abandoning the strategy of confrontation and repression of the criminals .Restorative justice has many foundations in criminology, Human rights, economy and sociology. Therefore, restorative justice has a functional in the field social interaction, penal minimalism, social correlation, development of kindness and social compromise. This system can be studied in the various forms, for example from the perspective of sociology. Because, this system is a social phenomenon and institution. Therefore, the restorative justice system can be studied in the light Emile Durkheim s theory. From the point of Emile Durkheim s view has a functional every social phenomenon, for example, restorative justice. The most important function of restorative justice from this perspective is to create compromise between of offender and victim. This function of restorative justice in resolves this social need, especially in organic societies. Because, in this societies the restorative justice can be effective in the field repairation and compensation in the Iranian criminal policy has been identified restorative justice in 2001Act, but that should be developed in this theme.

**Keywords:** Restorative Justice, Functionalism, Compromise, Social Need, Emile Durkheim.

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## Introduction to a Theory of Tort Law

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A theory of criminal law is needed for criminal law as a whole, as well as its major subjects like tort law. Without such a theory it is impossible to have a set of consistent and effective norms. Restorative justice, in its general sense, should also benefit from such a theory. It is this theory that clarifies what is the major aim in restorative justice. In the literature of tort law scholars talk about four theories. In retributive theory of tort, the emphasis is placed on what those who damaged others really deserve. In corrective justice theory, the main purpose of tort law is to correct injustice between two or more parties engaged in the case. According to utilitarian theory of tort the function of tort law is to enhance the communities' welfare. There is also a distributive justice theory of tort law, according to which the focus is on redistribution of the results to a larger number of people rather than those who seem to be the first and primary people involved in the case.

Iranian tort law is often manifested in the format of some laws and regulations recognized as *kitab al- diyāt*. Suffering from the lack of any theory in the modern sense, the laws of *diyāt*, are mainly inferred from religious texts based on a textualistic approach. Even if those texts contain a theory, no theory, in practice, is recognized and inferred from them. Moreover, some of those teachings seem to be case-based rather than general and permanent part of shariah law. Similarly, some of them are more correspondent to the prominent customs and manners accepted at the time they were settled. The fact that *diyāt* laws are often treated as unchangeable part of Shariah makes development of this part difficult. However, when talking about classification of shariah, jurists have repeatedly distinguished this part of law from *ibādāt* (acts of worships) which is normally recognized as a fixed and unchangeable part of shariah. This brings some hope for possibility of suggesting a theory of tort law in its modern sense.

In setting a tort law theory, compatible with fundamental principles of shariah, realities of Iranian society and the latest rational and scientific experiments of other nations must be taken into account. The aim of this article is to review major theories of tort law in modern criminal law and open the door for suggesting a theory of tort law compatible with the realities and needs of Iranian society.

**Keywords:** Theory of Criminal Law, Law of Ignorance, *Diyāt*, Islamic Law.

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### **Application of Restorative Justice in Sexual Delinquency of Children and Adolescents**

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The initial origins of restorative justice can be found in cases involving children and adolescents. Challenges to the classic criminal justice system about sexual crimes in child and adolescent offenders such as; the lack of effectiveness of criminal penalties, the inappropriateness of criminal sanctions, the criminalization of the center of reformation, the escape from community, defamatory effects and social disapproval, encourage countries Towards the use of informal methods for resolving crimes namely restorative justice such as mediation between the victim and the perpetrator, types of restorative justice sessions or the use of ideas such as the shaming theory in order to be able, in addition to restoring damages, victim's dignity and psychological victimization and compensation, by shaming the perpetrator and informing him of the consequences of his criminal behavior, prevention from entry into criminal justice system.

The main question in this study is how can restorative justice mechanisms work in sexual delinquency of adolescents' cases?

In this paper, with descriptive-analytic method, information has been collected by case study and deep interview. We try to look at the approach of leading and successful countries in the use of restorative mechanisms in sexual delinquency of children and adolescents and their success has criticized the restrictions on the use of corrective measures in sexual delinquency of children in Iran.

Following initial research, it was realized that in order to avoid the effects of classical criminal justice, such as labeling, the lack of effectiveness punishment and other challenges to criminal justice, the use of practices such as the mandatory referral regime of cases criminal mediator in sexual offenses of children and adolescents in all stages of their trial and other programs of restorative justice, in particular the sessions on restorative justice is necessary.

**Keywords:** Restorative Justice, Classic Criminal Justice, Criminal Mediation, Reconstructive Sessions, Reshaming Theory, Sexual Delinquency of Children and Adolescents.

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**Restorative Justice in Multicultural Settings: A Paradigmatic Discourse**

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Kathleen Daly (2005) in her limits to Restorative Justice argued if restorative justice is practicable in multicultural settings? This question is still very sensitive and relevant in contemporary world that is increasingly becoming multicultural but fiercely conflicted. Societies that were once seen as mono-cultural in nature now have “within-group” cultures agitating for political and ethnic identities, leading to conflicts. How do we do restorative justice programming in multicultural conflicting societies? This paper attempts to paradigmatically analyze the paradox using secondary and ex-post-factor research method.

**Keywords:** Restorative Justice, Multiculturalism, Diversity, Conflict.

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### **Freedom of Judicial Action and Restorative Interpretations of Criminal Law**

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To implement restorative justice policies, to what extent a judge has freedom of action in criminal law interpretations and judicial proceeding and whether dominant principals on interpretations and implementations of these laws especially principal of lawful crimes and punishments, narrow interpretation, territoriality, not being retroactive in criminal laws allow exertion of restorative interpretation of these laws? In this research the role and impact of each of these principals in implementation of restorative justice will be stated in the analytical descriptive manner. Also, the principal of freedom of judicial action in criminal law interpretation and its fundamentals and functions in this area will be considered. Then applied example of the feasibility of this principle in different stages of criminal proceeding such as preliminary researches, trial and execution regarding to legal potentials verdicts and law theories, will be considered. For this purpose, judicial decisions based on restorative interpretation with case study of 30 judicial files will be considered and analyzed. At the end barriers and challenges of freedom of judicial action in restorative interpretation of criminal laws such as mandatory criminal rules and its coherence specialty, dominance of punitive approach among criminal law judicial factors, law ambiguities and vacancies, discrepancy of verdicts and views, multiplicity of precedents in law interpretation, absence of judicial precedents based on restorative justice and not using all capacities in law and society, will be stated. Then, strategies and approaches to overcome these barriers such as propagating and encouraging culture of peace and reconciliation based on restorative justice approach, proximity of judicial precedents based on restorative interpretation and improving the knowledge and skills of judges and all other judicial officers and effective agents on criminal law implementation, attention to specials judicial trials with required human resource training for novel criminal proceeding and hearings, optimized usage of social capacities and religious institutions in this area will be presented.

**Keywords:** Restorative Interpretation, Restorative Justice, Criminal Laws, Judicial Decision, Freedom of Judicial Action.

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**The Prospect of Traditional Mechanisms of Transitional Justice in East Timor; Effectiveness and Challenges in Promotion and Advancement of Human Rights**

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Parisa Dehghani<sup>2</sup>

Justice and reconciliation are truly two complementary instruments with a common purpose in countries involving massive human rights abuses. People who are responsible for past violence should be forced to make reparation for their actions. But the accountability process has only little success in healing the community wounds. To respond to this fact after the conflict, a different, broad and functional program is required. Hence, in recent years, transitional countries in dealing with perpetrators have adopted different approaches in terms of responsibility. A transitional society can make a decision better than any other institution according to the requirements of time and place in relation to its ideals and objectives and mechanisms for its realization. One of the most important governmental initiatives is the use of traditional and indigenous transitional justice mechanisms, which, along with other formal mechanisms, have been used in transitional societies to enforce justice against offenses committed during autocratic regimes or civil wars.

Following the withdrawal of the Indonesian occupation forces, the East Timor government based on committing crimes has used various mechanisms of the Local Tribunals, Truth and Reconciliation commission and community reintegrating program. The perpetrators of serious crimes, such as murder and rape were prosecuted by formal system, and perpetrators of lighter crimes faced a reconciliation program.

In this paper, at first we seek to provide an overview of the realization of transitional justice in East Timor by resorting to the traditional justice system for the enforcement of justice in committing crimes and consolidating peace and reconciliation, accountability, fact finding, and reparation. After outlining the origins and formation of traditional justice mechanisms in East Timor; the organization, functions and its procedures will be considers in particular. Finally, by highlighting some of the achievements and consequences of these indigenous mechanisms in restoring peace and stability and promoting human rights in society through establishing the rule of law, strengthening the culture of human rights, focusing on social cohesion, implementing justice and peace, legitimacy and social acceptance we will focus on human rights challenges and weaknesses of the system. Despite criticisms that have been made on the systems, the main argument of the paper is that implementing transitional justice system in East Timor, has not only underpin the establishment of human rights, restoration of peace and stability in a transitional society of East Timor to democracy, but also overcome its challenges in dealing with the foundations of human rights by resorting to legal pluralism and using hybrid mechanisms.

**Keywords:** Lisan System, Traditional Transitional Justice Mechanisms, Timor-Leste, Human Rights, Justice, Peace & Reconciliation, Commission for Reception, Truth and Reconciliation.

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### **Restorative Justice Capacities of “Marka” Institution in Afghanistan**

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Mohammad Farajiha<sup>2</sup>

Now a day, the classic paradigm of criminal justice including punitive justice and retributive justice are facing challenges such as weakness of functionality in a way that by questioning its principal theories, it is functionality also came under doubt. This diminishing is coincided with rising of new and serious paradigm in the name of “restorative justice”. The paradigm which it is basis and functionality is slowly gets institutionalized in the field of theory; the field of practicality gets success and finally is on the phase of replacement through revolution of paradigm. One of the important reasons of the mentioned success is the common grounds in public participation in different countries and cultures. So, researchers with regard to contingency approach of restorative justice are looking to find worldwide principles and patterns and executive methods through assessment of different capacities of common participation patterns of different countries in this field in order to get use of their potential and actual abilities in this regard. The aim of this research is also, assessment and explaining of restorative capacities of the “Marka” institution as one of the common patterns of public participation in solving problems in Afghanistan so that by reviewing the capacities and understanding the common and difference points, it is humanitarian achievements are explained and recommended. After assessment of restorative justice, “Marka” institution and research background, processes of “Marka” institution based on academic literature will be redefined and after combining with restorative justice, it’s compatible and incompatible aspects with restorative justice will be analyzed. The approach of this article is practical, it’s method is measurement and collection of its field research is deep interviews with participants especially facilitators, victims and criminals from Marka institution. Findings of this research show that “Marka” from theoretical point of view, mechanism of using the programs, executing the programs and protective condition, have close relativeness with restorative justice. On the other side, these findings show that in the Mark Organization, based on written authority taken from both parties by the facilitators, issuance of order (decision) is taken in their absence and at the end it will be announced to them and is usually executed through the mechanism of “Nagha”. Also, it is possible that in the process of “Marka” institution, the facilitators misuse the given authority and compromise with one of the parties or under the success and power of one party, issue unjust order. With regard to the mentioned findings, we can conclude that Mark institution as a pattern and practical method of restorative justice has great capacity for institutionalization and implementation of restorative justice.

**Keywords:** Restorative Justice, Public Participation, “Marka” institution, Capacities, Authenticity of Personal Relationship, Compensation, Retributive and Participation.

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### **The Models of Restorative Justice**

Esmaeil Rahiminejad<sup>1</sup>

Restorative justice as a new philosophy and attitude to crime, criminal and victim has different models that based on programs and policies of restorative justice, designed and exercised.

One of these models is “abolitionism” which criticizes strongly conventional criminal justice and urges it is dismantlement. Advocates of this model view restorative justice as an alternative system which is sufficient to the settlement of disputes arise from crime. The second model is “separatism”. Separatists agree that restorative justice and criminal justice are incompatible, but don’t accept the abolition of the latter, and argue that the two should be seen as alternatives to each other, and that they should be kept separate. The third model is “reformism.” Reformists urge no such separation and argue that criminal justice can be modified in order to bring it closer to the principles and values of restorative justice. This article considers these models and the extent of their adaptability with different legal systems, especially with Iranian legal system.

**Keywords:** Restorative Justice, Criminal Justice Model, Abolitionism, Separatism, Reformism, Iranian Legal System.

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**Analyzing the Moral Foundations of the Obligation of the Criminal's  
Cooperation in the Process of Restorative Justice**

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In the conflict of the two paradigms of punitive justice and restorative justice, unlike punitive justice that doesn't involve consent of offender, restorative justice requires both offender's and victim's consent to serve justice. Central idea of this study is that although these paradigms have essential differences, but in both of them offender has a moral duty to take part in sentencing (in punitive justice paradigm) or in the process of restorative justice. Regarding the scope of present article which restricted to restorative justice paradigms the main questions are which principle constitutes offender's moral duty to participate in restorative procedure? And what are the elements of the moral obligation? According to expressive theories of action, each person with each action seeks to express his mental states and attitudes. In this theory, when a person does wrong, he is expressing the message to his victim that "I am more important than you therefore I can use you as a means to my ends." This proposition is regarded as false by human's moral intuitions. As this proposition is false, each person should do something to reject it. The rejection of this proposition leads to a moral duty that everyone has a duty to avoid harming and preventing other people from applying their rights. Therefore, every human being primarily has a duty to put all his efforts into doing his duty not to harm other people and not to prevent them from applying their rights, as best as he can. Now this moral duty leads to a secondary duty that is since each individual has a duty not to harm other people and not to prevent them from applying their rights, when he fails to comply with his duty, another moral duty arises that can be called "the process of apologizing". Therefore, from a moral perspective, each person has two duties: a) avoid harming or preventing other people from applying their rights b) if other people are harmed or prevented from applying their rights, try to correct the wrong as best as possible which we call the process of apologizing (secondary duty)

Five elements can be recognized for the process of apologizing that it is as a moral's duty: a) Remorse and Regret b) Admission of Guilt c) Shame and d) Restoration (Compensation, Reparation) e) Revision and Alteration the Current Behavior

**Keywords:** Restorative Justice, Moral Foundations, Duty, Apology, Shame, Guilt.

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**The Status of Women Victim of Family Violence in the Traditional Mediation  
Process in Lorestan**  
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Individual rights in nomadic family of Lorestan still are patriarchal. In cases of family violence, women are oppressed. The tradition is superior to women's rights. Conflict resolution in the structure of tribal intelligence is done by family discretion. The manifestations of mediation can be expressed in terms of perpetrator commitments, relative and agreed compensation of harms. This research, study the Status of women victims of Family Violence in mediation meetings in restorative justice framework .Our findings suggest that traditional mediation and the social status of one side are effective in secondary victimization and mediation decisions. Women do not have any role in the formation, process and decisions of mediation meetings. As a result, the improvement of the social and economic situation is effective in changing the process. The information in this descriptive-analytic research has been collected by case study (20 interviews have been used) and library resources.

**Keywords:** Restorative justice, Mediation, Family Violence, Women, Lorestan.

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## **The Application of Restorative Culture in Murder; Capacities and Challenges**

Soodabeh Rezvani<sup>1</sup>

In all criminal systems, violent crimes, especially murder, receive the most severe penalties, i.e. long-term imprisonment or death sentence. Drawing on Islamic jurisprudential principles, the punishment foreseen for the commission of murder is blood vengeance; and since this punishment deprives one of life and is irreversible, it makes restorative mechanisms gain more importance in this regard. Additionally, sometimes, the perpetrator of murder, due to penal populism and social anger, does not have the opportunity to explain his criminal behavior, compensate the harms resulting from the crime or apologize for it. Because of failure on the part of the Iranian legislative policy, especially Criminal Procedure Code 2013, to pay attention to restorative principles in murder – reserving it only for minor crimes – and also due to the issues discussed above and the importance of adopting and promoting restorative culture in the murder cases, the present article, using the case study method, seeks to analyze, among other things, the legislative and judicial capacities and challenges and the mediatization of cases in the application of restorative procedures in ten important murder cases that attracted the attention of the public, such as the cases of *Rayhaneh Jabbari*, *Delara Darabi*, *Shahla Jahed*, *Benita* and *Setayesh Qorayshi*. It should be noted that the data of the present research have been collected through interviews with lawyers and judges working on the cases, the analysis of documents and newspaper archives concerning these cases, and observation. And the capacities and challenge arising will be extracted and analyzed in accordance with each of these cases.

Issues, such as the young age of the criminal at the time of commission of the crime, lack of intent (pre-meditation) and commission of the crime in a moment of excitement, long lapse of time following the commission of crime, and friendship or family relationships between the victim and the criminal are among the capacities for applying restorative mechanisms, while the violent methods of commission of the crime, sexual, physical and age vulnerability of the victims, penal populism and distortions by the media are some of the challenge facing the application of restorative approaches in these cases. However, the capacities and challenges arising in applying murder teachings are not limited to the factors mentioned above and they should be examined in the case of legal and judicial capacities and gaps, such as foreseeing or failing to foresee restorative mechanisms in laws and regulations or the possibility of a restorative reading of them, and the concerns of judges, attorneys and other actors, such as Organization for Prisons' Affairs. The present article, while focusing on the examination of the above-mentioned cases, deals with these issues as well, and presents some proposals and approaches.

**Keywords:** Murder, Mediatized, Penal Populism.

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**Lawmaking in Restorative Justice Scope (with a Special Glance at Domestic Violence)**

Zeynab Riazat<sup>1</sup>

Restorative justice is a new movement in criminology field and a global extending movement aimed at removing the deficits of traditional criminal justice which attempts to mitigate the pains of crime through intervention of crime parties, criminal's accountability, restoring harms posed to victim by full synergy of the victim, criminal and society so that parties can decide on how to proceed with the outcomes of a given crime.

The emergence and development of restorative justice as a creative and dynamic trend and an original expression of criminal justice principles is so that in some countries restorative approach is regularly reviewed and revised by lawmaker and has yielded to the adoption of various laws while Iranian lawmaker's attention to restorative justice processes need contemplation and it seems that in some crime like domestic violence, neglecting restorative justice teachings and lack of lawmaker's merit attention are, *inter alia*, the most important deficiencies of Iranian lawmaking system which respecting it can play a vital role in decreasing it and while creating the feeling of shamefulness among delinquents would prevent recidivism and can pave the way for a sustainable peace in families.

However, Iranian lawmaker has not adopted a certain criminal policy on making criminal justice as restorative in facing with domestic violence and irrespective of lack of criminalization for some violating behaviors in families, general polices of lawmaking are resort to traditional punishment such as imprisonment and cash fines while restorative justice teachings like compulsory case refer to criminal moderator, attention to victim in order to compensate the losses and organizing familial forums in many countries are all used in domestic violence cases which can have the highest profitability by considering the necessity of keeping families and reducing crime damages as well as special traits of penalty in restorative justice teachings.

Thus, considering inefficiencies of resort to traditional penalties as a reaction to domestic violence and synchronization with restorative processes, lawmaking by relying upon restorative justice teachings is inevitable and, by using library studies through descriptive – analytical methods, present paper has introduced lack of merit attention to restorative processes as a barrier against success in curbing domestic violence and has clarified and criticized lawmaking in this scope.

Results from present paper indicate that despite of lawmaker's attention to some restorative processes in recent years and adoption of Article 82 of Criminal Procedure Law (2013) and moderating recipe of criminal affairs (2015), the status of taking restorative initiatives by lawmaker to curb domestic violence is still neglected which needs revisions based on provided recommendations in present paper.

**Keywords:** Restorative Justice, Lawmaking, Domestic Violence, Punishment.

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### **From Retributive Justice to Restorative Justice**

Hadi Rostami<sup>1</sup>

Retributivism, as one of theories about philosophy of punishment which is rooted in the deontological morality, mainly tends to Justice Enforcement in punishment enforcement rather than future goals such as prevention, modification and treatment. Although punishment is strongly emphasized in the oldest interpretation of Criminal justice related to Kant's philosophical interpretation of punishment system, still some weak effects of restorative justice is observable, as he (Kant) talks about Apologizing along with Punishment. In contrast, latter interpretation of this thought has deeper relationships with restorative justice system. This views which mainly concentrates on ethical gravity of the law, consider a kind of communicative function for the punishment which generates a process ending in confession to the guilt, expressing regret and also the compromise after accepting criminal responsibility. Suspension, mediation and compensation are some programs which could encourage criminals to accept their crimes, expressing regret, cover damages to victims and finally apologizing of them.

Undoubtedly, enforcement policies of the restorative justice, necessitates responsibility to committed crimes, and because retributive theory considers human beings as responsible and independent agents and hence expect responsibility for their treatments, could provide stronger basis for approaches of restorative justice. Efficiency of this approach is that the offender consider himself/herself responsible for his/her guilt and by accepting guilt's pressure, participates in the process of reconciliation of two parties and finally by apologizing of the victim and also relieving pains and effects of the crime, encourage him/her to reformative plans. Presumption of this thought is that not fearing of punishment, but love for humanity, altruism and respect for dignity which rooted in retributivism teachings, are the real deterrents to crime commitment.

**Keywords:** Restorative Justice, Criminal Justice, Retributivism, Criminal Responsibility, Mediationism.

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### **Theoretical Dilemmas of Restoration in Replacement for Punishment**

Mehrangiz Roustaie<sup>1</sup>

Justification of restorative paradigm of justice can totally be irrelevant to retributive and utilitarian justification project of punishment, because restorative justice is not a form of punishment but an alternative to it. 'A promising alternative for a future in which punishment is marginalized and just used as a back-up in situations in which restorative justice fails.' This new situation needs justification too, and avoiding relevant issues about it can eradicate its theoretical basis and has no defense against rival paradigms. On the other hand, restorative justice keeps some of features of punishment that needs rational or moral justification; for example, an offender's participation in some forms of restorative justice procedures is not accurately viewed as wholly voluntary conduct nor as lacking any punitive justice. Hence Braithwaite's theory must be combined with a normative theory morally accepted to take a general account of the conditions for when shaming is right and when it is wrong. He does this by invoking the republican theory of criminal justice. He uses the 'dominion' to explain the way of achieving justice rather than retribution or utility. In this vision, crime is defined by the harm it has caused to victims and restorative justice dose not handle dispute between the state and the offender in a way that criminal justice shows, but violation of individual relationship; Then the restoration of the harm is the primarily function of social responses to crime and justice as a process that involves the victim, the offender, and the community in a search for solutions which promote repair, reconciliation, and reassurance. As Braithwaite acknowledges Restorative justice is a consequentialist theory and must faces with the most important challenges of this theory means punishing innocent persons. The other challenge is unequal treatment for equally-culpable offenders this is the common feature between criminal justice and rehabilitation despite their differences. Restorative justice accuses retributivism of unequal treatment for victims and itself at the same time confronted with objection of unequal treatment for individuals guilty of relevantly similar offenses. Discussion about these dilemmas that derived from definition of crime and purpose of response to crime in restorative justice and arguing about possible answers in its proponent statement can help to reinforce theoretical foundation of restorative justice.

**Keywords:** Restorative Justice, Criminal Justice, Response to Crime, Reintegrative Shaming, Retributivism, Utilitarianism, Rehabilitation.

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### **Application of Restorative Mechanisms to Resolve Disputes between Doctor and Patient**

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Mohammad Asadi<sup>2</sup>

Unexpected events and complications due to non-professional practices are common in medical care. When the patients' expectations about treatment are not adequately addressed, especially after unexpected medical events, they often go to lawyers to set up a justice system to compensate for the damage. The results of the studies confirm that most complaints from physicians in the professional environment are not just due to insouciance, but because of the disproportionate response and poor communication of the physician to the patient after an unsatisfactory outcome. According to the surveys, four issues are identified as the main reasons for patients' complaints:

1. Need for an explanation of how the damage occurred and why?
2. Compensation for all the material and moral damages.
3. Patients or their relatives want to prevent similar events in the future.
4. Responsibility and accountability of the doctor and the medical staff for their actions.

In this research, a case study was carried out on some medical cases. The research data were obtained by interviewing and analyzing the documents. The study of the medical crimes prosecutions and the gaps in the process, as well as analysis of restorative mechanisms and their application to medical crimes, were the main goals of this study. According to the findings of the study, the formal process does not satisfy the punishment goals of the medical crimes. The restorative process provides the opportunity for the doctor to put forward his pre-emptive process in the face of a dispute, and the patient also expresses his complaints; and thus increases the sense of responsibility in the doctor and ultimately maximal compensation for the patient will be done by the doctor. In this way the whole process would lead to satisfaction of the victim. This not only raises the consent of the parties to the dispute, but also prevents the repetition of medical crimes and reduces the number of cases in the official system.

**Keywords:** Restorative justice, Medical crimes, Responsiveness to Crime, Victim, Prevention.

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### **Restorative Rather than Retributive Justice in Islam**

Abdulaziz Sachedina<sup>1</sup>

In Islamic revelation there is recognition of victim's right to retribution as well as restoration. Wrongs committed against an individual or a group needs to be redressed and compensated in order for the fractured relations to be restored. Obviously, Islam regards human relationship as an important matter in its social ethics and politics based on fairness and justice. When any group suffers violation of its human rights and dignity, it also suffers discrimination and isolation imposed upon the people by the more powerful. It is true that sometimes a simple apology can repair broken relationships. Hence, Islam requires compassion and forgiveness as essential elements of human relationships. Moreover, it imposes moral and legal restrictions to control the damage that is caused by discrimination and oppression against certain groups and individuals. Depending upon the severity of the harm caused to innocent party Islam has recognized the right of the victim to demand appropriate compensation. At this relatively individual or group level administration of justice may prove to be sufficiently adequate to satisfy victim's legitimate expectations for restorative justice. However, the situation changes drastically in contemporary international relations. It is often observed that the powerful nations engage in discriminatory conduct and treatment of other nations in the name of progressive modern civilization of the West. These powerful nations have justified their unjust treatment of weaker nations by requiring the native cultures to comply with and adopt modernization as defined and implemented by the developed world. In a number of political situations throughout the world the Western domination has been carried on by the native modernized surrogates in those countries who have uncritically adopted the policies of the powerful nations. Contemporary history of the Third World countries has preserved reliable accounts of the ways in which native cultures have been distorted beyond recognition by the technically advanced nations.

The dialogue between civilizations has not yet begun because the most fundamental requirement of that dialogue (or any other dialogue) is the mutual respect and equality of the participating nations that should determine the terms of such a dialogue. When we move from political realm to the interfaith and intercommunal relations, the imperialist and self-righteous attitudes among religious communities have not allowed the necessary terms of mutual acceptance to become the cornerstone of restoration of human relationships founded upon recognition of the human dignity as a fundamental principle to found interhuman relations today. The precondition in all such movement to bring people together around the globe is to restore human relations on the basis of mutually acknowledged universal language of the Islamic revelation: the equality of humanity in creation. The latter dictum can become the prescriptive solution to end claims of superiority of one group over the other and mistreatment and discrimination generated by such an abnormality in all human relationships.

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This paper will demonstrate the cognitive validity of the universal language of Islam to foster such a global society that is not only willing to forgive injustices committed by the powerful, but also to restore justice by engaging all the religious and political resources to usher new world order founded upon acceptance of equality of all human beings in creation and in dignity.

**Keywords:** Restorative Justice, Islam, Retributive Justice.

### **Cultural Obstacles to Expanding of Reconciliation among Iranians**

Vali Sadeghi<sup>1</sup>

According to Paragraph (a) of Article 116 of the Sixth Development Program Act (2017), to reduce the referral of people to the judicial authorities and accelerating the resolution of disputes, the Judiciary is required to make the necessary arrangements to increase the resolution of disputes through the arbitration, establishment and development of arbitration institutions and create public acceptance and trust and support them, by the end of the first year the law enforcement program Act in cooperation with the executive branch. Also, according to the index of (7) of Table (16) of Article 113 of the Act, the number of cases leading to peace and reconciliation on the total cases should reach from 21% in 1395 with an average growth of 0.94% to 22.1% in the year 1400. Despite this program-oriented targeting no significant movement has taken place in the mechanisms of justice system. So there seems to be some obstacles to the realization of these indicators. In this article, restorative justice programs have been identified in two works, "Compromise" and "Compensation" but only the "cultural" obstacles to expanding of theme in criminal matters have been taken into consideration.

In this regard, some cultural actions of the people and rulers are considered as anti-reconciliation action. For this purpose, by focusing on the some of the media cases, in social culture, negative attitude toward the process of reconciliation and fear of neglecting the rights of the victim and uncertainty about the mainstream of people in the face of punishment in some cases and the insignificant number of cases passed by the owners of the right of retribution, reflects the signs of anti- reconciliation cultural factors. In justice system, inadequate attempt judicial authority in creating peace and reconciliation between the two sides and influencing some of them from punitive currents and failure to do the legal duties to doing and expanding compromise and the low number of cases leading to compromise in dispute resolution councils, has revealed the uncoordinated organizational culture with this policy. As well as, the political behavior of parliamentarians in the face of new social challenges and mostly criminal confrontation with them, through punitive legal drafting has indirectly trained the criminal culture among Iranians.

**Keywords:** Restorative Justice, Mediation, Reconciliation, Culture, Punishment.

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### **A Review of Restorative Functions of Agheleh**

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Sometimes Human interactions in the community involve damage to the physical integrity of others in the form of murder or physical injury subordinating murder. In this way, the interference or intent to impose injury, intentional or unintentional crime can be realized. From the perspective of Islamic jurisprudence, due to the bilinear necessities resulted from supporting the right of victim to live and civil protection of a citizen who has committed a criminal offense without the intention of causing harm to others and required compensation, mechanisms of judicial justice based on the principle of "crime and punishment being personal" are inefficient. Therefore, according to the procedures for restorative justice in adjusting judicial justice, it recognizes the tendency of perpetrator's blood relatives in supporting and interfering the compensation of injuries imposed on the victim and secondary victims and imposes the blood money of the victim on Agheleh. The term "Agheleh" is rooted in the Arabic word "Aghl" which means hindering and stopping. This institution on the one hand, prevents payment of blood money by the offender who has committed an unintentional offense and worths support due to the lack of intention. On the other hand, restores harms of victim.

In Articles 463 to 470 of the Islamic Penal Code, Agheleh is pointed out as an institution that pays the blood money in crimes of simple mistake the base of which is (Do not neglect Muslims' blood). This rule that views the right of life and not wasting Muslim's blood, with its capabilities and capacities of restorative reading of justice, reads Agheleh as a restorative mechanism and it emphasizes overarching position of non-modern and modern institutions of the society and compensational and supportive responses of the government in realizing the model of Islamic Criminal Policies as a model with movement and adaptability. However, to receive the blood money imposed on Agheleh, whether it has the nature of punishment or compensation, in the judicial system, violent reactions are anticipated, which are a form of imposition of harm to the criminal Agheleh. Legislative policy, especially in criminal domain, does not consider social institutions as a reference to respond deviation or as an authority involved in compensating damages caused by crime. It neglects evolution of the nature and changing the identity and historical efficiency of these institutions in the transition from traditional to modern society and emphasizes fixed principles of judicial justice in crime and punishment. Therefore, it considers the traditional nature of Agheleh as blood relatives in imposing the blood money and it does not recognize the position and responsibility of the government as Agheleh and replacing blood relatives of the criminal in supporting the victim and to restore damages resulted from offense and to provide the grounds to rehabilitation of perpetrator. so in terms of restorative justice and the necessity to compensate losses and regarding that insurance is in fact a social reference to respond and to provide

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the conditions to compensate losses and restore damages resulted from the crime, indeed Agheleh institution is a form of insurance that is responsible to pay the blood money in simple mistake crime to compensates losses and sorrows of avengers of blood and it enjoys the capability of becoming a state institution to realize restorative justice

Therefore, in Islamic jurisprudence, the government is the alternate institution of Agheleh and is required to compensate losses resulted from committing unintentional crimes and to create interaction based on peace and reconciliation between perpetrator, and primary and secondary victims. Therefore, citizens are also ought to financially support the governments for provide the conditions for the government interfere. Today, this is defined as state insurance.

The way of funding the costs of Agheleh by providing Agheleh Insurance the same as Health and Retirement Insurance is legal and legitimated. Therefore, it not only does not impose financial burden to the government, but also it provides the financial funds due to the payment of insurance costs by the citizens, it provides the conditions of conduct based on human interactions between perpetrator and victim in compensating and support based on peace and reconciliation.

**Keywords:** Agheleh, Restorative Justice, Simple Mistake Crimes, Insurance.

### **Pathology Preventing Repetition of Cybercrime in Iran with Approach to Restorative Justice**

Ehsan Salimi<sup>1</sup>

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In most crimes, the ineffectiveness of punishment, which manifests itself in repeat offending and more delinquent offenders, has raised serious doubts in the criminal response. In cybercrime, the progressive growth of crime rates, the generalization of cybercrime the high victimization rate for juveniles and women, the difficulty of chasing and arresting their criminals, the crime prevention strategy has been proposed as the first option. In Iran, to prevent cybercrime measures are being taken to prevent social and Situational prevention. Social prevention of these crimes includes the inclusion of content in schoolbooks, the development, and production of movies and cybercrime training serials, and the promotion of informal media literally and informally. In terms of situation preventing the most important measures include filtering and criminal content and controlling bandwidth. To prevent cybercrime being repeated, in addition to criminal convictions that are effective in preventing crime through intimidation and reform, there are some programs like the Association of Sexual Addicts (SA), in which some people who have survived delinquency advice newcomers. Prevention has not been very effective for various reasons, including because cybercrime crime prevention in Iran is not science-based. In this way, repeat offenses in cybercrime are more than classical crimes. But the Dark Number of these crimes is also high and so the criminal justice system is not so concerned about them. This research is dedicated to the pathology of the prevention of repeated cybercrime in Iran. Using the approaches of criminological theories related to restorative justice, and with the goals and values of restorative justice, it helps to improve the ongoing efforts to achieve a knowledge-based prevention of cybercrime. This research is organized in two parts. The first part deals with the pathology of the Association of Sexual Addicts (SA), which is associated with the second and third stages of prevention. In this part of the research, field research has been used. Also, a questionnaire tool was used to evaluate the repetition of delinquency and to measure the effectiveness of measures taken to prevent recurrence of crime. In the second part, which deals with the pathology of cybercrime judicial procedures and the effectiveness of the criminal justice system's formal response to crime in preventing repeat offenses, the research methodology is descriptive-analytic and the research tool in this section is the judgment of the courts.

**Keywords:** Social Prevention, Association of Sexual Addicts, Shaming, Substitutions of Imprisonment.

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### **Restorative Justice and Religious Practices**

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Throughout history ‘restorative’ themes in religious thought and practice, especially the tenets such as repentance and forgiveness, formed the backbone of (at the very least) the Norman and English legal systems. These tenets allowed a guilty person to ask for divine pardon, and one’s good works often amounted to sufficient reparation without there having to be any formal punishment. It was these notions that gave rise to the ‘indulgences’ system of pardon, a corrupt custom ridiculed by Martin Luther in 1517. While we praise Luther today for his efforts in rooting out some of the more problematic theologies of the Holy Roman Church, the legacy for the administration of criminal justice is less commendable. In other words, foundations were laid after 1517 to limit victims’ and offenders’ access to and control of their own conflicts.

Hence, a system of criminal justice that endeavours to listen to, and appease, aggrieved parties to a conflict has not been a feature of the common law legal system for at least five hundred years. This has led to some problems. For crime is first and foremost a conflict between people. At the moment we do not treat it as such. We treat crime as something that has happened between the state and an offender. This has dire consequences for people who remain in continuous contact with one another, and ignores the fact that many offenders are victims as well. Moreover, cultural and gender issues are, for the most part, officially irrelevant to criminal proceedings, although they may, in fact, be important to the circumstances surrounding the incident, and crucial to the ultimate outcome.

If legislators, justice policy-makers, and administrators acknowledge and embrace the religious roots that relate to modern practices of restorative justice, then a better understanding and hence implementation of those practices may emerge. To the extent that, at the very least, restorative justice principles – based upon ancient and modern religious concepts of restitution and repentance – draw us away from the assumption that the only effective systems of criminal justice are premised upon retribution and deterrence, they demand further consideration. The restorative justice movement provides both faith-based and secular justice advocates with much common ground for dialogue. In this paper, I review the key monotheistic traditions for their restorative themes and seek to tie them into modern restorative justice practice. I conclude that restorative themes have enjoyed a long history in religious traditions and should continue to inform ‘restorative’ practices, empowering and enlivening justice practitioners generally.

**Keywords:** Restorative Justice, Restorative Themes, Religion.

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### **Personal Peace as the Introduction to the World Peace**

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Global peace is as idealistic as it has inherent utility. Apart from this idealistic view, if we want to try toward achieving world peace, we will not see a better solution than deepening our culture of peace. It is clear that the peace culture is not a phenomenon that is created by politicians and undoubtedly the burden of creating it is on educational systems. Basically, the political literature is not the literature of peace and for creating peace we cannot rely on them, and peace always comes from the bottom up. It is worth noting that in this way, the educational system should avoid hasty practices and adopt the appropriate educational techniques, adopt a milestone for creating peace. In this paper, we try to prove that the only way to achieve this is to create or strengthen personal peace. Indeed, with the internalization of peace with itself, one could hope for the expansion of peace until possible world peace, because peace itself has the ability to increase the scope of in groups (friends), and the more this group develops, the same amount of out groups will decrease and people are able to peacefully coexist with tolerance alongside each other. In this paper, we describe an analytical method and use authoritative library resources to find out how to achieve world peace through peace building and strengthen personal peace. Clearly, first of all, it must strive to establish personal peace, reinforcing the concepts like empathy and compassion on this path. But from a legal perspective, if we look at this, at first sight, it seems that the internalization of human rights concepts to individuals is an effective way of creating personal peace. The internalization of human rights concepts is achieved through their education, and in fact peace education, along with human rights education, ultimately leads to peace creation. Human rights concepts help to move from negative peace to a positive peace, and make tolerance, understanding of other nations, races, ethnic groups and religions, all of which are instruments for achieving world peace.

**Keywords:** Peace, World Peace, Internal Peace, Personal Peace, Human Rights.

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### **Principles of Love in Mowlana's View**

Iraj Shahbazi<sup>1</sup>

Agape love or unconditional love is one of the most important kinds of love. Three main aspects of unconditional love include: 1. being free from any expectation and hope, i.e. showing affection and kindness by the lover without any expectation for reward or thanking. 2. Being comprehensive, i.e. this kind of love belongs to all humans or in the other words all creatures of the world. 3. Being free from any condition, i.e. it is not necessary for affection receiver to have specific properties. So, sex, race, religion, home country, political party etc. are not important for the lover. Most important symbols of unconditional love include: God, mother, sun and earth. You can rather definitely say that all prophets, mystics, and scholars, in history, have supported such a love. Our culture's prominent gnostic (mystic), Hazrat Mowlana (Rumi), is among those who have energetically talked about the unconditional love and invited people to it. In this article, in addition to studying the properties of unconditional love in Mowlana's view, I have tried to study the principles of such a love in his view and show how the unconditional love can be achieved. Based on Mowlana's texts, the four main principles of the unconditional love include: 1. Human turns into a godlike thing, 2. Human gains an existential range, 3. Human becomes free from selfishness and doing works based on expediency, and 4. Human gains gallantry and valiancy.

**Keywords:** Love, Mowlana, Masnavi.

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**Responsive Justice; Restorative Regulation: Prevention of Economic Crime in the light of Regulatory Interventions**

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Dawn of 1970s was the Beginning of the recognition of the scientific evaluative methods for assessment of the efficiency of criminal justice interventions. Empirical studies showed that retributive approaches toward crime had been failed and crime control policies which had been in use for most of the past century were not efficient anymore. It was then that alternative strategies toward punishment with same theoretical foundation and different practical and procedural approaches were introduced. These new approaches generally were based in grounded theories that by collecting empirical data were extracting the logic behind the efficient practices and suggest their own Generalizable theory.

According to Responsive regulation theory, obligation to legal norms can be realized through respectful interaction between regulator and regulatee , flexibility of regulations, acknowledgment of the underlying causes of the crimes and believing in punishment only as the last resort or in short, replacing punishment by Regulation. The basic idea is that states should be responsive to the punishments which they consider for their citizens and responsiveness in this context means they should be aware when to use official legal interventions and when to let other regulatory institutions (like Morality and religion) lead the offender to righteous pass.

Responsive regulation use a hierarchical approaches towards the intervention in crimes which is called “regulatory pyramids” and includes different levels of intervention based on three major logics toward crime control which are restorative approach, deterrence approach and incapacitation approach. By integrating these three approaches in the same model of penal policy, responsive regulation theory cover each approach’s weaknesses with the other’s strength and make a perfect response to any crime.

In economic offenses which have logical and rational offenders, responsive approach is to make the benefit of the compliance with the law much more than breaking it. So the regulator with regarding to underlying causes of a probable infraction, must enter in a considerate dialogue with the rational economic actors and decrease the profits of the crime in a specific process and by doing so, making the actor to come to the agreement with the regulator. In this form of “contractual Justice” if the regulator sees the constant compliance of the regulatee, she can move from deterrence logic to restorative logic (which is always the first step in responsive approach and here we assumed that it failed before), take a much less interventional presence, act only as an external supervisor and let the self-regulation works. Empirical studies indicate that this method of intervention is cheaper, much more efficient and can provide the objectives of the primary and secondary crime prevention with better quality.

**Keywords:** responsive regulation, restorative justice, economic offences, crime prevention, self-regulation.

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**The Challenges Faced by Social Workers in Prison in Process of Obtaining Consent in Qisas Cases**

Amin Shahnaz<sup>1</sup>

Has the social workers in prison as restorative institution, done it is mission to compromise between the two sides that involved in qisas case or not? In qisas cases, on the one hand is murderer's family, who are constantly asking working team; why do not getting consent? On the other hand is victim's family, who are constantly asking working team; why the sentence isn't enforced? The social worker team, when goes to visit the victim's family for the first time, know that talking about the consent and lack of qisas, surely would be accompanied by violent and harsh reactions. In this situation, the psychologist must evaluate that the victim's family is in which stages of mourning and by plenty commutes into the house of victim's family, advancing the stages of mourning one by one and by using the psychological techniques, evacuate the victim's family from anger and change their behavior in order to accepting the later requests of social worker team. At the same time, they should assessing the status of them; As if one family be strong in religious beliefs, entered into negotiation with them to obtain consent through religious beliefs or if they are economically in low level, be possible to enticing their opinion into consent through economic proposals. All over the country the social worker teams confronting with various problems that in short, the most important of them as follows are: 1- lack of expert and experienced staff. So that among a large number of murder cases, the social worker team only should be choose the ones that getting consent on that cases have high chance. Certainly in this selection process, many prisoners that waiting for the execution of their qisas, losing their last chance to getting consent and removed from negotiation process that is notable. 2-The next challenge is that the victim's family delegated the execution of qisas sentence to the attorney and not give them the authority to forgive the murderer and wouldn't be present in the morning of execution. With this action, the process of getting consent will not be under the control of social workers and according to a legal procedure, the verdict runs fast. However, unfortunately, authorities regarding to the social workers and social worker teams' task as duty and even we don't see short-term courses of vacations with salary for relaxation of these workers. Even a suggestion was raised that the workers be free and a system such as attorney's system concerning prisoner's affairs will be implemented and be privatized in it is services and itself provide it is cost but this is not possible; because the affairs of wealthy prisoners were quickly resolved and those who didn't have the enough income, their getting consent process would not be completed and be unfinished. The social worker should be an independent organization but under the control of judicial system; because social work is a profitable activity and economically for the government will not be costly. The method that used in this writing was empirical and based on interview and criminal statistics.

**Keywords:** Social Worker, Social Work, Qisas, Consent.

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**Governmental Compensation for Environmental Damages; Case Study:  
Gotvand Dam**

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Connection between restorative justice and environmental losses indicates a way which through it, when government is green criminal, it has to pay environmental damages and amends them. Unconditional dam construction which precedent government has been started in the name of economic development, is one of these samples. Government ignored physical, biological, hygienic, social and environmental losses without sustainable development considering on this crime. From abundant of these samples we can support by Gotvand dam. Regardless of environmental investigators warnings of its vicinity to Gachsaran salt mine it has been made, where Karoon River is at 10km north east of Gotvand city in Khuzestan province. Since amount of mine salt which is estimates about hundreds million tones was too much, in exploitation date when water went over it, made Karoon river saltiness up to the max. The consequence was a lot of losses for environment and native people. Here is the question, how we can compensate environmental losses through restorative justice way. In this case in addition to 50<sup>th</sup> constitutional of Iran which has been banned the economic activities which cause environmental losses, there are international documents about the responsibility of government for environmental losses compensation. We can refer to under instances: principle of 9,12,13 and 22; human and environment approved at Stockholm 1972; principle of 13 and 16 environment and development approved at Rio 1992; agenda 21, which address governments in justice and official direction for constitutional losses compensation justice and losses of tasks which have bad effect on environment that may be unconstitutional or be violation to constitutional laws, and article 10 the declaration of basic principles of justice for victims of crime and abuse of power 1985 which confirms on environment revival after the tasks which cause disorder and damages on an area. Therefore, the purpose of this study which is written in descriptive - analytical method and by using of library sources is how we can announce the environmental losses compensation on native people and environment which comes from Gotvand dam construct. So native people losses with financial protection and environmental damages with revival and repair of it, will compensate.

**Keywords:** Restorative Justice, Environment, Green Victims, Revival and Repair

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**Investigating the Effects and Challenges of the Restorative Approach in Economic Crime Cases**

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One of the characteristics of economic crimes is the particular perpetrators (white collar) and the complexity of the subject and the number of victims of these cases. This is due to the consequences of committing such crimes, sometimes involving a local community or a large number of people in a case and the consequences of the initiation of criminal prosecution; whether the accounts are blocked, the detention of the estate, the suspension of all or part of the activities of the company or subsidiaries on the other, causing damage to the subjects of the matter and secondary victimization. This is done in a restorative process with the presence of people in the file and the representatives of the popular groups and representatives of the judiciary and the executive, and has effective effects on the reduction of injuries and the solution of the problem. In these meetings, by examining specific topics, while disassembling non-related parts. Meanwhile, with the activation of the inactive sections of the workforce, the normal operation of the company begins, but the areas involved or suspected of criminal activity remain in the cycle of criminal proceedings. In the meantime, there has been some kind of avoidance of double losses and secondary victimization that this process complies with the standards of reconstructive sessions. It is inferred from the review of several macroeconomic records, and observations and interviews by the researcher, the inability of a criminal approach to respond to such crimes only. It seems that a mere criminal approach will help to make these issues more complicated, and, in general, with the long process of consideration and the effects of the uncertainty about maintaining the company's business or subsidiaries, the loss of entry into the penal process and the loss of the company's lack of profit is often equivalent to or greater than the financial loss due to the commission of a crime. The researcher, while reviewing four macroeconomic records, considers the separation of the flow of proceedings from the scope of the company as an instance and examines the consequences and challenges of separating the proceedings from the economic records. In the end, the effectiveness of this process is described as a restorative process for the removal of unrelated persons from the criminal case and the chapter describes the parts of the criminal case in the restoration sessions and eventually the start of the company's re-engagement.

**Keywords:** Restorative Justice, Victim, Delinquent, Mediation, Economic Affairs Office, Economic Crime.

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### **Restorative Approach to Suspension of Prosecution**

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Criminal justice always seeks to respond to crimes with a one-way approach. In response to this approach, two strategies were introduced; one through the proposal of an alternative system and the other through reforming the existing system, are trying to reform the criminal justice system. Restorative justice with an interactive approach seeks to respond to offence by the participation of all the actors involved in criminal proceedings. On the contrast, contractual justice is based on the agreement between the judicial authority and the accused. In the contractual justice, the judicial authority has the opportunity to give the most appropriate answer in context criminal justice system, with considering the particular circumstances of the case and in particular to consent of accused. This agreement will lead to the abandonment of criminal proceedings (suspension of prosecution), and sometimes will result in a reduction in the charge or punishment (the transaction of charge). But in order to achieve the goals of restorative justice, and reach an agreement between the parties to the criminal proceeding, confrontation between accused and victims is necessary. In fact, the main purpose of restorative justice is to restore the relationship between the accused and the victim, but the main purpose of contractual justice is promoting the legitimacy and effectiveness of the criminal justice system. Despite the different goals, the question is, can the solutions used by them be directed to a single direction? One of the solutions to achieving the goals of the contractual justice is suspension of prosecution. Suspension of prosecution, although initially created with the goal of appropriateness of criminal proceedings and public interest considerations, But it can be read in the context of Maximalist Model of restorative justice, which is complementary to the criminal justice system. According to the Maximalist model, restorative justice must be accepted alongside or within traditional criminal justice with the imposition of restorative principles to resolve crime-related issues. Suspension of prosecution means that prosecutors can suspend prosecution. In this process, the judicial authority, with the consent of the accused, suspends prosecution by getting a commitment from accused for a specified period of time. Suspension of prosecution is stipulated in Article 81 of the Criminal Procedure Code. According to this article, there are two important requirements for suspending prosecution: the consent of accused and the consent of victims. In this way, it should be acknowledged that suspension is a compromise pursued by a judicial authority and by obtaining the consent of the parties of a crime, namely, a victim and an accused. However, in this case, contrary to restorative justice, there is no direct agreement between the victim and the accused for suspension of prosecution, but the victim's agreement with the judiciary or accused and the agreement of the accused with the judicial authority are obtained. As a result, this solution of contractual justice in Iran's legal system is very close to the

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solution of restorative justice. Also, the orders contained in paragraph (a) of this article, that issued by the prosecutor's to the accused, and requires the accused to compensate the material and moral damage caused by the crime with consent of victim, indicate the legislator's restorative view to the suspension of prosecution.

**Keywords:** Suspension of Prosecution, Contractual Justice, Restorative Justice.

**Exploring Prisoners' Perceptions on Restorative Justice in Belgian Prisons**

Nikolaos Stamatakis<sup>1</sup>

Justice – when spelled with a capital ‘J’– should be discursive and based on equal respect allowing a plurality of voices within the discourse. Particularly in the present research, this thread of pluralism is important. Prisoners’ voices have rarely been heard. Yet, if we wish to be true to the principle that restorative justice is discursive, it follows that the discourse is not complete without also accommodating their voices. To date, little research attention has been paid to the inner motivations of imprisoned offenders for willing to participate in restorative justice initiatives, as well as to their perceptions about their relationships with the victim and the community and the impact of religion on them. Hence, the present empirical study, conducted in several prisons across Belgium, endeavors to shed light on these aspects that have been theoretically overlooked, providing valuable information at policy-level about the design of future restorative justice programmes. The statistical analysis presented here seeks to meet the main goals of the empirical study, such as 1) to *investigate* prisoners’ perceptions of the impact of their crimes on their victims (including the wider community) and to measure their intention to take responsibility for their unlawful actions; 2) to *gather* prisoners’ perspectives on their relationship to the community outside the prison and/or with those they have harmed, and to undertake (direct or indirect) reparative activities; 3) to *identify* the degree to which prisoner would be ‘sympathetic’ to engaging in mediation and their motivations for doing so; and, finally, 4) to *measure* the role and (possible) contribution of religion in introducing and developing in-prison restorative justice programmes.

**Keywords:** Restorative Justice, Prisoners, Voice.

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## **The Long Term Effects of Restorative Justice on Victims and Offenders**

Heather Strang<sup>1</sup>

Two years ago at the last restorative justice (RJ) conference in Tehran I described a body of research that looked at the effects of restorative justice on crime prevention. I defined RJ as a range of informal justice practices that take place outside the judicial courtroom process, often built on traditional means of dispute and conflict resolution. These practices are found in many and varied societies around the world, including Silk Road Civilisations, which may in fact, be the origins of many of them.

The revival of RJ practices over the past three decades in Western countries has included the development of a kind of practice that I refer to as RJ Conferencing. In these meetings, which are often highly emotional encounters, the focus is as much on the victim as the offender, here the principals meet in the presence of their families and friends, and engage in a facilitated dialogue aimed primarily at helping the recovery of victims from the harm they have suffered and reducing future offending.

Two years ago I described the rigorous evaluations of RJ Conferencing when used for a wide variety of property and violent crimes, as well as for offences associated with alcohol-affected driving. In these Australian studies, eligible cases were randomly assigned either to processing through the courts in the usual way for crimes of these kinds, or to diversion to this RJ programme. This research design ensured that the cases assigned to each treatment overall had the same characteristics. Therefore we could assume that any difference found between the groups on the outcome measures of victim satisfaction and offender recidivism could reasonably be attributed to the different treatments they had received. The evaluations clearly demonstrated the benefits to both victims and offenders over the two years following these RJ meetings, compared with the experience of those whose cases had been randomly assigned to court.

But what happens to victims and offenders over the longer term? Does the emotional power of these encounters dissipate over time and the short-term benefits dwindle and disappear? Or are there long-lasting benefits that demonstrate the advantages RJ Conferencing beyond its immediate effects.

In this paper I will discuss findings from a ten-year follow-up of participants in RJ Conferencing emerging from comprehensive face-to-face interviews. These addressed many aspects of the lives of these victims and offenders in the years following their participation in our Australian evaluation study, including their mental and physical health and welfare. Significant differences have been found in the life outcomes for victims and especially for offenders, depending on the way their case was dealt with, and these will be described in the paper.

**Keywords:** Family conferencing, Long Term Effects, Restorative Justice, Victim, Offender.

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## **The Impact of Restorative Justice on the Status of Victims in Transitional Societies**

Pooneh Tabibzadeh<sup>1</sup>

Transitional Communities include a large number of citizens who have been victimized with widespread human rights violations caused by prolonged conflicts. Meanwhile, the transitional government seeks to respond to the injustices imposed on this group by using various judicial and non-judicial mechanisms to satisfy the victims.

Victims of transitional societies also look forward to the implementation of justice for inhumane violence during the conflict, to compensate for restoring the ability to continue life and lost dignity. Therefore, the application of the restorative justice process can meet the expectations of the victims and carry out the mission of the transitional government due to supporting victims and the process of compensation. Although full compensation of transitional government is not possible by financial weaknesses and lack of transferability and considering that the implementation of the process of restorative justice is a good way to improve the status of the victim, we will discuss how to implement it and its impact on transition societies in this paper.

**Keywords:** Transitional Communities, Restorative Justice, Compensation, Victimization.

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### **The Feasibility of Applying Restorative Justice Approaches in Sexual Harassment in the Workplace**

Azade-sadat Taheri<sup>1</sup>  
Faeze Manteghi<sup>2</sup>

The term "sexual harassment" in the workplace can be referred to a wide range of behaviors from sending emails with sexual content, to threats of rape. Such behaviors generally carry out by the employers, the supervisors and co-workers or even the customers and clients. The victim as a result of harassment experiences some level of frustration, depression, fear and anxiety and loses her motivation to perform her tasks or get promotion. Sexual harassment in the workplace often goes unreported, as people fear that they may lose their jobs or would be blamed.

In some legal systems, sexual harassment in the workplace is criminalized and could be punished within criminal justice process. The question of this article is whether another approach could be found in response to this crime?

Restorative responses are aimed to rebuild social relationships by addressing the harm, and reforming it instead of blaming or punishing criminals. This feature seems to be effective and efficient in cases of violence and harassment in the workplace because of the nature of labor law, which takes into account the participation of all stakeholders at the decision-making level.

Although the restorative justice approach in dealing with violence and harassment can be effective, using this approach in worker-employer relationship is controversial, since they are in unequal bargaining position and it can influence the conditions of negotiation and agreement. According to International Labor Organization reports, most of the victims of sexual harassment in the workplace are women. This fact increases the inequality and the application of restorative justice in such cases should be accompanied by considerations. This article, examines positive aspects of the use of restorative responses in the cases of violence and harassment in the workplace and its negative and challenging dimensions as well. The article concludes that using restorative justice in these cases requires power balancing measures.

**Keywords:** Restorative Justice, Sexual Harassment, Labor Law, Balance of Power.

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**The Restorative Justice Approach to the Stage of the Criminal Sentence Implementation; Opportunities, Effects and Challenges**

Javad Tahmasbi<sup>1</sup>

The studies, norm-making and structure of the implementation of restorative justice in recent years have mainly been focused on the stage of prosecution and in some degrees the stage of trial. The present research with a different approach emphasizes on restorative justice at the stage of criminal sentence implementation as the last circle of criminal proceedings that has somewhat been ignored by the view of researchers and norm-makers. Despite the emphasis of international documents on the spread of restorative justice measures in the whole levels of criminal proceedings and in spite of the fact that it is accepted in some criminal systems such as the French criminal procedure, in the Iranian legal system the little attention which is paid to the restorative justice measures, is focused on the stage of prosecution without any attention to the stage of implementation. While at this stage in the light of the principles of the restorative justice like “voluntarily”, “the necessity of truth-telling by the parties”, “fast return to the process of traditional procedure”, the application of the restorative justice is much easier. Besides, from the angle of judicial psychology the parties are much more prepared to participate in the process of the restorative justice and refrain from punitive justice. It is because the offender is disappointed to be acquitted and passing of time has made the victim psychologically much more prepared to participate in the process. From the angle of social psychology, the society has sympathy for the offender at the time of the execution of punishment as much as it feels pity for the victim at the time when the crime was committed. On this basis, the least application of statutory tools in the classical procedure which necessitates the compensation of the victim’s damages and can be mentioned as the effects of the restorative justice like the sentence suspension, parole release, semi-liberty system, sentence mitigation and sentence commutation after the final judgment has always had some brilliant influences on the compensation of the victim’s damages and reconciliation between the offender and the victim.

On the other hand, in the light of some fundamental principles of the restorative justice the resort to its measures at the stage of sentence implementation has encountered some serious challenges. For example because of the lack of intervening and mediating structures at this stage, local-familial alternatives and in the new era media campaign for protecting the offender or the victim, might lead to the violation of “the principle of impartiality” as one of the principles of the restorative justice. And in this process, it is possible that due to the efforts of media trends truths are put forward in a different way that leads to the resistance and waiver of the participating party in the process of the restorative justice including the offender or the victim. The lack of the required norms and procedure for recording the agreements and thus the weaknesses of its validation and besides some worries about the violation of principles of the proceedings in local spontaneous

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processes are among the other consequences of the lack of the required norms and structures in this regards.

Having regard that one of the main objectives of replacing classical procedure with the restorative justice measures is diversion and prevention of criminal labeling, it should not be ignored that the focus of the restorative justice measures on the stage of sentence implementation does not mean paying no attention to that at the stage of prosecution and trial. It is because in addition to the realization of diversion at this stage, the financial and judicial expenses of the proceedings would be decreased. At last, the necessity of paying attention to norm-making, structure-making and doing researches for the application of the restorative justice measures at the stage of sentence implementation, apart from their application at the former stages are suggested at the present research.

**Keywords:** Restorative Justice, Criminal Sentence Implementation, Reconciliation.

### **The Practice of Mediation in Family Dispute Cases in India**

Ramasubbu Thilagaraj<sup>1</sup>

India has a tradition of encouragement of dispute resolution outside the formal legal system. It is one of the most important duties of a welfare state to provide judicial and non-judicial dispute-resolution mechanisms, to which all citizens have equal access for resolution of their legal disputes and enforcement of their fundamental and legal rights. Many of these forms exist with little change in rural India. Section 89 of the Code of Civil procedure was introduced with a purpose of amicable, peaceful and mutual settlement between parties without the intervention of the court. Mediation which is based on the values of restorative justice has emerged as a structured and organized method of dealing with disputes especially family dispute cases in India. This paper focuses on the need to utilize the process of mediation as a progressive tool to settle the family disputes amicably and to restore the sanctity of marriage especially in our culture. The dispensation of justice must be beyond the reactive, adversarial and retributive approaches and must include notions such as healing, forgiveness and reintegration. This research was exploratory in nature. The study also enquired about qualitative aspects of the problem. The Universe of this present study is the couples who attended the Mediation program to resolve matrimonial disputes at the Tamil Nadu Mediation and Conciliation Centre in the campus of the Madras High Court, Chennai. Purposive sampling method was adopted for the selection of samples for the study. 152 participants who attended the Mediation process were chosen as the sample size. A Structured Interview Schedule was the research tool used to obtain primary data from the couples. The data obtained was analyzed using appropriate statistical techniques. Mediation is still at its infancy in India, continuous assessment and upgrading of the process must be done for people to have faith in the process.

**Keywords:** Mediation, Family disputes, conflict, restorative justice.

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### **More Effective Protection of Wildlife in the Light of Restorative Justice**

Hasan Toghranegar<sup>1</sup>

The necessity of wildlife protection has attracted attention in recent years. Part of this protection is achieved through the adoption of a strict criminal policy and the imposition of sentences of imprisonment or fines. However, in response to this phenomenon, the traditional model of criminal justice, despite being costly, is ineffective because of its weakness in both preventive capability and in repairing harm. The neglected issue in this field is the feeling of courage and bravery arising from the hunting of certain animal species. It cannot be denied that a neglectful person, who hunts some endangered animals such as a leopard or a bear, displays his courage and ability to some of the people in his local community or sometimes his larger audience and this drama may be acceptable at least from the viewpoint of a significant portion of people. Expecting a comprehensive, scientific, and intelligent understanding of the importance of animal species in the environment from all is unrealistic. In this context, and given the cultural context of this phenomenon, it seems that the response to the problem is beyond the capacity of traditional justice and official and governmental institutions and only financial penalty or imprisonment is not capable of protecting wildlife.

The restorative justice can help the realization of this supportive approach by relying on its innovative approaches. Unfortunately, in spite of the expansion of restorative thoughts, in some critical fields, including the environment, the justice system's support is limited to criminal acts and traditional punishments. The present article - understanding the restorative justice as a process in which all the individuals involved in a specific crime seek to understand the problem and find the best way to deal with the effects, consequences, and problems of it - through a descriptive-analytical method and emphasizing Iran's criminal law seeks to address the issue that how the usage of the capabilities of the restorative justice, especially the restorative talks and meetings among the wildlife offenders and representatives of the community through the mediation of the NGOs as the most significant and structural index of the civil society, with an identifying role of the implementation of the restorative justice programs, can have the best support of the wildlife through the maximization of the public participation and emotional empowerment of all the stakeholders based on collective learning and holding the offenders responsible.

**Keywords:** Wildlife, Restorative Justice, Participation, NGOs.

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**Relational Transformation through Dialogue: Restorative Meetings between the Disputing Students and the Teacher/Facilitator in a Secondary School in UK.**

Toshiyasu Tsuruhara<sup>1</sup>

Conflicts between students are commonly seen in school life, and solutions vary. Some schools in UK have adopted Restorative Approaches (RA), and tried to transform conflicts through restorative dialogue. This paper examines dialogue between disputing students and the teacher/facilitator in restorative meetings, and discusses what kind of teacher/facilitator actions help disputing students find a constructive solution, or even relational transformation.

Key Theories that inform my research are taken from Martin Buber and Carl Rogers. Buber argues that a human needs to set him/herself at a distance to see the other as an independent existence, and that humans enter into relationship through self-becoming, and confirmation of the other's existence. This is very difficult to achieve in a conflict situation, but Rogers' core conditions of Person Centered Therapy: Unconditional positive regard; Empathy; Genuineness, fill this gap. The restorative facilitator can help this process.

Data for the study is taken from twenty video recordings in a secondary school in England, where diversified students, including those who were born abroad, learn together. I investigate how restorative dialogue enables students to restore damaged relationships, and what kinds of facilitation are helpful for them to do so. I examine the outcomes of twenty video-recorded meetings, grouped into three categories: Relational Transformation; Resolution Only; Conflict not transformed. I describe how I have selected three meetings each (nine in total) for thematic coding and conversation analysis. Coding for facilitation includes: elicitive; empathetic; judgmental; directive, and for students: open; expansive; respectful; attacking; defiant. I explain how Conversation Analysis was used to inform the coding at a micro level, and to throw light on the flow of the dialogue.

Elicitive and empathetic facilitation appeared most frequently in Relational-Transformation cases, whereas judgmental and directive facilitation were observed most frequently in Conflict-not-transformed cases. As for student's actions, openness and expansiveness appeared most frequently in Relational-Transformation cases, and attacking and defiance appeared most frequently in Conflict-not-transformed cases. Resolution-Only cases lie between these two categories. These findings suggest that restorative dialogue favours elicitive and empathetic facilitation, and leads to the transformation of students' relationships. When the facilitator/teacher shows judgment and directiveness, students respond with attacking and defiance, which impairs restorative process. It was also revealed that students were only able to acknowledge the other student's feelings and experiences after their own feeling had been acknowledged. The analysis suggests that the same teacher/facilitator facilitated very differently across cases; almost zero directive and judgmental facilitation in one case, and heavily judgmental and directive facilitation in the other.

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This exploratory research suggests that the numerical analysis of coded data reveals what the restorative dialogue looks like at a glance, and the thematic coding and conversation analysis work complementary to understand how the restorative dialogue flows, and how the teacher/facilitator's dialogical skills can improve. This has a great deal of potential for deepening understanding of restorative dialogue and mediation in schools.

**Keywords:** Restorative Conferencing, Restorative Justice, Schools.



**Implementation of Restorative Justice in the Process of Militias Offences in the Iranian Criminal Justice System**

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Mehrad Hosseini<sup>3</sup>

The emergence of restorative justice following the inadequacy of punitive justice has created a new attitude towards the concepts of criminal justice. The perpetrator, the victim and the local community as the three actors and their interaction in the restorative process, form the foundation of restorative justice. This type of justice actually seeks to engage the local community and victim to gain more positive results than traditional justice. The present article seeks to investigate the application of restorative justice to military offenses. This is important because military offenses have always encountered more severe sanctions than other people's crimes. Because the expectation of committing a crime is unacceptable from those whose order is their first feature, and the crimes of these individuals create more than usual damage to the community. Two issues are being examined in this research: first in a descriptive perspective, examines the capacity for implementation of restorative justice in Iran's criminal law and then in the normative dimension, this issue is analyzed that how do it. In line with the second issue, identifying issues such as the fact that the local community in terms of restorative justice in these crimes is only the military, or the public or the victim of such crimes and how it can interfere in the process of restorative justice and ultimately Among the various methods of restorative justice, which method is the best option for military offenses, has been investigated. Research has been conducted with reference to the sources and foundations of restorative justice and the cause of the existence of military offenses in a library. Finally, it has been concluded that restorative justice is possible in military crimes, and this justice will be done by the military community.

**Keywords:** Restorative Justice, Criminal Justice, Military Offences, Military Victim and Perpetrator, Differential Policy.

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**Retribution or Restoration: the Struggle in the Development of Restorative Justice Mediation in Hong Kong**

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Restorative Justice (RJ) mediation has experienced a robust development in Hong Kong in the past decades. The use of restorative mediation was increased particularly in dealing with juvenile justice in schools and among social workers. The use of RJ experienced a decline recently, probably as a result of a huge drop in juvenile crime. The use of mediation has, however, experienced a tremendous growth as a result of the civil justice reform where mediation was promoted as an effective alternative dispute resolution method. Despite the rise in the number of mediation cases and mediators in Hong Kong, RJ was experiencing a decline in use. This research seeks to explore into the issues of this mismatch, and the underlying potentials that might possibly re-trigger a rebound of the use of RJ.

A few major themes emerged from the research that demonstrate a struggle between Retribution and Restoration that hinders the growth of RJ mediation in Hong Kong. It was found in the research that the increase in the sense of retribution means a lower level of forgiveness and empathy, which are the essential principles in RJ, and as a result will lower the use of restorative justice language. It was also found that helping professionals are more RJ prone than legal professionals, but with training and accreditation beyond general mediation, the use of RJ will be enhanced. The research findings show that general mediators in Hong Kong may be well-versed in being empathetic, showing that they might possess certain RJ practice skills. This further implies that potentially a pool of mediators is readily available to provide RJ services. This can better be achieved if a legal framework is in place. The latest development of the enactment of the apology legislation will hopefully have a catalytic effect on a more positive development of RJ in Hong Kong.

**Keywords:** Restorative Justice, Retribution, Mediation.

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**Restorative Justice to Promote the Construction of “The Belt and Road Initiative” on “The Belt and Road” Restorative Dispute-Resolution Mechanics**

Xiaohua Di<sup>1</sup>

Restorative justice is a sort of dispute-resolution mechanics by the way of equal communication on the basis of respect, to resolve conflicts and disputes between people, to achieve social harmony. The restorative justice derived from native Canada, New Zealand are strikingly similar with the world’s traditional settlements. Harmony is the common goal pursued by mankind. Communication is the source of human strength, and recovery is one of the ways to achieve a win-win situation for mankind. Restorative justice advocates “harmony” and “communication” and “win-win”. Its core concept is “peace, cooperation, development, win-win” and its focus is “policy communication, facilities Unicom, trade flow, capital and people connected”.

Therefore, due to similarities in the cultural concept, restorative justice can become an important force to boost the implementation of “The Belt and Road Initiative”, which aims to build a community of interests, the fate of the community and community responsibility.

Along with the large flow of financial, material and information from the countries and regions of "The Belt and Road", disputes across borders and cultural characteristics will also show rapid increase trend. How to solve these contradictions and disputes has become the key point to achieve the strategic objectives of “The Belt and Road Initiative”.

Both bilateral and multilateral dispute settlement mechanism which is existing is still the main way for dispute settlement of "The Belt and Road ", but the strategic goal of "The Belt and Road Initiative" determines that Restorative Dispute-Resolution Mechanics is indispensable for multivariate dispute solution mechanism of "The Belt and Road".

Therefore, it is necessary to gradually establish a restorative justice research alliance, by the order from loose to close.

At the same time, it is essential to gradually form an important mechanism to solve “The Belt and Road dispute” with restorative justice by the order from the nongovernmental organization to government, then international cooperation.

Following the principle of tolerance, discussion, win-win, people can work together to build a restorative justice system of "The Belt and Road” dispute resolution, and adhere to the principle of “building and sharing” to form the resolution voluntary selection mechanism, multiple docking mechanism and platform coordination mechanism.

**Keywords:** New Silk Road, Restorative Justice, Dispute-Resolution Mechanics.

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