

Restorative Justice in Islamic Jurisprudence and Western Legal Philosophy: A Comparative Analysis of Core Principles

العدالة التصالحية في الفقه الإسلامي والفلسفة القانونية الغربية:
تحليل مقارنة للمبادئ الأساسية

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Abstract

This paper presents a comparative analysis of restorative justice in Islamic jurisprudence and Western legal philosophy. Both legal systems aim at the betterment of society, but the mechanisms and foundations for resolving disputes differ due to their historical and doctrinal origins. In Islam, restorative justice derives primarily from the Qur'an and Sunnah, emphasizing reconciliation, forgiveness, and community cohesion alongside legal redress. In contrast, Western legal systems evolved through historical practices and philosophical developments, emphasizing codified procedures, rehabilitation, and structured conflict resolution. This study examines key phases and practices that create differences between the two systems, including the role of religion, moral principles, forgiveness, and the concept of sulh (amicable settlement) in Islamic law. Despite these differences, both systems share fundamental objectives: maintaining social order, ensuring justice, and protecting the rights of individuals. The paper highlights the points of convergence and divergence, analyzing how cultural, ethical, and procedural variations influence the implementation and outcomes of restorative justice. By exploring these dimensions, the research underscores the potential for cross-cultural learning and integration of best practices, while also respecting the distinct philosophical and religious foundations of each system. Ultimately, the study provides a nuanced understanding of how restorative justice functions within diverse legal frameworks and emphasizes its universal relevance for promoting justice, reconciliation, and societal harmony.

Keywords: Restorative Justice, Islamic Jurisprudence, Western Legal Philosophy, Reconciliation, Sulh, Comparative Analysis

Introduction

Comparative study is a method of looking at things to find the similarities and differences of two or more perspectives, groups, situations or systems. The concept of comparative research was given by Ragin and Rubinson and according to them, *Comparative research is not just a research method but it is mindset and a perspective that help for new ideas*. Mokhtarian Pour define it as a *study of things by comparing them and identifying their difference and similarities*.¹ The aim of comparative study is to give people better option of implementation

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¹ Seyed Mojtaba Miri, "A short Introduction to comparative research," (PhD diss., Allameh Tabataba'i University

of an idea. It is used to find out which method, condition or option works better. It also helps to see one situation with different aspects. This kind of research is more useful in decision making of practices, policies and future research.² There are many perspectives to look for differences in both legal systems as these have emerged from different origin and base which is main cause of distinct ways for implementation. Practices are different like forgiveness is not considered as practice of restoration in west but it is a great practice in West. Like wise many other aspects cause differences. Similarities include the focus toward healing and harmony which is main aspect of restorative justice.

3.1 Understanding Global Restorative Justice Practices

Restorative justice system consists of repairing harm and provide peace and harmony to society. But the practices and ways of implementation of this justice system is different based on cultures, religious values, and laws. Comparison between two or more restorative justice systems is to understand the need for adaptation of restorative justice practices that fit into their society and how this justice system solves the problems by giving accurate justice for current situation. Comparison also helps to know how justice is prevailed in different cultures or what are the reasons for the progress of culture as it provides justice. The justice system can be improved by gaining ideas from other justice systems that results in better ideas to for healing and repairing of harm.³

1.2 Origin of Restorative Justice

There is a shift in society that can be seen through Restorative justice in which harm and conflict is addressed to society. It is often seen as an innovation in formal criminal justice system. The principles of restorative justice had its basis on the traditional justice system and is implemented around the world. As this system focus on healing, needs of victim and reintegration of offender in society. The historical evolution of justice shows that restorative justice connects with the processes of healing, binding community and bring positivity in society. This is the reason restorative justice is prevailed in society.⁴

3.2.1 Shariah as a Guide For Restorative Justice in Islam

Islam mainly focuses on peace-making which is emphasized by repeatedly mentioning by Allah Almighty in Quran. The teachings of Prophet ﷺ in his whole life moreover in his last sermon mention principles to achieve peace. The whole Maqasid al-Sharia is based on principles like Justice, mercy, dignity of human and forgiveness. Islam has given great value to oath of loyalty in which community engagement is essential thing. The participation in dispute settlement in Islam can also be seen that it does not mention differences of religious tradition but say that there are many differences in views and can be tolerated until does not cross the limits of Islam.⁵ Islamic as well as Western law consider Justice as an essential element but this view of justice is different according to their cultures, traditions, history and ideas. In Islam religion is given preference over all other aspects of living so Justice is also deeply connected to religion. It is known as quality of Allah. As Quran emphasizes whether a

faculty of Management and Accounting Department of Business Management, 2019), 1.

² Learn statistics easily, "What is: Comparative study," Accessed on 17 June 2025, What is: Comparative Study - A Detailed Overview

³ Law Society Online, "Comparative Restorative Justice Models an In-Depth Analysis," *law society editorial*, 6 January, 2024, <https://lawsocietyonline.com/comparative-restorative-justice-models/>

⁴ The Law Institute, "The Evolution of restorative justice from ancient traditions to modern practices," Criminal justice system, Accessed on 22 June, 2024.

⁵ Ebrahim Rasool, Houda Abadi, Professor Mark Muller Stuart and Eldridge Adolfo, Guide to Peacemaking Using Islamic Principles, Commonalities between International norms and Islamic Principles (Stockholm: Folke Bernadotte Academy, 2024), 19-21, Guide to Peacemaking Using Islamic Principles

people differ on basis of status, background or wealth, Justice should be based on equality and treatment should be fair.⁶

3.2.2 Humanitarian View on Restorative Justice

According to Howard Zehr, Restorative justice is the opposite to the concept of retributive justice. This view was accepted by many people of early times. Those who believe in Restorative justice, accept the ruling of it as alternative to justice system and against the harsh ruling of retribution. On the contrary, some thoughtful people do not consider this concept as right and opines that restoration and retribution should not be considered enemies, rather they can be taken as part of Justice process.⁷ Western legal system is humanitarian based system because it contains key ideas of secularism which means that law is independent of religion. Furthermore, the ideas present in western legal systems are fair legal steps for process of justice, taking person as innocent until proved guilty, the right to attain fair trial, proportionality of crime and its punishment. This system after abiding these ideas can ensure that unfair or harsh treatment towards offender can be prevented and it will give offender a chance to improve.⁸ When people become dissatisfied with the results of legalistic bureaucratic punitive justice process, they shift towards restorative justice. this change was brought by people who are not directly involved in legal system and are aware of ineffectiveness of the previous system and its harm. The restorative idea is communitarian idea which is within community control. The main focus is to provide information and restitution to victim with support and safety.⁹

3.2.3 Christian Concept of Restoration In Bible

Bible teaches about retribution, it is the claim of some people, but many other consider it that Bible also contains restoration by mentioning the concept of healing. So, in short it can be considered that Bible contains both these concepts as a balance. Then there is also a view that Bible is not a simple book based only on punishments but it contains full story starting from creation of world by God then human rebellion which results in suffering in world. Then other part of Bible discusses the fixation of things by involvement of God. So, these stories themselves are restoration as well as retribution like sometimes mercy of God and other times consequences of the acts.¹⁰

Origin and Base

Islamic Legal System	Western Legal system
The origin and basis of restorative justice in Islam is gained through classical jurisprudence which contain large number of practices and principles and their main goal is	The origin and basis of restorative justice in Western legal system is idea given by human being as an alternative to dispute resolution. The traditions of Christian also describe

⁶ Mazhar Hussain, Muhammad Ismail, Nabeela Falak, sardar Ali, Atiq Ur Rehman Qureshi and Adil Bajwa, "Comparative study of Islamic Law and Western Law in Criminal Law and Justice Systems," *Al-Qantara* 9, no. 3 (2023):116.

⁷ Gerry Johnstone and Daniel W. Van Ness, eds., *Handbook of Restorative Justice* (Cullompton, Devon, UK: Willan Publishing, 2007), 132.

⁸ Mazhar Hussain, Ismail, Falak, Ali and Qureshi, "Comparative study of Islamic Law and Western Law in Criminal Law and Justice Systems," 116.

⁹ B Naude, "An international perspective of restorative justice practices and research outcomes," *Journal of Juridical Science* 31, no. 1 (2006): 115.

¹⁰ Gerry Johnstone and Daniel W. Van Ness, eds., *Handbook of Restorative Justice* (Cullompton, Devon, UK: Willan Publishing, 2007), 133-134.

<p>restoration of rights of victim and maintenance of peace in community.¹¹ Religion is the basic for these rulings as all rulings are explicitly described in Quran, Prophetic traditions and practices of companions.</p>	<p>restorative justice. This restorative justice system is alternative or in a response to the court system. This system is also a result of movements like prison abolition movement, alternate dispute resolution movement. The Christian Bible is contribution in these movements for repairing harm, focusing on accountability and considering the concept of restoration over retribution.¹²</p>
<p>Religion is the basic for these rulings as all rulings are explicitly described in Quran, Prophetic traditions and practices of companions.</p>	<p>Religion is not basic but due to circumstances new aspect arose which then take the shape of restorative justice.</p>

1.3 Aim of Restorative Justice System

Restorative justice system works by having aims of psychological healing in which people can clearly express their emotions without being blamed. This aim further grew in achieving empowerment as it allows decision-making and dialogue between offender and victim. Aim is required for everything which can gain success for this reason restorative justice can be spread in world and gain more attraction as it allows personal growth of each person involving in the restorative justice process. Relationships matter a lot in this world so if the aim of restoring relationship is mentioned a process can become more famous as done by restorative justice.¹³

3.3.1 Aim of Islamic Justice system

- * The Aim included in Restorative justice system is to rehabilitate victim as well as offender by the means of practices like repentance, and by reducing severe punishments.
- * To restore rights of victim through compensation, reconciliation and pardon which helps in healing and social harmony can be reformed.
- * To make forgiveness used frequently and mercy to be prevailed in society resulting in the forming of communal bonds.
- * To involve only tribes in conflict nor the people who are not linked with the offence this can also result in social stability.
- * To maintain relationships as before.
- * To fulfill the commands of Allah Almighty means to uphold divine Laws and to achieve betterment of Life after death.¹⁴

3.3.2 Aim of Restorative Justice in West

- * To heal, restore and reparation of community by taking into consideration the individual need and social harmony.
- * To eradicate or minimize whole act of crime in a society.

¹¹ Mutaz M. Qafisheh, "Restorative Justice in the Islamic Penal Law: A Contribution to the Global System," *International Journal of Criminal Justice Sciences* 7, no. 1 (2012): 487.

¹² May Leung, "The Origins Of Restorative Justice," *Ottawa Canadian Forum on civil justice*, Accessed on 21 June 2025: 22, https://www.cfcj-fcjc.org/sites/default/files/docs/hosted/17445-restorative_justice.pdf

¹³ Restorative Justice Project Maine, "What are the 8 benefits of restorative justice?" March 1, 2024, <https://rjpmaine.org/news/what-are-the-8-benefits-of-restorative-justice/>

¹⁴ M. Qafisheh, "Restorative Justice in the Islamic Penal Law," 502-503.

- * To deal with specific conflict for its resolution as well as to restore justice and relations of parties.
- * To gain satisfactory results for both victim and offender which also helps in providing confidence to both of them.
- * To prevent wrongdoing in society as much as possible to create a hinderance for further crimes.¹⁵

Difference of Aims in both system of justice	
Islamic	Western
In Islamic legal system authority in Allah Almighty and Will of Him matters the most. So, to gain rewards from Him it is essential to abide by the laws made by Allah.	The major thing that differs here is the focus of legal parties towards fulfillment of human needs no matter whether it needs to change the rulings of religion.

Similarities in Aims of Restorative Justice of both Islam and West

All the other goals in restorative justice system are same in Islam and Western legal system like healing, restoration of relationship, willing to eliminate criminal behavior completely from the society, to involve community in justice process and to satisfy both victim and offender.

3.4 Involvement of Religion

For offender rehabilitation in restorative justice, religion plays a crucial role. A religion can make offender to get enter in religious conversations and spiritual growth ideas so that offender could see the change in themselves in comparison to the past which helps in healing. This knowledge enhances the ability of better decision making and in result only few cases can be reported. Moreover, if the mentor visits prison it can lead to emotional support of offender when they are re-entering the society. Many restorative practices like reconciliation and healing etc. can be seen or emerged from the religious values and it create deep insights in mind of people for how to change and rebuild dignity and honor after causing harm. Religion not only help people to be protective from harm but also helps in formation of good and healthy environment.¹⁶

3.4.1 Religion Christianity

There are many similarities in Christianity and restorative justice like tolerance, respect etc. which is helpful for the recognition of every person even the one who cause any harm. The religion and this justice system has same aim of making things right as they were before. The concept of reborn in Christianity can lead people to move from bad things toward good doings. People who know about restorative justice always come up with deep questions relating to morals like a person who have committed wrong doing should have to be given chance to change. The history of Christianity leads to the time when people had supported War and violence as a punishment and there were many aspects that were still left behind. These things made restorative justice as a modern justice practice, to work easily. The text of Bible is mainly about harsh punishments so it is difficult to mix it with reconciliation. Some Christian writings do support restorative practices for motivation and compassionate way.¹⁷

¹⁵ David C. Vogt, "The Aims of Restorative Justice," Accessed on 21 June 2025, https://www.academia.edu/10573096/The_Aims_of_Restorative_Justice

¹⁶ Byron R. Johnson and Sung Joon Jang, "Assessing the role of religion in restorative justice approaches to crime," Accessed on 26 June 2025, <https://www.openaccessgovernment.org/ebook/assessing-the-role-of-religion-in-restorative-justice-approaches-crime/170983/>

¹⁷ Rick Sarre, Janette O. Young, "Christian approaches to the restorative justice movement; Observations on scripture and praxis," *Manhattan Christian College* 14, no. 3 (2011): 346-347, https://www.researchgate.net/publication/233478693_Christian_approaches_to_the_restorative_justice_mov

3.4.2 Religion Islam

Islam main focus is on goodness so the main theme of Quran is about promotion of good and to develop positive moral character. The crimes should be prevented rather than to wait for its happening and it can be done by having a caring and just society. But there is possibility of crime to occur so in this regard Islam give idea of fairness and just ruling which is unbiased. The elements of Islamic law like Diyya, Sulh and Qisas moreover forgiveness, social reintegration etc. are of the same nature and practice to be used in restorative justice approach.¹⁸ Islam promote repentance, moral change, mediation that are the main elements of restorative justice practices. Islamic laws promote healing more often over punishment and it is implemented by Prophet ﷺ so all people are obliged to follow it as he is the living example set by Allah for humanity. These community-based programs are well supported by Islam and in return produce effective results for betterment of society and community.¹⁹

Difference of role of religion	
Christianity	Islam
In Christianity restorative justice is not mentioned in explicit way but it is explained through the practices mentioned in history.	In Islam restorative justice is mentioned explicitly in many verses which are implemented by great historical personalities.
Christians do not obey the exact command of bible rather they use social changes to be the effect of restorative practices.	Islam has the complete commandments that can be illustrated by the means of Prophets to be easily done in order to have just decisions. This is obligatory and complete practice so societal change is not required.
Bible contains both Old and New testaments the result of which contain human changes according to desire results. ²⁰	Quran is the Holy Book and could not be changed so all commandments are directly from Allah and it is unbiased. ²¹

3.4.3 Similarities in Both religion

Both Christianity and Islam focus on healing, attaining justice, community involvement and elimination of harsh punishments. They focus on promoting peaceful environment and contain lessons in religious books. Social harmony and other aspects of restorative justice are the main ai to be achieved by both religions. Both work for the betterment of society by involving community in its progress.

3.5 Practice of Forgiveness

Forgiveness is the fact that it can erase the grudge present in heart of people. Whenever there is conflict the main reason of it prolonging is that a person who was hurt by the other never want to leave a person without causing the hurt to him of the same intensity. Forgiving others leads to forgiveness to own self.²²

3.5.1 Forgiveness of Muslims

Forgiveness is the concept in Islam that empowers victim as the victim overcome anger and anger is main cause of weakening of victim so victim feel stronger after forgiving and it build peace and harmony in society. This can be defined as being controller of their own healing

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¹⁸ Aftab Absar, "Restorative justice in Islam with special reference to concept of Diyya," 1-8.

¹⁹ Mustafa, "Restorative Justice and Islam," 5-7.

²⁰ Question, "What does the Bible say about restorative justice?" *Got Questions*, Accessed on June 27, 2025.

²¹ Aftab Absar, "Restorative justice in Islam with special reference to concept of Diyya," 1-5.

²² Psychology Today, "5 Reasons why it is important to forgive; To err is human; to forgive, divine," *Forgiveness*, September 29, 2020.

after shifting from being helpless in sight of others. Forgiveness not only strengthen victim but it gives a great chance to offender to rejoin community. This also leads to rebuilding of relationships and from this aspect forgiveness heals both sides. Although forgiveness is not an easy task but it can be used as hinder for promotion of long-term social difficulties. Forgiveness is the healing process causing both social as well as emotional healing. Islam has given a great importance to unity of community and dignity of human. Peaceful coexistence and moral leadership can be possible through forgiving others. Violence can be stopped through forgiveness resulting in peace-making. The concept of Ummah, brotherhood and community engagement are the values depending on restorative justice. other Islamic concepts of restorative justice like Sulh, Diyya etc. uses forgiveness most of the time for conflict resolution.²³

3.5.2 Concept of Forgiveness in West

In the western culture when the case of serious crime is taken then forgiveness is rarely used as a response in legal action. The concept of forgiveness include only victim to let go the anger but nothing is taken from offender side so it is not a just decision. Rather to focus on forgiveness western system use Victim-offender dialogue. England use meetings between victim and offender for criminal justice with an aim of communication may be leading to forgiveness and apology. Sometimes forgiveness involves the forgiving victim themselves and sometimes offender forgiving themselves. Sometimes victim blame own self during recovery and forgiveness can be helpful in recovery and regain of control. Self-forgiveness is needed for offender to move forward in life so that they can shift from their past guilt which is not possible in former Criminal justice system.²⁴

Difference	
Islam	Western
In Islam forgiveness is regarded as the virtue considering generosity with letting go of punishment.	Forgiveness is rare and people do not explicitly use the word forgive even when they accept the apology.
Divine reward is guaranteed for forgiveness and moral character of a person is increased.	Term forgiveness is considered too religious and formal so it is avoided in British language.
Even without the repentance of offender forgiveness is encouraged the example of which is shown in life of Prophet ﷺ.	Apology is done many times without outcome. ²⁵
Islamic legal system never exclude justice from restorative justice practices	Western legal system does not consider forgiveness as a part of restorative justice practices.
Forgiveness is strength in Islam and it can be removal of weakness due to which problem arise.	Aertsen said that forgiveness is unjust to expect and harder to forgive.
It restores peace of society and family by reintegrating the offender into community.	Forgiveness is only interpersonal and victim is healed by self-emotional healing.
Balance of retribution with mercy is done when forgiveness is linked in justice.	Forgiveness cannot be encouraged and is considered unethical as victim is not

²³ Ramizah Wan Muhammad, "Forgiveness and Restorative Justice in Islam and the West," 281-285.

²⁴ Joanna Shapland, "Forgiveness and restorative justice; is it necessary? Is it helpful?" *Oxford Journal of Law and Religion* 5, no. 1 (2016): 1-3, https://eprints.whiterose.ac.uk/id/eprint/89574/17/WRRO_89574.pdf

²⁵ Ibid, 3.

	emotionally healed yet.
The superior alternative justice practice is forgiveness in restorative justice practices. Historical examples can show the implementation of forgiveness in daily life.	Forgiveness can be used in other restorative practices but it cannot be counted as restorative justice practice.

3.6 Restorative Practices

Restorative justice practices are different in Islamic and Western legal system. Though both of these legal systems contain similar aims for restoration but attainment of these goals are through different ways in both these systems. Restorative justice practices have a philosophy and roots belonging to the religious, Indigeous and cultural traditions from around the world.²⁶

3.6.1 Islamic restorative justice practice

The practices of restorative justice yield several results depending on the nature of process and practices. There are some of the practices that may differ due to ideas involved in it. This is because of the fact that these restorative practices are taken directly from Quran and Hadith.

3.6.1.1 Diyya (compensation)

The results of this practice include offender to pay something to compensate the harm caused. Family members of victim can choose whether to accept diyya or not. Another aspect of diyya is that if offender is poor and cannot pay fine then social group help to pay compensation which results in strong bond with community. This is the way of encouraging community for holding responsibilities and solidarity. This system is structured and fair and amount is according to the intensity of crime. In this way the victim can be healed by the loss he was facing due to offence and offender can become able to attain his dignity. This type of practice emphasize reconciliation and eliminate the punishment.²⁷

3.6.1.2 Sulh (conciliation)

No matter whether the conflict is big or small, Islam promote peace by choosing conciliation or conflict. Through forgiveness and understanding revenge can be dismissed which results in reduction of hate and tension in society. In sulh forgiveness plays a vital role for community well -being. Victim and their family have a choice for conciliation over punishment. This practice results in mutual cooperation and community engagement to foster healthy relationship. Justice can be achieved through mutual agreement by promoting forgiveness.²⁸

3.6.1.3 Tawbah (repentance)

Tawbah is not only the concept for legal ruling but also it contains religious concept of removal of sin. This concept is the basis as everyone wants to be safe from the Hell-Fire. This concept led to moral change by apologizing victim as well as Allah. It results in offender showing good behavior and staying away from bad environments. So, this is the long-term safety for society. In this concept the person accountable for legal punishment like for theft or terrorism can be save from punishments through repentance. Tawbah is the act of seeking forgiveness and the results of which are moral rehabilitation and elimination of punishment completely. It is not only physical healing but also emotional and spiritual healing which lasts long.²⁹

²⁶ National Center on Restorative Justice, "What is restorative Justice?" Accessed on June 28, 2025.

²⁷ M. Qafisheh, "Restorative Justice in the Islamic Penal Law," 489-491.

²⁸ Ibid, 491-494.

²⁹ Ibid, 502.

3.6.1.4 Islah (reformation)

It helps Victim to gain satisfaction and offender is held accountable for the criminal act.

3.6.2 In Western restorative Justice practices

3.6.2.1 Victim Offender Mediation

It results in the healing process which involve victim so that they can present their trauma and offenders can understand the actions which are cause of the criminal actions. For victim VOM is helpful in emotional recovery and facility is given to them for being heard. Offender can also find justice by knowing the impact of their criminal behavior and to know the consequences bear by the society which can also create harmful results for offender too. Community participation can be beneficial in process of VOM as it addresses the issue only to the people who are directly linked. It is the way to fair and just environment with the decision in the presence of victim and offender.³⁰

3.6.2.2 Family Group Conferencing

The major aspects of this practice are that it only involves family members in decision making as they best knew about the child behavior and safety. It also results in permanent behavioral change led by family of child. It prioritizes strength of family and fulfills the requirements of justice. This practice involves family safety and is adopted by local people. But it requires an appropriate area to be implemented like with indigenous populations.³¹

3.6.2.3 Peace building circles

Empathy, understanding and community is valued in conflict resolution by using the approach of restorative circles. Facilitator in this circle guide the process through which everyone is heard and have a chance to participate in healing process. Respect is given to the opinion of every person and conclusion is drawn on the basis of future harmony which can be attain through the decision. These circles require patience and skills to contribute in dialogue and reconciliation. With the time and practice, the facilitator becomes more professional and skillful in managing the justice process.³²

3.7 Role of Victim

Victim needs to restore their physical, financial and psychological harm from which they have gone through. The restoration of the dignity and the image of victim is essential for them to live peacefully in the community. The recovery of victim can only be possible with the support of the surroundings.³³

3.7.1 In Islam role of Victim

The encouragement of victim in Islam is done to overcome revenge and grant forgiveness. The decision of victim is respected whether he want to forgive or not. This can be seen in the context of Nigeria that in shariah victim has hold of prosecution and sentence of offender in the case of qisas. So, to overcome this prosecution victim is encouraged to grant forgiveness instead of retribution and revenge. After this condition when victim agree to forgive then this forgiveness truly happens and state is obliged to respect that decision. In the concept of diyya there is a choice for victim to whether choose retribution or to receive payment that is to

³⁰ Hayder Shkara, "7 Points to understanding victim-offender Mediation," Dandenong Family Lawyers, Accessed on 23 June 2025, <https://dandenongfamilylawyers.com.au/mediation-victim-offender/> - :~:text=Offenders%20get%20an%20opportunity%20to%20apologise%20and%20make,their%20trauma%20and%20offenders%20to%20acknowledge%20their%20actions.

³¹ Erin Wick, "Family Group Decision Making; From research to application," *Supreme Court of Pennsylvania*, 2014, <https://ocfcourts.us/wp-content/uploads/2022/02/3.-Family-Group-Decision-Making-From-Research-to-Application.-new.pdf>

³² Restorative Justice 101, "Restorative Circles; A guide for facilitation," Accessed on June 27, 2025.

³³ Euforum Restorative Justice, "Victims and Restorative Justice," Accessed on June 28, 2025.

choose reconciliation over revenge. This paying off instead of qisas provide opportunity for both victim and offender to bring positive change.³⁴

The victim plays a crucial role in making a decision about the results of justice and equality that also include an open choice between retribution, forgiving the victim, or compensating. The victim can also actively take a part in reconciliation processes that include making both offenders and victims participate in the practice of sulh, pain expression, asking for the reliefs and amends, and also asking or offering for the forgiveness of the actions taken. Victims are also encouraged to ask for compensation, demand better knowledge about the wrong and right, and most importantly, they must be treated with respect, and their dignity should not be denied. Victims can also participate in the starting of and initiation of the results of the justice. Their active participation can help and encourage the healing and restoration of respect and dignity. This whole role of victims is very important in the case of restoration, reconciliation, and justice outcomes.³⁵

3.7.2 In West

In western legal system the role of victim is to take part in the meetings arranged for conflict resolution. Victim understand the situation and remain patience until the decision is made. The victims in restorative justice system feel safer and experienced towards negative emotions like fear and anger. There are very less traumatized than victims of other Justice systems. They are not stressed or feel anxiety while participating in the Justice system.³⁶

There is a need in restorative justice to know what victim actually wants. Victim may have three types of needs the first one is the service needs which include information about case that what actually has happened. Furthermore, a kind and respect bearing treatment to speak in court. They also speak of the compensation and support for the things they have lost. Secondly, the victim may have expressive needs, the need where story is told by victim that how this action harm them and what type of crime is it. After that they feel heard and become emotionally supported. Thirdly, they participate in the recovery steps like they become part of decision for offender rather to get bail or not. Many victims wants that process of justice should be personal and more information is needed in this regard. They want to know what is going on in the case for fair and respectful decision.³⁷

3.8 Role of Offender

3.8.1 In Islam

The offender has a duty to repent and consider themselves responsible for the offence and seek forgiveness. Reconciliation is possible only if remorse and acceptance of responsibility by offender is done. Same as victim is encouraged to forgive, offender is encouraged to repent which is the only way to start the healing process. The first step is for offender to accept and seek forgiveness and the next step is for victim to forgive. The law gave options for offender whether to accept diyya or any other way for avoiding retribution. The offender not only repent but it also depends on offender to make everything right to some extent.³⁸ While the role of offender is neither clearly explained nor extensively displayed but the

³⁴ Susan C. Hascall, "Restorative justice in Islam; Should Qisas be considered a form of restorative justice?" *Restorative justice in Islam*, Accessed on June 27, 2025, 39-40.

³⁵ Victim role Islamic RJ, "Role of victim in Islamic restorative Justice practices," Victim role Islamic RJ, Accessed on June 27, 2025, Victim_Role_Islamic_RJ.pdf

³⁶ Masahiro Suzuki, "Victim Recovery In restorative justice: A theoretical framework," *Criminal Justice and Behavior* 50, no. 12 (2023): 1895-1900.

³⁷ Meredith Rossner, "Restorative justice and victims of crime; directions and development," *LSE research*, 2017: 2.

³⁸ C. Hascall, "Restorative justice in Islam: Should Qisas be considered o form of restorative justice?" 40.

offender can, for some instance, engage and participate in face-to-face meetings with the victims for participating in the practice of sulh, also making a proper target for reconciliation, asking for forgiveness and expressing the feeling of shame, and lastly taking part in making the amendments.³⁹

3.8.2 In West the Participation of Offender

Restorative justice focuses on rights of offender as it is missed in other justice systems. Offenders usually missed out in justice procedure and may lead to wrong decision making. Some people say that it is too focused on offender but this is not the case offender is given rights with certain limits. Restorative justice makes sure that offenders should not just be seen as lawbreaker and criminal but as human beings with essential and basic needs.⁴⁰

3.9 Community Participation

3.9.1 In Islamic restorative justice

The social harmony and reconciliation are possible only if community in broader is involved. If considered for qisas crimes there is involvement of victim, offender and most importantly community is required as community may be taken as the families. The larger the community the easier the process of justice is. After the choice of victim which is respected and offender repentance, community interests are also protected and decision is made according to it. The choice in Islam for victim has a great reason because if a victim chooses mercy and forgiveness which is not the ability of every victim, then this concept of diyya allow the interest of larger community to be saved.⁴¹

The community not only supports but also ensures and encourages respectful decision-making, reconciliation, and, most importantly, helps in the community-based reconciliation or matter solving meetings such as jirga, tahkim, and majelis damai, especially those meetings that are practiced and highlighted in the real- world applications and from decades these are being practiced by the community for sound decision making and efficient justice results. All these practices include their leaders and leaders have a crucial role in proper facilitating the justice judgement and outcomes by appreciating and respecting the victim rights, guiding the victim and offender while properly listening to the issue from both sides and most importantly keeping the fairness in their judgements, results and decision-making processes.⁴²

3.9.2 In West Community

Involvement of community in conference for restorative justice develops a great sense of collective responsibility and empower community to gain the root cause of harm with giving support to both victim and offender. This supports social strength and reconciliation for long term.⁴³

³⁹ Victim role Islamic RJ, "Role of victim in Islamic restorative Justice practices," Victim role Islamic RJ, Accessed on June 27, 2025.

⁴⁰ Tony Ward and Robyn L. Langlands, "Restorative justice and the human rights of offenders; Convergences and divergences," Science direct, Accessed on June 27, 2025, <https://www.sciencedirect.com/science/article/abs/pii/S1359178908000414>

⁴¹ C. Hascall, "Restorative justice in Islam: Should Qisas be considered o form of restorative justice?" 40.

⁴² Victim role Islamic RJ, "Role of victim in Islamic restorative Justice practices," Victim role Islamic RJ, Accessed on June 27, 2025.

⁴³ Adebobola Omowon and Alaba Samson Kunlere, "Restorative justice practices; bridging the gap between offenders and victims effectively," *World Journal of Advanced research and reviews* 24, no. 3: 2772.

3.10 Dignity

Restorative justice involve offender because it helps them to regain their dignity. This is essential because an offender without being rehabilitated has more chance to again indulge in wrongdoings. There are three factors that positively help offender after restorative justice.

- * The offender feels valued and heard so they actively participate in their own healing process. The involvement of these offender makes the process easy and fast.
- * This restoration of dignity help offender to bring positive changes in lives and this positive change prohibit him to revise the same criminal act.
- * In other justice cases offender become stressed and feel that they could never become a good person so they continue to be criminal but in case of restorative justice they believe that they can change themselves and become better people with dignity.

The good treatment whether given to normal person or offender can change the way of their thought and the chance of reoffending is less by which whole community feel saves and at peace. Offender when feel their worth in sight of community they can easily become part of society which is the main aim of restorative justice.⁴⁴

In Islam	In West
Islam give glad tidings to people for forbidding evil acts and ensure that dignity in this world as well as in the hereafter is guaranteed to them. This encouragement in Quran lead to develop a sense of change in offender according to Islamic law.	The offender can regain their original dignity in community and they can live peacefully.

3.11 Terminologies used

In Islam	In West
Afw	Forgiveness
Sulh	Mediation
Diyya	Reparation
Islah	Reformation

3.12 Restorative Practices Implemented by Different Countries based on Religion

There are many countries that use restorative justice practices for criminal system to get rid of traditional legal system. These areas use different methods of restorative justice but the main goals are unchanged. The countries based on religion like for Christianity and other western religions, used western restorative practices and practices that are mentioned in shariah legal rulings, are utilized by Islamic countries.

3.12.1 Western Countries

Countries which have legal rulings based on human made laws then they use restorative practices that are emerged according to situations. The countries include

i. North America

North America started using restorative justice as it comes from the Christian teachings and Indigenous values. The usage of restorative justice in modern era changes it shape and it was emerged to change the prisoner laws which rely on prison to prevailed instead it involve community to solve conflicts. Restorative justice is a part of ADR in solving many cases and wrongdoings.⁴⁵North America has initiated this program which was strongly supported by

⁴⁴ Zandile Faith Mpofu, Sazelo Michael Mkhize and Jmaes Udoh Akpan, "Empathy, remorse and restoration of dignity contributing to reduce recidivism; assessing the role of restorative justice in promoting offender rehabilitation and reintegration in Durban," *Law Criminology and Criminal Justice* 10, no.1 (2024), <https://www.tandfonline.com/doi/full/10.1080/23311886.2024.2429018> - abstract

⁴⁵ Leung, "The Origin of Restorative Justice," 6.

NGOs and other educational institutions. VOM played a vital role in this regard side by side the universities that contain special centers like Justice and peace building centers at Eastern Mennonite University. Some peace focusing groups like Amish and Quakers also contain restorative justice and support it for being a humane and alternate to the traditional violent system.⁴⁶

ii. **New Zealand**

New Zealand used Children Young Persons and Their Families Act CYPTF as a restorative justice in which FGC is involved which is based on principles of restorative justice. In New Zealand the harm caused by young people is addressed and solved moreover, family and community conflicts are resolved as the earliest form of restorative justice.⁴⁷ Family Group Conferencing was originated from New Zealand and applied for cases like child abuse. They use this practice as it promotes family being first most important decision makers for children. Decision makers must be impartial so that justice can be given without doubt.⁴⁸

iii. **Australia**

FGC is used mainly in this country and the implementation of family group conferencing is found in many juristic matters. The restorative justice is used for resolution process as other justice system also involve legal authorities and difficulties arise.⁴⁹

iv. **Pennsylvania**

Pennsylvania had also implemented the restorative justice practice like FGC with its main focus to be used in meetings of justice as it is modern way. They use it because it gives frequent decision and can easily manage case. In Pennsylvania this process was used by including family members as support and meetings continued until required results are gained. The case workers and family members set a meeting and preparation starts for case resolutions.⁵⁰

v. **Canada**

Canada has used restorative justice practices as they use in prison laws. Canada has worked for the implementation of restorative practices and they present frameworks, discussions and research papers which emphasize restorative involvement in criminal matters. For correctional settings Canada adopted institutional programs helping to guide restorative justice practices.⁵¹

vi. **Hawai'i**

Hawai'i has adopted the values of restorative justice by emphasizing on community, family and its own culture. The collaborative decision making involves individual participation which has a great impact on family and community strength. This model can give insight to cultural relevance by involving elders of community and participation of extended family is appreciated. This practice of FGC leads towards family empowerment.⁵²

⁴⁶ Wikipedia, "Restorative Justice," *Wikipedia*, accessed on 22 June 2025, https://en.wikipedia.org/wiki/Restorative_justice

⁴⁷ Leung, "The Origin of Restorative Justice," 1.

⁴⁸ Wick, "Family Group Decision Making," 9.

⁴⁹ Leung, "The Origin of Restorative Justice," 1.

⁵⁰ Wick, "Family Group Decision Making," 82.

⁵¹ Leung, "The Origin of Restorative Justice," 1.

⁵² Wick, "Family Group Decision Making," 7-8.

vii. **The Netherlands**

For the child welfare program, the Dutch practice was to incorporate FGDM for positive family engagement for restoration of justice. This comprises of neutral role of facilitator in family group conferencing. It requires safety planning, fidelity to principles for justice with equity.⁵³

1.12. 2 Islamic Countries

i. **Arab Cultures**

Araba culture is completely indulged in Islamic values and to make family ties strong. The family is considered as support and identity. The protection of its honor is essential element for Arab cultures. The honor and dignity are not things to be replaced by any other aspect. The dignity of family means a lot to Arabs. People feel shame if anything cause damage to dignity of family. There is a tribal system in Arabs where tribal values are really strong than any other value. The community is loyal and cooperative for justice processes. Restorative justice is used by Arab countries as they already promote honor, family values, respect culture and approval of community. Arab families resolve conflict involving tribal meditation and meetings which is the restorative justice practice.⁵⁴

ii. **Indonesia**

Restorative practices are used in Indonesian legal system as Indonesia is an Islamic country and it requires Islamic practices to be prevailed. It focuses on maintaining justice rather punishing the offender and it seems fair to people that is why it is accepted largely. Islamic laws in Indonesia are useful as they provide fair system of justice which focus on recovery.⁵⁵ The restorative program is not new to Indonesia as they have been using it in their laws which has a specific name of Adat law in which wisdom of local community is used in policy for Islamic criminal law. When these laws are changed with modern legal system it does not fit with Indonesian culture and create problems for justice delivery. The role of mediators helps a lot in justice processes and make balance between both parties in cases involving public interest and what offender and victim wants.⁵⁶

Conclusion

Differences found

Aspect	Islamic Restorative Concept	Western Restorative concept
Origin	The concept of Restorative justice in Islam is taken from Quran and Sunnah. It is converted into practice from the time of Prophet Muhammad ﷺ.	It is emerged in the late 1900s like in 1970 and 80s when there is need of alternative to retributive justice.
Base	The foundation of Islamic restorative justice is Shariah which is Divine message in form of Quran and Hadith.	The basis of restorative justice in west is mainly because of its usage as alternative to retributive justice and it is

⁵³ Wick, "Family Group Decision Making," 7.

⁵⁴ Diab Al-Badayneh, Mekhled Al-Tarawneh, Anas Lamchichi and Yasser Ellamey, "Restorative Justice; Does it work in the Arab countries?" *International Journal of Religion* 5, no.8 (2024): 126, DOI: 10.61707/23mn6z72.

⁵⁵ Rizky Fauzi, Watni Marpaung and Nurul Huda Prasetya, "Restorative Justice Concept in Islam and Its Implementation in National Criminal Law from Islamic Legal Philosophy," *Jurnal Akta* 12, no. 1 (2025): 55-57, <https://jurnal.unissula.ac.id/index.php/akta/article/view/43727>

⁵⁶ Ferry Fathurokhman, "A Study of restorative justice in Indonesia; An Eclecticism of Adat Law, Islamic criminal law and modern Law," Accessed on 26 June 2025, 3, <https://core.ac.uk/download/pdf/196734263.pdf>

		emerged by man-made principles which contain community involvement.
Aim	It focuses not only to establish justice and maintain peace, but also to have Divine pleasure which is main aim of Muslims.	Its main focus is towards repairing the harm by decision-making through community involvement.
Involvement of religion	Religion has a direct influence and the moral values of religion should be attained.	Not many but some faith considering programs are present but presence of religion is not must.
Practice of forgiveness	It is considered as a great virtue and can be easily implemented. Islam encourages it to be practiced.	It is mainly considered as difficult to maintain justice through Forgiveness and is not necessary to produce effective results.
Justice Practices	Justice can be attained by combining two or more concepts of other justice system like Qisas and Diyya can be restorative.	Only restorative justice practices can be implemented. Other practices cannot fulfill requirement of restorative Justice.
Role of Victim	Victim has a great role like to give decision about Diyya payment, to forgive or to establish Sulh.	Victim is involved in conflict resolution meeting and can express the intensity of harm. Victim can also give opinion on issue to be resolved justly.
Participation of Offender	To be ashamed of his acts, and seek forgiveness by showing repentance. Provide positive change in community through devoting for good purpose.	Should accept the decision of community and make amendments as recovery for the loss. Apology or forgiveness does not work.
Community involvement	People involved in community for restoration process may be tribal elders, sulh officers and mediator. They assist in reconciliation.	Healing circles, family conferencing and community services are the ways of community participation.
Dignity	This dignity is given by God so it is universal and cannot be changed.	It is based on human rights as made by man.
Terminologies used	Terms in Islam are usually in Arabic like Sulh, Afw, Diyyah etc.	Apology, restitution, healing and reconciliation etc. are words used for restorative justice.
Processes of restorative justice	Sulh, Diyya, Forgiveness, Islah etc.	VOM, FGC, healing circles
Historical example	Prophet Muhammad ﷺ used restorative justice like Madina Charter.	It is a modern developed program so its practices are community activism.
Implementation by countries	Practiced by countries like Pakistan, Malaysia and Turkey.	Practiced by US, UK, Canada and Australia.

Similarities found are the main objectives of restorative justice are found in both legal systems like Victim and offender involvement, betterment for community, healing, to prohibit promotion of criminal activities, to restore dignity and cause offender to regain his place in community.



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