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INTRODUCTION

Crimtorts and Lifeworlds

Rather than proceed from historical events and figures,
why not locate our thinking in the here and now,
immersing ourselves in the lifeworlds of others
taking our intellectual cues from their concerns,
and conversing on terms that they decide?

MICHAEL JACKSON, *LIFEWORLDS* (2013:254)

Crimtorts: Spectacle and Social Field

Guards brought the young man out from inside the police van. The light and dark blue stripes of his prison uniform hid his thin frame from sight. With hands cuffed, he was made to stand on a chair. A noose, attached to a crane mounted on an open-bed truck, came down around his neck. In the rare public setting, the very square in which the killing took place, guards readied the perpetrator for execution. As the mask came down over his eyes, he began to weep loudly and beg for mercy and for forgiveness.

Moments before the public execution of this young man sentenced to death for murder, the victim's father stood from within a crowd of protestors, raised his arm to stop the proceeding, and declared, "I forgive him." With this act, the father of the victim signaled *gozasht* (forbearance) of his right to seek *qisas* (retribution) for his son's killer, as the law affords.

In the early days of the new millennium, I witnessed this rather stunning episode of Iran's criminal justice system unfold on a nationally-televised broadcast. This action by a private citizen came after much domestic and international advocacy on behalf of the perpetrator, whose deeds, many individuals believed, did not warrant such severe punishment.¹ While activists abroad advocated for the perpetrator's human rights, others, including Iran's judiciary, defended the rights of the victims and their families to justice.

When the father of the victim signaled his last-minute reprieve of the perpetrator, both sides claimed victory—and a triumph for human rights. Secular human rights protestors, citing the rights of prisoners, noted that his being spared was a consequence of their advocacy against the death penalty. Advocates of Iran's victim-centered justice system argued that the forbearance afforded to victims' families served the greater cause of justice—peace and security.

The “spectacle” of a private act of mercy, as I have described it elsewhere, betrayed these simple binaries (Osanloo 2006). The facts of the case, its coverage by extant media outlets, and the overall legal proceedings conveyed a complex story about injury and punishment, mercy and retaliation, forbearance and retribution, forgiveness and justice, and ultimately, life and death, as articulated through the multiple valences of ritual, faith, law, social relations, and politics. In Iran, the codification of forbearance emerges from a hybrid crim-tort justice system, complete with its own conditions of possibility. Sociolegal scholars Thomas Koenig and Michael Rustad coined the term “crimtort” to refer to the state's amplification of private remedies to fill a void in criminal law (1998). In such cases, the state allows private plaintiffs to employ civil lawsuits to punish corporations through remedies that include increased monetary damages as well as prison sentences. In Iran, the blending of criminal law with tort law has had the opposite effect. The state has created a public sanction for the private harm of murder. However, it did not amplify the punishment. The public sanction for the private harm of murder and other torts is secondary and limited to a maximum prison sentence of three to ten years. The determination of life and death remains the unalterable right of the private plaintiffs.

What most observers of Iran's criminal justice system know about it is that sanctioning is severe. Amnesty International has noted that Iran has the world's highest rate of capital punishment per capita.² After the 1979 Revolution, Iran's religious leaders rewrote the national laws to conform with Islamic principles as they saw them. Major revisions to the criminal laws reinstated severe retributive sanctioning but also codified the possibility of the plaintiff's forbearance, derived from the Muslim mandate to be merciful and compassionate. One element of the system of criminal sanctioning that is little known and under-studied is that in homicide, and numerous other crimes, retribution is literally the right of victims. That is, victims, as plaintiffs in crimtort cases, can demand that the state carry out retributive sanctioning or forgo it and forgive their perpetrators. Iran's *Law of Criminal Procedure* also codifies the religious obligation to be merciful and compassionate as an imperfect duty on the part of government officials to bring about reconciliation whenever possible. Thus, the penal code (the substantive law) recognizes forbearance as a right of victims, and the code of criminal procedure demands that government

agents tasked with carrying out the substantive law do so with an eye towards the greater goal of achieving reconciliation.

Since the publication of my first essay on this topic in 2006, I have studied the work of forbearance in Iran's criminal justice system, especially as it pertains to murder in the first degree, that is, with intent. The result is the following work in which I explore Iran's victim-centered approach to criminal justice with a view to unpacking the logic of a system that arguably places the rights of victims before those of the state. As such, I seek to better understand the state's interests in apparently handing over the fundamental power of determining life and death to private parties. Beyond investigating how the private right of forbearance operates within the criminal justice system, my primary interest is to understand how aggrieved individuals reach the decision to forgo retributive sanctioning when the state guarantees their right to it.³

In the years since I started this project, Iran's criminal laws and procedures have been finalized. Accordingly, they have been revised, expanded, and "colored in," as my interlocutors referred to the code's more robust character. As we see in the pages that follow, the laws are clear in defining certain categories of punishment as a consequence of specific injuries. The laws also stipulate the conditions for forbearance. However, the penal code is silent with respect to *how* parties should arrive at reconciliation. That is, the state encourages settlement, but for all intents and purposes, leaves to the parties themselves to determine what the substance and process of that settlement might be. The conjuncture of a clear legal and moral duty to seek reconciliation alongside the absence of specific guidelines on how to do so has a generative quality and produces an arena outside of the state's judicial apparatus, yet still of it, for bringing about a settlement short of retribution or, as I will refer to it, for *forgiveness work*.⁴ Over the years, this critical combination of duty with an absence of guidelines has engendered unique spaces for negotiation, bargaining, and indeed, reconciliation. Thus, the manifest moral and legal compulsion to forgive without meaningful guidelines on how to do so has produced an informal cottage industry of advocacy, one that is populated by diverse actors and which produces numerous avenues for negotiating forbearance by forging reconciliation and settlement.

With the term cottage industry, I seek to highlight the informality (small, concentrated, loosely organized) as well as the ritual forms that engage in what is a flourishing complex of activity and industry around forgiveness, especially when it comes to capital punishment cases. The activities and actors within the cottage industry of forgiveness work animate and give meaning to the moral and legal duty to forgo retribution and forge reconciliation. This cottage industry is unregulated, informal, and often rife with contests as different actors vie for power, influence, renown, and sometimes even monetary reward. Over the years, this flurry of activity has generated some rules of

engagement, leading to increased professionalization, expertise, and government involvement and oversight. At the same time, the ad-hoc nature of forgiveness work continually invites new actors who have less regard for observed practices and who forge new rules of engagement.

Indeed, as one social worker told me, she operates in a “*hayaat khalvat az qanun*,” literally, a field devoid of law. “What do you mean by that?” I asked. My friend explained that the work she does is neither with nor without the government’s express consent. While the law “creates this field, there isn’t much law managing the work that goes on within it.” As she saw it, “the field is open.” “Open to what?” I asked. She responded that the field is open to norms and rituals that are specific to the people in the regions where they work. “We use their own practices,” she said, referring to the various local mechanisms for conflict resolution.

In this way, in the four decades since the revolution, numerous groups and individuals, political and nongovernmental, have intervened in murder (and other) cases to which they are not parties. Sometimes working together, other times in conflict or at cross-purposes, these actors labor towards the overarching goals of sparing an individual from the death sentence and bringing about reconciliation between victims and their perpetrators—or at least a settlement short of the retaliatory punishment to which victims are legally entitled. Notably, the activities that take place in this space are also both ad-hoc and ritualistic. Over the years, state and civil society actors involved in reconciliation efforts have become more professionalized in their methods of securing victims’ forbearance. Few of the approaches, however, are independent of broader social, cultural, and even economic considerations, and are thus subject to the fluctuating zeitgeist of life in Iran.

Building on my friend’s perceptive description of this extra-judicial arena where negotiations take place, this cottage industry forged through forgiveness work, I find it helpful to take up Sally Falk Moore’s concept of the “semi-autonomous social field” (1973). In proposing an approach for studying extra-legal arrangements, Moore was responding to Schapera (1972) and Malinowski’s (1959) calls for scholars to move beyond formal law to understand the informal orders that bind tribal societies. Moore advanced a methodology for examining how groups within larger, more complex societies operate internally. She proposed that semi-autonomous fields can generate their own “rules and customs and symbols” (720). However, such fields are also subject to the directives of higher powers that can force compliance.

In offering a way to study the ties that bind certain groups living within more complex societies, Moore guided researchers to heed the capacity of formal laws and other larger social and economic forces to infiltrate and influence decision-making inside groups, despite those other forces—the *cohesive forces*,

so to speak.⁵ Moore's approach is useful in shedding light on the processes that shape forgiveness work and create the conditions through which victims' families consent to forgo their right of retribution.

In complex societies, Moore observed, legislation handed down by centralized governments encroaches on or burdens social fields that already possess rules and customs. I am suggesting something slightly different. In this case, the legislation itself is productive; it generates the social field of forgiveness work. Thus, far from being solely a constraint, the law actually produces and preserves the partial autonomy of the social field—those localized rules and customs. I came to see this not as an inadvertent consequence of the law, but as its intent. In this context, the law is both a coercive and cohesive force. The state law codifies with the aim of maintaining the spirit of cohesive force as well.

This book, then, is my attempt to excavate, narrate, and analyze distinct spaces of this cottage industry drawing from stories I have been collecting on annual research trips to Iran since I began working on this project in 2007. Through an ethnographic foray into the different sites where forbearance may come about, I have attempted to sketch the parameters of Iran's intensely victim-centered criminal justice system while also providing a portrait of forgiveness work by diverse actors. Although every case I have encountered is unique, the processing of such cases through Iran's legal system provides some pattern of practice and an outline of stages in which different actors converge and sometimes compete in their forgiveness work.

To be sure, forgiveness work takes place through the state's legal apparatus. The state corrals and constrains the field, but social workers and other actors draw from a broad lexicon that includes rituals, religion, rights, and reason to appeal to their subjects and to forge their own practices dedicated to cultivating what my interlocutors referred to as "a feeling of forgiveness."⁶ Thus, inasmuch as this project grew out of the legal considerations raised by the story above, there is an affective dimension to it as well. Understanding the affective component of forgiveness work helps to shed light on social actors' motivations.

Affective Lifeworlds: A Plea for Mercy

Hushed voices from the foyer drew the attention of the old woman, Nayereh. She sat on a petite settee at the far end of the large sitting room, a mere outline in silhouette. A glass filled with tea sat idle on one knee. Behind her, drawn curtains prevented the bright daylight from showering through the windows, darkening the already somber mood in the room. Nayereh was in mourning. This was the seventh day since her husband's death and she had already begun to receive the morning's visitors.⁷ Family, friends, and neighbors filed in to sit with her and to remember her husband, the kindly gentleman who left the

house with only his dog before dawn most mornings for a hike in the foothills of the Alborz Mountains just beyond their house. He started the samovar before leaving so as to return to his wife, son, and daughter-in-law sitting around the kitchen table sipping freshly brewed tea. His sudden death had brought an abrupt end to their morning routine.

Three of Nayereh's grown children had gotten up to answer the doorbell, a high-pitched whistling cuckoo. Its festive tone belied the ritual at hand. Gradually but heatedly, her two sons and daughter began to chide the person at the door.

"No, you can't," said the oldest son.

"It's not necessary," stated the daughter disdainfully.

"Why did you come?" exclaimed the exasperated youngest son.

At this point, Nayereh, sitting beside her adolescent granddaughter, looked up. Through grief-stricken eyes she saw the commotion and realized who was at the door. She wrested the attention away from the visitor when she spoke out, "It's fine. Let him in." Her words were met with a chorus of outrage.

"Do you know who it is?" asked her eldest.

"Did you tell him to come?" probed her daughter.

Only the youngest son, by virtue of sharing the household with his mother for many years, had determined that, in fact, it was she who had told the man that he could pay his respects. And so, the son relented. He pushed his siblings out of way and let the visitor in. He called out to the kitchen and asked his wife to bring out some tea. As the visitor gingerly removed his shoes, the rest of the household steeled their nerves to hear what he, the man who had killed their father, had come to say.

The man, just twenty-four, had not come alone. He was accompanied by his uncle, who came as an apparent character witness, a moral adjunct, with prayer beads in hand. The men had come from the southernmost part of Tehran, known for its poverty and the urban blight associated with economic disadvantage, a sign of the city's increasingly unrestrained inequality. The young man had been employed by the company for only a few months, and now, likely, would be relieved. His father was dead. He was his mother's sole support. It was a difficult world from which he hailed. Prison and a fine could irredeemably alter his path. The family's forbearance could factor into a reduced sentence, possibly dismiss the monetary penalty for this unintentional killing, and even persuade his employer to give him another chance.

Besides the accident, the young man had no previous entanglements with the law. He worked hard, lived at home, and helped his family. He was engaged and planned to marry within the year. He said his prayers and fasted during Ramadan. He did not drink or gamble. He was a good person. His mistake was only that he had been driving too fast. In the unbounded traffic of Tehran, his driving was not unusual. Instead, what was odd was the wholly unexpected

sight of an elderly man crossing the four-lane highway without due consideration of his age or pace.

As the young man approached Nayereh, both began to cry. Then weeping took over the room in bursts as tears engulfed the onlookers. Besides her immediate family, a handful of Nayereh's neighbors and friends sat in the various sofas and chairs that outlined the carpeted room. All looked on as the young man fell to his knees before Nayereh, lowered his head, and cried for her forgiveness, "*marro-bebakhsh*," and her mercy, "*rahm kon*."

In January 1999, I was preparing to go to Iran for the first time since my family had moved to the United States in 1970. My maternal grandfather, whom I had seen only once since then, was excitedly preparing his house in Tehran for the visit. One morning, several weeks before my arrival, he went out to buy paint. Upon crossing a busy thoroughfare, his seventy-nine-year-old body, albeit fit from daily treks through the outlying mountains, did not carry him as quickly as he had perhaps expected. A speeding minibus hit him. An ambulance rushed my grandfather to the hospital, where he died hours later in the arms of one of his sons. My return to Iran, then, was marked by grief and mourning, and the rituals associated with it, rather than with the celebration my grandfather had intended. Among those rituals, however, was one that I had not expected: the visit by the bus driver to my grandmother, down on one knee, head bowed, full of remorse, asking for forgiveness.

By describing how the law forges a social field of forgiveness work, I provide a sense of how the judicial process operates and gives way to the field's semi-autonomy. That is one aim of this book; another is to mine what goes on inside the field. That is, if the notion of a semi-autonomous social field helps to decipher some of the contours of forgiveness work and the forces that give shape to it, then the second aim is to observe the "form-of-life" to which this semi-autonomous social field gives rise (Agamben 2000:3-4; Das 2006; Fischer 2003).⁸ In order to do that, I look for insight into how individuals come to the decision to forgo retributive punishment when they, and they alone, can choose otherwise. For those involved, forgiveness work becomes a world unto itself, a lifeworld comprised of its own affective realm. As such, I examine how and why people who are not parties get involved, what their motivations are, and how that involvement ultimately shapes their subjectivities throughout the decision-making process and possibly beyond it.

In legal terms, my grandmother's forbearance did not carry the same significance as in the first story I recounted. The bus driver had not committed an intentional killing. The victim's family did not possess any power over his life, even if they could slightly influence the length of his confinement. The accident was just that, a negligent homicide, for which the driver's automobile insurance paid a pre-determined *diya*, a compensation fixed annually by the judiciary.

Rather, the bus driver's calling on my grandmother held a more ritualistic place in the meeting between offender and aggrieved and spoke to a socio-cultural dialectic of redemption-seeking and pardon that, if not expected, is highly valued for ending conflict and sowing peace and reconciliation.⁹

Not only was the visit to the aggrieved an expected precursor to forgiveness, it was also a highly stylized and choreographed performance, enacted from a socially-recognized script that Iranians have practiced for millennia. The rehearsed nature of the actions, far from suggesting disingenuousness, provided the common elements through which families, neighbors, and others assess such situations and make determinations about the perpetrator's sincerity, remorse, admission of wrongdoing, and acceptance of responsibility. The script also prescribes face-saving actions for the aggrieved, ensuring their positions as dignified and righteous victims. My grandmother forgave the young bus driver. "What else I could do?" she told me. "He was just a boy. He didn't know what he was doing." It is perhaps worth noting, at this early juncture, that such practices are not solely religious, that is, based on Muslim scriptures, but also reside in rich cultural traditions that predate Islam, and yet, are incorporated into the scriptures and ethico-religious practices that came later.

Momentarily setting aside the sources of such practices and the ethical issues surrounding them, a broad array of forgiveness-seeking rituals operates in these contexts and plays an important role both in acknowledging and quieting the grief associated with homicides, accidental or otherwise. Such ritual practices also undergird a vast affective dimension of the crim tort justice system and make possible the legal act of forbearance, and more broadly, reconciliation and forgiveness, terms I define and distinguish below. Far from serving as independent signifiers, such rituals are woven subtly into the laws to serve the state's logics of maintaining safety and security by preserving the victim's right to retaliation. Such retaliation, moreover, includes victims' emotional validation and their financial compensation.

Anthropologist Michael Jackson employs the concept of lifeworlds to emphasize that human existence is a relational existence, that speech and action are intersubjective ways of being (2013:xii). For Jackson, agency constitutes a person's "capacity to generate, perpetuate, and celebrate life *as well as one's ability to stoically endure its hardships*" (Ibid.) (emphasis in original). Jackson notes the fluidity of relational human experience, while observing that relational experiences are not solely between humans, but include humans with other species, things, and even imaginary actors. In this manner, he signals an interpsychic quality to our understanding of and ability to describe human experience—that is, we can never fully do so. Thus, the social field as lifeworld is a "force field, a constellation of both ideas and passions, moral norms and ethical dilemmas, the tried and true, as well as the unprecedented, a field charged with vitality and

animated by struggle” (Jackson 2013:7). Jackson’s lifeworlds aptly captures the networks and negotiations I encountered within the semi-autonomous social field that exists for victims in the process of deciding how to dispose of their right to retribution. Crucially, the idea of lifeworlds alludes to the affective dimensions present in this field. My grandmother Nayereh’s experience hints at affect’s generative power and fluidity in the forbearance process.

Yael Navaro-Yashin extends scholarship on affect to the material environment, suggesting that it exists *not only* in pre-personal psychic states, but also in the hazy and atmospheric spaces of the exterior world.¹⁰ Material environments contain “affective energies” that are transmitted to and between human subjects (Navaro-Yashin 2012:18). Affect in this context is a non-discursive sensation generated by a space, consisting of “charges emanating from the natural and built environment” existing between, through, and around human and non-human worlds (2012:21). Such spaces are brimming with mood and sensation (Behrouzan 2016:9). Physical environments, built or natural, discharge affect; they are populated with both meaning-laden objects and psychically-informed subjectivities. Thus, the environment and items arranged in them invoke affect and act on the interiority of the subject (subjectivity). Among them are legal spaces and records of bureaucratic administration (Stoler 2009). While bureaucracies serve as rationalizing and disciplining apparatuses of governance, they are also domains that conjure and release emotion.

I draw from the co-implication of interior and exterior realms of affect to make sense of how my interlocutors bring themselves to forbearance when the law permits them to exact equal justice. Thus, in making sense of victims’ families’ decisions to forgo retribution, I explore the legal bureaucracy as part of this affective lifeworld. By doing so, I underscore the emotive domain that emerges through my interlocutors’ active interior lives, sometimes brought about by prayer, contemplation, and meditation, but also through their exterior surroundings where reconciliation meetings call upon passionate performances of remorse, pain, suffering, honor, and even pride. Such performative exercises, however, operate through the multiple registers of *Shi’i* sentiment as well as other cultural practices.

In the absence of legal guidelines, forgiveness work comes to be regulated through long-held ritual practices that take place between victims’ families and numerous other actors who prevail upon families’ faith and their feelings of loss and injury, and appeal to them to cultivate grace and magnanimity with forbearance. Through the course of negotiations, victims’ families frequently engage in such rituals, and often come to expect them as a condition of forgiveness, itself. In my grandmother’s case, the materiality that I gesture to is not the mere description of the space. Rather, with the physical description, I aim to give readers a sense of the affective environment—the atmospheric

quality—on that particular day of mourning that made the exchange between victim and perpetrator possible.

Such processes draw upon and incorporate wider Persian cultural practices, such as *qahr va ashti* (conflict and resolution). Parents or other social actors teach *qahr va ashti*, a socially-recognized “emotional-cognitive-behavioral cultural script,” to children who then internalize it in their own social interactions into adulthood (Behzadi 1994:322). *Qahr* begins with a social rupture, and silence signals feelings of hurt by the victims. It evokes the compassion and love of others, including family members, friends, and neighbors, and motivates them to get involved in resolving the conflict and to arrive at reconciliation. In one case where I interviewed family members who had agreed to relinquish their right of retribution, they did so only after meetings with the family of the perpetrator, especially the family matriarch. Originally steadfast in their decision to seek retribution, the victim’s family members told social workers and faith leaders that they were surprised and offended by the failure of the perpetrator’s family to visit them. Upon hearing this complaint, social workers arranged a meeting between the two families. The perpetrator’s relatives, who had originally kept their distance out of a desire not to upset the grieving family, met with them and paid their respects to the family’s deceased son, while also listening to bitter complaints about their own son, the perpetrator.

Forbearance: A Gendered Social Ritual and Cultural Trope

The large colorful display caught my eye while I rode the bus line that cuts through the heart of Tehran. On the high traffic bus route on *Vali Asr* Street, *Sabk-e Zendegi* (Lifestyle), a *Bassij* operated website and news service, had posted a vibrant visual depiction of a key moral value: forbearance.¹¹ The bright, almost fluorescent green of the background expressed the color that honors the *Sayyeds*, the descendants of the Prophet Mohammad. In the center of the drawing sat the ideal family, consisting of a mother, father, and two children—a boy and a girl. All were seated, cross-legged around a tablecloth laid on the ground. The simplicity of the mealtime layout hailed unpretentious, non-materialistic working-class Iranians. In front of the father and two children sat platefuls of rice and hearty stew, the traditional bountiful meal served at midday or the end of a long workday. Before the mother, the cartoon depicted a bowl of yogurt. The caption bubble from the son read, “Mother, why aren’t you eating?” The mother’s reply, “Today I really crave bread and yogurt,” captured the gendered dimension of forbearance. The visual depiction worked so well because the act of a mother’s forbearance, unlike that of the heroic and noble fighter of the masculine perspective, is so subtle, so delicate and elusive, that it easily escapes naming. The use of words—the

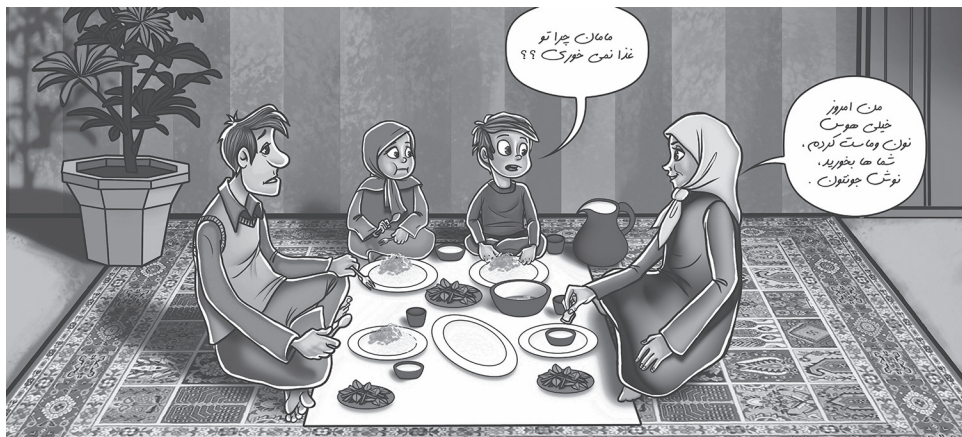


FIGURE 1. Image from 2015, *Bassiji Lifestyle Magazine*, entitled “Patience and Forbearance,” showing a mother eating bread and yogurt while the others have a stew.

enunciation of the depiction—is a violence, itself. The title of the cartoon reads, “Forbearance and Patience,” but as the cartoon depicts, a mother’s forbearance goes without saying.

In the four decades of Islamic governance in Iran, a cottage industry has emerged that fills the regulatory void produced by the forbearance provisions in the penal code. This industry is shaped by secular and religious persons, government officials, quasi-state entities, like the *Bassij*, as well as anti-death penalty activists working in numerous social, legal, and political arenas to attempt to moderate the effect of death sentences in homicide cases in Iran. Besides social workers, this field includes lawyers, judges, and families of victims, and also celebrities, athletes, politicians, and well-respected members of the community, including the members of the *‘ulama* (community of religious scholars), *darvish* (Sufi mystics), and *riche sefeed* (elder sages, *lit.* white beards). The latter convene ritualized ceremonies of *solh va sauzesh* (reconciliation and settlement) or even rework kinship-based practices, such as the *khoun bas* (blood stop) or *khoun solh* (blood peace).

Calls for compassion and forbearance pervade daily public life. State-run television and radio routinely recount true stories of forgiveness. Newspapers and magazines provide gripping tales of loss followed by forbearance. Some highlight stories of forgiveness among the Prophet and his family, while others relate true stories of forbearance in local cases of homicide. Television shows query scholars of Muslim thought about the sources of forgiveness; others talk to other experts, such as scientists and legal scholars, on their respective dimensions of forgiveness. For instance, one day, while flipping through television

channels, I caught a segment on the program, *Emrooz Hanooz Tamoom Nashodeh* (*Today Is Not Yet Over*), in which a psychologist was invited to address the positive health effects on those who forgive.¹² She explained, “Forgiveness is hard, but refusing it is much harder. If we don’t forgive, it is harder on ourselves. Not only do we deny ourselves peace and serenity, but we become hardened and irritable. Just as we ask for God’s forgiveness, we should be forgiving too.”

Stories often hail forbearance as a triumph of Islamic values, while some emphasize that forbearance, like *qisas*, is a right.¹³ The various media outlets reveal a pedagogical aim to influence everyday social interactions by displaying the language and embodiment of compassion, mercy, and forbearance, in a sense, to show viewers how it works. Academic conferences feature forbearance as a site of social scientific inquiry, as do legal textbooks. In the creative arts, local theater and cinema destined for international audiences ponder questions around forbearance. All of this results in an attempt at a moral (re)making of society, what my interlocutors referred to as *farhang-sazi* (culture-building). In this context, the high-minded civilizational narrative serves as a kind of social engineering aimed at cultivating and strengthening the social conditions for greater forbearance both in public and private relations.¹⁴

The rise of a forgiveness cottage industry allows for the cultivation of new ethical relations that work to induce new practices of *gozasht* (forbearance), *solh* (reconciliation), and even *bakhshesh* (forgiveness). These terms possess qualitatively (and legally) different meanings, but my interlocutors used them interchangeably. The negotiations conducted inside this cottage industry emerge through the very logics of criminal sanctioning and create the conditions of possibility for forbearance and, to an extent, forgiveness. They are enmeshed and intermingled with everyday life in particular ways. Accordingly, they draw upon specific dimensions of Islam, especially as they are attuned to the ritualized and embodied aspects of Iranian Twelver *Shi’ism*, which include *mazlumiyyat* (grace in suffering), *rahmat* (compassion), *aql* (reason), and *hekmat* (inspiration derived from God’s divine wisdom), all of which are expressions of ‘true’ faith (Momen 1985). Reconciliation practices are embedded in the distinct histories and the semantic webs of signification peculiar to Iranian *Shi’ism*, one which sees the ideal version of itself as both seeker of justice and righteous victim (Fischer 1980). While the stories circulate across time and space, people in different social and economic milieu, faith groups, and regions may attribute different meanings and value to them. Even as parties’ embodied practices accord with exalted *Shi’i* attributes, they also reflect pre-Islamic Persian traits of *javanmardi* (chivalry) (Corbin 1973) and *ashti* (resolution or peacemaking).¹⁵

In these stories of forbearance and forgiveness, we see that, in this victim-centered approach to sanctioning, offenders’ actions and emotions, beyond just motives, bear on whether injured parties will even consider forbearance.

Victims' actions, too, are scrutinized by negotiators and the public for their appropriate expressions of grief and ethical handling of sanctioning. In this semi-autonomous social field, which law shapes but from which it retreats, and in which social practices meet, spar, and mix, lies the space where forbearance decisions are mulled over and emotions are performed and spent. These decision processes can go on, quite literally, for years, while defendants are in prison. Throughout this period, victims' and defendants' families are in protracted agony. For injured parties, there is the double agony of loss and decision-making. As time stretches on, the emotional path to healing may begin, first with heated anguish reflected in indecision, then anger, despair, and helplessness, all of which appeal to revenge or at least retribution. For some, however, the distress may dissipate to allow for tranquility accompanied by resignation, perhaps forbearance, and possibly, forgiveness.

The most intense period of social attention to forbearance comes during the month of Ramadan, a holy month for Muslims to set aside physical needs for deep spiritual introspection. This month, best known for fasting, is also the month when Muslims revisit their spirit of generosity and compassion. During Ramadan, forbearance appears as a ubiquitous trope, especially visible under Tehran's urban skies. Throughout the month, decorative street signs in eye-catching calligraphic script, quote the Qur'an, the sayings of the Prophet Muhammad or of *Shi'ism's* venerated Imam 'Ali, the Prophet's successor. Such messages can be found on highway billboards, placards on busses, and in metro stations. On the popular television program, *Mahe Asal* (*lit.* honey-moon), broadcast live every night during Ramadan, the charismatic host, Ehsan Alikhani, dedicates at least one episode each season to featuring families who have exercised forbearance.¹⁶

As a cultural trope, forbearance circulates its own social meanings as well. Forbearance is one of the important and distinguishing qualities of the *javanmard* (chivalrous man), exemplified in the person of Imam 'Ali, who is the embodiment of justice comprised of compassion, mercy, humility, selflessness, as well as courage, intellect, and strength. Stories of 'Ali's justice and justness circulate in private conversations, as well as in the mass-media culture. 'Ali's paradigmatic chivalry is folded into Persianate values, as depicted by the mythologies of the great kings of pre-Islamic Persia in Ferdowsi's epic poem, *Shahnameh*. The Iranian national epic in turn highlights the figure of the *pahlavan* (hero), noble fighter and justice warrior. This image is most poignantly represented through the figure of the wrestler.¹⁷ In *zurkhaneh* (gymnasium, *lit.* house of strength), wrestlers foster long-held ethical values, which include both spiritual and physical fortitude (Rochard 2002). Trainees cultivate purity of the heart, honesty, and good temper, alongside physical prowess. Today the broad spirit of the *pahlavan* is signified by athletes, whether it be members of

the national wrestling, volleyball, or soccer teams, whose celebrated players are often called upon to engage in forgiveness work. Athleticism and justice are intermingled with the idea of forbearance—a sensibility of magnanimity. There is perhaps some basis in this collusion between athletic prowess, justice, and magnanimity to denote a deeply masculinist persona for the notion of chivalry, perhaps as a counterpoise to the feminine quality that forbearance exudes by itself, best depicted by the image I saw on a public bus during Ramadan in the summer of 2015.

Historically, the female figures from the immediate family of the Prophet, especially the Prophet's daughter (and wife of 'Ali), Fatemeh, as well as Maryam (Mary), the only female to be mentioned by name in the Qur'an, are held in special reverence in *Shi'i* Islam. The lives these women led are considered to be exemplary. Among her qualities, Fatemeh is held out for piety, and also for suffering death, poverty, and injustice with grace. Maryam, also known for her piety, is esteemed as mother to Jesus and for the qualities of purity, sincerity, loyalty, honesty, nurturing, and compassion.¹⁸ In both female figures, the trope of self-sacrifice figures strongly.

The depiction of mothers as forbearing subjects is not unique to the context of retributive sanctioning. In my earlier work, I had many discussions with women about the importance of cultivating forbearance as an attribute of piety (Osanloo 2009). In that project on women's rights discourses, the significance of forbearance played out in the context of marital disputes and women's initiatives to seek divorce. In such cases, my interlocutors, from judges to the women themselves, frequently articulated the need for women's patience and forbearance. While some were deeply critical, the expression of women's forbearance, often in the context of hardship and suffering, was considered an important adjunct to her moral character. Thus, it seems, based on my previous project, women's evident forbearance in suffering projected onto them a moral attribute and thus more credible legal standing before judges when seeking separation.

In cases of homicide, however, a woman's forbearance takes on an even greater significance. Her moral weight—as mother, nurturer, and the relational glue that holds the family together—gains increased importance in the eyes of the law, the state, and often, the family. By law, each immediate relative of a murder victim possesses an individual right of retribution. As a result, forbearance may come only after every member of the family who is accorded the right of retributive sanctioning consents to forgo it. Although the right of retribution belongs to each family member equally and individually, in most of the cases I encountered, one family member, usually the mother, became the proxy decision-maker for everyone. In the context of criminal sanctioning, the moral quality associated with forbearance that mothers of victims possess

earns them the stature to handle the weighty decision of how to punish their relative's murderer.

The intensified attention to women's roles as nurturers and comforters has also lent itself to a perception of the gender of forbearance as feminine.¹⁹ But being compassionate and forbearing is not without costs. Some of my interlocutors complained that it was a way that women were made to be less equal, that the societal expectation of forbearance pressured women to make choices against their self-interest.

The figure of the mother is crucial in such decisions because of her *mazlum-iyyat* (grace in suffering), as the earlier cartoon depicts. She is the one who has borne children. Even in the case of the mother's absence, I saw sisters, particularly those who had married and had children, step in to make the key decision. Similarly, in my family's case, my grandmother was tasked with making the decision, even though spouses do not possess the same legal standing as immediate blood relatives. Even in that case, however, my grandmother was not only a figure embodying the loss of her husband, but also one who expressed the collective grief of her children. As the family's designated decision-maker, she was representing and assuring the sense of loss her children felt. In this way, forbearance emphasizes the position of the mother in particular, not women in general, in their different social roles.

Of course, possessing the moral attribute of forbearance does not guarantee an outcome of forbearance. That is, just because a mother is forbearing, it does not mean that she will forgo retributive sanctioning. It means, instead, that she is the one who exudes the grace in suffering that is expected of her station. Other family members look to her to handle the difficult decision; it is up to her to determine what action would right the wrong committed against the beloved.

The Slap Heard Around the World: Forbearance as Ordinary and Exceptional

In April 2014, Iranian media outlets reported a last-minute act of forbearance in Mazandaran, a province in northern Iran. Western news services picked up the story and highlighted the extraordinary nature of the process (Dehghan 2014). In the rare spectacle of a public execution, the mother of the victim approached the perpetrator, who stood on a chair with his hands tied behind his back, his head shrouded in a black hood, and his neck bound by a noose. This mother stepped on the chair, removed the perpetrator's hood, and then delivered an open-handed slap to the side of his face before removing the noose from his neck, signaling her consent to forgo retribution. Photographers captured the potent blow and published video and still images from the event.

Newspapers followed up with interviews and back-story: The mother had lost another son some years earlier; she was still angry, but, in the end, felt that executing her son's killer would not alleviate her pain.²⁰

Over the months that followed, a spate of Iranian newspapers published commentaries about this extraordinary act and others that followed in its wake. Several referred to these acts of forbearance as the beginning of a new movement. One author, a lawyer, wrote of an apparent spike in forbearance, calling it a "wave of forgiveness."²¹ Another, a professor and then-President of the Iranian Sociological Association, explained the groundswell as part of the social capital arising from a new administration's investment in hope and reform.²² A third piece, by a criminal lawyer and law professor, addressed the marketization of forgiveness, and argued that the rise in forgiveness showed that the business of life is more valuable than that of death.²³

These articles were published after the finalization of the post-revolutionary criminal codes that emphasized reconciliation in criminal procedures. As the writers noted, each in their own way, the extraordinary act of forbearance is ordinary inasmuch as it is a right of every individual victim. Each author also argued that forbearance was becoming a norm, taking precedence over the revenge instinct that the decision, left in the hands of victims, might otherwise foster. The accounting of forbearance in the news goes beyond mere description, however. Forbearance stories become part of a broader socio-cultural landscape in which experts and interested parties express a prescriptive purpose and produce the reality they name. To be sure, some media outlets seek to change the nature of the debate and the on-the-ground culture.

While the individual act of forbearance is extraordinary, practice designates its everyday quality and imbues it with a quotidian sensibility deriving from ordinary ethics. Part of the ordinariness of forbearance is the commonplace occurrence of such extraordinary acts. Champions of forbearance seek to induce or cultivate a change on the ground in the everydayness of forbearance. They note that forbearance exists in everyday life in the most mundane ways. They emphasize how natural or ingrained forbearance is, expressing it as an authentic part of Iranian or Persian culture, emphasizing its Muslim and non-Muslim origins. All this is part of a sensibility of benevolence associated with civilizational values rooted in a take-your-pick array of sources: secular, faith-based, mystical, ancient, classical, modern, western, eastern, ethnic, tribal, and humanistic, including poetry, literature, and folklore. These values, along with their associated morality tales, then become the vehicles for persuasion, depending, of course, on the victim's family's own religious, political, and social sensibilities.

These advocates of forbearance attempt to advance a prescriptive agenda (culture-building) by noting the routine existence of forbearance in everyday life and seeking to normalize its place as a social practice and legal principle,

suggesting that this is how people should behave in the extraordinary circumstance of a murder. They contend that while the act of forbearance in such a circumstance *is* extraordinary, forbearance itself is commonplace in Iranian cultural practices and daily life, and so, extending its application to homicide, albeit an extraordinary circumstance, is conceivable.

The process of seeking forbearance is further complicated by the tense nature of the relationships between the perpetrator and their families, victims' next-of-kin, and judicial officials. Activists sometimes falter and offend the victim's family, a big risk in such a high-stakes endeavor. In some cases, state officials intervene in order to prevent the public shaming of the victim or their family, thus stoking the revenge impulse. In other cases, offenders' families tread carefully to evade "*majazee-kardan*" (virtualizing) or publicizing cases on social media, so as to avoid offending the victim's family, who holds the power to kill or let live. These complexities have led to professionalization on both sides. Judicial officials have moved to intervene in and regulate reconciliation efforts, while social workers and other activists increasingly formalize their craft into best practices.²⁴

As we will see, state officials take issue with advocacy efforts when they see them shift from forgiveness work to a condemnation of the system of criminal justice. This is not to say that there is no debate on the death penalty within Iran. On the contrary, scholars of Islam, both within the seminaries of Qom and the universities, engage in just such debates with dozens of journals publishing critical inquiries into such issues. It is when a particular publication or speech takes on the tone of denouncing the scripture-based mode of accountability, one through which the state consolidates and justifies its own authority, that leads to censure and sometimes arrest and imprisonment.

Modes of Accountability

Political debates and high-stakes risks notwithstanding, the aim of the cultural work was, as several of my interlocutors told me, to change the conditions on the ground. That is, to shift how people think about accountability for homicide. One general aim of the law—giving victims the right to retribution—is to preserve the broader peace. As one young lawyer explained it to me, "Look, for centuries, this is how people resolved their disputes. Do you think that if the government now came and took away this right, it would work? No. It would force people to take action on their own." Another interlocutor, a social worker fervently committed to ending the death penalty, noted, "I am totally against execution. I think it should not be allowed, but we have to work incrementally to change the culture on the ground." Still another anti-death penalty actor told me, "We work to change the underlying culture. People in some

parts of Iran, especially in rural villages, still hang on to the old tribal practices of washing blood with blood. We try to change that way of thinking. We say [to the victim's family], 'Washing blood with blood does not solve anything. You will not feel better, nothing is resolved. But, if you receive compensation, that could help your family live better.' In some regions, however, victims' families view this as an insult. They complain, 'People will say we washed our son's blood with money.' Victims often feel indignant about the idea of accepting money for their loss. They lament that by putting up funds, perpetrators avoid deserved punishment. Indeed, individuals want to "settle accounts" (Borneman 1997), "get even" (Miller 2006), and have the law hold offenders accountable for wrongs they have committed. Avenging victims' rights is not only just, according to one legal scholar, but is an area in which Iran "comes closest to getting it right" (Rosenbaum 2013:174).

Martha Minow (1998) has explored notions of accountability on a spectrum from forgiveness to revenge. She considers forgiveness at one end of that continuum where revenge, the excess of punishment, is at the other. Forgiveness in most scholarly studies involves an exploration of healing in post-conflict societies in which people on different sides did terrible things to each other. The violence, while perhaps not balanced by the various parties to the conflict, must be addressed so that society can move forward. Forgiveness efforts appear to be more prominent when the different partisans remain in the country after the conflict. In such contexts, forgiveness is often the term used for private or interpersonal disputes, even in post-conflict societies.²⁵ The much wider society-driven mechanism for accountability is a truth commission, which allows parties to reconcile and the society at-large to move past the conflict. In such contexts, truth commissions serve at least three purposes: establish a record of what happened so that it cannot be contested by future generations; offer survivors a chance to learn what happened to their loved ones; and permit offenders to seek psychic healing by revealing the truth, showing remorse, and possibly apologizing.²⁶ Public commissions for post-conflict atrocity often serve the purpose of societal reconciliation.

Whether personal forgiveness comes before or after reconciliation is a much-discussed topic in post-conflict studies. For some, the mechanics of reconciliation processes may lead to personal forgiveness (Tutu 2000); for others, personal forgiveness may lead to broader societal reconciliation. The answer lies in how we define forgiveness.²⁷ For many, forgiveness is interpersonal, outside of the state, and often faith-based (Griswold 2007).²⁸ Forgiveness that results from outside pressures may bear resentments along the way (Murphy 1988). Forgiveness could be an act of strength or weakness. For some, forgiveness is an unreciprocated gift that provides the grantor with an emotional release that ultimately allows her to reclaim her life.

However, when forgiveness is understood as mercy or clemency coming from the sovereign, it is a “moderation that diminishes a due and deserved punishment to some degree” (Seneca 2010:172). This curbing of a due punishment is appropriate for reasons of equity and fairness (Nussbaum 1993; Meyer 2010). Seen in this way, Derrida (2001b) finds that mercy “seasons justice”; that is, mercy (1) eases justice, (2) elevates it, and (3) gives coherence to the “economy of good grounds” (it replaces justice with goodness, and in doing so, preserves it).²⁹

Clemency can be distinguished from mercy in that the former is a reduction of punishment authorized by law, providing relief from legal justice (Sarat 2005:19). Mercy is part of a larger notion of charity and is motivated by a moral sentiment, such as compassion (2005:20). Both have the outcome of forgoing a deserved punishment, but mercy involves some orientation by the grantor towards the grantee. Once considered an important constituent of justice, mercy has fallen in decline in contemporary practice (Tuckness and Parrish 2014).

While the literature on accountability is vast, western scholarship takes as a settled matter that it is the sovereign who accords mercy. Studies of so-called “modern law” take for granted that the sovereign has power over the life of its subjects, that it is not delegated to a private individual. Sociolegal scholars have defined *precisely* this arrogation of the private right of retribution by the state from the individual as a hallmark, indeed, the decisive moment of the break from pre-modern, status-based societies to those of so-called “modern” and contract-based ones (Redfield 1964; Foucault 1996). The fact remains, however, that numerous modes of accountability continue to exist.³⁰

Borneman (2011) attempts to systematize theoretically four different kinds of responses or redress for injuries. These distinct modes of accountability exist, with each serving a particular logic and aim: retribution; restitution or compensation; performative redress, including public apologies and requests or demands for forgiveness; and rites of commemoration.³¹ The first three modes are singular or unique “events” and are directed towards closure, while the last is intended to be repeated and serves to memorialize.

Modes of accountability also service different ideas about what accountability achieves. Some address calculability and explanation, while others assess responsibility and “being answerable or liable” (Borneman 2011:3). However, both ideas of accountability concern themselves with the redress of social relationships and of reckoning with loss. For Borneman, the state is involved in the different modes to varying degrees. He considers that in the adjudication for punishment or compensation, the state is integral, whereas in the context of performative redress or rituals of commemoration, it may be less so.

Borneman’s analytical framework is a useful starting point for organizing how to think about responses to harm or injury. In the Iranian context, the

law's retributive logic articulates with appeals for forgiveness alongside a distinct rationale for compensation that is deployed to bring about forbearance, often through some kind of performative redress. That is to say, the different modes of accountability blend into each other analytically, and the state is never fully disassociated from them. Yet, as in other contexts, in the Iranian one, victims' families must constantly contend with the tension between calculating personal harm and seeing that someone is held responsible. The modes of accountability respond to this tension; in different societies these tensions play out differently, both through the accountability mechanisms that the state provides and through the customary practices that societies have created. Here is where the relationship between private and public law emerges and, again, where that of tort and criminal responsibility lie. The areas of law are not distinct categories, but rather related, as are notions of individual liability and collective responsibility. Thus, how the four modes of accountability operate and interrelate, and the extent to which states employ them to prevent extra-judicial violence, is distinct in societies around the world. Even while observing an association between modes of accountability, their outcomes, and the relation between individual and collective responsibility, Borneman contends that "modes of accountability are used more frequently in sequence and not simultaneously" (2011:5). Yet the Iranian example suggests a blended sociolegal system of criminal justice and tort liability in which the four modes of accountability work in tandem.

Accountability and payback, however, have numerous meanings. Philosopher Jean Hampton distinguishes retributive justice from what she refers to as "corrective justice." In the former, the perpetrator receives punishment for wrongful *acts*; in the latter, the perpetrator pays compensation for *harms* (1992a). Hampton considers the compensatory component not to be concerned with the wrongful act itself. This is a distinction that provides expression for the concerns of some victims' families in Iran, particularly when the prison sentence will not exceed ten years. But from where does Iran's system of accountability emerge?

Scriptural Sources: Mercy in Islam³²

As my interlocutors told me repeatedly, "Forgiveness is in our religion and our laws." Of course, these interlocutors were referring to their religion as Islam and their laws as those codified in the Islamic republic. An estimated 99 percent of Iranians are said to be Muslim (irrespective of levels of piety), and between 90 and 95 percent are *Shi'i*.³³ These numbers do not account for those who are not practicing or consider themselves to be secular or atheist, and who, nevertheless, are subject to the laws codified by state interpreters of *Shi'i*



FIGURE 2. Government-issued banner posted over a bridge in Tehran during Ramadan 2019, with the phrase, “I Forgive,” then referencing the Qur’an, Chapter 42 (*Shora* [Consultation]:37): “Thee Chivalrous Man, in the Face of Anger, Forgives.”

jurisprudence. What I have pointed to in the above sections—sources and motivations for forbearance—however, extend well beyond the tenets of *Shi'i* Islam, even if the laws are ostensibly codified through the state’s version of it. Given these numbers and the state’s formation, it bears examining the Qur’anic sources of this victim-centered law and forbearance.

For pious Muslims, two of God’s primary qualities come from the word for mercy—*Ar-Rahman* and *Ar-Rahim*, meaning “The Most Gracious” and “The Most Merciful.” These two attributes are recorded in the phrase recited at the beginning of 113 out of 114 chapters of the Qur’an: “In the name of God, the Most Gracious, the Most Merciful.” Through their daily prayers, practicing Muslims repeat the phrase, known as the *bismillah*, over seventeen times each day. The *bismillah* serves as a persistent reminder of God’s never-ending mercy and the rewards awaiting followers of the “right path.” The *bismillah* makes up the first verse of the Qur’an, starting the first chapter, *Sura al-Fatiheh*, The Opening Chapter, believed to be the first couplet revealed by God through the angel Gabriel to the Prophet Mohammad around 610 CE.³⁴ Muslims take this phrase to be an opening and invocation to live according to the grace offered by God and to pursue peace and harmony in all relations—with others and with God.³⁵ Aside from daily prayers, the phrase, *bismillah ar-rahman ar-rahim*, is repeated throughout the day, before every meal, the daily trek to the office, meetings, ceremonies, court, the start of a film, and various other activities. It acts as a reminder to Muslims of the obligation to be just and compassionate in their dealings with one another. The first term, *Bismillah* means “In the Name of God,” signifying that the speaker begins all actions with God and invokes Him before all acts (al-Tabari 1987:54).³⁶

While definitions of the terms *ar-rahman* and *ar-rahim* derive from a common source as “one who has mercy,” the terms do not have the same meanings.

The distinction is best explained by the 10th-century scholar Abu Ja'far Muhammad b. Jarir al-Tabari (838–923) in his authoritative commentary, which notes that *ar-rahman* is broader, larger in scope, both temporally and physically (1987:55–6). *Ar-Rahman* encompasses all creatures in this world and the next. *Ar-Rahim* denotes mercy to believers in the next world. Al-Tabari further offers the distinction between the terms in suggesting that the broader term, *ar-rahman*, offers the idea of the “One Who Feels Compassion,” while the latter, *ar-rahim*, refers to the “One Who Treats Gently.” Taken together, this indicates that God is compassionate towards all, but singles out believers with kindness in the next world.

Mercy is sanctified in multiple forms and deeply rooted as a core principle in the sacred texts. At least thirty-five Qur'anic verses counsel forgiveness over vengeance or retribution (Nateri 2006:404n22). Shah-Kazemi highlights over one hundred verses that demonstrate the preference for mercy, and particularly emphasizes verses, “*My mercy encompasses all things*,” Chapter 7 (*A'raf* [The Heights]):156, and “*God has prescribed mercy to Himself*,” Chapter 6 (*An'am* [The Cattle]):12.³⁷ These two verses highlight the breadth of mercy. The former suggests that mercy is defined expansively and is to be incorporated in other modes of being, ways of thinking. The latter conveys that mercy is an obligation. As God has prescribed it for Himself, it is also how Believers should behave towards themselves and others. For Shah-Kazemi, mercy is built-in to justice; it also encompasses forgiveness (Abou El Fadl 2004).

Shah-Kazemi also draws from a “*hadith qudsi*,” which is a divine utterance of the Prophet, “*My mercy takes precedence over my wrath*,” to show that while the Qur'an recognizes that anger is present when one has been wronged, a person, especially a leader, must master that fury in order to achieve the higher purpose of justice: “The wrathful side of the nature of things is not denied here, but it is clearly subordinate to the higher ontological purpose of mercy” (2006:83).³⁸ Shah-Kazemi continues:

One is therefore more ‘real’ insofar as mercy predominates over wrath, spiritually, within one’s own soul and morally, in one’s conduct; and it is in the very nature of justice, conceived in this sacred manner, to tend towards compassion wherever possible, even though there must also be a place for rigorous application of corrective penalty where this is unavoidable (Ibid.).

Thus, to be just, a leader must incorporate compassion. Corrective penalty is reminiscent of Hampton’s inclination towards corrective punishment. Of course, retribution is a principle unambiguously afforded to injured parties; it is often, but not always, accompanied by the complement and commendation of forbearance. In that vein, Chapter 5 (*Maedah* [The Table Spread]):45 is the single most significant verse of the Qur'an upon which jurists base their

interpretations of the retribution and forbearance provisions in the criminal code:

We ordained therein for them: 'Life for life, eye for eye, nose for nose, ear for ear, tooth for tooth, and wounds equal for equal.' But if any one remits the retaliation by way of charity, it is an act of atonement for himself. And if any fail to judge by (the light of) what Allah hath revealed, they are (no better than) wrong-doers.

The first sentence recognizes the harm done and that the penalty is retaliatory punishment. If, however, the person wronged remits, this will itself be a form of reparation for the injured party. In the last lines of the verse, the injured party is admonished not to go too far astray of exact punishment, as this would render the injured party an offender as well. Thus, the point of this verse is to show that there is a limit on punishment—it must never exceed the harm done. By not exacting in-kind punishment, there are rewards as well. Chapter 2 (*Baqarah* [The Cow]):178 references another of the most oft-quoted Qur'anic verses associated with retribution and forbearance:

O ye who believe! The law of equality is prescribed to you in cases of murder: the free for the free, the slave for the slave, the woman for the woman. But if any remission is made by the brother of the slain, then grant any reasonable demand, and compensate him with handsome gratitude, this is a concession and a Mercy from your Lord. After this whoever exceeds the limits shall be in grave penalty.

In this verse as well, the right of in-kind punishment is confirmed, but again with the encouragement of forbearance. It is also here, in this verse, that the wrong-doer is encouraged to seek reconciliation with reparation and appreciation. In the final line, again the Qur'an warns against punishment or compensation that exceeds limits. Scholars who have studied this verse, taking it together with the whole of the Qur'an, have suggested a deeper meaning. Indeed, the verse references a period in which tribal warfare induced a never-ending cycle of violence. In such contexts, where one act of injustice was met with another, often greater act, the response was never in-kind, but exceeded it. Religious scholar Abdulaziz Sachedina suggests that, when taken in its context, this verse compels a remission of violence and counsels proportionality with an aim towards stopping the cycle of violence. In his interpretation of 2:178, Sachedina states:

Reconciliation flows from forgiveness and willingness on the part of the victim to forgo retribution as an end in itself. From the Koranic admonition

to forgive and accept compensation, it seems retributive punishment is worth pursuing only to the extent that it leads to reconciling (*shifa' al-sudur* = 'healing of the hearts') the victim and wrongdoer, and rehabilitating the latter after his or her acknowledgement of responsibility (2001:111–112).

Taken together, these, as well as numerous other verses, compel Muslims to forgo the right of exact punishment. Throughout the Qur'an, believers are compelled to forgive others for transgressions—even the ultimate one, the killing of a loved one.

The issue of forbearance in such contexts cannot be separated from the relationship between compassion, mercy, and the highest value in Islam—justice.³⁹ Shah-Kazemi links the values of compassion and mercy with justice: “[T]he capacity to act with compassion in no way conflicts with the demands of justice; rather it is an intrinsic aspect of justice, conceived ontologically” (2006:83). He conceives of the ontological relationship between compassion, mercy, and justice in his reading of the compiled works of ‘Ali ibn Abi Talib, whose words and letters were collected in the 10th century CE by Sayyid Sharif al-Radi in one volume entitled, *Nahj al-Balaghah* (Peaks of Eloquence).⁴⁰ Among the hundreds of letters and writings that make up the *Nahj al-Balaghah*, one letter stands out for its contemplation on justice—the letter ‘Ali ibn Talib wrote to Malik al-Ashtar appointing him governor of Egypt. This epistle, number 52, is regarded by Muslim scholars as a source of inspiration for ideal Islamic governance and ethical principles, not only ideal for a ruler, but for all Muslims. The letter expounds on the nature of justice and governance in Islam. In it, ‘Ali appeals to al-Ashtar as a compassionate leader by prescribing forgiveness, “they may act wrongly, wilfully or by neglect. So, extend to them your forgiveness and pardon, in the same way as you would like God to extend His forgiveness and pardon to you” (Ibn Abi Talib 2005:566).⁴¹ ‘Ali’s writings thus validate the notion that compassion is inherent to justice.

Building on Imam ‘Ali as a source of understanding, justice, and mercy, Leonard Lewisohn focuses on forbearance.⁴² Lewisohn finds that forbearance has deep roots in the Persian *Sufi* tradition related to the Persian spiritual *futuwwat* (chivalric tradition) for whom ‘Ali is the founding father.⁴³ In the *futuwwat*, ‘Ali is “celebrated as being the incarnation of God’s attributes of mercy, tolerance, forgiveness, and generosity” and “the epitome of courage, generosity and selflessness” (2006:117–118).

The *futuwwat* were not a mere sect, however; the *futuwwat* were an indivisible feature of the sociocultural history of the *Sufis* throughout the Middle East. Numerous stories from the Persian chivalric tradition feature ‘Ali as “an expert in conflict resolution” (Lewisohn 2006:120). A difference of opinion

existed between chevaliers of the *Sufi* order and Muslim jurists, especially on the application of the laws of retribution, in which the chevaliers held a more “relaxed attitude towards” its application (Ibid.). ‘Ali’s moral qualities are highlighted as virtues worthy of emulation because his conduct reflects “a finer justice based on love” (2006:126). Lewisohn recounts several stories of how ‘Ali forgave offenders and granted mercy over punishment. These anecdotes of a higher justice, Lewisohn suggests, are stressed by Persian *Sufi* scholars. Citing a set of anecdotes by one such scholar, Suhrawardi, Lewisohn examines ‘Ali’s ethics of justice, focusing on verse 2:178 and notes that, for ‘Ali, the verse advises a “‘healing of the heart’ rather than a lust for punishment” (2006:127). In Iran, thus, we can trace the lineage of the legal formulation of *gozasht*, which takes its modern form through a legal mechanism in the penal code not only to the sacred text of the Qur’an, but also to Imam ‘Ali and the Persian *Sufi* tradition.

In Terms of Mercy: Forbearance, Forgiveness, and Pardon

Iran provides a specific and unique setting in which to consider the Islamic mandate of mercy and a criminal justice system that emphasizes victims’ rights. Because Iran is one of the few Muslim-majority countries to have integrated *shari’a* (Islamic principles) into the state form, an Islamic republic, tangible qualities of this religious compulsion exist in civil and legal institutions.

As I have noted, throughout the book, I will explore forgiveness work, but as I do, I am careful not to suggest that forgiveness and mercy are interchangeable. To the contrary, I trace the law back to the Islamic mandate of mercy to understand how in Iran’s Islamic republic, specific Qur’anic verses are codified as positive law in the penal code as a state enforced mode of accountability. At the same time, these terms are distinct, even within the Iranian legal system. And, while this work starts with what I see as codified scriptural principles, it is limited neither to legal interpretations nor to religious sources.

I take mercy or *rahmat* to be the guiding scriptural and jurisprudential principle and foundation; forgiveness or *bakhshesh* derives from the scriptural compulsion to be merciful and compassionate. While numerous Qur’anic verses entreat forgiveness, in the Muslim context, mercy, as I noted earlier, includes much more than forgiveness; indeed, mercy encompasses forgiveness (Abou El Fadl 2004; Shah-Kazemi 2007). Thus, to be merciful, one must be forgiving, but a person must be more than just forgiving in order to be merciful. In the context of my study, mercy takes shape partly through acts of forgiveness.

Lastly, we come to forbearance or *gozasht*, which in the case at hand refers to forgoing a recognized right—that of *qisas*. As we will see, the term *gozasht*

is codified as exception. However, in Persian, the term is employed colloquially as well, referring to a similar idea—that of taking exception or letting go, say, of a grudge. A person can show forbearance (used as a verb), but one can also be forbearing (as an adjective), and thus self-excepting or self-sacrificing or *khod-gozasht*, literally taking exception to oneself. As discussed previously, these terms carry gendered associations; they are frequently asked of and applied to women, and, in many cases, carry feminine connotations.

Although *bakhshesh* and *gozasht* possess distinct meanings, in daily use and in legal application, my interlocutors often used the terms interchangeably. In legal settings, the term my interlocutors employed is *gozasht*, signifying forgoing a right that they possessed, that of retribution. *Bakhshesh*, however, is the term my interlocutors used more colloquially, in interviews, for instance. The one qualification to this point is that one forgives *a person*, while one forgoes *a right*. Thus, the terms are used to express the ideas in the following way: *forgive him/her* and *forgo it*. In practical terms, forbearance involves giving up a claim, while forgiveness requires giving up a resentment.

My interlocutors distinguished *gozasht* as a legal term with instrumental, not emotional, meaning. However, in interviews, I posed clarifying questions to ascertain if and how my interlocutors distinguished the terms outside of the legal context and what it meant to them to forgive someone (versus forgo retribution). It was not always the case that someone who agreed to forgo retribution also personally or emotionally forgave a perpetrator.

Finally, the Qur'anic, and thus Arabic, term that is often expressed in the context of forbearance or pardon is *afv*. *Afv* is the term employed in the Qur'anic verses I discussed above—5:45 and 2:178. Iranians also employ this term in common parlance, albeit less frequently. However, in Iran, *afv* is used more regularly by state actors to signify a pardon by the sovereign. For example, Iran's Supreme Leader, Ayatollah Ali Khamenei'i, annually announces a certain number of prisoners to whom he has granted *afv*. Thus, I distinguish the term *afv* from *gozasht* as they are so differentiated in the law, with the former referring to state pardons, while the latter refers to individual forbearance of a private right.

In addition to the terms above, in the context of my study, I have encountered the term *solh*, which refers to peace, resolution, settlement, reconciliation, or conciliation. The aim of *solh* is to avert violence and revenge. Iranians often use the term with another, *sauzesh*, also connoting settlement or compromise. Together, the terms form an idiomatic expression, *solh va sauzesh*, which I translate as “reconciliation and settlement.” The former term, *solh*, which is also found in the Qur'an, is likewise employed in Iran's penal code.

As *solh* has Arabic roots, Iranians more colloquially use the term *ashti* to refer to the same idea. *Ashti* is often expressed as one half of an idiomatic expression, *qahr va ashti*, signifying conflict and resolution, a phrase that has its own vernacular lineage.

Trends: Is the Extraordinary Act a(n) (Ordinary) Thing?

Religious compulsion, legal obligation, cultural cajoling, and media coaxing aside, the question of the frequency of forbearance remains. While this is not a work of quantifying forbearance numbers, the question of its regularity is worth considering. In other words, is the forbearance afforded in Iran's criminal justice system a common practice? Does it actually happen and, if so, what is the rate of occurrence? And, as some journalists have observed, is there a trend towards forbearance?

Judicial authorities do not readily disclose statistics on forbearance. Some of this has to do with the potentially political uses of statistics related to capital punishment in Iran. Human rights organizations have roundly criticized Iran's record on executions, the majority of which are for offenses other than murder.⁴⁴

In my search for statistics to answer these questions, however, I encountered another, more mundane problem: how do we account for the number of forbearances in any given year and what do they tell us? That is, can one really calculate the ordinariness of such an extraordinary act? Families of victims have few time constraints on their ruminations and frequently take upwards of ten years to decide whether or not to seek retributive action. Thus, a forbearance decision in one instance may date back to a homicide committed many years prior. Similarly, executions for homicide are carried out once all appellate and procedural petitions are completed and the head of the judiciary's Implementations Unit has reached the decision that the victim's family could not be persuaded to forgo retribution. Thus, what I sought to determine, as a marker of frequency of forbearance, was some indication of the incidents of forbearance versus executions for homicide in a given year.

When I broached this subject with members of the judiciary, many agreed that it would be good to know, but stated that their offices kept no such statistics; others said the Office of the Prosecutor holds them. This was the one office I was not able to access, with the exception of one division, the Implementations Unit for Tehran. I met with the supervisor of this office in 2016, and, among other issues, asked about the statistics, making it clear that I was interested in understanding whether this was a trend. He asserted that it was, then called down to each of the five branch offices and asked for their

TABLE 1. Annual *Qisas* Adjudications in Iran: Execution and Forbearance Ratios

Year	<i>Qisas</i> Sentences Adjudicated	Executions	Forbearances	Rate of Forbearance
2018	460	188	272	59%
2017	461	240	221	48%
2016	393	142	251	64%
2015	469	207	262	54%

Source: Compiled from Iran Human Rights Annual Reports, 2015–2018.

annual figures. Shortly thereafter, a representative from each of the branch offices arrived, presented a file, and handed it to the supervisor. As the reports filed in one-by-one, he silently read the papers, made notes, and added up the numbers on a piece of paper. When the last report arrived, he held them in his hands and said, “I cannot give you these, but I can tell you that for the previous year and for the first half of this year [2015 and 2016], in Tehran province, in two-thirds of cases, families consented to forbearance, 66 percent.” That is, among the murder cases that had reached the point of implementation that year, two-thirds of families elected to forgo retaliatory punishment.

Looking to the country as a whole, in their annual report for 2016, Iran Human Rights (IHR), a Norway-based organization, estimated that of the 530 executions that took place in Iran that year, approximately 27 percent (142) were for murder.⁴⁵ In that same year, they report, 251 murderers received a reprieve of their execution by the victim’s family. So, out of a total of 393 (142 plus 251) potential executions for murder, 64 percent (251) were spared as a result of forbearance. In the previous year, the IHR report found that some 969 executions took place and approximately 21 percent (207) were for murder. That same year, they found 262 murderers received a reprieve. Thus in 2015, the rate of forbearance was about 54 percent. Table 1 shows the annual rates of forbearance in relation to total *qisas* sentences adjudicated in the year since my conversation with the supervisor until the most recently available.⁴⁶

Determining the frequency is important in gaining a sense of the regularity of such acts. However, the statistics do not tell us why some families ultimately decide to forgo retribution when the law gives them the right to seek equal punishment. The goal is not to seek some general truths about victims’ rights, retribution, or mercy and forgiveness. Instead, by highlighting the distinctive qualities and effects of a criminal justice system that privileges victims’ rights, we observe an enlightening contrast (Taylor 2007) to western legal systems, in which victims have no such rights.

Methodology: Up-close, near, and far

The tension between the legal and moral compulsion to forgive alongside an absence of rules and regulations about how to do so is productive. It is this productive tension that this book addresses. Anthropological fieldwork methods offer particularly powerful lenses through which to examine the stories and then to assemble the larger and more complex picture of how others make sense of their lives. My approach is an on-the-ground and longitudinal study of crime and forgiveness in Iran that allows for reflection on internal debates and grassroots efforts for penal reform and eradication of the death penalty. I have also aimed to get close enough to individuals who are making such decisions about life and death—people whose practices we might otherwise find inscrutable—to form an empathetical stance.

In doing so, I have explored modes of social organization and accountability for how they inspire and arrange both public and private commitments. An ethical stance about retribution or even the death penalty may grow out of a sense of an inviolate duty to act. Such a sense of duty may emerge from or be informed by other aspects of life (spiritual, political, social) and comes with an affective stance and a sense of ethical self-formation (Asad 1986). Ethical selves are fashioned through hyper-structured ritual practices and embodied and performed—at times consciously and at others not (Manoukian 2011). Politics, too, is performed through such rituals. Social activists with whom I worked followed specific social and cultural rituals. At the same time, class and demographic antagonisms get played out in these affective and ritualized practices—this forgiveness work.

To make sense of the world of forgiveness work and to better understand the factors that lead to forbearance, I draw from archival and ethnographic research, participant-observation, interviews, and life histories conducted with over fifty families of victims, as well as numerous other interested parties, who make up this cottage industry of forgiveness work. These include judges, prosecutors, defense lawyers, NGO actors, social workers, community elders, and members of the *'ulama*, involved at various stages of the criminal process. I gathered this data on annual research trips from between one and four months long over a period of ten years, during the latter half of which I maintained my relationships through Skype meetings and almost daily communications through social media applications, especially What's App and Telegram. The advent of social media applications has changed the nature of research; it is no more a “zip in and zip out” affair (Hegland 2004). Contact with interlocutors meant never falling out of touch and being able to plan on-site trips for specific events. It also meant that the period necessary for re-kindling ethnographic intimacy and restoring trust was either shorter or unnecessary.

To gain access to the members of the judiciary who allowed me to conduct fieldwork in Tehran's criminal courts, I met a friend who knew one of the judges in the criminal courts. That judge escorted me to the head of Tehran Municipality's Provincial Criminal Court. In his sweeping top floor office, the head of the court asked about the nature and aims of my research and whether I was an activist. After introducing myself, I explained that my project aimed to explore the unexamined aspect of the criminal justice system, forbearance. I stated that Iran's rate of executions is well-known, but that we did not know about forbearance. I also noted that forbearance does not exist in U.S. criminal law. The latter point surprised him as it would others. The head of the court provided me with a document that allowed me access to courtrooms. His only caution was: "Tell the truth. Tell the good, tell the bad, but just tell the truth." I responded that my project was not about evaluating the good and the bad, but that I would relate and record my findings. I had no "minder," and no one ever asked to see what I wrote.

From that point on, the summer of 2012, I had mostly unfettered access to the courts and over the years have sat in on trials in over eighty cases, most, but not all of them, intentional murder cases. Several judges came to be my most important interlocutors, sitting down and going through the new laws with me, even before they were finalized and implemented. We also had conversations about the substance and procedures of criminal law in the U.S. They directed me to trials that were relevant to my study—"go to branch so-and-so; there is a good case today." The judges spoke to me about the cases, the laws, and often facilitated interviews for me with victims' families, social workers, journalists, and others, with a simple phone call. Over the years, I came to know several of the judges well enough that they sent me stories of forbearance, changes in the laws, or other items of interest. I, too, posed questions of law and process from afar. The judges in criminal court facilitated meetings for me to which I would not otherwise have had access; this includes the elusive Implementations Unit, in the Office of the Prosecutor—the division in charge of carrying out sentences. My sustained research in the courts led only to one dispute, with a female guard at the entrance, who chastised me for a *manteau* (overcoat) that was too short, "What will the judge think?" she said, letting me pass after I promised to wear a longer one the next day.

Phones, computers, and recording devices were not allowed in the courts. As a result, I recorded all of my notes by hand and returned to my apartment to write up my notes in the afternoons. This way, I was able to ask follow-up questions about law and procedure that came up later. One judge told me he would arrange it so that I could come with my phone or other devices. I declined, not wanting to strain the privileged access I had already attained.

The other side of my research had to do with forgiveness work. Although these two sides were not mutually exclusive, I made my entrée into this field

(continued...)

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