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## Conversations on restorative justice: a talk with Ali Gohar

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Ali Gohar is the founder of Just Peace Initiatives, a non-profit working for peace and justice through conflict transformation practices. After receiving a Masters degree in International Relations from Quaid-i-Azam University, Islamabad, he was a Fulbright Scholar at Eastern Mennonite University in Harrisonburg, Virginia, USA. There, Gohar collaborated with Howard Zehr on *The little book of restorative justice* for the Pakistan-Afghan context (Zehr & Gohar, 2003). He has also written a book and a number of articles on Jirga (Gohar & Schirch, 2016; Yousufzai & Gohar, 2012). Gohar has written four plays for television on honour killing, restorative justice, domestic violence and HIV/drug awareness, which have been used by the UN and civil society organisations in Pakistan and Afghanistan and are now on YouTube. He was Additional Commissioner, Social Welfare Cell for Afghan Refugees for thirteen years. Gohar has also worked with Oxfam UK to end honour killings and address violence against women and has served as a training specialist and technical advisor to the Ministry of Social Affairs in Afghanistan.

### 1. A fresh breath of air: modern relevance of traditional forms of justice

DZUR: You have written that your family was involved in certain enmities and this personal history led you to restorative justice: it ‘affected my childhood so much that I promised to do something against the traditions of revenge, honour killing, shame factors, and cruelties by the name of honour and revenge’. Why restorative justice, rather than some other occupation through which you could do some good in the world like teaching or journalism or law?

GOHAR: Those 60-year-long enmities were resolved by our indigenous system, the elders of Jirga. They reconciled both parties in 1978, while the enmities

started in 1923. I was a college student at that time and worked closely with the Jirga members, the elders. I was much impressed by their wisdom and knowledge, even though they were not formally educated—no one had a PhD or Masters degree. But they had stories, proverbs, religious knowledge, traditional knowledge, and used these in different ways for communication and reconciliation.

When the 60-year-long enmity was over, there was a very big celebration. Twelve people had been killed on both sides. During the enmity there was always fear, always someone in prison, always someone on death row. When I looked for my mother's support, even on a really special occasion, she was always crying. She was weeping. So this Jirga gave us a fresh breath of air. I was not directly involved, but we indirectly supported it a lot. When I started educating for Jirga, though, the NGOs were very much against me: this is indigenous, there are no women there, they are brutal, they are traditional and so on.

I went to Eastern Mennonite University (EMU) in 2001. One day I was just walking past the library and I saw Howard Zehr's book *Changing lenses*. Howard is a very good photographer and I was attracted by the title and the pictures. So I took that book and started reading it a little bit. In the first chapter I saw a lot of similarities between my indigenous system of Jirga and modern restorative justice. The next day I went straight to Howard and said, 'Look Howard, I saw many similarities between restorative justice and Jirga!' Howard asked me where I was from and I said Pakistan. I started sharing this story about my family's 60-year-long enmity and the reconciliation. He took a lot of interest and said, 'Why don't you join my course?' So I took his first course on restorative justice. Later on, when we collaborated on translating and adapting *The little book of restorative justice* for publication in Pakistan and Afghanistan, he actually wrote that he learned many things from (me) Ali! Howard and I had a lot of discussion in that class because restorative justice is new and it is old.

At EMU I had an opportunity to meet with different people from around the world. They have the same indigenous system in Africa, the Middle East and all over the world. I started to work on this, but then had some bad luck: 9/11 happened. But, because of this terrible event people started inviting me to different churches, to appear on the radio, and to be interviewed in the newspapers. They were asking me why this had happened because I am from the same tribe the Taliban are from and I told them that the Afghanistan solution is only through Jirga. And people were asking me, what is Jirga? The United States Institute of Peace (USIP) took interest in this question too and in 2002 they provided funding for research on Jirga. So my colleague Hassan Yousufzai and I did field research and produced the book *Towards understanding Pukhtoon Jirga: an indigenous way of peacebuilding and more*, now distributed worldwide.

DZUR: Your family history leads you to be part of a Jirga and you come to appreciate the ability of the elders involved?

GOHAR: Yes, but notice that I was one party so I could not be a part. Jirga is always neutral. Listening to them, sitting with them, talking to them, and then the end result of reconciliation, forgiveness and forgetting motivated me to make this institution available to other people to use for the same reconciliation in their lives.

## **2. Forgive and forget: the differences between Jirga and restorative justice**

DZUR: What was it about Howard Zehr's work that you wanted to integrate into the Jirga tradition? Put differently, what was missing from the Jirga tradition that was present in restorative justice?

GOHAR: The Jirga in the true sense, in the tribal areas, still use force. So Jirga will expel people, burn their houses, confiscate property. Secondly, there is no role for women. Third, it is verbal. The Pukhtoon say that our history is known for 5,000 years. This tradition comes verbally but it is not documented: from one generation to another generation all these traditions are transferred verbally. Their decisions are not written. And finally, like a restorative justice programme there is community work, there is healing and reconciliation, but Jirga does this differently.

DZUR: Can you explain the difference?

GOHAR: People can mediate and resolve a case but the conflict may still be there in their minds and hearts. If these people are living in a communal system, in a high contact society, the conflict can erupt again at any time. Until the minds and hearts are washed clean—meaning that people have the ability to come and eat together, sit together and arrange ceremonies with one another—there is no lasting reconciliation. The Jirga member goes with the party for two or three months, years, even more, to arbitrate, mediate and reintegrate them properly and to reconcile them if there is something coming. Jirga members do follow up even after reconciliation. While in the more individualistic context of Europe and the West, you do mediation and then leave it, because there is no community to reconcile or to work with further. Transformation comes from proper reconciliation, so it is a big problem if the conflict still exists in minds and hearts.

In the Western criminal justice system, there is no reconciliation, there is the win and lose solution. The Jirga elders say to bring those Westerners and your professors here to us so we can train them in how to reconcile the parties!

These reconciliations, which are really important and are not in the Western criminal justice system, are found in Jirga as well as in almost all indigenous systems of the world.

DZUR: What had to be modified in Howard Zehr's theory for it to be integrated into the Jirga system in Pakistan?

GOHAR: We have rich customs and traditions, as John Braithwaite and I noted in our article, 'Restorative justice, policing, and insurgency: learning from Pakistan' (Braithwaite & Gohar, 2014). People are not learning from Pakistan. Usually, they are just hearing about suicide bombing, drone attacks, killing, kidnapping and these things. So the first step is to come and do research in this different community. Second, just as in Western restorative justice, people in Pakistan are already using circles in Jirga. So sit in circles with us and try to understand. Because otherwise, visitors who see restorative justice practices, or ADR (Alternative Dispute Resolution), in the Third World, especially in the Muslim world, say it is Western knowledge. It is not Western. It is Eastern, African and Middle Eastern. So the question is how to tell them that your system is also restorative but with some different bits and pieces?

DZUR: You've mentioned three distinctions between Jirga justice and restorative justice: the use of force, the fact that women were not involved, and the fact that it is a verbal, not a written, tradition.

GOHAR: And a fourth point, too, namely, that the whole point of Jirga is a wholehearted reconciliation that is not found in the Western criminal justice system. This is the idea of forgive *and* forget. This is not in the West. I'll give my example. My mother's brother, my maternal uncle, was killed by the people who were later reconciled with them in 1978. Now we are living close to those people. They are present during many good and bad occasions. My mother can't forget the memory of her brother, but now she is so much healed that we can live together. Healing and forgive and forget is possible here, but in the West there is no interaction because there is no community. In our culture there is a lot of interaction. With this interaction the forgiveness leads to forget-ness.

DZUR: How did you have to modify the *Little book* for your own uses in Pakistan?

GOHAR: I just pinpointed those areas that are relevant to my culture.

DZUR: So you did not have to change much?

GOHAR: No, I did not change that much. At that time I was new to restorative justice practices. So maybe in the future, if the opportunity comes, I can change many things but for the time being I can just see where there are similarities and differences. So I just pinpoint those.

### 3. Upgrading traditional practices: the development of Muslahathi committees

DZUR: One of the three big differences with Western restorative justice is the use of force with the Jirga approach. How have you been able to work at reducing the use of force?

GOHAR: If you work for reconciliation, then it is already reduced. In my article with John Braithwaite, we talk about what we have done. At the beginning of our work, the Taliban had started their own justice system. It was a very hard time. I was part of the only NGO in the area and I was in the field there to work for peace. I started in between the Taliban's strict Islamic system and the modern Western system, using the indigenous system, which is also acceptable to them, and upgrading it a little bit.

At the time the people were suffering a lot at the grassroots level. The police station was a symbol of threat and terror to everyone. I was lucky enough to find Malik Naveed, an Inspector General (IGP) who was trained in restorative justice at the UN University of Japan. In 2003, he returned from Japan and wanted to organise an international conference. He wrote to Howard Zehr inviting him to come. Howard said that a little Howard is sitting at Peshawar close to you! He advised Naveed to contact me, saying he did not travel much anymore. At midnight I got a call. At that time Naveed was not the police chief; he was a chief in another investigative organisation, the FIA. At midnight I got a call and the person said the FIA director wants to talk to you. I said okay. He said, 'You are here! I didn't know that such a person is here with us. We want to do this and this and this.' I said, 'Oh yes, why not?' So along with Dr Kabir, a physician, and Afrabseyab Khattak, a senator, who were also interested, Malik Naveed and I arranged an international conference in 2003. At the conference I distributed the *Little book of restorative justice* and my Jirga book around to the participants free of cost.

So this started a kind of sensitisation of the intellectuals first. The intellectuals could compare restorative justice with the religion and the tradition. Our traditions in Pakistan differ among four provinces—there are differences and similarities between provinces. How do we update those indigenous systems that are still in practice? In 2008, Malik Naveed became IGP (Police Provincial Chief) and he got a small amount of funding from AUSAID—Australian Aid.

You do not need a lot to start something practical in restorative justice. I said the only good way would be to train the police and elders together. But we will open up offices at each police station. He said go ahead. We started in two police stations, then two districts, then seven districts, and then twelve districts. At twelve the funding was finished because of the 2010 earthquake in Pakistan. By then most of the police officers there took their own interest and they said come on, let's just do it on a volunteer basis without funding. So most of the police and elders who were trained in my province are doing this notable job on a volunteer basis. We also decided on the name of 'Muslahathi committee', since Jirga is not doing justice but reconciliation.

DZUR: The offices you set up in each police station are for the Muslahathi committees?

GOHAR: Yes, these were elders of the communities I trained with the police officers.

DZUR: How many people are on the committees usually?

GOHAR: Depends. There were very few in the beginning, but now there are 30–35. Too many people, actually, were trying to be on the committees. Malik Naveed was very strict and said no. He wanted people who are carefully trained and selected because of their good reputation in the community. Those people will serve. Now that the present government is in power, the new IGP was very impressed. I met him when he first started and now he is retired after three years. He was very interested in this, but he wanted his own label on it and called it DRC: 'Dispute Resolution Council'. We had given it the name 'Muslahathi Committee' because there is a misconception about Jirga. People say they are brutal, women are not there, and so on. They say they are doing justice. No, Jirga are not doing justice. They are doing 'Muslahath': reconciliation. With reconciliation one party or another may have to give something up in order to gain lasting peace and harmony. It is not truly win-win. One side may lose a little bit. The problem they want to resolve is unique.

DZUR: How do conflicts or disputes get to the committee? Can you explain that process?

GOHAR: The people approach the committees directly or send an application to the District Police Office (DPO), which is then referred to a committee for resolution. Now there are 275 police stations with committees. And they are so well known that people just go with an application to the committee and

then the police go and ask the other party to come. Then there is a decision between the elders.

DZUR: Are these mostly civil disputes, or do the committees also handle criminal cases?

GOHAR: Criminal cases also, yes. Both. In my district, Swabi, last month [March 2017] they resolved 123 cases of conflict and two were murder. Reacting to one of the murder cases, a journalist wrote to me saying the DRC's job was to only resolve minor cases. I replied that the people trust the committee and there is no harm if the laws of the country allow it; they brought even murder cases to the committee and they reconciled them. So it is good, not bad, for these committees to handle serious cases. In the West, many people, especially those in government, do not value community reconciliation. Our law, however, values reconciliation. Even if a person is on death row, a party can reconcile and he can get out.

DZUR: Is there any tension because the restorative programme is within the police department? 'Tension' meaning that police departments are not always restorative in their mode of operation.

GOHAR: In the beginning it was a tough time. Not only from the police but also from the lawyer community. In one district the police chief rang me and said, 'Look, the lawyer communities have submitted an application to the administrator—the Deputy Commissioner—that these Muslahathi committees should be stopped.' The Deputy Commissioner forwarded it to me and said, 'Look these are in your police stations and the lawyer community is against it and wants to stop it.'

DZUR: Why did they want to stop it?

GOHAR: The Deputy Commissioner also wondered why they wanted the committees to stop. So he asked the community lawyer to come and discuss it with me. The lawyer said that most of the cases now go to the committees and get resolved, so only a few people are coming to lawyers. The police chief said: 'What is going to happen now?' So I said that these lawyers should be good mediators. They should charge for it. They should be trained in mediation. They should start mediation centres in their locality. They can charge for it when they meet with clients in their offices.

When we went to Havelian, in the Abbottabad District, with John Braithwaite there were lawyers in those committees. So John asked them, why are you in this committee? And they said, look, in one case a woman was killed. It is not possible for the elders to go to the court and bring this



decision. A lawyer will be needed for that. So the lawyer said that we followed this case for three months in different courts. For those three months the parties gave me my fee. I did both. I did reconciliation here but at my job I got my fees.

DZUR: You've said restorative justice is widespread in Pakistan.

GOHAR: The name 'restorative justice' isn't there but the process is. I am working with the police in the UK and there is less mention of 'restorative justice' and more about 'mediation'. There I tell the police and the community that this is restorative justice, even in the UK. The same is true in Pakistan; people talk about the 'reconciliation' or 'Muslahathi' committee, but in the process restorative justice is there.

DZUR: Can you give me a rough number of how many Muslahathi committees there are in police stations?

GOHAR: There is a committee at each of the 275 police stations. At first it was called a 'Muslahathi' committee and now some call it a 'reconciliation' or a 'DRC'—dispute resolution committee. But there is a committee at each station. In rural areas it is still called 'Muslahathi committee', while in urban areas it is called 'DRC.'

DZUR: They are handling more cases every year? You are seeing an increase over time?

GOHAR: Yes, there is a significant increase.

DZUR: You have said there was not much state funding support. How have Muslahathi committees managed to grow over time without state funding? Is it because of longstanding respect for the Jirga tradition that people are interested in doing this kind of work?

GOHAR: There are three reasons. First, people are fed up with the government system, the criminal justice system. It takes too long. Second, there is no reconciliation in that system. Third, taking revenge is our code of life. We believe in revenge; we take revenge. So if someone kills my father I will kill someone in return. People in this community say, 'Don't go to the courts because there will be bribes, nepotism, political pressure, and a prolonged process.' In some of my research, I asked a committee member from another province why people are coming to him and not to the courts. He said if we want to disgrace or dishonour someone, spoil his life and money

then we will bring it to the police and the courts. Otherwise, if we want a decision, we bring it to the community and let the elders decide it.

DZUR: So the Muslahathi committee offers an alternative to revenge, which is just a prolonged cycle of violence, and to the state system, which takes too long.

GOHAR: When reconciliation is not there then there are win and lose situations, nepotism, high levels of corruption and political pressure. All these things are there. That is why, when the Taliban came, they were well received by the people. They started a justice system really quickly and very easily. This was one of the reasons for their acceptance by the community. Later on it became different, but if you asked someone about the peace in Afghanistan they will give you the example of the Taliban. They brought a unique peace because of the strict law they implemented. Though, of course, it was not acceptable to many different segments of the people later on. So this indigenous system that Jirga is part of is 5,000 years old. It is still there. If you go to the court on and off for twenty years, if your party member is hanged, if your enemy is hanged by the court, even then you will go to Jirga for reconciliation.

DZUR: So that explains why people will bring their cases to these committees. What about the people who are serving on the committees as facilitators and mediators? Why are they offering their time?

GOHAR: There are a number of reasons. First, the motivated people are empathetic and sympathetic to others because they themselves have gone through this process. They have lost their near and dear. As I have said earlier, in my case the enmity involving my family motivated me to do this, and then I held on to this process. When you empathetically have a nexus, when you own something, then you know the merits and demerits of the system. You know the reason you want to use it and why it is there. Also, when the parties are reconciled by the Jirga, the Jirga then sometimes recruits elders from these parties. They become Jirga members later on and the process continues.

Not everyone has pure motives, of course, and like in everything there is also corruption in the Jirga system; people understand, however, who the real elder is in the Jirga system, who has wisdom, knowledge and reputation. And they understand why someone like this does it. In Islam we have this belief that when you die then two or three things will remain behind you. One is charity; that is continued. Reconciliation between two parties is the peak of charity work; the elders struggle very hard at this, even when it has become their hobby. When Jirga members come to a meeting they start with the prayer. They appeal to the divine lord, the divine law and the

divine blessing. God bless and help us in this. When they reconcile there is a big gathering with the holy Qur'an in the middle. The parties put their hands on it and pray again in front of the whole community. The community is witness. We did it God, for your sake.

Forgiveness is very important in all cultures. In Islam there are three types of compensation for a crime. If someone did something wrong to you then you are allowed to take revenge. Not revenge that you go and take a rifle, but you take to the courts. Bring all the witnesses inside and then the courts will judge the person who killed someone and say, yes he should be killed. The second is blood money (Khuan Baha). When you don't want to kill, you can take money. The third is forgiveness. Forgiveness is for the sake of God. God says in the holy Qur'an that if you forgive someone for my sake then the reward is with me. So most of the people go for the third option of reconciliation.

#### 4. Increasing roles for women?

DZUR: Coming back to your earlier point about the four differences between Western restorative justice and the Jirga tradition. The first was force and the second was the role of women. I want to touch on that second issue and ask about the place for women on these committees. Do some of the committees have female elders as facilitators?

GOHAR: Yes, some of the committees do have women. Even in the tribal area, I saw the other day that women had organised a women's Jirga. I was so pleased. The tribal women came together to make a Jirga. But the thing is, they need knowledge of the Jirga and this has been done until now mostly by the men. So knowledge is needed and women should be trained in that. They need proper facilitation skills.

I am in favour of women's Jirga or women's committees. I did it with my work with Afghan refugees. At the time, Kofi Annan, then UN General Secretary approached me during his visit to a refugee camp in Peshawar when he met with the women's committee there. He asked me if there were women's Jirgas in Afghanistan. I said no. Then he asked if they were in Pakistan. I said no. Then he asked, so how did I make one with the Afghan refugees? I said, through these elders. So he asked, how did the elders allow you to make this? I told him a story about Bacha Kahan, a pacifist leader of our province (1890–1988) who organised a 100,000 strong, non-violent force. They fought for independence non-violently. Bacha Kahan is famous for saying, 'Pukhtoon, with love will accompany you to hell but with force not even to the heaven.' Annan laughed. I told him how I sat with these elders to get their trust. Then, later on, I said that I needed some elderly women to come and sit and that they should resolve questions affecting women. I said, a

woman, even if she is your wife, will not tell the real problem to a man. She will only tell the story to other women. So if there is a women's committee, then women will tell very openly what has happened to them. And wherever there are women's committees, there are more cases affecting women. When there are only men's committees, there are monetary issues and land issues that get resolved, but not issues like domestic violence and other issues like that.

DZUR: Suppose you are talking to a Jirga elder who does not like the idea of having women on a committee. What do you say to him? Let's assume he knows who you are; you have worked with him and have built up trust. How do you persuade him?

GOHAR: In the case of the Afghan refugees, who were rigid, traditional and religious, I said, look there are a lot of women's issues. For those women we need a women's group organisation and then they can bring those issues to them. Then, women will be guided by other women. A trained woman can guide them and help them. They said, okay. Later on I went to women directly, but in the beginning my entry to the elders was: women by women.

There is a conference in June in California on restorative justice. They want me to come for the Asian region. This Asian group said we are working with a Muslim school here and are having problems with this. I said, did you ask them what their system back home in their place of origin is? Is it an Islamic system? Are they also traditional? Dig it out and build on that. Ask them how they resolve the community issues. They will tell you their own ways. And when they do, there is a means for entry. It may be restorative only in bits and pieces, not as a whole. But once you see that little bit, then you can go ahead and build on it.

DZUR: You mentioned 275 police stations in Pakistan with one or more types of restorative committees. How many of these have women involved on the committees?

GOHAR: Every police chief is doing it his own way. Until recently they were always in contact with me, but I have been away from this for a little while so I don't know exactly how many there are. I do know that in almost every urban area there are women involved—in Peshawar, Nowshera, Haripur, Abbotabad and Mardan. Those places have them in the urban areas. There is one as well in a rural area—in Madyan swat—where the BBC did a story about an active Muslahathi committee member, Pass bibi. She is an elderly woman from a very remote area, who comes to the police

station on a daily basis. She resolves the cases involving women. In the urban areas, a majority of the committees do have women involved.

DZUR: Maybe it is a lot to ask of a process that deals with conflicts between a few people that it also should make a contribution to major issues like reducing corruption or forging new ways of understanding the role of women in society. But that is what you are doing.

GOHAR: One thing to mention to you is that in Jirga there is no direct involvement of women because of the strict veil system in tradition and religion. However, the women's say is always there. Without women's permission you cannot resolve any sort of enmity or dispute.

DZUR: So even if a woman is not present she is playing a role?

GOAHR: Yes, a very positive and important role. As I have said, the last person who was killed in my family was my maternal grandfather. Now, his wife, an older woman, was not interested in reconciliation. She was interested in revenge. So it came to the Jirga's knowledge that if you approach that woman then reconciliation is possible. One of the elders went and sat outside the wall and talked to the lady and motivated her. After a long discussion she said okay. Then the other women said okay. Otherwise it was not possible.

## 5. Looking to the future

DZUR: You've had this wealth of experience now in restorative justice after many years in the trenches. Are there certain strengths of restorative justice that you keep coming back to that allow you to be optimistic and continue doing the work? What are those strengths?

GOHAR: Looking back at my early studies at EMU, I had these professors who not only taught me but they also gave me so much love. They are Mennonite and that community gave me and my family so much love that I cannot forget. In my speeches there I used to say, 'I'm a Muslim Mennonite!' EMU, the Center for Justice and Peacebuilding, and the whole community was so cooperative especially in that hard time around 9/11 when very few Muslims were there.

I had seen a lot of the criminal justice system from my childhood by going to the courts and the police stations with my maternal uncles. I suffered a lot. I told you about the good aspects of the Jirga system, which are the reconciliation and mediation. So I was just looking for another option and that was the option I saw at EMU, where I saw that it was acceptable.

The strengths of restorative justice, as I have said already, come from reconciliation, community work and forgiveness. These give me a lot of motivation. I check out most of the newspapers in the morning, and I put something on Facebook every day about many cases resolved by reconciliation committees and Jirga. I noted recently that 123 cases were resolved in the last month: land, property and two murder cases. So I am getting more energy and more strength.

DZUR: Do you see restorative justice in Pakistan as contributing to economic and political development?

GOHAR: Yes, people now, mostly the politicians, are not using the words 'restorative justice' or 'indigenous system' but they mostly say 'ADR'. For me, I strongly believe it contributes to development. Just looking at my own family, over these last few years, how many losses have they suffered? How much loss financially, but also in terms of health, diet and even education? Children were uneducated because of the enmity. If they went to school there was the danger that they would be killed. There was no employment.

I always teach in my training that conflict has two main reasons: power and resources. But in our culture, a third and immediate reason is the mismatching of words. So I teach the idea of 'hook, hold and hit'—as the Jirga members do in their own way, first with a proverb or a story to hook, then continue to hold the discussion, and then at the end hit on what is to be done. Similarly, Jirga members work for three P's: 'peace, progress and prosperity'. When there is peace then there is progress. When there is progress there is prosperity.

### Disclosure statement

No potential conflict of interest was reported by the author.

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