

## Theory and practice of Forgiveness. Islamic perspective

### نظرية المصالحة وتطبيقاتها. مقاربة إسلامية

MANSOURI Abdennour  
Assistant Professor-University-M'Sila  
PHD researcher University of  
BATNA1

#### ملخص:

يقدم الإسلام منظومة متوازنة في التعاطي مع ما يعتري الإنسان في شؤون حياته المختلفة، ويعتبر الصراع بين الأفراد وحتى بين الدول ظاهرة إنسانية طبيعية، وإن كانت غير مرغوبة. ويعني وجود الصراع وجود طرفين، المعتدي والضحية، وقد نظر الإسلام إلى كليهما نظرة شاملة، تخدم إنهاء الصراع وعودة الحياة السلمية إلى سابق عهدها. وفي حين أوجب على المعتدي التوبة وردّ الحقوق، فقد شرع للضحية أن يردّ الاعتداء حفظاً لكرامته الإنسانية وطلب القصاص، وسطر لذلك نظاماً كاملاً للحدود حمايةً للفرد والجماعة من الجرائم. لكن مع ذلك فطلب العدالة والقصاص ليس المخرج الوحيد من الصراع، بل حث الله تعالى من اعتدي عليه على بذل العفو والمصالحة مع المعتدي بغية رضاه عز وجل. فقد عمل الإسلام وككل الأديان السماوية على كبح روح الانتقام في النفس البشرية والسمو بها. وتبرز الإشكالية في فهم العفو والمصالحة على المستوى الاجتماعي والسياسي، فقد تعتمد الحكومات في سعيها إلى تشجيع المصالحة في المجتمع بالتشريع، لكن رغم نبل الغاية، هل تمتلك الحكومات شرعية منح العفو عوضاً عن الضحية؟ تحاول الورقة استعراض فكرة العفو والمصالحة في المنظور الإسلامي من خلا السنة النبوية وقواعد الفقه الإسلامي الجنائي، وكيف تم تطبيقه في المستوى السياسي في بعض التجارب.

#### **Abstract:**

In Islam, there is great paradigm that suppose a permanent equilibrium, and God, is its centre, drawing the straight path for all humans. Allah says: 'But transgress not the limits. Truly, Allah likes not the transgressors.' [Surat Al-Baqara: 190]. But this does not mean that if someone commits transgression against you that you should do nothing, this contradicts the human dignity. Allah says: 'And those who, when an

oppressive wrong is done to them, they take revenge.’ [Ash-Shura: 39], in the same time He rewards those who forgive others for their wrongs: ‘The recompense for an evil is an evil like thereof, but whoever forgives and makes reconciliation, his reward is due from Allah.’ So, when you think in all probability that if you forgive the aggressor he will return to the right way, then Allah says to you: ‘forgive him, and I will reward you.’ This is the conception of forgiveness in Islam, and like other religions, there is a great effort to taming revenge in the personal level, but the problematic rises by approaching forgiveness in the social and politic level. In order to promote the social and politic reconciliation, have the governments the legitimacy to offer forgiveness?

### **Theory and practice of Forgiveness, Islamic perspective**

Forgiveness paradigm in Islam starts with what considered the “verse of hope”, when Allah gives an infinite source of hope for everyone who may be attained by a feeling of frustration causing by the need of forgiveness.<sup>(1)</sup> Allah asserts that is the One that gives the most hope to the one who seeks forgiveness because He is its source.<sup>(2)</sup>

Quran tell us that *Allah* has the Perfect Names,<sup>(3)</sup> and *He* loves that we call upon Him by His Names. Believers can worship Him by that which His Names demand. The Prophet Mohammad said that whoever memorizes and is mindful of Allah Names will enter Paradise.<sup>(4)</sup> However, ‘memorizing’ is not merely to recite them. In fact, it comprises three levels of understanding. The first is to memorize them by heart; the second is to understand their meanings; and the last one is to call upon Allah by these names and to act as they demand.

As an example of this, we may take from the Names of Allah At-Tawwaab, which means that He who guides His servants to repent and accepts their repentance. It is telling us that Allah accepts His servant's repentance, guides him to repent and forgive him for whatever he did. Having understood all this, believers then act as At-Tawwaab Name demanded, by repenting to Allah from all their sins; and accepting the others’ repentance and forgiving them.

After this short introduction to the deep roots of forgiveness in Islam, we'll explore its philosophy in opposition to retaliation, how the Prophet had lived it, and its position in the Islamic criminal law.

### **1. Retaliation and forgiveness in Islam**

To understand the philosophy of retaliation and forgiveness in Islam (Al-Kisas and Al-Afw), we select two chapters.<sup>(5)</sup> In Al-Baqara chapter, ten verses (178-188) talked about social rules for the new Islamic society of Medina, such as retaliation, probate at death, making dua, financial matters, staying in the mosque (iitikaf), and fasting Ramadan.

The context draws attention to the nature of that religion presented as one unit wish is not indivisible. All this social, legal and devotional commands are sharing one source, it's faith that has one end, worshipping the single God; and linked by piety (At-Takwa) link. Takwa, repeated in all of these commands, is for showing their final end, fear of God makes between you and your sins a protection. This Takwa id defined in an earlier verse,<sup>(6)</sup> it's not a matter of making superficial duties rather, a set of individual and social conducts.

Then, Al-Kisas can't be understood just in the two verses (177-178), it reveals its power by reading the whole context. It's one pillar among others that build an Islamic society, encompassing believes, values and law. Those verses confirm that Al-Kisas is the absolute right of the victim; but in the same time, give the latter the right to forgive by accepting the blood money (Diya), instead of killing the offender. The aim here is to fineness hearts, healing wounded souls and strengthening brotherhood between the survivors.

When forgiveness is granted it became a strong institution, the forgiver has no right to cancel his decision and ask for revenge, because it's a transgression which affects the new reconciliation atmosphere,<sup>(7)</sup> 'He who transgresseth after this will have a painful doom.'<sup>(8)</sup>

By recognizing both retaliation and forgiveness, Islam has demonstrates a deep knowledge of the human socio-physiology in establishing the legislation. Anger for blood is a human impulsion that

Islam satisfies by retaliation. It's the general rule, a constant effort of evil dissuasion; and in the same time there is an exception, a window for saving life again, forgiving the wrongdoer.<sup>(9)</sup> An assertive justice can stand up to the human perversity and deter the offender from going too far.

After setting his right to retaliation, the victim is called to the sublimation of his anger in the limits of his free will. This moderate conception protects men from rage, humiliation and iniquity.<sup>(10)</sup> By this perspective, forgiveness is granted looking for the reward of Allah, self-repair from rage and reform society, without abolishing the right of facing assault. Therefore, we can expect a real impact of forgiveness, for both sides the forgiver and the forgiven. Hens, forgiveness is better for the two parties, conversely if forgiveness was granted in the case of impotence. In that condition, we cannot speak about forgiveness, more than that, it's a mistake that fosters the aggressor, humiliates the victim and spreads impunity.<sup>(11)</sup> This conception of forgiveness is based on the respect of human dignity, it doesn't accept unfairness by displaying strength, and granting forgiveness after that. It establishes a value system where the power of the right is prior to the right of power.

## **2. Forgiveness as a mechanism**

The Islamic values set doesn't accept a theoretical/idealistic value. There is always a practical method to establish values in everyday life. In the following, we will see forgiveness in practice, in the Prophet's life and Fiqh (Jurisprudence).

Because The Prophet Mohammad is the translator of Quran, He gives the ideal model, how and when to do things perfectly, guiding the all believers. In Fiqh also we find a set of practical procedures regulating those values in the personal and social life. We will explore this picture, by seeking what the Prophet said about forgiveness and how he practiced it; and then demonstrating the position of forgiveness in Fiqh, especially in the Islamic Criminal Law.

### A. A short story of forgiveness

Muslims have to obey Allah, for this, The Prophet is the perfect illustration of God's asks, He was a 'walking Quran'.<sup>(12)</sup> The Prophet then is the best guide (kudwa) to right way for Allah, and believers must follow his footsteps. This short story, happened with Him, illustrates how to flee anger and revenge practically.<sup>(13)</sup> In one day, one Bedouin came to The Prophet asking him something, the Prophet given him what he wanted and asked him: 'was I nice with you?' the Bedouin said: 'not at all'. Angered by his insulting behavior, the Prophet's companions tried to kill him. The Prophet stopped them and entered into his house and given him more. Then, he asked the Bedouin, again, if he was good with him. Then, he answered: 'yes, God bless you,' the Prophet said: 'you said what you said earlier, and my companions had something in there hearts against you, if you want to say what you said now for me in their presence, for healing their angry'. The Bedouin then accepted and came afternoon. The Prophet said: 'this Bedouin had said what he said, we gave him more than he asked, and he said that he is satisfied, 'is that true Bedouin?' the Bedouin: 'Yes, I am, may God bless you.' Then, the prophet said:

I and that man are like a man who lost his camel, while people were attempting to get it back, the camel get away. The man then said: "let me with my camel, I know more than you do about it." And he walked quietly to his animal, given it something to eat. Then the camel came to him and let him to ride it. If I let you doing what you wanted to do with the Bedouin, you killed him and you go to hell.<sup>(14)</sup>

In this perspective, forgiveness saves the society's life. It's an equation when everyone is a winner,<sup>(15)</sup> by enhancing what men have the best. The other scenario is not so good, if the Prophet let His companions killing the Bedouin, we then lose a man; founded the revenge logic; and in result we will lose many other human lives. This is a personnel and collective healing value/process offering a needed second chance/life.

## **B. Forgiveness in Islamic criminal law**

According to the theory of the Islamic law there are two kinds of crimes regarding the rights offended, crimes against the community and against individuals.

### **- Crimes against community**

These crimes are punished for protecting the community interests, whether signed on an individual or on a group; or on the group's security and order. There are God's rights and individual's ones.

God's rights means protecting the safety of the community, and forgiveness here is not allowed, and there is no possibility of reducing or suspending punishment. Al-Hudud and ta'zir<sup>(16)</sup> crimes are those crimes committed against community. The punishment of these aim to protect public safety and values that society considers as crucial ones, even if the immediate interest that is protected is a private one.<sup>(17)</sup>

In Al-Hudud crimes,<sup>(18)</sup> the Islamic law of evidence is rational and very formalistic. The doctrine has made it very difficult to obtain a conviction.<sup>(19)</sup> This is achieved by (1) the strict rules of evidence for proving these crimes;<sup>(20)</sup> (2) the extensive opportunities to use the notion of uncertainty (Shubha)<sup>(21)</sup> as a defense; and (3) defining the crime very strictly, so that many similar acts fall outside the definition, and then cannot be punished with the fixed penalties, but only at the Qadhy (judges) discretion.<sup>(22)</sup> In the Hanafite doctrine in particular, it is nearly impossible for a thief or fornicator to be sentenced, unless he wishes to do so and confesses by his free will. This occasionally happened, probably due to a need felt by the perpetrator to repent of his sins.

For the trial of Hadd offences, the rules of evidence are even stricter than those for retaliation. For the testimony or confession for a theft must mention the word 'theft', and not just 'taking away;' and a testimony for unlawful sexual intercourse (Zina) must use this technical term and not just any word meaning sexual intercourse. The rationale is that the judge, when a person confesses to having committed a Hadd crime, must ascertain that he was of sound mind and acted voluntarily.

The notion of uncertainty means that Hadd punishment must be excluded for any doubt, like rescinding of the admitting, if the crime was proved only by the admitting of the accused. In general, there is a legal rule called ‘the priority of forgiveness in doubt,’<sup>(23)</sup> that encompasses all the crimes, Al-Hudud, Al-Kisas and ta’zir. In the modern law theory it’s called the doubt in favor of the accused. It means that if the judge has not yet a strong conviction about the judgment, what can he do? Punishing or forgiving? This rule encourages judges to forgive the accused, because innocence in case of doubt is the best for the community, closer to justice and better than the punishment of an innocent with skepticism.

#### - Crimes against individuals

These crimes concern the punishment of individual rights’ violation. Al-Kisas crimes<sup>(24)</sup> are considered as crimes against individuals. Forgiveness has an important role, and the victim is the main important party in the legal system, he can claim retaliation, as he can forgive. In the latter case, forgiveness becomes a legal act and the punishment falls down. The victim then has the choice between asking a financial compensation (Diya),<sup>(25)</sup> and forgiving again without any compensation by ceding his right on Diya.

The victim has the power to make revenge, but in the same time he’s encouraged to grant forgiveness, whether for a financial compensation or for getting God’s satisfaction and His reward in the hereafter. Forgiving is the absolute victim’s right, even the head of state can’t grant forgiveness in Al-Kisas crimes. The head of state can only in one case grant forgiveness, if he is the custodian of the victim, provided that forgiveness is not for free.

When the victim forgave after these solicitations, he will succeed in his own and society’s healing process, when harmony replaces strife. So, this is the final result of philosophy which supports order and Continuation of the quiet life of both community and individuals. In this conception, there are no boundaries between all the aspects of life, individual and collective; or religious and worldly, because it’s simply one gift life; and any segmentation of the human being will bring humanity in a permanent trouble. It’s a comprehensive paradigm

considering forgiveness as an important opportunity to achieve harmony in society. Our legal thought in modern societies needs to learn from this perspective, in his mission for reducing violent conflicts that constitute a permanent threat to the social security.

There is an interesting dialogue between Islamic scholars about rights of retaliation and forgiveness in Al-Kisas crimes. Abu Hanifa, Shafie and Ahmed said that if one of the victim heirs pardons, the retaliation's right of others falls. In contrary to them, Malik said that forgiveness must be granted by whole heirs.<sup>(26)</sup> This divergence between the Fiqh schools in some manner stimulates forgiveness in the group, starting from deliberating until granting it. What scholars tried to germinate here is an intentional and voluntary process, driven by a conscious decision to forgive and keeping with the core value of Islam, 'liberty,' that protect the human capacity to make choices and draw their own destiny.<sup>(27)</sup> For this reason Islam discharge slaves for many duties because they are not free and haven't the Commissioning condition, they are dependents of their masters. Thus the complete system of all religious duties and responsibilities are based on liberty of choice. Even our own final destiny, heaven or hell, we are the only responsible for it.

For conclusion, we can say that forgiveness needs a strong power of justice, as Abu Bakr said that the weak is a strong person until I give him back his right, and the strong is a weak one until I take the right from him.<sup>(28)</sup>

### 3. Political Reconciliation in Islamic Context

As Joseph Schacht put it, there merely existed discordance between the Islamic sacred law and the reality of actual practice of which the regulations framed by the state formed part, a gap more or less wide according to place and time.<sup>(29)</sup> The practice of forgiveness in Islamic political context is completely deferent from what we've seen above. Morocco and Algeria, for examples, have experienced reconciliation politics in the aftermath of violent conflicts in their recent history.

After the death of the king Hassan II, in Morocco in 1999, the young king Mohamed VI inherited a legacy of what Moroccans call 'years of Lead,' in 1960-1970s. People in that time, especially the left

opposition, seen all kinds of repression. At the beginning of his reign, the young monarch decided to cleanse this legacy by embracing openness politics. Then, Equity and Reconciliation Instance ERI was founded to deal with the violent past, and give voice for victims of repression.<sup>(30)</sup> The ERI made investigations and organized public hearings for victims; it was considered as a historical event in the Arab world, for the first time the state recognized its responsibility on past violence.

But the victims quickly saw the ERI's limits, for one reason at least; they hadn't the right to nominate the offenders-state agents. In these conditions, justice was so far from victims. Reconciliation by this perspective meant healing society by a public recognition of repression, and in the same time granting forgiveness to the offenders. The ERI's socio-therapy has contributed to give some legitimacy to the new politics of the new king, but victims were deprived from justice, the ERI was their unique possible issue. That Orientation condemned a Period of history of the political system, away from the condemnation of its politics. Although these critics, the ERI process was seen as a good step in the new era, in an international context that encourages the forgiveness politics' evolution.<sup>(31)</sup>

Contrarily for Algeria<sup>(32)</sup> truth debate was considered inappropriate, because it can be a real threat to the fragile peace, so 'we' prefer turning the past's pages, and granting amnesty.<sup>(33)</sup> The Peace and Reconciliation Charter, asserted by a referendum, adopted the national reconciliation and waived the individual right for the benefit of society as a whole.

Compensation then was considered the most appropriate option, to address the remnants of the national tragedy, especially with the presence of plenty of finance.<sup>(34)</sup> However, it did not carry a moral dimension through listening to the victims and their suffering and help them to regain their standing within the community. The Peace and Reconciliation Charter was seen as a pure 'security agreement,' because it exclude the victim's role.<sup>(35)</sup>

In this two cases, forgiveness was seen as indispensable to overcome violent past, but the offenders still so far from changing

their believes and attitudes.<sup>(36)</sup> Victims were deprived from their right to claim justice; in contrast to the Islamic paradigm seen above.<sup>(37)</sup> This makes reconciliation future so delicate because it was driven in an unstable process.

### **Conclusion**

We have seen misapplications of forgiveness value in Islamic context due to a selective practice that collapses the splendor of the theoretical model. Forgiveness can't build a sustainable peace, if it's imposed from the top. A successful forgiveness process must work on two axis, the psychological one, concerning personal beliefs and attitudes; and the structural elements that constitute a positive atmosphere to bring a psychological transformation.

Realism of International relations constitutes a great challenge for forgiveness politics and such values, because it's based on the power's value. Realism demonstrates its weakness in conflictive situations; it gives the theoretical justification for the use of force, and fails to reduce the devastating impact thereafter. The world needs to revise the groundless of its presuppositions about human being and politics.

Gérard Barthélemy discussed the slavery practice presuppositions, he presented the historical evolution of international legislation against slavery. He concluded that the principal of slavery was not challenged yet, arguing that the compensation paid to France by the slaves of Saint-Domingue –Haiti nowadays- as the price of independence still to our days accepted. For him, the master is looking for forgiveness and finally to be released from his historical injustice. For that, at first he must be courageous by renouncing and clearly denouncing his own presuppositions justifying racism, the fruit of the colonial enterprise, based on the 'color prejudice.'<sup>(38)</sup>

### Notes:

<sup>(1)</sup>-‘Say: My slaves who have been prodigal to their own hurt! Despair not of the mercy of Allah, Who forgiveth all sins. Lo! He is the Forgiving, the Merciful.’ Az-Zumar (39): 53. Mohammed Marmaduke Pickthall, trans., The Meaning of The Glorious Quran: An Explanatory Translation, (New York: Mentor Books). 149-150.

<sup>(2)</sup>-According to Quran there are three levels of forgiveness. First, is the indulgence, restraint and patience and not to confront the mistakes of others as bad. Second, pardon for the wrong, it considered one of the greatest worship and self-Jihad. Third, doing good to the wrongdoer, and his reward is love of Allah.. ‘...Those who control their wrath and are forgiving toward mankind; Allah loveth the good’ Al-Imran (3): 134, 20.

<sup>(3)</sup>-‘And Allah has the most excellent and perfect names, so worship and invoke Him by them’. Ibid., Al-A'raf (7): 180, 52. Amongst the Perfect Names of Allah is Al-'Afuww - ‘He who pardons,’ and Al-Ghafoor - ‘He who forgives,’ and Al-Ghaffaar - ‘The Oft-Forgiving.’

<sup>(4)</sup>-‘Allah has ninety-nine names, a hundred except one, whoever memorizes and is mindful of them will enter Paradise,’ Ahmed Ibn-Hajar, Al-Askalani. Fath Al-Bari Sharh Sahih Al-Bukhari, (Cairo: Rayan, 1986). 309.

<sup>(5)</sup>-‘O ye who believe! Retaliation is prescribed for you in the matter of the murdered; the freeman for the freeman, and the slave for the slave, and the female for the female. And for him who is forgiven somewhat by his (injured) brother, prosecution according to usage and payment unto him in kindness. This is an alleviation and a mercy from your Lord. He who transgresseth after this will have a painful doom. And there is life for you in retaliation, O men of understanding, that ye may ward off (evil).’ Al-Baqara(2): 178-179. Pickthall, trans., Meaning of Quran, 8.

‘And those who shun the worst of sins and indecencies and, when they are wroth, forgive. And those who answer the call of their Lord and establish worship, and whose affairs are a matter of counsel, and who spend of what We have bestowed on them. And those who, when great wrong is done to them, defend themselves. The guerdon of an ill deed is an ill the like thereof. But whosoever pardoneth and amendeth, his wage is the affair of Allah. Lo! He loveth not wrong doers. And whoso defendeth himself after he hath suffered wrong for such, there is no way (of blame) against them. The way (of blame) is only against those who oppress mankind, and wrongfully rebel in the earth. For such there is a painful doom. And verily whoso is patient and forgiveth, lo! that, verily, is (of) the steadfast heart of things.’ Ash-Shura.(42): 37-43. Ibid, 157.177

<sup>(6)</sup>-. It is not righteousness that ye turn your faces to the East and the West; but righteous is he who believeth in Allah and the Last Day and the angels and the Scripture and the Prophets; and giveth his wealth, for love of Him, to kinsfolk and to

orphans and the needy and the wayfarer and to those who ask, and to set slaves free; and observeth proper worship and payeth the poor due. And those who keep their treaty when they make one, and the patient in tribulation and adversity and time of stress. Such are they who are sincere. Such are the God fearing.

<sup>(7)</sup>-Sayed Kutb, Fy Dhilal Al-Quran, (Cairo: Ash-Shoruk, , 32<sup>th</sup> edition, 2003), 163-164.

<sup>(8)</sup>-Al-Baqara (2): 178. Pickthall, trans., Meaning of Quran, 8.

<sup>(9)</sup>-Abd-el-Kader Uдах, At-Tashria Al-Ginai Al-Islami, (The Arab Book, Beirut), 546-550.

<sup>(10)</sup>-Kutb, Fy Dhilal Al-Quran, 3167.

<sup>(11)</sup>-Ibid.

<sup>(12)</sup>-As described by His wife Aisha.

<sup>(13)</sup>-Talking about forgiveness in Islam, Russell Powell cited three practical examples: First, in the account of Muhammad's call to punish those who abused him in Ta'if, the Prophet forgave those who persecuted him without their request or contrition, and asked Allah to spare the city. Second, in His triumphant return to Mecca, Muhammad forgave his enemies. Both these examples of forgiveness calmed political tensions and stimulated large-scale conversions to Islam. The final example (when) Abu Bakr (forgave) Mistah for the slander of Aisha (The Prophet's wife), even though Mistah might have deserved punishment in a strict application of justice. This story clearly demonstrates the moral superiority of forgiveness. See Russell Powell, 'Forgiveness in Islamic Ethics and Jurisprudence', Berkeley Journal of Middle Eastern & Islamic Law 4: 1(2011): 21.

<sup>(14)</sup>-Al-Askalani, Fath Al-Bari, 390.

<sup>(15)</sup>-The offender is the Bedouin, the victim is The Prophet, and The Prophet's companions are society.

<sup>(16)</sup>-Provisions concerning discretionary punishment of sinful or forbidden behaviour or of acts endangering public order or state security (ta\_zir or siyasa). Rudolph Peters, Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty first Century (Cambridge: Cambridge University Press, 2005), 7.

<sup>(17)</sup>-In some societies sexual acts between consenting adults are of no concern to the authorities, whereas in Islamic Law the rules regulating sexual contact are regarded as so crucial for the maintenance of social order that violations are severely punished. Ibid., 1.

<sup>(18)</sup>-These offences are: (a) theft, (b) banditry, (c) unlawful sexual intercourse, (d) the unfounded accusation of unlawful sexual intercourse (slander), (e) drinking alcohol, (f) apostasy (according to some schools of jurisprudence).

<sup>(19)</sup>-For more readings about guarantees of the accused in criminal matters see for example: Ibid., 14-15.

<sup>(20)</sup>-This fatwa clarifies that a Hadd offence (in this case drinking wine) can only be proven by witnesses to the act or a confession. Being in possession of an instrument with which the offence might have been committed is not sufficient for a conviction : Question: [What happens] if a wine jar is found in Zeyd's possession? Answer: It is related that Abu Hanifa went on a Pilgrimage and that he, upon entering Medina, saw the people gathered around a man. They said: 'We found him with a wine-skin, and we wish to inflict the fixed punishment on him.' Abu Hanifa replied: 'He's got the instrument of fornication with him, too. So stone him.' And they left the man and scattered. Cited in Peters, Crime And Punishment, 15.

<sup>(21)</sup>-'Avert Hudud punishments by uncertainty,' as said The Prophet, read more in Udah, At-Tashria Al-Islami, 209-217.

<sup>(22)</sup>-Peters, Crime In Islamic Law,14-15.

<sup>(23)</sup>-Udah, At-Tashria Al-Islami, 217-218.

<sup>(24)</sup>-It's encompasses murder, quasi-intentional murder, manslaughter, intentional Below-homicide, no intentional Below-homicide.

<sup>(25)</sup>-Bloodmoney (diya) in cases of homicide or wounding is a financial compensation for damages suffered by the heirs of the victim, this is no punishment is clear from the fact that in many situations it is not the perpetrator who is liable for the bloodprice, but his 'solidarity group' (aqila). Ibid., 7-8.

<sup>(26)</sup>-Udah, At-Tashria Al-Islami, 552.

<sup>(27)</sup>-In this context, some who can be surprised if he listen to Allah talking to all humans, 'Say: (It is) the truth from the Lord of you (all). Then whosoever will, let him believe, and whosoever will, let him disbelieve.' Al-Kahf (18): 29. Pickthall, trans., Meaning of Quran, 91.

<sup>(28)</sup>-AbdulMalik Ibn Hisham, Sirat ibn Hisahm, 4<sup>th</sup> Tome, (Tanta: As-Sahaba, 1995) 369.

<sup>(29)</sup>-Joseph, Schacht, An Introduction To Islamic Law, (Oxford: Clarendon Press, 1982), 2.

<sup>(30)</sup>-For more readings about ERI, see for example Human Rights Watch, Morocco's Truth Commission, Honoring Past Victims during an Uncertain Present, Volume 17, No. 11(E), November 2005.

<sup>(31)</sup>-Khadija Mohsen-Finan, 'Dossier Mémoires et Réconciliation, Introduction', Revue Politique Etrangère 2(2007)308 .

<sup>(32)</sup>-Algeria made a clear choice, preferring stability to the truth. After the interruption of the democratic process in January 1992, Algeria fell in the "red decade", Algerians seen all the manifestations of war, as they had not seen before causing more than 200 000 killed. And for terminate with this infernal situation, authorities initiated talks with the armed groups, and the reconciliation was the keyword.

<sup>(33)</sup>-Ibid.

<sup>(34)</sup>-Abdenmour Mansouri, 'Al-Musalaha Al-wataniah Fy Al-Gazair, Min Mandour Al-Amn Al-Insani' (M.A. diss., Batna University, 2011), 109.

<sup>(35)</sup>-International Crisis Group, La Crise Algérienne n'est pas fini (Rapport Afrique N° 24, Bruxelles20 : octobre 2000), 11-9.

<sup>(36)</sup>-The psychological approach of reconciliation focuses on the change of the motivations, goals, beliefs, attitudes, and emotions of the great majority of the society members regarding the conflict, see for example Daniel Bar-Tal and Gemma H. Bennink, 'The Nature of Reconciliation as an Outcome and as a Process', in From Conflict Resolution to Reconciliation, ed. Yaacov Bar-Siman-Tov (New York: Oxford University Press, 2004.), 12.

<sup>(37)</sup>-Through the adoption of the principle of responsibility of the state rather than the responsibility of individuals, to meet the claims about judicial abuses committed by some agents of the State.

<sup>(38)</sup>-That compensation, evaluated about 90 million of golden francs, stirs up the following question: who must be repaired? Is it the slave who lived under inhuman conditions? Is it the master who lost a part of his capital?

The international legislation about slavery is still written in the master's approach. See Gérard Barthélemy, 'Réflexions sur deux mémoires inconciliables: celle du maître et celle de l'esclave, Le cas d'Haïti', Cahiers d'études africaines (2004), 127-139.