Sung in Hindi, it takes its refrain from a ghazal by Saifuddin Saif: “This moonlit night has been a long time coming / The words I want to say have been a long time coming.” “The implication is of something half-veiled, half-visible,” says Sethi, who added his own lyrics gesturing toward an unspecified union, and set the song to a soft, slow melody adapted from two ragas. The music video shows a spectral, ruined train station and a collection of stranded passengers who gradually warm to each other across differences in age, religion, ethnicity, sexual identity, and walks of life. “There’s a transgender person,” Sethi says. “They’re all residents of Lahore, people who embody the multiple interpretations of this poet’s message of love. “It became kind of an anthem,” Sethi says. “It felt genuinely miraculous.”

A similar spirit animates a concert series that Sethi and Asani present together in cities around the world, “The Covenant of Love”—from a Quranic phrase describing God’s relationship with humanity. Sethi and his band perform songs by legendary Sufi poets, while Asani, seated onstage, explains their history and symbolism. This was the show Sethi brought to Sanders last spring, and before the musicians played “Dama Dam Mast Qalandar,” Asani told the audience about a 2017 suicide bombing at the shrine that killed 90 worshippers. “But the next day, people were back, dancing,” he said, a testament to poetry’s power to give courage and spiritual solace. And then he invited students to their own version of dhamaal. “If the spirit moves you, just dance.”

**Forgive, but Don’t Forget**

**...and don’t always forgive**

*by Lincoln Caplan*

**When Should Law Forgive?**

*by Martha Minow (W.W. Norton, 27.95)*

The first person President Donald Trump pardoned, in August 2017, was Sheriff Joe Arpaio. He was infamous for being brutal to undocumented immigrants and others in his shameful jails, and cheered on by neo-Nazis. The month before, a federal judge had found Arpaio guilty of criminal contempt, which carried a jail sentence of up to six months, for “flagrant disregard” of a court order. He had refused to stop harassing and arresting Latinos without any basis for suspicion that they had committed a crime. In the 2016 elections, Arpaio lost his race for a seventh term in Maricopa County, Arizona, apparently because the county no longer wanted a sheriff who engaged in what the Justice Department called “unconstitutional policing.” But in the presidential election, Arpaio helped push the county and the state for Trump, who advanced his own anti-immigrant cru-
There are “acceptable and unacceptable grounds and circumstances” for granting presidential pardons and forgiveness.

During the civil war in Sierra Leone, in West Africa, from 1991 to 2002, more than 50,000 people were killed; according to the United Nations, the combatants included about 10,000 child soldiers. Minow focuses on one she calls Emmanuel: abducted at seven years old and, for four years, used by his captors for the mundane (chores) and the savage (spying, fighting, and killing). Adults involved in such bloody conflicts turn children into soldiers “because they are more easily conditioned into fearless killing and unthinking obedience.” As many as 40 percent of child soldiers in some conflicts are girls, many forced to become sex slaves and prostitutes as well as killers. After the war, Emmanuel’s mother and grandmother forgave him. His uncle did not. Others in his community beat him. Minow: “He dropped out of school, became involved in theft, and fell into a cycle of social rejection.”

Child soldiers are victims, but also perpetrators. Some abduct other children. Some join a side without being abducted, “drawn by the ideology, or by chances for action and responsibility, or even by the thrill of the violence or being part of a political effort that could offer better opportunities.” Yet those who make that choice don’t have the same level of accountability and blame as competent adults, because “growth toward adult maturity takes time” and “adolescents under the best of circumstances can both think like adults and be gripped by impulses and fears.” Minow continues, “There are problems with viewing former child soldiers or child sexual slaves” as suitable recipients of forgiveness, because “forgiveness by definition first
needs acknowledgment of wrongdoing” and child soldiers may lack “the degree of psychological and moral responsibility to be treated as wrongdoers.”

As victims and perpetrators, Minow writes, child soldiers make conventional legal mechanisms for dealing with them “overly simplistic blanket assertions of innocence or overly stringent assignments of blame.” She regards restorative justice as a valuable alternative for them, “some kind of public process to acknowledge their participation in violence and lawlessness” and “help individuals forgive themselves and construct new and productive chapters in their lives.” Through this nuanced case study of children caught up in distant wars of other nations, Minow makes it easier to see the similar dual nature of “American youth involved in gangs, drug trafficking, and other criminal activity,” who can’t evade legal responsibility as child soldiers often do.

In both instances, she observes, “legal forgiveness should be less concerned with particular victims than with remaking the rules and institutions that constrain the choices and opportunities of young people.” Child soldiers and gang members “may not be entirely innocent, but neither are they responsible for the social conditions in which they make their choices.” Minow expands this point in her chapter about forgiving debt—of individuals with consumer and other debt or student loans, and of nations and cities in debt, too. Forgiving gang members who ravage a convenience store may seem morally different from forgiving the hospital debt of a family buried financially by the cost of a breadwinner’s catastrophic illness, but the “spirit of second chances embedded in bankruptcy shows a long-standing legal and cultural embrace of forgiveness.” She writes, “Each is to blame when they violate promises to pay back loans or laws against violence, but each also is embedded in larger social patterns that construct limited and often poor options.”

A premise of Minow’s book is that while bad things happen when people flout the law, they can also happen when the government strictly enforces it. The most regular result of American criminal justice is punishment, whose main product is more crime. Recidivism—a relapse into criminal behavior—is a national disgrace. The Justice Department’s Bureau of Justice Statistics found that of 401,288 inmates released from state prisons in 2005, 68 percent were arrested within three years and 83 percent within nine years—with almost two million arrests among the inmates released, an average of five arrests per inmate. Retributive justice, the retaliatory, dominant form in the American legal system, as Rachel Elise Barkow, J.D. ’96, explains in her new book Prisoners of Politics (Harvard University Press), is a dual failure in not improving public safety and in not preparing prisoners for sustainable re-entry into the world outside. Or as Minow puts it, “Fully enforced criminal laws produce much punishment but not necessarily better people or a better society.”

The promise that the restorative-justice movement has been realizing is helping perpetrators, victims, and others shaken by wrongdoing find their way to a better future. It has been helping “law grow toward justice,” in Minow’s words. But her book teaches that forgiveness will contribute its full potential—without overstepping its bounds—only if justice grapples with the requirements of law.

One effort she proposes is developing a jurisprudence of pardons, including “a needed check against abuses and unequal treatment.” The worst abuse would be for a president to pardon himself (which Donald Trump, in June 2018, tweeted that he has the power to do). The Constitution explicitly limits the president’s pardon power “in Cases of Impeachment,” which arguably bars a self-pardon. But the prospect of a disgraced president forgiving himself, Minow warns, underscores the need for defining the limits of forgiveness in this now-prominent field. Otherwise, self-forgiveness would be the ultimate denial of wrongdoing. It would ridicule the idea of law providing meaningful forgiveness.

Contributing editor and journalist Lincoln Caplan ’72, J.D. ’78, assessed the importance of Oliver Wendell Holmes Jr. in “America’s Great Modern Justice” (May–June 2019). He works with Minow on the American Academy of Arts & Sciences project called Making Justice Accessible.