ONE JUSTICE FITS ALL? EXAMINING CROSS-CULTURAL DIFFERENCES IN PERCEPTIONS OF JUSTICE

Caroline Bennett-AbuAyyash
MER Comprehensive Research Project (Supervisor: Dr. Joanna Quinn)
Transitional Justice

• Transitional Justice:

The pursuit of justice during the period “following the end of conflict or repressive rule, during which a new peaceful, stable, and democratic society is being established” (Llewellyn, 2006)

• Question: How will society achieve justice following conflict?
Retributive Justice

• Staple of the Western justice system
• Conceptualized as: “the repair of justice through unilateral imposition of punishment” (Wenzel, Okimoto, Feather, & Platow, 2008, p.375)
• The focus: the crime and the proportional punishment
• The actors: the court system and its lawyers
• Represents the backbone of international law (Allan & Allan, 2000)
Restorative Justice

- Adopted in community-driven cultures (Albrecht, 2010)
- Conceptualized as: “a process of active participation in which the wider community deliberates over past crimes, giving centre to both victim and offender in a process which seeks to bestow dignity and empowerment upon victims, with special emphasis placed upon contextual factors” (Dinner, 1997, p. 404)
Restorative Justice

• The focus: The harm that was done to the community (Allan & Allan, 2000), restoring societal harmony and promoting healing (Braithwaite, 2002)

• The actors: the offender, the victim, and the community (Umbreit, 2001)

• Restorative justice includes a wide array of mechanisms to the extent that it may be difficult to derive a narrow set of representative mechanisms/tools (Wenzel et al., 2008)
1. **Indirect dialogue**
   - Victim and offender interact indirectly (shuttle diplomacy, letters, videos, etc.)
   - More settlement driven than process driven
   - Examples: some VOM programmes in Europe; programmes that assist victim and offender dialogue in crimes of severe violence; situations of severe power imbalances where in-person dialogue is not possible

2. **Facilitated dialogue between victims and offenders**
   - Dialogue between victims and offenders
   - Facilitator creates safe environment, prepares parties and writes up agreement
   - Examples: VOM

3. **Facilitated dialogue between victims, offenders, supporters and government officials**
   - Dialogue expands to include supporters of victim and offender; government officials may also participate
   - Discussion tends to expand beyond specific incident to underlying issues of victims and offenders
   - Example: Family group conferencing; community conferencing

4. **Facilitated dialogue between victims, offenders, supporters, government officials and community members**
   - Dialogue expands to include community members (who may or may not know the other parties)
   - Discussion tends to expand beyond specific incident and underlying victim and/or offender issues to community issues as well
   - Examples: Some sentencing circles; some peacemaking circles

5. **Directed dialogue between victims, offenders and other parties**
   - This could take place in any of the three models above, either as a substitute for the methods described or as one of several methods used in a particular process
   - Victim and offender, at least, are present; any of the others may be as well
   - The role of the facilitator changes from facilitation to more directive and settlement oriented
   - Examples: VOM or conferencing if facilitated in a civil mediation fashion; some sentencing circles; some peacemaking circles

6. **Arbitrated dialogue between victims, offenders and other parties**
   - Victim and offender, at least, are present; any of the others may be as well
   - The facilitator(s) organize conversation among the parties, but in the end the facilitator(s) the decision
   - Examples: Some reparative boards; some tradition or customary practices of aboriginal groups

Restorative Justice

- Adopted in community-driven cultures (Albrecht, 2010)
- Conceptualized as: “a process of active participation in which the wider community deliberates over past crimes, giving centre to both victim and offender in a process which seeks to bestow dignity and empowerment upon victims, with special emphasis placed upon contextual factors” (Dinner, 1997, p. 404)
• **Adopted in community-driven cultures** (Albrecht, 2010)

• Conceptualized as: “a process of active participation in which the wider community deliberates over past crimes, giving centre to both victim and offender in a process which seeks to bestow dignity and empowerment upon victims, with special emphasis placed upon contextual factors” (Dinner, 1997, p. 404)
• Adopted in **community-driven cultures** (Albrecht, 2010)

• Conceptualized as: “a process of active participation in which the wider community deliberates over past crimes, giving centre to both victim and offender in a process which seeks to bestow dignity and empowerment upon victims, with special emphasis placed upon contextual factors” (Dinner, 1997, p. 404)
• Adopted in **community-driven cultures** (Albrecht, 2010)

• Conceptualized as: “a process of active participation in which **the wider community deliberates** over past crimes, giving centre to both victim and offender in a process which seeks to bestow dignity and empowerment upon victims, with special emphasis placed upon contextual factors” (Dinner, 1997, p. 404)
Cross-Cultural Psychology

• View of the self as *independent self* versus an *interdependent self* (Marcus & Kitayama, 1991)

• *Theory of Fundamental Attribution Error*: When explaining behaviour, individuals make the error of over-emphasizing the role of internal dispositions or traits while failing to account for contextual factors (Jones & Harris, 1967)
Cross Cultural Psychology

- Cross-cultural research on *Fundamental Attribution Error*:
  - Asians make weaker attributions to individual agency in comparison to Americans
  - When situational factors are salient, Asians are more likely (than North Americans) to correct for biases and shift the focus to the environment (Shirazi & Biel, 2005).
In sum...

• Cross-cultural research in psychology suggests a fit between Asian culture and *Restorative Justice* principles
• I expected this fit is expected to be stronger for Asian cultures in comparison to North American culture
Proposed Study

• In a 2 x 8 mixed-design study, I manipulated:
  – Background - Canadian OR Chinese
  – Crime - 8 crime-related scenarios varying in severity

• Dependent Variables:
  – Support for two approaches to justice: Retributive approach and Restorative approach
  – support for the mechanisms and practices representing retributive and restorative justice
Hypotheses for Retributive Justice

• I expect no effects for ethnicity on support for retributive justice approach and mechanisms
  – Due to the Communist Party’s incorporation of *Retributive Justice* mechanisms as part of China’s reforms (Liu & Palermo, 2009), which is expected to have translated into acceptance of retributive justice elements.
Hypotheses for Restorative Justice

In comparison to Canadian participants...

• Chinese participants will show stronger support for the *restorative justice approach*, although this difference will vary depending on crime severity.

• Chinese participants will show stronger support for *restorative justice mechanisms*, but this difference will be moderated by the crime scenario being judged.
METHOD
Method - General Information

• Total of 58 participants (30 Canadian and 28 Chinese) completed the study online

• Participants read 8 crime scenarios, in random order (Gromet & Darley, 2006)

• For each scenario, participants completed several measures on including approach to justice and justice mechanisms
Method - Materials

- Approaches to justice - Participants read a definition for retributive and restorative justice. Then, participants answered:
  - On a scale on a scale of 1 (not at all effective) to 10 (extremely effective): “How effective is the retributive approach in achieving justice after THIS SPECIFIC crime?”
Method - Materials

• **Approaches to justice** - Participants read a definition for retributive and restorative justice. Then, participants answered
  - On a scale on a scale of 1 (not at all effective) to 10 (extremely effective): “How effective is the restorative approach in achieving justice after THIS SPECIFIC crime?”

• **Justice mechanisms** - Participants rated the importance of 10 justice mechanisms:
  - On a scale of 1 (not at all important) to 7 (extremely important), how important is it to have:
    “judgments happening within courts” (e.g. retributive)
    “members of community in charge” (e.g. restorative)
RESULTS
Retributive Justice

- In line with the hypotheses, analyses showed no main effects for ethnicity and no interaction
- This finding held for the analysis on participants’ support for a retributive justice approach and participants’ ratings of the importance of retributive mechanisms
2 (Background) x 8 (Crime severity) mixed-design ANOVA revealed a significant interaction between background and scenario, $F(7, 364) = 5.70, p < .05$, such that the effects of background varied as a function of crime severity.
Restorative Justice Mechanisms

2 (Background) x 8 (Crime severity) mixed-design ANOVA revealed a marginally significant interaction, $F(7, 371) = 1.92, p = .07$, such that the effects of background varied as a function of crime severity.
DISCUSSION AND IMPLICATIONS
Discussion and Implications

- No differences in support for retributive justice is not surprising considering that retributive justice represents the backbone of Canada and China’s legal systems.
- Chinese participants still exhibited stronger support for restorative principles and mechanisms. Therefore, the two justice approaches are not mutually exclusive.
- Why should we care about including both types of approaches? They have been shown to fulfill unique and distinct justice motivations (Okimoto, Wenzel, & Feather, 2009).
Discussion and Implications

- In terms of cross-disciplinary implications, the findings support arguments in political science and law for incorporation of local culture when applying retributive justice approach.
- This research represents a novel approach to the study of restorative and retributive justice:
  - The study of transitional justice in political science is limited to societies recovering from mass atrocities, while...
  - Justice research in psychology has primarily focused on fairness and forgiveness in inter-personal disputes or harm.
LIMITATIONS AND FUTURE DIRECTIONS
Limitations and Future Directions

• We need significant advancements in the development of a taxonomy of mechanisms.
• Interesting to include a forced choice between retributive and restorative.
• Need to be cautious about generalizing the findings to other populations, especially considering Chinese participants’ scores on independent self-construal.
Limitations and Future Directions

• Due to various constraints, I used a number of vignettes rather than immerse participants in real-life transgressions.

• Field data would enrich and strengthen the current findings, although there is evidence engaging in imagined situations can often mirror their real-life reactions (cf. Robinson & Clore, 2001).

• Research can be expanded to include conflict-prone areas.
FIN!

Special thanks to:
Dr. Joanna Quinn
Stephanie Vieille
Dr. Victoria Esses

SSHRC CRSH

Ontario