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MER Comprehensive Research Project (Supervisor: Dr. Joanna Quinn)

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

# 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)

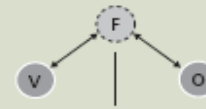
# Restorative Justice

- 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

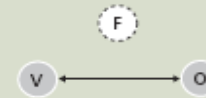


### 2. Facilitated dialogue between victims and offenders

Dialogue between victims and offenders

Facilitator creates safe environment, prepares parties and writes up agreement

Examples: VOM

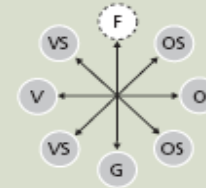


### 3. Facilitated dialogue between victims, offenders, supporters and government officials

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

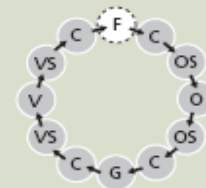


### 4. Facilitated dialogue between victims, offenders, supporters, government officials and community members

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



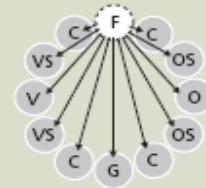
### 5. Directed dialogue between victims, offenders and other parties

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

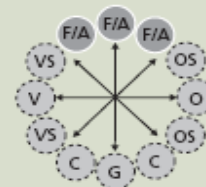


### 6. Arbitrated dialogue between victims, offenders and other parties

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



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# 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

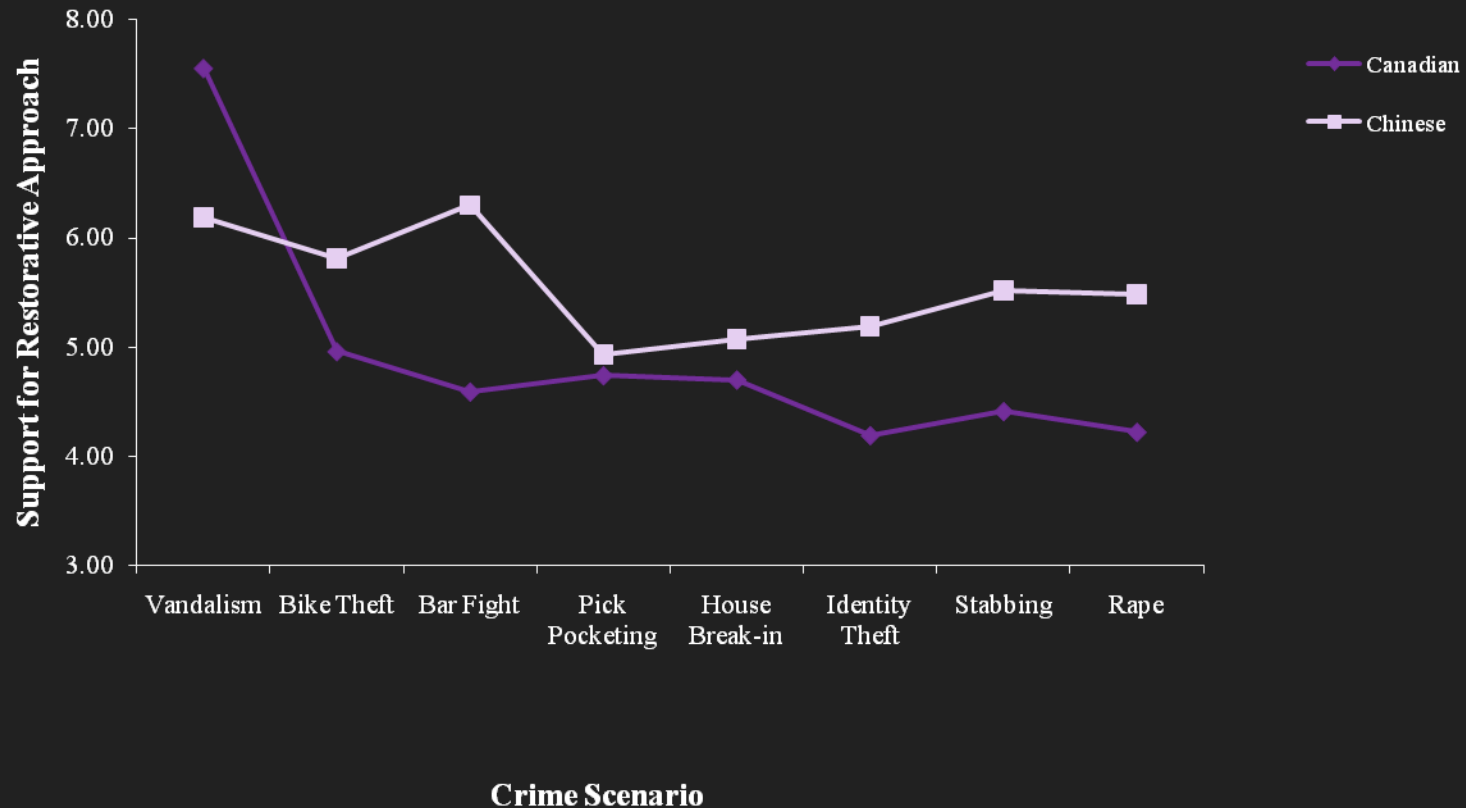
- **Approaches to justice-** Participants read a definition for retributive and restorative justice. Then, participants answered
  - On a scale on a scale of 1 (not at all effective) to 10 (extremely effective): “How effective is the restorative approach in achieving justice after THIS SPECIFIC crime?”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

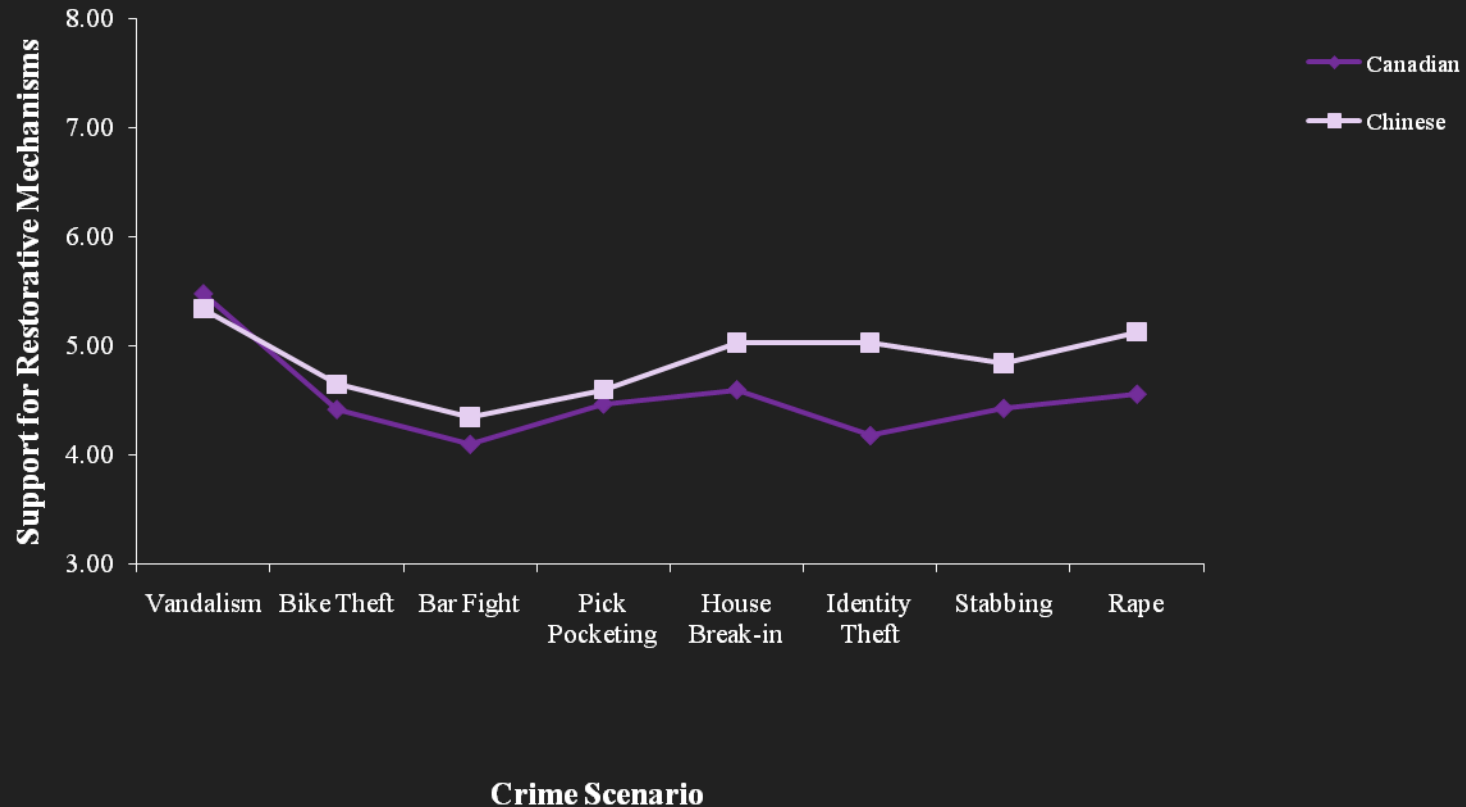
# Restorative Justice Approach



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!

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