



# The Pluralism of Restorative Justice in Greater China: an Introduction

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Restorative justice (RJ), as a relatively new justice initiative, has attracted significant attention from academia, the criminal justice system, and across international civil society. China arguably accommodates the world's largest and perhaps the most diverse RJ programs (Braithwaite, 2002; Braithwaite & Zhang, 2017; Cloke, 1987). Chinese RJ is hailed as an “oriental flower” (东方之花) with rich and valuable conflict resolution experience from which its Western counterparts could learn (Hu & Zeng, 2015). However, Chinese RJ, to some large extent, is still vaguely sketched and insufficiently understood. This special issue attempts to unveil some myths of RJ in three Chinese societies (Mainland China, Taiwan, and Hong Kong).

Scholars argue that RJ values have existed in ancient Chinese societies for thousands of years (Liu & Palermo, 2009; Wong, 2016). RJ ideals that focus on transforming the offender and restoring harm to the victim are believed to align well with traditional Chinese cultures, particularly Confucianism. Confucianism emphasizes moral values such as benevolence, justice, and harmony. Confucianism condemns litigation as it is a form of conflict that could disrupt harmony and orderly society (Lu, 2008; Wu, 2010). Instead of litigation, Confucianism encourages individuals to resolve their disputes in civil society through mediation, when necessary, to invite the extended family, clans, and guilds to assist in resolving the dispute (Di & Wu, 2009; Lubman, 1967; Zeng, 2009). Endorsed by Confucianism, mediation was pervasive in ancient Chinese society for dispute settlement.

Contemporary mediation in mainland China could date back to the Maoist era when the Chinese Community Party (CCP) used it to mobilize and unite the masses for the sake of its political goals (Clarke, 1991; Cloke, 1987; Martin & Zhou, 2022). By empowering the masses to settle their own disputes, the CCP aspired to secure the masses' belief that their concerns had been heard and that they were actually playing a role in the revolution. This was one part of a strategy to gain mass support for the revolution (Glassman, 1992; Lubman, 1967). The milestone of RJ in mainland China was in the 2010s when people's mediation and criminal reconciliation were formally legislated in 2010 and 2012, respectively.

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This was accompanied by significant political dynamics and judicial reforms with a transition from the “Strike-Hard” approach of the late twentieth century to the “Balancing Leniency and Severity” policy under the political doctrine of “Harmonious Society” in the early twenty-first century (Biddulph, 2015; Li, 2015; Trevaskes, 2010). Legal-social scholarship further explains the resurgence of mediation as the CCP’s pragmatic response to widespread social instabilities and contradictions in order to strengthen its political legitimacy and the efficiency of social control (Lee & Zhang, 2013; Ng & He, 2017; Pei, 2014; Zhang, 2021). Top-down RJ reforms in mainland China are criticized for remaining a “thin” version of RJ which lack deep roots in civil society support of “bottom-up” social movement excellence (Zhang, 2022; Zhang & Xia, 2021).

RJ in Taiwan shares both similarities and differences with mainland China. First of all, Taiwan and mainland China have the same historical and Confucian roots in their criminal justice systems and society. The large mediation system for civil and minor criminal cases in Taiwan has a legal basis that can date back to the 1930s, the same root of mediation in mainland China (Huang & Chang, 2013). In addition, non-governmental organizations (NGOs) have become actively engaged in RJ initiatives, energizing RJ in Taiwan to evolve from a “top-down” policy to a “grass roots” social movement (Huang et al., 2022). Hong Kong is a special administrative region of China (SAR) whose legal system was inherited from the British common law system. Its colonial history, deep-rooted Confucian culture, and increasingly radical mainlandization make Hong Kong unique soil for the development of RJ (Lo, 2012; Lui, 2022). The eight articles collected in the special issue cover a wide range of topics related to RJ in Greater China, theoretically and empirically. The collection not only shows the pluralism of RJ in different Chinese societies, but reveals how differential macro-social-cultural-political factors can shape RJ implementation.

Wu and Wu’s contribution to this issue conducts a comprehensive review of the research and implementation of RJ in mainland China. The review has found about 1700 related documents published up to August 16, 2022, including 1126 journal articles, 404 theses, 70 conference papers, 67 newspaper articles, and 10 books. The authors’ analysis shows that the concept of Western RJ was first introduced to China in 2002 and existing RJ research mainly concentrates on environmental crimes, juvenile cases, and correction. The authors also find that, in practice, different Chinese criminal justice agencies have used RJ in diverse ways with different foci. The article concludes that the development of RJ in mainland China is based on consensus, unique cultural Confucianism, and traditions of people’s mediation.

Based on a review of academic journal articles and legal documents, Wong and Fung’s article explores the evolution of community correction programs for juvenile offenders in mainland China. In particular, the article examines the historical roots and characteristics of Chinese juvenile community corrections and analyses how RJ can be incorporated into the youth rehabilitation system. The authors’ analysis shows that the existing community correction system in mainland China fails to accomplish its rehabilitation and reintegration goals, as its juvenile offenders are found to be passive clients in one-size-fits-all correctional programs within a “closed system.” Thus, the authors advocate for a restorative juvenile community correction model that is capable of motivating social capital and engaging all stakeholders in achieving various correctional goals, such as victim restoration, accountability, capacity building, and maintaining community safety.

Martin and Zhou’s article examines the use of mediation as a police technique in mainland China with a focus on the “Fengqiao Model” reforms. Based on 1-year ethnographic participant observation, the authors find that the overarching practical goal of contemporary Fengqiao Model mediation by the Chinese police is to promote a “good

faith/sincere” reconciliation on the part of individual participants to consolidate the overall hegemony of the market order. Locating the contemporary mediation practices in the broader history of policing in China, the article further argues that the Fengqiao Model in the Maoist era mainly utilized reintegrative shaming (could be either reintegrative or stigmatizing) to deal with political contradictions among the people, while the contemporary Fengqiao Model more aims to resolve grass root conflict through a mode of producing depoliticized “good faith/sincerity,” which reshapes revolutionary techniques to maintain social stability.

Yuan and Liu’s article pays attention to the regulatory structure of drug treatment in mainland China. Relying on interviews with 36 drug users placed in compulsory drug treatment centers, the authors explore their perceptions of the multiple tools and strategies adopted by regulators. Adopting Braithwaite’s, (2002) responsive regulation theory, the research reveals that drug treatment in mainland China is a state-sponsored regulatory practice that lacks both a restorative base and regulatory deterrence, rendering escalation in the responsive regulatory pyramid inevitable. The authors emphasize that the drug treatment system needs to be more professional in helping drug users to form a clear intention to achieve abstinence, deal with withdrawal symptoms, and respond to possible life changes. They also emphasize that the “community of care” of the drug users in regulation could effectively change regulatees’ attitudes toward drug abuse and inspire their motivation to change. This article is among the very first ones which examine the responsive regulation theory in Chinese contexts.

Drawing on multiple sources of qualitative data, Jiang and Chen’s article investigates the implementation of RJ in Chinese environmental criminal justice (ECJ). It finds that in mainland China, a state-led-and-coordinated network of community organizations and residents is playing a crucial role in accounting for victim welfare, offenders’ responsabilization, and public engagement in the environmental realm. The authors argue that though the implementation of RJ in Chinese ECJ is re-structuring the justice system into an active service provider for environmental victims and an interactive platform for Chinese citizens’ engagement in justice, state well-being, rather than victim welfare, is prioritized. The new environmental regulation regime largely adjusts the authoritarian regulatory models to a new social reality and political ideology where economic development should be secured and ecologically sustainable social harmony should be maintained.

The special issue encompasses two articles focusing on RJ in Taiwan. Huang and her colleagues’ article reviews how RJ is grounded in the Taiwanese district prosecutors’ offices and gradually evolves into a grassroots social movement. It identifies three stages of the implementation of RJ in Taiwan: the preparatory stage (2008~2009), the pioneer trial stage (2010~2017), and the full implementation stage (2018~). The authors argue that the development of RJ in Taiwan results from open-minded policymakers, dedicated academics, and innovative facilitators. They also suggest that although it is worthwhile to ground Taiwanese RJ in its cultural roots, we should avoid oversimplifying RJ as complete equivalence with Confucianism, civil resolution, or Indigenous culture.

Cheng and Rossner’s article unpacks the relationship between shame and Confucian relationalism in Taiwanese RJ. Based on a review of RJ programs in Taiwanese juvenile justice, governmental documents, and academic scholarship, the authors propose a framework that links shame, relationalism, and transformation. Their framework situates shame within a Confucian relationalistic context where shame is likely to be affected by face-work, significant others, and internalized shame. With these features, offenders’ defense mechanisms may be easily evoked, leading to disintegrative shame that is isolating and harmful. Then, restorative justice can play a crucial role in transforming shame from being

disintegrative to reintegrative, particularly by employing local RJ values such as the rule of reciprocity and reciprocal filial piety.

In the last article of the special issue, Lui examines how the promotion of mediation in Hong Kong has supported the potential development of RJ through well-established groups of legal professionals. The article consists of two major parts. The first part is a qualitative analysis of 12 real RJ cases with transcribed texts, which yields rich insights into the process, skills, narratives, and responses of RJ sessions in Hong Kong. The second part uses a survey questionnaire for 208 professional mediations, which contains psychological measurement scales that uncover the attitudinal beliefs of individuals, including empathy, forgiveness, and attitudes toward retributive justice. Lui's research demonstrates a positive sign that the professional mediators in Hong Kong had acquired some fundamental RJ skills, such as empathy, forgiveness, and narrative attunement.

## Declarations

**Conflict of Interest** The authors declare no competing interests.

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