

## BOOK REVIEW

**Xiaoyu Yuan, *Restorative justice in China: comparing theory and practice*. Cham: Springer, 2017, 212pp., ISBN: 978-3-319-63921-5 (hbk).**

This book brings to light the development of modern criminal law and procedure regarding criminal mediation in China. In China, criminal mediation started to develop and received official recognition in the 2010s, and because of its recency, research reports have focused on basic information such as types of offences, referral mechanisms, case reports and the like. This book provides a more comprehensive research with empirical data collected through a naturalistic inquiry. It is worth noting that a comparison is made on the difference between China and the West in relation to the system and culture of restorative justice practices, and this enriches the literature specifically on the cultural and political influence that such practices have in China.

This book presents recent practices in restorative justice in China, comprising eleven chapters which are organised into four parts. Part I is an introduction given in three chapters. The first two chapters focus on 'Chinese features' – which covers not just an identification of the restorative justice system and practice in China, but an alignment of features of Chinese culture with restorative justice practices. It divulged certain Chinese cultural values and societal traditions that are in line with restorative justice principles, such as shame, peace and harmony. This is useful in setting the scene of how the practice is influenced by the intrinsic value embedded in the community given its historical roots. Chapter 3 describes criminal mediation in the Chinese criminal justice context. The modern criminal justice system in China has started to develop in the early 1970s, borrowing from the West that is based on an inquisitorial and retribution model, and gradually undergone reforms and revisions to adopt certain global norms, such as procedural justice. This more descriptive introduction is important, especially to readers from other cultures, as it sets the scene, making the Chinese context of a State-led approach of restorative justice more understandable.

In the subsequent chapters, the reader is presented to the empirical research undertaken by the author. There are seven chapters that follow, constituting Part II. Chapter 4 is a detailed description on the research plan, entitled 'Discovering realities: a naturalistic qualitative inquiry', where the author describes the research process, sources of data, and the methods of analysis. The distinguishing elements here are the experiences and problems that the author encounters in the actual fieldwork in Chinese courts. Descriptions were made on the inaccessibility of courts and personnel who are in the positions to provide necessary research data. Relationship, connections and status are of utmost importance as far as obtaining data is concerned. Whether data could be released depends largely on the authority's relationship with, and the status of, the researcher. In some areas, access was only made to archival documents and interviews with participants could not be carried out in the institutions visited. The author at one point described the data collection process as a warzone adventure: 'stepping on

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another landmine might bring my stay to an end' (63). This is the case even when the author is of Chinese ethnic origin, and is relatively well connected. Research data collected and reported in this book is, thus, of precious value because of the constraint in data accessibility.

Part III of the book is on empirical findings, comprising Chapters 5, 6 and 7. Chapter 5 provides a summarised description of cases, offering information on some statistics around the types of cases, success rate, and so on. The research involved a five-month period of fieldwork carried out in 2014 when 32 mediation cases were collected. Fourteen interviews with twelve participants on the offender side (including the families and the employers) and seventeen interviews with fourteen participants from the victim side (including the families) were held. In-depth interviews were made with three judges, three prosecutors, two mediators and five lawyers. An additional 29 cases were observed. All cases were from the city of Nanjing in China. One common feature identified by the author in these mediation cases is that all cases involved financial compensation, and mediation fails when the offender fails to compensate.

From the case descriptions, the discrepancies in practice between the East and the West seem rather striking: in China, the judge or the public prosecutor acts as the mediator in an adjudicatory and authoritarian way, exerting pressure on the parties to come up with a solution package that involves compensation. In some cases, the parties might not have met each other in a meeting. The purpose of the mediation is largely only on compensation, whether or not the offender is genuinely remorseful, or whether the victim is willing to forgive. These descriptions highlight the special characteristics of practice in China that seem to be more for the purpose of procedural needs than a need to restore justice in the sense acknowledged by western scholars. The use of real stories makes this chapter particularly incisive.

Chapter 6 is a thematic analysis on the authors' observations on certain emerging themes. The author identified several themes that emerged from her study, including education, communication, victim's voice, and process outcome. One of the most prominent features that she puts right at the beginning of this chapter is the role of 'education' in the mediators' communication with the perpetrator. The practice of 're-education through labour' in the Chinese criminal justice system is exerting its influence on mediation practice, though the author described this education process as 'not harsh', and considered it more like a shaming process similar to a restorative justice conference. This is an interesting feature of 'Chinese style' mediation: although in a less severe way than traditional criminal justice practices, mediation in China seems to have an authoritarian, top-down approach in re-educating the wrongdoer.

Chapter 7 highlights the theme 'harmony'. The notion is being considered in the Chinese context, where the custom on upholding a harmonious family and society is explored. Some detailed insights into how harmony is affecting the way people react to the practice of mediation are considered. The author explored the ways in which people achieve harmony: by focusing less on individual rights and needs, and making compromises in order to achieve harmony for the family circle and the community at large. Interestingly, these compromises are achieved

through an authoritarian approach, not in a voluntary process that is recognised in the West as one of the basic principles and foundations of the success of restorative justice processes. Also, emotions are suppressed in order to avoid the possibility of a destructive dialogue. This form of 'harsh harmony', as the author puts it, only achieves harmony at the community level, but not the interpersonal harmony that restorative justice intends to achieve. A comparison of the practices between China and the West is given in Part IV.

Part IV is entitled 'Doing restorative justice: China and the West'. This is a concluding part where the author made a bold attempt to elaborate on the notion of restorative justice by referring to its origin in the West and in China. In Chapter 8, a rather comprehensive review on the origins, definitions, values and modalities of restorative justice is made. These are valuable and informative, however little is related to the empirical research findings analysed in the previous part. Chapter 9 focuses on restorative justice practice models in the West, giving an analytical examination on the major principles and practice norms on voluntariness, neutrality of the mediator, empowerment to the victims, and storytelling by the parties. The chapter ends by comparing the maximalist and the minimalist views of restorative justice. Again, it would be more instructive to use the empirical research findings to illustrate how practices in China deviates from Western norms, and to explain which approach might be more suitable given the Chinese societal values and customs.

Chapter 10 is entitled 'A dialogue between China and the West on doing restorative justice' and places cultural issues at the heart of the author's comparisons. She discusses how the Chinese practice based on the traditional values in maintaining a harmonious society is itself a form of restorative justice embedded in its culture, and how the dominance of political authority might hinder the practice of restorative justice that is based on a westernised model. This leads to the intriguing thoughts on how to embed the idea of restoration in the whole criminal justice system in a way that fits into the cultural roots of the society with community participation.

The final concluding chapter (Chapter 11) attempts to bring together the major cultural nuances identified in previous chapters, and to respond to the research question by identifying the crucial implications of Chinese values on notions about the practices of restorative justice. A more localised and practical perspective is taken in this chapter while the author identifies the challenges faced by the Chinese authorities with the practice of restorative justice. Some suggestions are made on possible solutions that are worth considering, including engaging diversionary measures in tandem with community work, enhancing procedural rights and civic participation. With the inherent difference between cultural values and political system in China and the West, more questions are raised than are answered.

All in all, the book *Restorative justice in China: Comparing theory and practice* provides a rich collection of empirical data on cases in China. The originality of the cases fills the gap in the literature on the practical manifestations of the notion of restorative justice in China, forming the basis for further studies on how certain cultural and political values are impacting restorative justice practices

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in different parts of the world. Given the small number of cases, and the challenge to fully access them, there is a limit on the range of cases covered in the study and its generalisability. The book also focuses on Mainland China without considering the practice in the greater China region, including Hong Kong, Taiwan and Macao, where the same cultural background exists.

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