Preface

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This special Restorative Justice (RJ) edition of the *Asian Journal of Criminology* sets out to examine several practical applications of restorative practices from across the Asia-Pacific region. In doing so it highlights some of the rich traditions of the past and engages with contemporary issues that form a part of the richness of the region's people and places. Here, this special RJ issue seeks to provide an insight into the pathways whereby RJ is emerging—often becoming a preferred method of resolving the aftermath of crime and fractured relationships and reducing re-victimization. The papers in this issue also expose the many challenges facing restorative practices as they struggle to find space within a largely dominant, adversarial and western judicial response to crime, often viewed as a remnant of colonization rather than a traditional response to crime.

An often noted issue throughout Asia, and something that the editors encountered here in their international invitation for the submission of papers, is the dominance of the English language (albeit American English) within criminological literature. Sadly, this continues to place academics and authors to whom English is a second language at a distinct disadvantage, especially as publishers understandably require exemplary standards.

To increase the number of quality Asian criminological papers published in high ranking criminological and sociological journals, especially within the field of restorative practices and philosophies, the editors suggest increased levels of international research collaboration and more co-authoring of articles. Furthermore they would like to initiate a discussion surrounding the dominance of English as the language of choice. Perhaps in each edition of the *Asian Journal of Criminology* an article could be published both in English and the language of the author. Although English-speaking themselves, the editors are concerned that the dominance of western criminology has in part come about through the widespread use of English at the expense of the cultural richness of the region, best explained in the vernacular. Asian criminology has often reflected the current 'western' criminal justice systems dominated by colonization and a more globalized approach to crime. The same issue has confronted the editors' colleagues at the European Forum for Restorative Justice, where non-English-speaking European nations conform to English as the international standard.

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To raise the profile of Asian Criminology in general and RJ practices within Asia, the editors look towards special editions and regular journal articles, as these give exposure to regional successes, challenges and directions associated with Asian values, wisdom and tradition. Indeed, this special RJ edition of the *Asian Journal of Criminology* attempts to raise the awareness and encourage the use of restorative justice as a process within criminal justice systems throughout the Asia-Pacific region. This edition provides an opportunity to showcase the diversity of practices as well as the traditional and cultural heritage that permeates the region in terms of healing in the aftermath of crime. This edition also highlights the underpinning values and philosophies that closely reflect much of what restorative justice offers throughout the region. It is amongst the following papers that the special RJ issue illustrates regional diversity and robust responses. The diversity of authors outline various government and agency responses as these structures seek to overcome the problems associated with providing fair and just solutions in a timely manner to those parties impacted by crime.

It has now become increasingly incumbent upon academics and practitioners across the region to provide a framework for restorative practice to flourish at all levels. This may well include practices both within and outside of courts, the large community estate of schools, workplaces, and institutional structures, as well as within corrective and rehabilitation service and prisons.

It has also become evident that, within the context of the rights of (and obligations to) victims of crime that more effective and efficient processes within both community and the judiciary are provided. For example, for victims to be able to seek participation in a restorative encounter; to have the option of using only a restorative practice; to have an opportunity at a later stage to share their personal story with their offender and family. Perpetrators too are often unsure of restorative practices as they enter the court processes with a plea of guilty. The use of the court as a preferred place for community solutions to crime is now being challenged within some jurisdictions. This has come about as local village elders lead customary courts and circles in an effort to have fairness of process and just outcomes delivered in a timely manner with lower costs to governments. So it is here that the issue explores some of the emerging trends and current responses to crime along with the traditional values underpinning customary practices as they aim to provide quality experiences of fairness to all.

Yan Xiang reflects in the paper *Criminal Mediation in Mainland China: A Leap from Judicial Endeavor to Legal Norm* that China's more recent move into local resolution of criminal compensation to victims is best found within mediated or facilitated processes. Voluntary participation in processes are questioned along with personal and family motivation to fulfill their obligations, as full compliance to agreed outcomes often fall short of expectations of one party. Restorative practices remain in an area of growth within the government's responses to crime as indicated throughout the paper. The discussions provide a timely review of emerging trends to satisfy victims of crime, community safety concerns and fair compensation within and outside of the judicial system.

Following China's use on mediation and restorative practices, Shah's *Sexual Offences in Vanuatu According to Customary Law* illustrates the various issues confronting many jurisdictions where sexual offending, victim's rights and customary law are examined within a post colonial judicial context. The competing arguments between customary laws, the authority of Chiefs, and today's contemporary legal system are made clear. These are issues confronting many regional policy makers and judiciaries where traditional forms of justice often appear to provide the foundations of good restorative practice. The paper provides an introduction to the tensions in the richness of Vanuatu's emergence within the region and the

voices of its people calling for fairness and timeliness in process, with outcomes that are experienced to be just to all participants.

The experiences and perceptions of people connected in some way to the legal process throughout the Asia Pacific always helps to provide the authentic voice of experience. It is for their part then, that Yossawan Boriboonthana and Sangduen Sangbuangamlum provide in their paper *Effectiveness of the Restorative Justice Process on Crime Victims and Adult Offenders in Thailand* not only an insight into Thailand's Probation Service's response to crime through restorative practices, but the perception of many service users. The authors highlight previous research conducted by the Probation Service among victims of crime and adult offenders, focusing on the degree of satisfaction and fairness, and the changing attitudes and needs of victims and offenders. Yossawan and Sangduen's paper provides an example of good research and evaluation on a very timely restorative process among victims of crime and adult offenders and provides the crucial insight into the experiences and perceptions of participants.

Just how regional systems respond to crime in a more restorative manner is something to be considered at a later date. That said, restorative and problem solving processes are being sought more often across these jurisdictions and present us all with an opportunity to reflect and review. And so it is here that *A Review of Restorative Justice Programs in Taiwan* is presented in this special edition by Lennon Chang and Hsiao-Fen (Fanny) Huang. The authors provide timely and clear examples of restorative practices being used throughout Taiwan, examining them closely in terms of meeting the needs of victims of crime within a process that has been dominated by a focus on offenders with its accompanying and, at times, constraining values. Lennon and Hsiao-Fen provide an expose of four major Taiwanese practices, namely Mediation, Deferred prosecution and conditional suspended sentence, the Youth Justice system and Taiwan's Restorative Justice Initiative. This allows for further discussion on the underpinning values of restorative justice and how it best meets the needs of local people through the region.

Latha Subramanian and Raj Thilagarag provide this special edition with an overview of the historical and traditional context to which restorative practice emanate in India, in their paper *Restorative Justice in India*. India, with its cultural depth and diversity of legal practice over the millennium is the focus here, and another example of regional practices. The paper highlights many examples of the underpinning values of Indian society that have found resonance within restorative justice philosophy and its emerging processes. The authors point out that such restorative values and practices can be found among Arbitration and Mediation as well as within the local Lok Adalat and Nyaya Panchayats. The example of the Gram Nyayalaya is provided here to showcase within the region, the progress that India is placing on special and problem solving interventions at local village level, to assist fair and just outcomes in a less costly or more timely manner. A more formalized approach to RJ within the judicial context of the Magistrate's Court follows and brings with it an exciting evaluation of the experiences of the research project by victims of crime and well as by perpetrators and their collective circles of support.

A re-examination of a court based research project from the early 2000s is presented here in Goulding and Steels' paper, *Ten Years On, the 'Three Circle' model of Restorative & Transformative Justice: a tool to combat victimization and recidivism*.

In this paper the authors provide a snapshot of the project including how it was viewed by both participants and the judiciary, and what the authors themselves believe could have been. In addition, they combine this with a careful examination of government consistency within and across agencies and with a particular focus on the then Department of Justice (now renamed the Department of Corrective Services) with its lack of due fiscal diligence with

regard to project outcomes. A noted disregard for victim participants outside of regulated support services has left many victims of crime asking for non government organisations (NGOs) and local community responses. Finally, it was the overtly uncooperative and often dogmatic stance by the government department of the day against the more supportive attitude of the judiciary as the Magistrates involved attempted to source Therapeutic Jurisprudence measures within their court that put an end to highly effective restorative practice in Western Australia.

Collectively, the papers do more than highlight several examples of RJ research and practice. They indicate that throughout the region many ordinary people continue to make some very extraordinary and personal journeys. That said, there are some serious issues that these papers also raise for the region. One constant concern is that of a fundamentally western viewpoint in many parts of the world, and this region is at the core. Regional groups and governments often take up policy and practice models that are designed with an emphasis on prevailing western court models with their adversarial foundations and customs. Local communitarian models are only now just finding the light of day once again, yet are watched closely by authorities. With attempts at further globalization of restorative practices comes the need to balance the richness and diversity found among local people, their families and their community.

The editors argue that innovation is more likely to occur where the abovementioned measures allow local responses and where victims are viewed as more than a useful tool for of the prosecution. Regional victims of crime now demonstrate that they too have a voice and want to see fairness and justice in all processes. Victim support at all levels is beginning to operate in many parts of the region in a restorative manner and that this process is one way that they can access services, especially so for marginalized women. Many regional governments are now aware of their fiscal responsibility to their constituents as well as their social responsibility. Indeed, the use of restorative practices as shown in the papers, provides a number of examples with both fiscal and social probity. These show that diverse needs can be covered by unique responses through local, customary and gender appropriate restorative processes that respect all participants and stakeholders.

The region is now beginning to take advantage of more participatory and healing process available today both within and outside of the criminal justice system where RJ is a part of therapeutic jurisprudence or problem solving court systems, well resourced among local NGOs and voluntary agents at grass roots. These reforms make fair and just processes available to the poor and marginalized. Also, outside of the criminal justice system, restorative practices prove their worth as a conflict reducing practice as well as one that enables healing. It is a crucial tool in the battle against corporate and administrative bullying, both within and outside of the organizational systems. RJ provides a fair process within workplaces that is capable of reducing workplace anger, violence, manipulation and stress. It is shown to be an effective regime when the circles are used among school students, parents and teachers within a holistic model.

As this small but valuable collection of regional papers highlight, restorative practices are growing at all levels of governance throughout the region. They also highlight the fact that, within the region, quality academic and professional leadership are guiding innovative responses to crime and its aftermath, as well as reducing re-victimization.