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**Constructing a successful
Restorative Justice Conference: A
tentative analysis**

A Thesis

**Submitted in fulfilment
of the requirements for the degree**

of

Master of Education

At the

University of Waikato

by

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University of Waikato

2014

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Table One

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ABSTRACT

This thesis is an examination of the language used in Restorative Justice Conferences in schools. After examining the origins and the concept of restorative justice the study utilises the conceptual tools which are located in a social constructionist approach to language use and meaning-making. In so doing the study draws on discourse theory, positioning theory, narrative theory, and, more latterly, relational theory.

Restorative Justice (RJ) is a modern approach to social conflict, offering an alternative process to the traditional punitive system widely used in schools. Although the process is increasingly used around the world, and has many fervent practitioners, there is a considerable gap in our understanding of just how the process achieves the results that its adherents claim for it.

The site of this study is a secondary school in New Zealand, and two RJ conferences were audio recorded along with separate recordings later from each participant. The theory of social constructionism suggests that the meaning of things and any sense of personal identity is created through social interaction and the creation of particular kinds of relationship. In this framework, meaning is never established once and for all, but is constantly negotiated and created through social interaction.

Accordingly, close attention has been paid to the dialogue and the nature of the linguistic exchanges. In short, it has focussed on the way relationships and identities are constructed through the deliberate and purposeful use of language, thus setting up the possibility of people resolving the harm, and going on in peace. It is suggested that a key element is in the setting up of relationships of equal concern, dignity and respect.

The research both vindicates the claims that are made for the efficacy of the process in solving social conflict, and more importantly, offers an enhanced understanding of exactly what is going on in those conferences that makes that peaceful resolution possible. Although it is

limited to only two such conferences, it is hoped that it will offer a glimpse of what it is possible to learn about the effects of different ways of speaking using these constructionist conceptual tools.

Acknowledgements

Thanks to Neil and Ivan for the conversations around the issues of restorative practice and to Ivan for his specific critiques of various sections. To Antoinette for her suggestions, and Sonya for her fine attention to detail and enthusiastic support. To Andre, Lewis, Mitchell and Phillip for their cheerful assistance with computer know-how. To my colleagues at the school who placed the conferences in my direction. And above all else, profound thanks to Annette for her total support for this project including listening patiently to every new idea that I wanted to run past her, and whose librarianship skills saved me dozens of hours of fruitless searching.

To my supervisor Wendy Drewery whose enthusiastic endorsement of my vague idea was instrumental at the beginning, and who subsequently managed to combine constant support when I was struggling, with shrewd observation about what I needed to do next. At times I was reminded of that ancient wrestling match between the angel and Jacob. He survived, but walked thereafter with a limp which perhaps says something pertinent about all figures of speech. She was determined to set my crooked things straight and make my rough places plain, so that if there are any remaining deficiencies they are entirely my own.

When a pottery kiln is opened, there is always a sense of excitement as the newly formed object is revealed among the ashes, detritus and intensity of the firing. The ideas for this thesis too have been shaped, re-shaped, crafted and re-crafted until they have assumed a familiar and pleasing form. It has been a marvellous year.

Introduction

What I tell you three times is true.

Lewis Carroll

This thesis had its beginning in a sense of curiosity. Restorative Justice Conferences were clearly a force for good, but what was it that was taking place in the conference that allowed it to be this ~~force~~ force for good? A search of the literature found lots of guesses and speculations mixed in with confident assertions, none of it based on any detailed examination of the actual words that were spoken in an actual conference. The impressive research from the Waikato University Development Team (2003) for instance, used constructed conversations as examples in their report rather than any actual conversation.

A research niche was opening up: if an actual conference could be recorded then maybe this raw material would furnish the answer as to what was going on in there. Associate-Professor Wendy Drewery endorsed the idea and the investigative journey began. I felt a little like the hunters of the snark, in that I too did not know what I was looking for, but was determined to embark on the search anyway.

Restorative Justice Conferencing has been taken up by a number of secondary schools in NZ this millennium as an alternative way of responding to the challenging behavioural patterns exhibited by a significant number of students in school. The early model set up and evaluated by the Development Team from Waikato University (2003), gave an enthusiastic endorsement of its processes. Since then the Australian trainer Margaret Thorsborne has run a large number of workshops around New Zealand, training teachers to run restorative conferences. The national organization Restorative Justice Aotearoa is now recognized by the Ministry of Justice, and runs annual conferences with about half the time dedicated to RJ in schools. (The other half is dedicated to RJ in the criminal justice system.)

There has been continuing research from Waikato University, led by Drewery (and exemplified by Gray 2011; Kaveney, 2011; and Kecskemeti, 2011). The Auckland University of Technology has three students involved in RJ research, and a recently completed doctoral dissertation from Murray (2013). Victoria University is in the process of setting up a chair in Restorative Justice, and has a history of publications from Buckley (2006), Maxwell (2006), and Morris (2001). Also from Victoria, Marshall (2012) has had a number of publications since 2003. Corrigan (2012) from the Ministry of Education (MOE), has also been active in this area.

The research for this thesis speaks from within that set of scholarly contributions plus a wide range of comment from researchers in other countries, and seeks to add something to it. Much of the published work on RJ is either advocacy for RJ (more people ought to take it up), or commentary upon it (this is what it consists of). The heart of this thesis is the recording of two conferences (and later recording of interviews with each participant), so that the actual verbal interchanges can be subjected to thorough analysis. The data then is in two parts, the raw conference data, and the (later) participant reflection upon that process.

To the best of my knowledge, this has not been attempted before, although two different studies have come reasonably close. The first of these is by Rossner (2011), although the actual research was carried out with a conference in the criminal justice system in London in 2004. Rossner video-taped it, playing the tape back at very slow speeds so that every fleeting facial expression could be observed. Her interpretive paradigm was from interaction ritual theory, and was limited to analysis of people's faces in contrast to my own work where all the interpretive weight has been placed on language.

The second research exercise by Gray & Drewery (2011) was carried out in a NZ school in 2009 and consisted of bringing together a class of 16 year olds who were struggling in various ways with the school system. They met for an hour or so for a total of seven sessions over one year. The researchers wanted to know whether in subjecting these

students to a classroom circle modelling mutual respect, their observable behaviours had changed over time. The first and last sessions were video-taped and analysis demonstrated change in two specific areas: relating to others, and contributing and participating (from the NZ curriculum).

They did indeed observe marked improvements in student behaviour, which they attributed to the circle processes. Their method of analysis however, was distinctively tailored to this exercise: counting distractions and interruptions, the ability to answer questions without prompts, and so on. To this extent, it was a quantitative exercise focussed on verbal behaviours which had been operationalised. They were less interested in the language and process of the conference than how a series of conferencing-type interventions could change the way that a group of somewhat marginalized students could learn to interact more positively with the learning process. This highlights the significant difference between their work, and my own, where the focus is largely on the way in which the language used in a conference functions to repair the harm of a broken relationship.

The Research Project Background

The study was conducted in a coeducational state secondary school in one of the smaller cities in New Zealand. There were approximately 1400 students with significantly more girls than boys. It was a decile six school and in some ways it was almost two schools, with about twenty percent at decile eight, and the other eighty percent at decile four or three. Its ethnic composition was about sixty percent Pakeha, thirty percent Maori, and ten percent Polynesian, Asian, African.

As in all schools, the pressures for change in the last ten years have been unrelenting, with staff and three different principals accommodating themselves to a new national assessment scheme (NCEA), a new Curriculum document, and the unrelenting pace of technological change. More broadly, the school has had to fit in to the new competitive environment introduced since 1987 when neo-liberal

reforms began to turn students into customers of an education product, teachers into technicians who supplied that product, and schools forced to compete against each other with the publication of league-table examination results (Ball, 1990; Wilson, 2013).

My own association with this school went back to 1968 when I began to teach History as a fresh graduate from University and Teachers College. After leaving in the early seventies, I was lured back three years later with the offer of a career enhancement, and that began my personal version of the *longue dureé*, lasting till the end of 2012. For the last fifteen years of that I had abandoned the classroom and re-trained as a school counsellor.

The significance of that occupational change was that instead of looking out at the students from the officially sanctioned position of teacher, the lens of observation was reversed, and I began to understand what students saw when they looked at teachers from the officially sanctioned position of student. If it is true that perspective is everything, then this change in perspective brought to my attention some disconcerting understandings about the nature of the institution and the relationships between teachers and students. Yet it was more than just substituting one perspective for another, it was the beginning of a whole new paradigmatic way of looking, of more than just replacing punitive retribution with healing the harm. It was a movement (still some distance away) towards realizing the role of language in the social construction of identity. (See chapter three.)

From about 2005 the bulk of the senior administrative staff had been trained in Restorative Justice conferencing, but the initial enthusiasm had quickly waned, and in 2009 I was sent on an RJ training course, and charged with the responsibility of revitalizing the introduction of RJ into the school. Intuitively, RJ just seemed right to me and began to make sense of a whole lot of things about relationships in school that had only been on the periphery of my understanding, like the importance of the way teachers talk to students.

Conferences to sort out conflictual student situations, training sessions for new staff and others who volunteered were all rolled out by me as a way of breathing new life in the idea of RJ in that school. However, by the end of 2012, I had come to resemble rather too closely the narrator from "The Ancient Mariner" ("Unhand me thou grey-bearded loon"), and it suited both the school and me to part company. Part of the deal was that I was able to embark on this research project, with the chance to satisfy a growing intellectual curiosity about the RJ process. What was it exactly that allowed it to change relationships so markedly? What was the difference between this process, and the long established patterns of teacher/student interaction? Just as importantly, how would I go about finding out? What process would allow for the possibility of answering these questions?

The Structure of the Thesis

It seemed important to me to contextualize the research project, and so chapter one is a discussion around the (somewhat disputed) origins of RJ. I suggest that it has arisen relatively recently in both the criminal justice system and in schools, as a response to the manifestly inadequate processes of both those institutions to deal with the problems of social disorder that each faces. It is the challenge that RJ poses to both systems that determines its significance. I cast a coldly critical eye on those theorists who want to claim that RJ is a re-invigoration of ancient cultural practices. Chapter two discusses the difference between the practice and the theory of RJ, in which I try to introduce some clarity into the debate. Chapter three takes the pursuit of understanding into the wider intellectual climate of the field of the social sciences in which any attempt to fully understand RJ processes must be situated. This chapter stakes out a claim for the understanding of RJ with reference to social constructionism, discourse theory, relationship theory, position theory and narrative theory.

The next four chapters are the heart of the thesis with the presentation and analysis of the data - the recorded conferences and subsequent interviews. The final chapter attempts to bring theory and

practice together, contrasting the RJ process with standard school procedures in order to draw out how the play of language can be critical in the process of education generally, and in RJ conferences in particular.

Chapter One: The History of Restorative Justice

There is some debate about whether the idea and practice of Restorative Justice originated relatively recently, or whether it has been an ancient human practice, from time out of mind. Howard Zehr (1990) is in no doubt about it. Restorative Justice (RJ) originated in the town of Elmira Ontario, on a particular day in May 1974, when a particular judge decided to break with tradition for reasons that have never been made public, and send two young male offenders out to apologise to the twenty two people whose homes they had vandalized. Zehr has labeled this the Victim Offender Reconciliation Program (VORP), and has argued that it morphed gradually into RJ. As Zehr is one of the foundational writers and academic thinkers about RJ, almost to the point of being revered, this interpretation has never been directly challenged. It may be described as the most precise account of the birth of a new social and legal practice, the idea that offenders should front up directly to their victims, acknowledge their responsibility, apologise, and then try to put it right.

Argument from Origins

However, a number of other writers assert that RJ has its origins far back in human time. According to Braithwaite (as cited in Carruthers, 2010, p.2) RJ has been the dominant model of criminal justice throughout most of human history for all the world's people. No evidence is adduced for this, and it has an air of rhetorical flourish rather than significant historical insight. Other writers narrow it down a bit, to include only those indigenous societies which have a history of colonization in the last five hundred years, particularly USA, Canada, Australia and New Zealand. Considine for instance (as cited in Carruthers, 2010, p.2) says that pre European Maori society had a well developed system of custom and practice which had much in common with the restorative philosophy. This point of view is elaborated on at some length by Sullivan and Tiff (2006) with particular reference to first nations peoples in the USA.

The Post-Colonial Snag

We may note that in trying to establish the ancient origins of RJ, apologists and advocates for RJ as a system of social reform get caught up in the altogether different and complex world of post-colonial writing studies and politics. RJ is good because it supports the integrity and value of an indigenous group who have been subsumed and colonized by imperial invaders. (They had a useful social practice and it could usefully be returned to.)

If one goes further afield, into the works of NZ historians like Byrnes (2004) and anthropologists like Sissons (1998) and Hanson (1989) then it is clear that the debate about the alleged indigenous origins of RJ, in entering the very sophisticated arena of post-colonial studies, can get caught up in arguments about the nature of historical change, and the difficulty in arguing across from the practices of ancient rural tribal societies into the vastly more sophisticated and complex urban societies of the twenty first century. Suddenly it does not look that simple anymore.

Dismissal of Argument from Origins

This understanding that RJ is part of ancient history, and also part of the forgotten knowledge of indigenous communities is itself not without its critics. Cremin (2010, p.4) for instance when raising the question of what RJ is supposedly restoring something to, asks

ō restoring to what? To an idealized notion of cohesive societies in which everyone took responsibility for their own actions within communities of care and accountability? It is hard to imagine that such communities ever really existed.
(p.4)

Daly (as cited in Cuneen, 2007) dismisses all talk of distant origins for RJ as being part of a misguided attempt to establish intellectual legitimacy for the movement by creating an 'origin myth.' Vieille (2012, p.1) argues that when RJ advocates look at indigenous societies, they get things out of context, by rendering the type of justice embodied in customary

mechanisms – universal and ahistorical, through its representation as restorative justice mechanisms.

Vieille (2012) goes on to take a very critical look at the NZ flagbearer of RJ, the Family Group Conference system. She concludes that it is politically useful to claim that the process incorporates Maori processes and understandings (tikanga) but this claim has little substance in fact. In a Canadian context, the writer Rudin (2005) in discussing the complexities of justice in an aboriginal context, argues that rather than confirming indigenous practices, the spread of RJ threatens them because the practice is imbued with too many non-indigenous elements.

The feminist critic and historian Spivak (as cited in Keucheyan, 2013, p.205) has some particularly blunt words in dismissing the myths of origin, arguing that one cannot write histories of the colonized in the hope of

– rediscovering authentic native cultures under the sedimented layers of imperialism. Imperialism re-writes everything it touches, to the extent that nothing found by the colonists on their arrival has remained intact.

What Spivak is highlighting is the possibility that if RJ theorists base the value of RJ on its alleged (and positive) existence in distant societies, and that argument can be shown to be false, then the process of RJ will similarly be discredited.

Conclusion to Argument from Origins

Although the argument about whether RJ is ancient or modern, will probably continue for some time, some observations may be in order. The weight of evidence, (as against the frequency of assertion) is on the side of the argument for the modern origins of RJ. Something does not have to be old to be good. However, Llewellyn and Howse (1999) see problems in positioning RJ purely as a modern construct because this would run the risk of tarnishing it as being simply a new kind of ephemeral fetish, a half-baked response to the half-understood problems of modern social living.

Coming from a legal background, their worst fear is that it could be seen as a new wave movement on the fringe of legal practice (p.2).

Clearly then, there are problems in positioning RJ as either old or new, and neither romanticising the indigenous past nor siting it as part of an Aquarian new age, is a solution. In some ways it might be thought, the dispute is beside the point in that if RJ supporters wish to have their alternative and compelling system of justice widely accepted, then it needs to have an intellectually robust foundation.

It is probably accurate to say that the practice of RJ has far outrun its theoretical underpinnings, and that the search for ancient origins may be understood as a way of attempting to provide the missing foundations for the practice, even if that attempt is misguided. It seems to me that if one wants to anchor RJ in some way, it is far more satisfactory to turn from the speculations about the nature of human history, to another field altogether, the field of inquiry into the theoretical underpinnings of the practice. This will be developed in chapter two.

The Why of Restorative Justice

I have provided an outline of the origins of RJ. While this is important, the real interest is in *why* RJ emerged at this time. I will discuss this now. Llewellyn and Howse (1999, p.14) identify at least seven groups (in the USA) agitating for change to the punitive legal system in the 1970s, and trace the first recorded use of the term Restorative Justice, to an article by one Albert Eglash in 1977. Out of all this emerged the notion of justice as *right+relationships* (p.41). This redefinition of the word justice came about because of disillusionment with the previous (implicit) definitions of justice as retribution, or sometimes, as *just desserts*. The criticisms of the existing system were that it did not serve the interests of any of the parties, not victims, not offenders, nor society generally. The instrumental justifications for the punitive system, that it allowed for deterrence, rehabilitation, and lessened recidivism, were all false, and the attempt to replace them with the revenge fantasy of *just desserts* was equally unsatisfactory.

What all these writers and thinkers had in common was a focus on human relationship. That is to say, relationships of dignity, equal concern and respect (Llewellyn & Howse, 1999, p.41). Because of this, crime too had to be re-defined, as a violation of relationship, of persons, rather than property. Further, the adversarial nature of criminal investigations had to be replaced with a dialogical respectful face to face encounter between the persons harmed, and the persons causing the harm.

In this suggested process, the emotional and symbolic dimensions of loss could be addressed and resolved through apology and reparation. Putting things right, was more important than punishment. The RJ process recognizes that acknowledgement (confession) and reparation (penance) may actually heal both parties, victim and offender. In the course of this, the metaphorical rent in the social fabric caused by the wrongdoing, could be repaired and the offender would be *part of that repair*. By being included in the process, the wrongdoer would symbolically be re-integrated into society.

The turn to Restorative Justice

By the end of the twentieth century an alternative vision of justice was appearing as a new kind of practice in the criminal justice arena in New Zealand and some other places (Gavrielides, 2008). By the late nineties, it had spread into the educational sector. What was it that led to the acceptance of this new idea? (After all, many good ideas have disappeared without trace.)

In both the criminal justice system and the education system, the embrace of RJ was an attempt to find an alternative solution to a rising sense of social disorder, with a rapidly rising jail population, and a rising rate of permanent exclusion in secondary schools (Corrigan, 2012). This was compounded by the recognition that in both cases, the incarceration and exclusion rates bore more heavily on Maori and Polynesians, both minority ethnic groups. In NZ the take-up of RJ is linked to the passage of the 1989 Children and Young Persons Act, which set up the process of the Family Group Conference (FGC) as the new model for dealing with

criminal offences by under seventeen year olds. This process was then copied by Australia (see Morrison & Vaandering, 2012), and has been widely admired around the world, although it was only in retrospect that the label Restorative Justice came to be attached to it (Carruthers, 2010). In 1994, Thorsborne adapted this model to resolve a very complex dispute in a Queensland school Blood (2005).

By 1999, alarmed at the escalating rate of school suspensions, the NZ Ministry of Education commissioned a team from Waikato University to trial and develop a process for conferencing in schools, using restorative justice principles (Drewery, 2010). The Waikato University Report was published in 2003, and remains an indispensable point of reference. RJ in schools has burgeoned since that time, and has morphed into a more complex creature, incorporating conferencing (as in the legal system), circle-speak for dysfunctional classes, and the idea of the restorative school . pushing the concepts of RJ to its limits.

RJ in schools and the Legal System

The transfer of RJ across from the legal system to the educational system, was surprisingly easy to accomplish, because they have a great deal in common, as I shall seek to show in Table One (below). Each has a set of assumptions about how people live together, and a list of rules or laws. When those rules or laws are broken, the person responsible must be apprehended, their guilt is established through an adversarial system (see McElrea, 2007 for a full discussion of this aspect), and then punished. The criminal system may put them in jail, sometimes forever, and the schools expel them, sometimes for ever. In each case, the ~~felon~~ is denied something . the freedom to be, to attain credentials, to take part in the wider society. The school expulsion is not as extreme as a permanent jail sentence, but the intention is the same in both cases, to deprive the person of something important to them, and presumably to protect those who remain within school and within society.

TABLE ONE

State/School Comparison: Fundamental assumptions of each

STATE	SCHOOL
People are rational actors	People are rational actors
Crime is a rational decision	Breaking the rules is a rational decision
Property is sacrosanct	Property is sacrosanct
Only individuals exist	Only individuals and their families exist
Crime is a result of faulty morality	Disobedience comes from poor family training
Punishment is the cure for crime	Punishment is appropriate for rule-breakers
People learn from stimulus/response	People learn from stimulus/response
%state+is the %body+offended against	%school+is the %body+offended against
Only the state can be neutral	Only the school can be neutral
Emotion has no place in this system	Emotion has no place in this system
Adversarial system is the norm	Adversarial system is the norm
State is the custodian of social order	Principal is custodian of social order
State must ensure punishment	Principal must ensure punishment

This chapter has discussed the conflicting arguments around the origin of RJ (recent, or ancient), and the reasons for its emergence after about 1970. This included a description of how its processes contrasted with the existing system. Then it established that RJ has come to education from the legal system, and has further suggested that the two systems share a great deal in common in their approach to social misdemeanors. It is time now to take the discussion of RJ in another direction.

Chapter Two: Restorative Justice - what it does and what it is.

Oh, do not ask, "What is it?"
Let us go and make our visit

T.S. Eliot

The previous chapter explored where Restorative Justice came from, and this chapter will examine the question of what RJ actually does, and what it is. The quote from Eliot at the top of this page is intended to draw attention to the difference between thought and action, between theory and practice. The person addressed in the poem is enjoined to stop thinking about it, and just get on with it. The practitioners of RJ however, do not seem to have been troubled by any self-doubt about what it is they want to do, and so they have been getting on with it, for more than three decades. When asked what RJ is, they will tell you what it does, confusing the two realms, theory and practice. Vaandering (2011) can observe that practice has run well ahead of theory.

To illustrate this point, consider the two following quotations, from highly respected writers in the RJ field:

This is Marshall: (as cited in Morris & Maxwell, 2001, p.5)

Restorative Justice is a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future.

This is Zehr (2004)

Restorative Justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and to put things as right as possible.

These two definitions are remarkably similar; people come together or are involved in sorting something out. Implicitly, both writers are referring to an RJ conference, and the people who come to those conferences have the task of collectively identifying what has to be

done, and then resolve[ing] it collectively. Both writers say that this coming together of people is a process. In this way, Marshall and Zehr segue seamlessly from practice to theory, from what RJ does, to what it is. Unfortunately we are left pretty much in the dark about what the process actually consists of apart from people just talking to each other. We know the desired end point (putting things right), but have no idea how to get there or even what that actually means. There is however no shortage of advice about the most appropriate models of process. What is missing is any theorising about how the models were produced.

In the sections that follow I shall attempt to bring some clarity to the debate by maintaining a clearer distinction between the practice and the theory of RJ. Firstly then, the practice of RJ and the circumstances in which an RJ conference in school might be asked for.

Setting Up a Conference

A conference might be asked for because of some serious wrongdoing by one or more students in school. The wrongdoing may include swearing at a teacher, physical assault on another student, property damage, and so on. It is serious because the ramifications go far beyond the actual people involved, sometimes involving significant financial expense and/or emotional distress. Parents will be invited to take part, and others where necessary. The meeting could involve anything between seven, and about twenty people.

The first decision is the school's. If they think a conference is desirable, then parents are contacted by phone, and invited to take part. Voluntary participation is most important. Generally, schools think of the people involved as falling into one of two camps, offender or victim. Each side is invited to attend a separate meeting where the RJ process is explained fully and their informed consent given to proceed. The intended outcome of the meeting . peaceful and equitable resolution . is made very clear. A time and date is set for the conference proper.

Conference Process

The meeting is run by a trained facilitator, and there is a clear order to the process. The offender speaks first, tells his/her story about what led up to the event of wrongdoing, admitting responsibility for his/her action(s) (Yes I did it.). The victim then tells their story of what the event and its aftermath have been like; its financial, social and emotional repercussions. The offender has to listen to this. (Sometimes it can be very hard to listen to because of the emotional intensity.) At that point the offender would be invited to respond again, acknowledging the harm done and offering an apology for it. At that point, victim and offender most frequently get into dialogue, exploring all the issues between them, including how to put it right. The aim of the facilitator is to get the parties talking directly to each other. At the end, they may sign a document setting out what they have agreed to, or, very often, they are happy to leave the understanding that has been reached just as it is, between themselves. That is an accurate (if fairly minimalist) account of what a conference does, it is time now to consider what that process is trying to accomplish.

What conferences seek to accomplish

Through a respectful dialogical encounter, a conference seeks to create an understanding between the parties that will enable them to resolve the tensions and difficulties between them. At its most elementary, it is through the telling of, and listening to the other's story that the possibility of healing arises. (See chapter eight for a full discussion of this.) The offender may be relieved of guilt and shame, the victim may be able to move a little closer to acceptance of the fact that time cannot be rolled back. As Downie and Llewellyn (2012, p.93) express it, the facilitator aims to set up a relationship within the room, of equal concern, dignity and respect, and creating a context and an ethos for the meeting within which the relationship between victim and offender, may be repaired.

That is an account of what conferences do, and what is accomplished by that doing. So, if that is what conferencing does, what is the concept of Restorative Justice, in which conferencing is embedded?

The Concept of RJ

In the narrowest sense, it is an alternative process to the punitive regimes that exist in the criminal justice system, and in the established practices of schools. It is softer, more flexible, more tolerant and accepting of human foibles. As an alternative process it includes a number of principles or values, like inclusivity, and being non-judgemental, of respectful speech. Its overall intention is to provide a more satisfying, enduring, and just solution to the problems of social conflict. That said, it is also true that RJ is not everywhere the same.

Controversy

The practice of RJ has spread across Europe, Asia, North America, South Africa, Australia and New Zealand. According to Cremin (2010) the Chinese now practice it, calling it bang jiao. The term 修复 (RJ) evidently encompasses a wide range of practice and understanding. Johnstone and Van Ness (2007, p.6) agree that RJ means different things to different people, and that it is a *deeply contested* concept (italics in original.) In turn, they quote Bazemore and Schiff (p.6) to the effect that the debates around the meaning of what RJ actually is, sometimes takes on the tone of a weird inter-faith squabble in an obscure religious sect.

This is not the view of Zehr (2004, p.307) who argues that there is a notable consensus evident on the basic elements or outlines of restorative justice, although it is not clear exactly what he bases this on.

Whatever the actual state of the situation, the debate has not deterred the practitioners in New Zealand and elsewhere who have been busily trying to extend their practice for some time now. Filled sometimes with missionary zeal, they have plunged into the practices of RJ, accosting anyone who will listen with their stories of magical transformation. Daly (2006, p.142) dismisses these stories in a fairly caustic phrase, as *airvana stories*. According to Vaandering (2011) there is a sense in which practice has run well ahead of theory. But even the research theorists come in for a bit of a drubbing. Cremin (2010, p.10) can

describe RJ research as being short on theoretical sophistication, short on rigorous or nuanced empirical research.

As part of this relatively rapid expansion of RJ the extension of the practice has taken priority over the engagement with theory. I am inclined to use a military metaphor and suggest that it is like an army which has moved so fast that it is in danger of rupturing its supply lines. The research that forms the basis of this thesis may, hopefully, play a small role in bridging the gap between theory and practice, of establishing what Morrison and Vaandering (2012, p.146) call *the praxis of RJ*. the action and reflection of people upon their world in order to transform it.

It would seem therefore, that any writer who attempts to define with any degree of precision what the concept of RJ is, had better exercise considerable caution. Defining the process of conferencing has been straightforward; like Marshall and Zehr quoted earlier, we can describe the *nature* of that process fairly easily. But that process is not the end of the matter. Clearly, those constituent elements of the process are themselves based on a number of understandings and assumptions and beliefs. It is my contention that those understandings and assumptions and beliefs are about human society, being in relationship, about the nature of the *self* and the connection between them.

That is, there is a philosophy or theoretical base to RJ. even if many practitioners are unaware of it. I will argue that a proper grasp of that philosophical or theoretical base is crucial to the full understanding of RJ, and accordingly, will turn now to an attempt to unravel those theoretical ideas which lie just underneath the practice. The first thing to note is that this theoretical base is not necessarily consonant with wider social and economic practices.

Restorative justice theory in the wider society

The dominant political paradigm in the West in the early twenty first century is still that of neo-liberalism. As the handmaiden or ideology of finance capitalism, it preaches a doctrine of *homo economicus* (Peters, 2011). That is to say it speaks of the independent autonomous human

being, making all decisions from the grid of rationality; so that in the unfettered play of self-interest, the wider needs of society will be met to create the best of all possible worlds. The individual is king, or queen perhaps. Taking this perspective as far as it can go, (and not all writers on RJ do this) the idea of the supremacy of the individual is a constructed myth, an ideological statement that simultaneously conceals and reveals a truth; an idea that serves to mask the connection to the profit motive, and consumer capitalism (Vielle, 2012).

The commentators who write about RJ, (but not necessarily the practitioners themselves) look at the play of human society from a quite different perspective, or through an altogether different lens, to use another metaphor. As a consequence, these theorists see people as born into the family, thrown into society as it were: always surrounded and interacting with people, at home, school, at work. They understand that a person can only be a person in relation to other people, that people are always connected, always interacting, always therefore in some kind of relationship. (McCluskey & Lephala, 2010, have an interesting account of this in a South African context,) The self then, is socially constructed. There is no essential fixed identity, but only identity in relationship. As Llewellyn and Howse (1999, p.39) put it:

Selves exist in and through (are constituted by) relationships with other selves. This is not to deny that we are individuated selves but rather to locate the individual within relationships.

(They attribute their understanding of this idea to a variety of writers, including some feminist writers, but it is also a fairly staple part of the theoretical paradigm labelled Social Constructionism .See the next chapter for an exposition of this.)

Perhaps the most coherent expression of this view comes from Llewellyn (2012), who calls it *relationship theory* Relationships just *are*, for good or bad. As fish live in water, so do humans live in relationship, and therefore, the key question is: *What* qualities of relationship do we require in order to promote and protect individual

flourishing and well-being? Llewellyn's answer is that we need relationships of equal respect, dignity and concern. She argues:

RJ is I suggest, a relational theory of justice. .. That is to say, it is about more than doing justice in a different way . it is a different way of understanding what doing justice+is all about. (p.90)

Understanding 'Justice'

The justice word has led to a lot of discussion among RJ commentators eg Vaandering (2011). Some have wanted to do away with it altogether, like Hopkins (2011) on the grounds that RJ in schools is concerned with education not the criminal justice system, and the word justice therefore does not sit comfortably. They want to talk about restorative approaches, or practices. (RA or RP)

The problem with this is that if the justice word is removed, then a huge gap opens up, and one has to ask, Restoring what to what? Just what is one supposed to be restoring? And what does restoring mean (Jenkins, 2006).? A number of writers argue for the centrality of relationship. (Cremin 2010; Downie & Llewellyn 2012; Drewery, 2005; Johnstone & Van Ness 2007; Morrison & Vaandering 2012; Zehr 2004). Following these writers I will argue that the justice word must be retained because that word is the fundamental touchstone, the defining point for the practice of RJ because what is restored is justice in the sense of right relationships.

However, in re-defining the justice word to mean relationships of equal dignity concern and respect, the understanding of Restorative Justice now challenges the very idea of justice prevalent in the current justice system (Llewellyn & Howse, 1999, p.19). A brief comparison with the traditional justice system is in order.

Traditional Justice

The traditional justice system is divided into two sections, civil and criminal. Where only a small number of people are affected by a wrongdoing, the matter is regarded as being private and is dealt with as

a civil matter. Where a significant number of people are involved in the wrongdoing, and its aftermath, (thereby posing the possibility of a threat to social order) the matter is defined as criminal. Both spheres deal with wrongdoings (breaking the law), the only difference between them is the definition into civil and criminal.

In the civil courts, the outcome is intended to solve the problem by transferring material goods from the offender, to the victim, thus re-establishing a degree of equality. This process actively intends to recreate the status quo ante, as far as possible. In that sense, it looks backwards for its just model.

In the criminal courts, the outcome is some form of punishment, or retribution, in an ascending scale from community service to fines or jail. This process is implicitly based on a notion of social equality, and the assumption is that in punishing somebody, this will (in some undefined way) even up the scales or pay the debt to society. This process focusses only on the offender, and also looks backwards for its just model. to restore (as in the civil courts) the status quo ante, as far as that is possible.

It should be noted that many schools follow the retributive model in largely ignoring the needs of any victim, focusing solely on punishing the offender. The same assumption is made, that somehow, this settles the matter that justice has been done and everything can go on as before. It also, looks to restore the status quo ante.

Instrumental Justifications

There are three instrumental justifications for the traditional justice system, that it deters, rehabilitates, and lowers recidivism. (All are demonstrably false, as the accelerating prison population attests). Llewellyn and Howse (1999) argue that by the turn of the twenty first century, these justifications had begun to segue into the theory of just desserts. This too on any close examination reveals itself as a rewording of the punitive model, the desire for punishment and retribution. Llewellyn and Howse (1999, p.35.) put it like this:

Close examination of this idea of punishment equal to the offence reveals that it is equally as arbitrary and potentially unjust as the instrumental systems of punishment.

The current justice system on this evaluation is simply wrongheaded, wrong in its assumption that crime is an individual matter, wrong in its pursuit of retribution as the solution to crime. The conclusion to this argument is that RJ is more than just an alternative to the current justice system, it is an entirely different way of looking at justice. It is time to look at the restorative part of RJ.

Restorativeness

In some ways, the restorative word is unfortunate because it easily suggests a return to the past, which is a defining feature of the established justice system. However it can also mean to bring back into better condition than before (to rejuvenate), and this is a little closer to its RJ meaning. Llewellyn and Howse (1999, p.2) put it like this:

While the beginning point of restorative justice is a state of wrong that has disturbed the relationship between the wrongdoer and the sufferer of wrongdoing, its *endpoint* may be quite different than the status quo ante.

We have seen that the current justice system looks to restore the past. In stark contrast, RJ looks to the future, so that what is restored, as Llewellyn and Howse (1999, p.2) put it, is not the facticity of the relationship before disruption but an *ideal* of a relationship of equality in society. There are some big implications here that RJ goes way beyond just being another method for sorting out schoolyard scuffles. In both its aim, and in the process set up to achieve that aim, RJ is about creating structures or relationships of equality, and this will be explored in detail in chapters four to eight.

This chapter set out to discuss in part what RJ does, and what it is, the difference between practice and theory. We may say therefore, that RJ works as a process for repairing the harms in society that are caused by wrongdoing. (That process in turn is based on the idea that relationship is fundamental to the construction of identity and the self.)

that those things are in fact, constructed through relationship.) At this point I wish to relate the practice and theory of RJ to secondary schools so that we can see what implications it has for the established structures and practices of those institutions.

Relationship and Disorder in School

Schools are organized hierarchically and bureaucratically. Staff are graded and paid according to their position in the hierarchy. Students are organized on an age basis, with the oldest students having the greatest status. Although a variety of subjects is offered, time and space are completely controlled by the timetable. Students are under constant surveillance through CCTV and subject to seemingly endless rules and continuous assessment. Relationships between staff and staff, and staff and students, mirror this hierarchical structure; some staff have authority over other staff, and all staff (are assumed to have) authority over all students. In this way, schools are structured towards authoritarianism.

In theory, schools are about education. In practice, they are significantly about behaviour management. Misdemeanours of one sort or another have always been a staple of school life; the offender would be tracked down and punished on the unexamined assumption that if a student had harmed someone, then the school had the right to harm that person in return. As Zehr (1990, p.75) puts it, people must be made to suffer for the suffering they have caused, and the only way to do that is to inflict pain. He quotes J.W. Mohr to the effect that this is *thus part of the cycle of violence rather than a solution to it*(p.77). It is also possible to argue that schools implemented their punishment paradigm by using the justice system and its retributive model, as the example. Certainly the emphasis on what rule (law) has been broken, who did it, and what is the best punishment for that individual, is strikingly similar in the two systems.

It is possible to argue that *disorder* is built into the structure of schools. Students are taught to believe that schools are important, and that their compulsory attendance for at least eleven years is for their own good. The school is the gateway to the world of employment and the good

life, and its credentials can only be obtained by conforming to its peculiar organization and structures. For a large proportion of secondary school students, none of this is persuasive. The teacher comes to symbolize an imposed authority speaking in a foreign language, and requiring adherence to a multitude of pointless rules, and where their work resembles unending exercises to no point. When class and cultural difference is added to the mix, then for some students, the school is a nightmare-ish Durkheimian site of their oppression in history. (Berger, 1963).

In any case, the practical concerns of organizing anything between 800 and 2000 students, and up to 200 staff on one site for six and half hours per day, are complex and demanding. Control, compliance, discipline, behaviour management, whatever one calls it, is bound to be a significant factor. The problem is that for at least the last fifteen years, the schools response to disorder, in the increasing use of stand down, suspension and exclusion have reached levels high enough to cause political concern. As early as 1999, the use of RJ as a possible solution to the escalating numbers of suspensions was being put forward by the NZ Ministry of Education (Drewery, 2004).

Since then, the possibility of a school adopting the RJ solution has become more likely with the increasing availability of RJ training schemes. If a school was to embrace the concept of RJ in its totality, then it would become a Restorative School (Hopkins, 2011) where teachers and students spoke a restorative script, where teachers modelled respect for their students as well as just talking about it. There are some schools in England which may be getting close to being run like this, and some in NZ that claim to run like this. The more common pattern is to take up one of the RJ processes . conferencing . as a partial solution to the problem of disorder (Vaandering, 2011).

This matching up of the traditional punitive approach with RJ is problematic because RJ does not see wrongdoing as being disorder but rather a breakdown in and of relationship. The object of any RJ

process is to heal the harm by restoring the relationship. Healing rather than hurting. Who has been hurt, and who else has been affected, how can we put it right? are the kinds of questions asked. This process will be described more fully in the research chapters. At this time it is necessary to explore more fully the disjuncture between the traditional punitive punishing school system, and the restorative system.

The Punitive School

That secondary schools respond to incidents of disorder in a punitive fashion, is a frequent comment made by researchers. (Claxton, 2008; Corrigan, 2012; Cremin, 2010; Gray & Drewery, 2010; McCluskey & Lephala, 2010; McCluskey et al., 2011; McCluskey, 2012; Morrison, 2010; Morrison & Vaandering, 2012; Parsons, 2005; Slee, 1995; Smyth & Hattam, 2004; Vaandering, 2011). Corrigan (2012) even uses a new term for it, *punition.q*

Punishment has always been used by schools. Bad behaviour in schools has always occurred. The evidence then, that punishment does not change behaviour, is overwhelming. And yet schools, teachers and principals cling to it (McCluskey et al., 2011; Morrison, 2010). For many people, perhaps most, whatever their position in society, the concept and practice of retribution is the norm, the established pattern, the default position.

RJ is often presented as a no-punishment model, and when presented in this way, it is profoundly challenging and even threatening to educational orthodoxy (Llewellyn & Howse, 1999; McCluskey et al., 2012).

Restorativeness and School Structure

As Vaandering (2011, p.314) puts it, we need to recognize that *harm done comes out of a community context.* For writers like McCluskey (2012, p.2-3), the problem may lie in school structure. She writes,

This article seeks to disturb a covert but powerful acquiescence in education to the marginalization of young people *to challenge a skewed and essentialist view that holds young people themselves to be the problem.*

Smyth and Hattam (2004) concur with this, but go further by talking about socio-economic disadvantage and the structure of society itself. Vaandering (2011, p311) citing Morris, says:

Her insights are echoed in the practice of those seeking to reinforce the view that harm done must result in the transformation of social structure, not the restoration of structures and relationships that were the sites for producing the harm in the first place.

In other words, there is little point in restoring one or more individuals to a good functioning relationship if that relationship is still bounded by wider inequitable relationships built into school and society. Suddenly, restoration (in RJ) is not just restoration to an ideal state, but a call for significant social change.

RJ as Change Agent

What this argument is beginning to establish then, is that the idea of restoration for some writers, is bigger than just restorative justice practice. It is more akin to a kind of sea-change in understanding of the nature of relationship and human connection, close to some transformative sense of what it means to be human, of how we might live more peacefully together.

This is not a view that sits easily with Llewellyn (2012), who wants to argue that it confuses two separate things, the practice of RJ, and the relationship theory that underlies RJ. For Llewellyn it is the relational theory of justice underlying RJ that is the fundamental concern, so if people want to question the validity of social structures, and advocate social change, then they must do so from the theoretical viewpoint of relational theory, rather than the practice of Restorative Justice.

The most cogent expression of the radical perspective (despite Llewellyn's caveats), comes from Vaandering (2011). She based her arguments on her observations of two Ontario schools which were adopting RJ practices. Most teachers saw RJ as a better way to manage students, and from the wealth of presented data, would pluck and choose what suited them. Her own experience of the training provided, pushed

her towards a conversion model, (citing Sawatsky p.309). She began to understand RJ as a way of being, a philosophy, and not simply a response to harm done (p.311).

It rapidly became clear to her that for change to occur, the power relationships underlying past ineffective practices must be challenged (p.315). The existing pattern of staff student relationship (based on power) did not allow for relationship based on mutual respect, of honouring the worth of the other, which for her is a defining characteristic of what it means to be human. She writes:

Educators, myself included, became painfully aware that how we spoke to our students was often from a place of dominance where we were commanding students rather than dialoguing *with* them; δ . And that the educational institution was in most cases not designed to honor the people it served. (p.324)

A Conclusion

In drawing our attention to power relationships in schools, Vaandering neatly moves this entire chapter towards a conclusion. Those power relationships are expressed in language and this thesis is an investigation into the language used in RJ conferences.

In the next chapter, there will be close attention paid to the meaning of words, and this will take us into the area of post-modern theory, of the notion of language as performative action, to the contested notion of the self and how subjugated selves are created in the playing out of power relations (Drewery, 2005). That is to say, the argument will have moved beyond discussion of the assumptions, values principles theory and philosophy that underlie restorative practice, to a discussion about the nature of language itself, and of how the existing inequitable power relationships in school can be superseded by minding how we speak (Drewery, 2005). It is to the question of language analysis that we now turn.

Chapter Three: Positioning the research within the body of social science theory

But how can I explain? How can I explain to you?
You will understand less after I have explained it.

T.S. Eliot

In the previous two chapters, I set out the origins of RJ, and then discussed what RJ does, and what it is. The assumptions have been that in tracing the origins of the practice of RJ, this evolutionary trail will provide essential information about what it is now. This is particularly necessary in the school context, because the process of RJ has been drawn from the criminal justice system, into schools. It is not therefore an organic outgrowth of school practice, which is significant, but was called upon to deal with a perceived crisis in school management systems for which the established practices could not find a solution.

Virus-like, once in the new habitat RJ began to mutate and has assumed several new forms. All of them carry some degree of radical challenge to long established school procedures assumptions and practices. So one way in which I have positioned this study of RJ in schools, is by contextualizing it as being imported into schools and posing therefore the challenge of the new.

The second chapter sought to make plain what this process does, and some of the argument surrounding the theoretical assumptions behind the practice. At this point then, we can perhaps see where it has come from, what it does, and the founding assumptions about how it does what it does.

In chapter three I will seek to carry this process of positioning the research a stage further including a description and critique of some theories that have been advanced to explain how RJ conferences work. Then I will turn to the intellectual context of the social sciences in the late twentieth century from which RJ has appeared.

An account of the actual conference research will form the substance of the next four chapters. After that, a kind of micro-analysis of the language used in those conferences will be made. That micro-analysis will involve the use of the theory of social constructionism and other related theories. As a group these theories are ideally positioned to provide the analytical tools to make sense of how those social exchanges that we call Restorative Justice conferences actually carry out the work that they do.

Explanatory Theories

A number of writers on RJ claim to have used, or developed, an explanatory theory about RJ based on various psychological theories about human behaviour. Isaac (2010) uses *strain theory* and *labelling theory* while Cremin (2010) uses *defiance theory* and *self-categorisation theory*. To take one example, defiance theory assumes that people who commit crimes convince themselves that they are not acting immorally, and that the only way to break this belief is by punishing people, so that the fear of punishment will stop people committing crime.

RJ facilitators who assume the validity of this theory take the view that engaging those criminal people in a moral discussion about crime and its consequences, (rather than punishing them in any crude sense) will have the result that people would re-define their idea of crime, and through this process of persuasion, decide that they will voluntarily adhere to the law. This is the idea developed by Strang and Sherman (2007). It is perhaps significant that the name for this theory (*defiance*) invokes resonances of *the angry parent/naughty child syndrome*. It certainly suggests a narrow authoritarian judgemental approach to wrongdoing, while ignoring any awareness of the social location of crime, or of the obvious ineffectiveness of punishment as a way of lowering the crime rate. I now turn to what is perhaps the most widely cited explanation for how RJ works, shame theory.

Shame Theory

Shame Theory is derived from Affect Theory, as developed by (Nathanson, 1996). (He in turn, acknowledges the influence on him, of one Sylvan S. Tomkins, a cognitive behaviourist whose epiphany-like experience late in life led him to reject behaviourism, and adopt emotional response as being the defining characteristic of human behaviour.)

Shame theory takes the view that the distinctive feature of RJ conversations is that they provide a cathartic release of emotion, in particular, the emotion of shame. Since Braithwaite (1989) presented his theory on how shaming works in a restorative conference, various scholars have developed this idea (for example Wachtel & McCold, 2004; Morrison, 2007).

The theory is that where an offender is appropriately supported, their shame can be managed so that rather than being dis-abling, its expression allows them to be re-integrated into the community. One may note that this is an expression of a belief, an assumption that shame is the major change component in all RJ conferences.

Harris (2006) has attempted to substantiate the shame hypothesis with a quantitative study of 900 convicted drink drivers in the Australian Capital Territory. After a lengthy statistical analysis, he concluded "the expected relationship is not supported by these results" (p.341).

It has also been critiqued by Vaandering (2011) and others on the grounds that it makes a fundamental attribution error (to use some of the language of counselling theory), in that it attributes the source of the problem to an individual's personal disposition, rather than to external social relationship variables. One very thorough analysis of Shame Theory is offered by Kecskemeti (2011) and it is worth considering her arguments in some detail.

She notes that by 2004, Braithwaite had modified the shame argument by making a distinction between a stigmatizing kind of shame that is induced in an offender by others (making them feel worthless), and reintegrative shaming which may also be induced by others but

distinguishes between the person (acceptable), and the action (unacceptable) so that they may therefore be reintegrated into their community. In reviewing the research, Kecskemeti (2011, p.64) records that the researchers were unable to distinguish between the two kinds of shaming, but did find that whenever shaming was used, the result was higher levels of re-offending. On the face of it, this looks to be a rather damning piece of evidence against the explanatory power of shame theory. It may also be worth noting that any act which deliberately sets out to induce the emotion of shame in a person, is in fact an act of power from one person to another with the objective of getting forced compliance. As such, it is incompatible with the RJ process of respecting difference and encouraging equal participation, so that a change in behaviour becomes the voluntary decision of that person as a result of hearing another point of view.

To state the point precisely then, my argument (following Kecskemeti, 2011) is that focusing just on the wrongdoer and assuming that he/she is the source of the problem, is to proceed from a particular understanding of the individual self as an unconnected independent being and that wrongdoing is always to be explained on the basis of individual motivation. In fact, this obscures the relational or social perspective which explains human behaviour as the outcome of a social situation.

A recent meditation on the role of shame in RJ processes, comes from Marshall (2012). His observations occur in the context of a lengthy analysis of the prodigal son parable, observed through the lens of relationship theory. An ancient story is thus made to have quite startling relevance to contemporary issues. He observes (p.231) that when relationships go badly wrong, that the shame of *doing* harm, and of *being* harmed can be profound for both parties, and that the only way to discharge this harm and restore honour and respect is for both parties to act together, that each holds the key to the other's healing, because they are on parallel journeys.

The (prodigal) son's actions had made him an object of stigma (a Jewish son eating pig food), and brought social opprobrium on the father: the only way out was for the son's confession and repentance, and the father's unconditional acceptance of that, paving the way for the restoration of mutual honour and relationship. What Marshall's account reveals is that shame need not be confined to the offender, a fact that the shame theorists rather overlook with the consequence that the validity of their position is further undermined. Although there was no facilitator to help them, father and son found their own solution, with one making an act of contrition, and the other accepting or receiving that act. I think the point is that if shame is present, it may be discharged as an unforeseen consequence of doing something else, of following a particular process. In other words, discharging shame is not the cause of a successful RJ conference, but rather a by-product.

Further support for this critical perspective on shame theory comes from the ten year research program of Maxwell and Morris (2007). Their review of the research literature, found that it was very difficult to distinguish between embarrassment, ridicule, put downs, humiliation, contempt, and shame itself. They also dismissed the argument that because Japanese have effectively used shame as a controlling device for centuries, it is therefore appropriate for other cultures to take it up, the point being that while shaming may be used by groups in the West, it is not culturally embedded in that way in Western societies.

Maxwell and Morris sum up that the research on shame is confused and inconsistent. (p.136). Their own contribution to the debate was to observe that shame is frequently present in any RJ conference (something that my own experience would endorse), but it occurs with the realization of the effects of one's behaviour on others wellbeing. They speculate whether this might better be called remorse, or empathy.

To sum up, this suggests that to focus on only one emotion that might occur in an RJ conference (viz. shame), and to make the resolution of that one emotion the key component of a successful RJ conference, is

not supported by empirical evidence, and in theoretical terms, is contrary to the whole notion of RJ as a process based on establishing relationships of equal concern, dignity and respect.

Problems with these theories

The several theories mentioned so far in this section have been dismissed and it is significant that they all shared the same set of unconscious assumptions (or spoke from within the same discourse, as we shall see in the following chapter), namely the discourse of the rational autonomous individual. This approach to the explanation of how human beings work is very different from the approach of a growing number of other RJ writers who take a position which derives from a tradition which examines the social construction of reality. This approach has become more accepted by the wider intellectual community of the late twentieth and early twenty first centuries. It has been variously labelled post-modernism or post-structuralism. In particular, I turn to that theory labelled Social Constructionism.

Social Constructionism

Social Constructionism is a late twentieth century attempt to address the problems of knowledge, of how humans make meaning and how we might understand human society. The difference between philosophies based on the assumption of the rational man, and a social constructionist approach, is perhaps encapsulated in the following: In medieval Europe, St Hildegard of Bingen could describe herself as a feather on the breath of God. In seventeenth century France, Descartes formulated his solution to the uncertainties of existence with: I think therefore I am. These are two radically opposed positions, one suggesting human abnegation in the presence of God, and the other affirming the human subject as the key player in existence, the measure of all things as it is sometimes put. The difference here is not simply historical, it is contextual, relying on a broad range of assumed understandings that enable the meaning to be understood.

The Cartesian \pm , as Shotter (1989) refers to it, was the dominant form of understanding the human individual in the West until the mid-twentieth century, when the disillusion with two world wars, a major depression, and the Holocaust shattered the belief of some intellectuals in what has variously been called the Enlightenment Project, Modernism and/or Humanism. Among other things the sheer manifest scale of human barbarism in the second world war, with the resulting human dislocation and suffering led some to question the understanding of progress and of rationality as the defining human quality, and the nature of existence itself. The post-modern project was born. The certainties of Descartes were rejected, and intellectuals returned to a situation of radical doubt.

These (mostly European) writers saw the solution to understanding human identity as lying in a turn to language. All received opinion about how things were, including the sanctity of the scientific view were called into question. The apotheosis of this movement was reached when the assumed unquestionable reality of an existing objective world was dismissed as just an effect of language. Derrida could announce the death of the [Cartesian] subject, and that there was nothing beyond the text. Social Constructionism arose out of this ferment of ideas, continuing the emphasis on a study of language, but rejecting the idea that the search for meaning was a nihilistic enterprise ending up with words standing for words, in endless chains of signification.

Instead, it was possible to find meaning, even if the belief in a rational independent autonomous self had been destroyed. Just as the meaning of a piece of music is to be found not just in the notes themselves, or in the silences between the notes, but in the interaction between sound and silence, so can meaning in human society be found in the language interaction between people, rather than being found in an individual alone. Social Constructionists then began to focus on those language interchanges between people, observing how people construct meaning between themselves. This way of understanding human society does not reject the notion of identity but suggests that rather than being

given, it is created, or constructed moment by moment as people interact with each other. Identity in this frame, is polyvocal, multivalent, constantly shifting rather than being a unified something that one is for all time in all situations. In order to explore the processes of language, Social Constructionists have gone on to espouse the notion of discourse. Some theorists have built on the Foucauldian approach to meaning-making and discourse, using his idea of the inseparability of power and knowledge. Theorists in this tradition who have particular relevance to my research include Harré, a psychologist whose studies of human interaction led him to develop the idea of positioning theory; Llewellyn and relational theory; and White who used Foucault's ideas to develop narrative therapy. (Simply put, this was the idea that in making sense of their lives, people construct explanatory narratives to explain how they got to their present situation). It is through these ways of making sense of speech acts and conversations that I shall attempt to explain how the process of a Restorative Justice conference works. They are the conceptual tools with which I will be approaching the transcripts of two conferences and the subsequent personal interviews. How do these conceptual tools actually work? Firstly, the traditional sense of self.

The Cartesian 'I':

Not all intellectuals have accepted the tenets of post-modernism, and there is good evidence to think that most people (including teachers, as we shall see later) continue to subscribe to the notion of distinct separate persons with their own characteristics and behaviours, determined by their own unique identity. The Cartesian ~~is~~ then is alive and well in the popular imagination. Such relationships as do exist are conceived of as being therefore between these independent autonomous persons. Shotter (1989, p.142) argues that this belief is so entrenched that it is ~~rationally~~ invisibly. It is what most people do, and they are incapable of seeing that they do it.

The Social Constructionist View

From a Social Constructionist perspective however, these habituated ritualized daily encounters between people, the norms of everyday social

behavior, are more than just the ways that people make sense of life, they actually create that way of life by reinforcing, or creating, or constituting the person in a particular way, a way that is recognizable by others. In this simple fact, lies the key observation of the social constructionist perspective: that people's behavior as they interact with others actually varies according to who that other person is perceived to be. The way in which a parent talks to a child is probably not the way that parent responds to a superior in the workplace.

Drewery (2005, p.305) can say ~~the~~ the concept of the individualized self is flawed. McLeod (2000, p.153 citing Gergen) can say: ~~The~~ The idea of a ~~true~~ core self is not a fixed truth, but is part of a romantic narrative that people in western societies tell themselves about what it means to be a person. In other words, the notion of the singular undivided autonomous self is a myth; we respond differently to every different person. We are many selves. There is a myth about human behavior, (that it is a singularity) and there is actual human behavior (that it is multiplicity.) The epistemological and ontological problem here is that if a person can be everything, then they are also nothing, and any sense of purpose, of fixedness, of stability, of meaning or identity itself, flies out the window.

Social Constructionism preempts this disturbing possibility by returning to each social encounter and finding that ~~meaning~~ and ~~identity~~ are both there, all the time. The meaning is created through the interchange by the people in the interchange, and identity is established through this process also. What does it mean to say that meaning is created in and through the interchange, and how is this related to identity?

In order to explain this, Gergen (1994, p.52)) turned to Wittgenstein and his idea that meaning ~~is~~ a derivative of social use. Human conversation is the chief form of ~~social use~~ and is frequently about things that have no external referent, like ideas, concepts, things that have happened, but which have no continuing presence, like a family gathering, or a fight, a sports match, an opinion about something. In discussing these things, we re-create them and give them meaning. In

these discussions we bring those things (albeit momentarily) back to life which is to say that we constitute, or re-constitute them. The words we choose to use therefore are not about things outside of language, maps or mirrors of something else, but are simply the means of social exchange, a ritualized form of social encounter in which we seek to establish some kind of reality, to confirm for ourselves that things have happened, and how we might make sense of them.

But another more important implication of this theory is that any social encounter between two or more people requires that they observe conventions of meaning, which in turn rely on their shared meanings. That is, they must draw on the understandings that they have in common. The dialogue that ensues creates (however briefly) some form of relationship between the speakers. Whether it is a warm or distant relationship is less relevant for our purposes here than the fact that the spoken words are items within a pattern of relationship. Out of this relationship comes a sense of identity. I am the kind of person who thinks that, or enjoys this, and so on. Social Constructionism then does not dispense with the notion of personal identity so much as put forward the view that it is always socially created, that it comes out of and only out of, relationship. Schematically then we could say that communication occurs in community, shared words lead to dialogue meaning and identity. We both use and revise meanings in communication with others.

To complete this description of how humans create meaning relationship and identity out of dialogical encounters, we need to address the fact that the dialogues are not necessarily benign in the sense that they are frequently accompanied by the exercise of power. Words and conversation then are not simply rituals of exchange between equals, but are also infused with relations of domination or control as Gergen (1994, p.53) puts it. This is particularly relevant in a school context as we shall see when we come to inspect closely the words that are spoken in RJ conferences. I shall be arguing that these conferences reveal a different use of power from conventional school conversations between teachers and students, and that this is a significant reason for their different

outcomes. To be able to demonstrate how the power dimension works, I will need to turn to positioning theory, and I do that now.

Positioning Theory

Whether this process should really be granted the status of a theory is open to debate, but as an analytical tool for making sense of conversations, it has considerable value, and much of what follows is indebted to two of the first writers to describe it (Langenhove & Harré, 1999).

In those social exchanges that we loosely call conversation the first speaker automatically and without conscious effort both positions him/herself, and calls the listener into some sort of respondent position. If the respondent accepts the proffered position, as in the following example: Listen my darling three year old daughter, I want you to go and clean your teeth now, then that is probably the end of the social exchange. Nonetheless, for the duration of that encounter, a particular kind of relationship has been re-affirmed, or constructed, a family relationship of parent/child, where the power to achieve compliance lies with the parent. Out of that relationship comes the possibility of a sense of identity, the compliant obedient child, as the others see her, and the compliant obedient self, as she may see herself.

There is a second response that the respondent may make however, and, continuing the example given, the child may say No, and refuse the agreement position that is offered her. In this example, the nature of the relationship (parent/child) is unchanged, it is just that a power struggle will ensue between them which they will have to resolve the best way they can. Out of this relationship of conflict will come (however fleetingly) a sense of identity: the strong minded independent child/self in one formulation, or the wilful disobedient child/self in another. The point is that this is how identity is established, whatever the quality or nature of that particular identity in relationship.

A third possible response would be to modify the request by saying something like: ~~But~~ daddy I have already, don't you remember? Again, the nature of the relationship (parent/child) is unchanged, but the child takes up a position of some autonomy, and that is what will establish the identity that she may be ascribed by the powerful other (thoughtful, clear thinking, assertive, confident, on a positive formulation of it) and also be the identity that is ascribed to herself by herself. Looking only at the language exchange and ignoring therefore the differentials of age and size in this example, the exchange reveals an equality of power, and that will determine or constitute or reflect the nature of the relationship between them, a relationship of equality despite the differences in size and age.

Through positioning theory then, we are able to draw into visibility those unconscious and hidden processes that constitute relationship and identity through language. In a perceptive analysis, Marshall (2012, citing Volf, p.208) can say:

The self is constructed in relation to others, and it can come to itself only through relationship to others.

This is true of course, but what I have been trying to do is take this one stage further back, establishing the production of relationship itself in the forms of language that are used.

So we may say that people position themselves in conversation, and position the respondent also. The person addressed may respond to that positioning in one of three ways. This way of looking at conversation as language- moves which can constitute relationship and identity has very wide application. It is the basis of my approach to the conference transcripts and interviews. I will examine how the language used by the facilitators functions to position people in particular ways, how those ways relate to the distribution of power, and how that creates relationship and identity. I will argue that RJ conferences are a purposeful and intentional set of procedures and processes to set up particular kinds of relationship, and therefore allow the creation and manifestation of alternative forms of identity which in turn allow for the processing of conflict into peaceful ways

of relating. Positioning theory however, does not tell us everything we need to know about language in order to understand a constructionist approach to human communication, and so I turn now to another explanatory paradigm, discourse theory.

Discourse Theory

Words and ideas get grouped together into distinct ways of understanding the world, of thinking about the world. The post-modernist writer (Foucault, 1972) labelled these ways of understandings as discourses eg. the scientific discourse, the legal discourse, and so on. Each of these ways of organising ideas does two more or less opposed things at the same time: it enables one to speak about the matter, but also constrains what may be said, in conformity to the boundaries of meaning of that particular discourse. The speaker is enabled and constrained at the same time.

Foucault's insight was to see that when people speak, they speak from within a discourse, a distinct way of looking at and understanding the world. In speaking from within a particular discourse therefore, the person is also saying what the world is for them. In this way, far from merely describing the world, the person is constructing the world as they see it, so that the language used may be said to be paramount. He expressed it by saying that "discourses systematically form the objects of which they speak" (Foucault 1972, p.49).

As Luke (undated) puts it

According to Foucault "language and discourse are not transparent or neutral means for describing or analyzing the social and biological world. Rather they effectively construct, regulate and control knowledge, social relations and institutions" By this account, nothing is outside of or prior to its manifestation in discourse. (p.2)

The significance of Foucault's theoretical perspective to this thesis (which is an attempt to understand how the process of Restorative Justice conferencing works in schools), is that the way in which teachers address students will have a formative effect on who that student is, and who they can be. Student behaviour may be directly related to the way in which

they are addressed. If we assume for a moment that there is a dominant discourse operating in schools about how teachers and students are supposed to relate to each other, then that will determine the relationship that is constructed between them.

Although discourse is structurally controlling it does not reveal itself directly, but is always mediated through something else. That something else is the positioning that is taken up by the teacher and the respondent positions that are then offered to students. It seems reasonable to suggest that the position most frequently offered to students is one of compliance and conformity. For some educational commentators this is a problem because it allows the student only a minimum expression of personal identity or autonomy, favouring robotic compliance over the wrestling with different ideas in a struggle for understanding.

Drewery (2005, p.316) takes up this idea that the way teachers speak to students may define (or more accurately, position) them for that moment as *subjugated subjects*. She defines this as being a

party to a conversation who does not have a place from which to speak unless he or she speaks within terms of interpretation that have been set by others and are not open to debate.

How will all this assist us in understanding RJ conferencing?

Although conferences are a relatively new development in schools they still occur within the overall discourse of education as compliance and conformity. I will argue that their significance lies in the fact that they consciously set out to modify the way that teachers talk to students, that they position the students differently, and thereby create a different form of relationship to the conventional classroom, by offering students some measure of personal agency in the description and construction of their own lives particularly in relation to something that has happened and has affected them significantly. Rather than being acted upon, they act with. In subjecting the transcripts to some kind of forensic examination, I will be looking for any evidence in the language that positions are being offered which allow for greater student participation in the process of conflict resolution. We may note in passing that RJ does not seek to completely

overthrow the discourse of education as compliance and conformity. Some degree of these things is necessary to the smooth functioning of any institution. What RJ seeks to do rather is to lessen its iron grip, and find room within the institution for alternative and more humanly fulfilling procedures.

To complete this outline of the theoretical models that I will use to try and understand the RJ process, it is necessary to round out a little more, the ideas of relationship and identity. To help with this I turn to the theory of Narrative Therapy.

Narrative Therapy

Appearing in the 1990s, this form of counselling has since contributed to the understandings of RJ practice. It adds something to the ideas of discourse and position theory, that while they are both valid forms of analysis, there is still more to be said. The basic tent of narrative therapy is that identity is not just a matter of how one is positioned, or the unexamined assumptions that govern how we understand our world, but is brought into our consciousness through the stories that we and others tell about ourselves.

The Latin root *narro* – I tell (a story) suggests that the impulse to story-telling may be universal, deeply embedded in all cultures. Its structure of beginning middle and end offers us a ready-made framework for making sense of our lives by framing the chaotic and shifting events of our lives in any of the literary forms that offer themselves, romance, tragedy, hero-tale and so on. Rather than our lives being one damn thing after another, or full of sound and fury signifying nothing, we comfort ourselves that there is a pattern, that there is meaning through the stories that we construct and position ourselves within. The therapeutic moment of a narrative encounter can be intentionally produced by repositioning the person in the stories they are telling themselves, such that they are no longer subjugated subjects, but agents in the conversation about their own lives (Drewery, 2005).

Developed by Epston and White (1992) as an alternative form of therapeutic intervention, it has been adapted by Winslade and Monk (2008) as a form of narrative mediation, and is suggested for use in RJ conferencing by the Waikato University Restorative Practices Development Team (2003).

RJ conferences have a structured pattern of respectful listening, which encourages the participants to tell their story. (A perfect example of this occurs in the next chapter in the analysis of conference one.) In doing so, the possibility emerges of re-storying or telling a different story should that be desirable. The possibility of change opens up, along with the possibility of taking a more agentive position in one's own life, when a person begins to understand that what they have been recounting is after all, only one story among many that could also be told about the incident and the positioning of the persons within it. That is to say it does not have to be the definitive end-point of a person's identity, but rather the way in which one has come to understand oneself *at that point in time*. (A very neat example of this occurs in chapter five, where one of the conference participants portrays his ascribed identity as the one who mucks things up.)

Story telling requires a responsive audience, which is what RJ conferences provide. What happens with the telling of the story is that the teller is brought into a new kind of relationship with the listeners, and in the process may establish a new kind of identity. This brings us back pretty well full circle to the over-arching paradigm of Social Constructionism.

In order to demonstrate how these theories intersect and build one on the other, I will now provide a fragment of a generic classroom conversation with an attendant analysis:

Classroom Conversation

Relief teacher: (speaking to three girls who have arrived late)

Now girls, I'm going to hand you out some work

One girl: There's some boys in here miss, if you hadn't noticed

Teacher: I'm just talking to you girls (and then looking directly at the girl who had spoken) What's your name?

Girl: Not going to tell you

When subjected to discourse and position analysis, this brief transcript is revealing. To begin with, the teacher speaks from the position of authority given to her in what I am calling a discourse of education, through calling the students into their position as students by saying that she is giving them their required work. She is in charge, their expected response is to accept the work. Instead, one of the students replies to her, acknowledging her in charge position by referring to her as Miss but then changing the verbal register to one of companionable chat, calling the teacher into a more or less equal relationship. (*There's some boys in here*). The implicit story line here is two friends, and we may note that the student has rejected the position call offered to her (of subordination), and offers her own positioning call in a play of power.

The teacher's response is to restate her authoritative position (*I'm only talking to you girls*) and then she asks, *What is your name?* She is moving here from an intentional position call to an enforced position call (Langenhove & Harré 1999, p.23) The teacher is going to insist on her definition of the situation, as being one of teacher authority and student compliance. The student rejects this definition or positioning of herself as subordinate, with an outright refusal to comply.

This classroom vignette can be read as all about relationship, but it is almost certainly occurring at a pre-conscious level, hidden from both its participants. If asked what was going on in this exchange, each person would probably define it in personal terms as something that was going on between them as two separate individuals.

The SC analysis on the other hand defines the verbal exchange as one person (the teacher) calling the other (the student) into a form of relationship that that student intuitively rejects because of the subordinate status that it offers her. For the teacher, this is a disobedient student, for

that student the identity being offered her is deeply offensive because it does not offer her a position of equal dignity concern and respect. There is a further level to the work of this social situation. In making these particular position calls, the teacher is not just relating to the student from a position of superiority, or just positioning her as inferior, she is actively constituting the student as inferior, and thereby creating her oppositional stance. The student becomes oppositional, that is her identity for this period of time. This is a kind of double whammy; not only is the student denied her preferred identity, she is forced to assume another identity and act in such a way as to collude in her own (forthcoming) punishment.

To illustrate the point about the power of words (which is the overarching purpose of this thesis) consider how the script would have proceeded had the teacher chosen to say: *Oh yes there are some boys in here. Which one do you fancy?* The story line here would have been all girls together or some version of female solidarity, and the position call would have been one of equality. By changing what she said, the teacher would have deflected the obvious power play, and offered a position of cooperation, *while still maintaining her essential authority*. I will note in passing that it is precisely this point about remaining in charge, being the boss, while not overtly wielding the power, that is so difficult for a number of teachers to grasp. This fear of losing power has been a constant teacher refrain in my own training programs with teachers, and is supported by the comments of an RJC trainer in the UK who reportedly said: *Teachers are afraid we are stealing their strength.* (McCluskey et.al., 2012, p.112).

Method- Setting up the conferences

This chapter will now turn from the examination of theory to the practical considerations surrounding the implementation of this research program. What did I actually do? My research proposal was submitted to and approved by the ethical committee of the School of Human Development at Waikato University, and met all its provisions for confidentiality and anonymity of the school and its participants. The proposal was to audio-record two conferences, plus personal interviews (at a later date) with

each participant. In producing the transcripts I used the following process: where there is a brief quotation, it is in italics. Longer quotes are separated out in a smaller font. Punctuation is minimal in an attempt to keep the flavour of the spoken unrehearsed words. Where a section of conversation has been omitted from the transcript, I have signalled this with four dots. Three dots indicates an omission of less than ten words. A longer gap than usual between the printed words indicates a 2-4 second silence.

Participants were approached at the time a conference was proposed. They were given an information sheet about the research (Appendix One). Before either conference was set up, the school liaison person and I met with each party to the conference separately to explain the conference process as well as my research involvement. At that time I was able to explain my research proposal, answer any questions they may have and get their consent to participate (see Appendix Two). Subsequently a copy of their personal transcript was sent to them for their final approval. (Nobody requested any changes.)

The school liaison person and I agreed that he would be the lead facilitator, but that I could also act as facilitator at any point. In fact I did take over for about one third of the first conference, and because he was not available for the second conference, I ran it entirely on my own. While this direct involvement in the process did raise the possibility of a conflict of interest between being both observer/researcher and active participant, I have sought to balance out those two functions.

One of the important things to be addressed in doing qualitative research is that in working directly with people, the mere presence of the researcher may have an influence on what the participants say and do. Thus my intention merely to be present as an observer in an RJ conference could nonetheless, have subtly changed the dynamics of that meeting. There was no way to stop this happening, and I could only hope that being highly sensitive to the possibility would be a sufficient safeguard.

I took refuge in the concept of reflexivity, that is of the practised ability to observe myself observing, and to observe myself doing, and proceeded to act as facilitator anyway. The second conference provided me with a stark choice between doing that, and abandoning the project. I can express the hope that this has not resulted in a skewing of the data, but acknowledge that there is no guarantee of this.

In my transcript of the first conference, I refer to myself in the third person as a way of trying to establish a degree of objectivity, but in the second conference transcript, I appear in the first person, hoping nonetheless to retain the researcher's observing analytical eye despite the significant potential for bias.

The personal interviews carried out a week or so later than the conference, also carried some risks for distortion. Seated in the homes of my informants I was acutely aware of gender difference (in one case), of generational difference (I was old enough to be both father and grandfather to the various participants), and of a class difference. My relatively toff-y accent was a real give-away. All of these things had the potential to create ineffective communication, or simply to block meaningful communication at all. Again, I don't think that happened, but I acknowledge the possibility. The semi-structured interview questions are in Appendix Three.

Both conferences were preceded by the usual pre-conference meetings with offenders and victims separately and their voluntary consent to the process (and to my involvement in it) was freely given. Date time and place were set, and the research proper was about to get under way.

In the analysis of the data, my research question was to look for any features of language that might contribute to a successful conference. I took features of language to mean patterns of conversation along the theoretical lines outlined earlier in this chapter. The data from the two conferences plus the later personal interviews all have their separate chapters including an edited version of the conversations accompanied by

a description and an analysis of what I think the data reveals about the process of these two particular RJ conferences. In the final chapter I seek to go beyond description and analysis of particular texts, and make a tentative attempt to draw out larger conclusions about RJ as a process within the secondary school.

Summary:

This chapter has set out to position the research against and within the theoretical framework labelled post-modernism. It has chosen the particular set of theories that accompany the idea of social constructionism, because these theories are concerned with language, the relationship between language and the external world, the relationship between language and the creation of identity or the self, what we might call the relational self.

Further, they provide the tools for the following analyses of two RJ conferences which in turn will provide an alternative less conflictual more peaceful model of classroom conversations, so that all those people in education who have put their belief in the RJ process may now have a robust micro-analysis of that process which may provide them with the beginnings of an intellectual justification for their more or less intuitive decision that the RJ process is a better way.

Chapter Four: Description and Analysis of Conference One

Harry and Karl were acquaintances with each other in some degree over a period of about four years. While walking home from school together Harry suddenly struck Karl three times on the back of his neck. Karl put his hand to his neck to ward off the blows, and two fingers subsequently had to be strapped by a doctor. His parents made an official complaint to the school. Although Harry was punished by the school with one day in the withdrawal room, the matter had never been satisfactorily resolved for any of them. A senior administrator suggested that I might like to run an RJ conference as a way of sorting the problem. All parties were willing to attend, and all written permissions were sought and obtained in accordance with the ethical codes.

The administrator and I agreed that he would run the conference while I observed and recorded it. I was also free to intervene as co-facilitator should I wish. One significant issue that arose from the pre-conference was that the boy whom the school had labelled as the offender (Harry) was positioning himself as the victim of bullying over four years. It proved to be pivotal, as the following analysis shows.

A Description of the Conference

In reading the transcript of this conference, it is clear that it fell into a number of phases. That this was not in the consciousness of the facilitators while the meeting was in progress, may be taken as read. The introduction (which I will label as phase one) was warm and brief, without any statement of ground rules, or procedures in case of fire, or where the toilet was, or had their cell phones been turned off (although this one thing might have been useful, as things turned out) as the facilitators had agreed. Just hullo and welcome, get down to business.

This moved seamlessly into what I shall call phase two, where the facilitator (as part of a previous agreement between the two facilitators)

directed his questions to Karl . This lasted maybe 2-3 minutes, where Karl described the afternoon of the assault and how he had been punched. This segued into questions to Harry, and then his parents, which I have labelled phase three.

Phase three began with Harry talking about the past four years which he understood as a time of his being bullied by Karl. He talked about how difficult that was to discuss with his parents, and how he had taken to pulling out his own hair. Harry's mother (Anne) described the consequences for their home life . that Harry would take out his negative feelings on his sisters, and of how she (as mother) would have to discipline him, even though she understood why he was doing what he was doing. She talked about the frustration of going down to the school repeatedly trying to get something done, and how from their perspective they were always discounted by the school. She revealed that they frequently had to use a degree of compulsion to get their son to school at all.

Harry's father (Bruce) in a rather understated male way let us know how upsetting this had been for him, and revealed a family in turmoil, uncertain where to proceed next. The facilitator then turned to Karl's mother, which I have labelled phase four.

In phase four, Karl's mother (Jenny), as we had anticipated, was completely taken by surprise by the story that had just been told, but accepted it without dispute, in its entirety. Several times she expressed her sympathy for the other family and what they were going through, wishing that she had known about it sooner so that the problem could have been stopped sooner. She struggled to digest this new information, describing herself as *gobsmacked*. The facilitator then turned to Karl, and extracted a declaration from him that he would change his behaviour by stopping the name calling. Twice he denied stealing Harry's lunch (see the analysis below.)

The transcript then recorded an eight second silence. At that point I requested permission to speak as the second facilitator, and I have labelled this phase five.

Phase five began with a few questions to Karl, which did not go anywhere in particular, so I turned my attention to Harry. There was a long sequence of questions to Harry, and his answers had a wave-like pattern of advance and retreat, as he would latch on to an idea for a moment, and then be blocked in his understanding. Phase five ended with Harry apologising to Karl, who replied in kind.

Phase six was when three adults added their final summing ups, saying that it had been a positive meeting, and Karl's father added his own apology to the other family, saying; *No child should have to go through that...* Facilitator one thanked them all for coming, and declared the meeting over.

In the eyes of all people present, it was clearly a successful meeting, but my research question, required me to look for the features of language that enabled this to be a successful meeting so I turn now to the conference transcripts.

Conference Opening

Facilitator Barry: I would just like to welcome everyone here. Thanks very much for being present here at this conference, making a dent in your Tuesday evening. My name is Barry, as you know. My role is mainly to make sure that you all have a chance to speak, and uh later I'll give you a written summary of the meeting. But right now I'm going to introduce everybody here: On my left is Janice, Karl's mum, then Karl. Sitting next to Karl is his dad, Victor (and so on round the group.) Now we are here today to deal with the incident in which Harry punched Karl three times on the neck as they crossed the park on the way home about three weeks ago. Karl, I am going to start with

you. Could you tell us what happened that afternoon?

Discussion

Speaking clearly in a pleasant voice, facilitator Barry opened the meeting in a conventional way, using the welcome word, thanking the people and acknowledging that they had gone to some trouble to get there. To set them at ease he spoke in a popular idiom, [this will be] *±making a dent* in your evening'. He then named himself, taking up his position as facilitator.

After reading Barry's own interview later on, it is clear that he was unaware of his assumptions and the constitutive force of his opening remarks; to him it would simply have been *±the way one talks on this sort of occasion*. (Davies & Harré 2007, p.49) But behind those three simple words (*as you know*), lies a wealth of material, and I will put it under the forensic microscope now.

Of course they *±knew* who he was. He had already spoken with them on a number of occasions. What he was leaving unstated was that they also knew *what* he was. a very senior member of the administration. His presence invoked the whole weight of the school as institution. He was *±setting the scene* (Drewery, 2010, p.7), or as she also puts it, setting the discursive context. He was locating himself within the discourse of education, and speaking from a particular position as the person in charge; *I'm going to introduce*. In this way, he positioned the rest of the group as well, in what we might call a second order position, (Harré & van Langenhove, 1991, p.396) where they were required to respond to him from the socially located position *he had created for them* as parents and sons/students within the context or official discourse of education.

Clearly this was going to be an intentionally purposive meeting, (Drewery, 2010, p.6) and having set the scene, he would shortly invite contributions from the others. Together they would create an *±unfolding*

narrative (Davies & Harré, 2007, p.52), as the others brought to the occasion, their own scripts.

Barry named things, which brings to mind the ancient saying that the namer of names is the father [sic] of all things. He named the people present, and he went on to name the thing that had brought them all together. He called it an incident. This is a word full of resonance. At its furthest level it invokes international relations (there was an incident on the Indo-Pakistan border), at another level it invokes official police language (there was an incident in Courtenay Place). As Barry used it, the expression partakes in some degree of these official connotations. Whatever it was, it had come to the notice of the school authorities to be investigated, and things would be written down and recorded about it. Barry was assuming a certain institutional moral order as Harré and van Langenhove, put it (1991, p.397).

Analysis

This brief description has taken a Social Constructionist perspective on the understandings and actions of the school, most particularly the way that it characterised the nature of the relationship between the boys as offender/victim. Because this conventional approach to social conflict, had failed to solve the problem, Barry decided that a Restorative Justice conference was a possible alternative solution.

As the last part of his introduction, Barry invited Karl to speak. This sounds innocuous enough, but the point is that it was an invitation and not a demand. It was voluntary, and therefore could be refused. Karl was encouraged to tell his story. Drewery (2010, p.4) calls this a **stance of respectful inquiry.** (emphasis in original). She goes on to explain that this is where the teacher does not assume that they know all about the student or the situation. Barry was according Karl a position of respect, setting aside his own authoritative position for a time, not assuming that he knew what Karl was going to say, or discounting him in advance, or in any other subtle way denying him the full agency of personhood (Vaandering, 2011). The transcript continues:

Karl: (head down, speaking very quietly) aaaah we were walking home from school and hitting each other with bark from some trees yeah I hit him cut him on the back of the leg

Barry: and what then, what did you think was going on in that situation?

Karl: um yeah what the hell

Barry: and afterwards you know, have you thought about would have gone down with your friends?

Karl: inaudible

Barry: ok so can you tell us a bit more about how you were affected by what happened there, what actually happened to you that day

Karl: ah I put up my finger to protect my head and it squashed my finger

Barry: what did you do about that?

Karl: uh I went to the doctor

Barry: when did you go to the doctor?

Karl: that night

Barry: what about mum? How did she react when she saw that?

Karl: she was quite angry

(Six second silence)

Barry: and the days after, do you want to say a bit about how who else was affected by what happened that day?

Karl: inaudible just my finger

Barry: no concern about coming to school or anything like that?

Karl: inaudible yeah

Karl answered nine questions, seven of his answers used six words or less and he used between 70 and 80 words in total (some words were inaudible), compared to the facilitator's 110 words (more or less.) He was slumped down in his seat, head tilted forward. He spoke very quietly,

sitting between his mother and stepfather. (In his personal interview, he explained this by saying that he had been ~~v~~ery nervous.q His mother claimed that he said to her that he was sick to the point of vomiting.)

Karl talked in quiet monosyllables, probably within the range of normal behaviour for a mid-teens adolescent male faced with a meeting that was quite outside his previous experience.

On the face of it, he does not seem to be offering much data by way of possible analysis. It is there, however. Karl had accepted the position offered to him by Barry, that he had been a player in an ~~i~~ncidentqat school. In speaking first, he may have been advantaged in terms of being able to set up a master narrative, or what Winslade and Monk (2008, p.55, citing Cobb) refer to as ~~a~~narrative closureq That is, a powerful statement that makes it difficult for succeeding speakers to challenge the way that person has framed the situation.

He positioned himself as the victim of an unprovoked attack, and it is interesting to observe that in trying to make sense of his experience, he was following the story that had already been accepted by the school. In this story he took up a position of ~~a~~njured innocentq he was the one who got hit, who had an injured finger, and had to go to the doctor. It appeared to be an open and shut case. It is probably significant that his first statement was his longest one (almost half the total of his spoken words). When asked for details of the event, his answers tended to be monosyllabic. After all, from his perspective, what more was there to say? At that point, facilitator Barry turned to Harry and then his parents, in what I have called phase three of the conference.

Harry (Phase Three)

In line with standard RJ practice, the victim got to speak second. Harry was designated ~~the~~ victimqboth by himself, his parents, and the two facilitators who had listened to his story in the pre-conference meeting. Harry was asked nine questions, and supplied about 220 words in response. The questions and the answers were pretty much equal in word

number. Harry sat between his parents, and spoke quietly, with his head down.

Barry: ok um Harry can you tell us just a wee bit about that day? Did you hit Karl?

Harry: yeah well we were walking home from school and I was (?) with a stick. I never hit anyone. He came up behind me and cut my leg and I said why did you do that and he kept on walking and then uh he slapped me across the face with bark, walked up and said ~~uh~~ stab you cunt.q And then I walked up to him and went to hit him and then he walked away and (inaudible)

Barry: ok so um can you tell us a wee bit more about what was going on in your head at that time?

Harry: weeelll um I just wanted to get back at him for all the times he's been um bullying me and uh this pretty much happened after that so to hit him

This is the transcript of the first two questions and answers. Barry's tone was quiet and gentle, in keeping with the body posture of Harry. (It could fairly be described as an empathic response.) The use of the word ~~aweeq~~ which reads a bit strangely in the transcript, actually had the function of suggesting to Harry that he was not under pressure and he would not be expected to talk forever. Harry and his parents told a story in which Harry had been ~~bullied~~ for four years, as set out above. Harry had lashed out at Karl in a fit of frustrated rage.

Harry positioned himself as the helpless victim of bullying who had finally been pushed too far. This was the ~~story~~ that he was bringing to the conference, this was his definition of the situation. But of course, Harry was also a perpetrator of violence, an ~~offender~~, to use the terminology of the school. He had launched a physical assault on another person, and therefore he had some relationship repair work to do as well. In his story, the provocations to which he had been exposed over an extended period of time were sufficient reason to justify his actions; how could he be brought to see that there was a bit more to it than that, that there were other valid perspectives that could be brought to bear?

Harry's narrative of his place in the world had positioned him as powerless, the plaything or subject of other more powerful persons. It seems fair to suggest that his thinking had essentialised Karl into a bully, and himself as the victim. His depressed bodily demeanour was a powerful symbolic statement of the emotional consequences of such thinking. That was just how things were, rather than any understanding that he had constructed a position for himself in a narrative. His body language conveyed a sense of powerlessness. The following transcript excerpt conveys some of the emotional consequences of his situation:

- Barry: so you are saying about things that happened that day or
- Harry: aah in the past at intermediate and since then
- Barry: so it was a long time ago. Can you tell us a wee bit more about what happened
- Harry: well it started off with name calling and pushing me around that's pretty much all its been
- Barry: so what is that like for you can you tell us what's happening for you when that is happening?
- Harry: yes well stressful it makes me upset yeah
- Barry: and when you relate it to what happens at home what's that like at home?
- Harry: well welllllll uh uh
- Barry: so does it affect you at home?
- Harry: It affected me a lot like I couldn't talk to my parents about it keep it to myself and uh (indrawn breath) there's some times where I twirl my hair and pull it out without me noticing mmmhh yeah

Facilitator Barry was taking part in a 'respectful conversation' even though he had to work hard to get some responses from Harry. In seeking to know what Harry made of the events, facilitator Barry was offering recognition and calling into place a form of 'respectful relationship' (Llewellyn, 2012; Winslade & Monk, 2008). In the segment transcribed here, Barry was also 'mapping the effects of the conflict' (Winslade &

Monk, 2008, p.14). In encouraging Harry to spell out the consequential effects in front of other people, facilitator Barry was beginning the process of repositioning Harry through having his story heard and in doing so being validated by other people. I would argue that in hearing himself say those things to others, Harry was taking beginning to see them as things that were happening to him. Thus in this simple step he began taking responsibility at some level for them.

Widening the Map of Consequential Effects

When facilitator Barry turned to Anne (Harry's mother), he was still speaking from his position of institutional power (in that he issued the invitation to speak) but it revealed a degree of empathic connection (*hearing these things*) and offered her a position with unqualified speaking rights. Implicit in this was the understanding that her story would play a significant part in the unfolding narrative, and therefore its resolution.

Anne accepted the position that had been offered her and responded to his question about how it was for her by saying: *It was dreadful*. She then told her story of family stress and disruption. The people gathered together listened to her without interruption, thus signalling to her their acceptance of her right to speak, and of the truth value of what she was saying. In taking up this respectful stance they were enabling her, as a secondary victim, to take up a different position from the helpless one she described.

When Anne had said what she needed to say, facilitator Barry turned slightly towards Bruce (Harry's father), and with a hand gesture invited him to speak his story: *It's upsetting for me to see my son...stressed....and it's really hard as a parent to deal with it*, is the essence of what he said, communicating the emotional turmoil that had made him a secondary victim as well. Although he had been to the school on several occasions, no-one had ever listened to him, which is to say no-one had listened to him speak from the heart. This man too, was taking his first steps towards a new position in the story.

So we may say that Harry and his parents had plaited together three braids of the same story. They positioned themselves as victims (primary and secondary) in a story of adolescent bullying. They had rejected the position that Karl had held out to them ie with Harry as the offender in an unprovoked attack, and had made a strong case for themselves as victim(s).

This was a 180 degree turn from where the meeting had started out, and Karl (and his family) were now being offered the position of offender(s), or as Harry defined it, being the (real) bully. How would they respond?

Phase Four: Response to the dominant story

Facilitator Barry: (turning to Karl's mother, Jenny) This must be uncomfortable with hearing this, Jenny.

Jenny: Yeah well I had no idea of any of this the first I knew about anything that was happening was when we first came in to meet with you um when Karl had said that he had been to the dean and Harry had accused him of stealing his lunches and stuff but I don't know about the rest of it as far as I knew, and I was under the belief that Karl and Harry were good mates so I'm totally really gobsmacked actually and disappointed and feeling really really sorry for Harry o o

Silence 10 seconds

Barry: well Vivian, is there anything you want to add?

Vivian: I hear bullying it comes in all sorts and from you know mental whatever I mean we as parents do not want to see any child go through that um it doesn't matter what form it comes in um I'm totally against it and sorry that we couldn't do anything as parents on this side of it to actually nip it in the bud .

Barry: well Karl did you have any idea that this was how Harry saw things?

Karl: no but I never stole his lunch

Barry: (partly over-ridden by cellphone going off very loudly) now that you have heard Harry say all these things, is there anything that you want to say?

Karl: no, not really

Barry: do you think you might do things differently from now on?

Karl: yes

Barry: do you want to say it in some way, what you will change?

Karl: be nicer to him

Barry: what might that mean in practice?

Karl: no name calling

Barry: anything else?

Silence 8 seconds

Analysis of Phase Four

Karl and his parents seemed overwhelmed by the revelatory story told to them. None of them challenged the story, and so, implicitly, they accepted the position that had been created for them, of being perpetrator (and the parents of a perpetrator). Jenny described herself as ~~gobsmacked~~ and the tone of her recording (as against the transcript) reveals a mixture of incredulity sadness and apology.

Karl accepted this new definition of himself with one small protest, that he did not steal Harry's lunch. (This issue was clarified later in Harry's personal interview, where he described Karl helping himself to bits of his lunch, rather than the whole thing, so in narrow semantic terms, they were both right.)

Karl's answers continued to be very brief, although he stated that he would make one change, and cease name calling. In an effort to prise open the lips of this mussel-like boy, the second facilitator asked him a further four questions. Three of his answers were mono-syllabic, but when asked to repeat back what Harry had described as being the effect on him, he was able to list the three things . the beating up on his sisters, pulling his hair out, and general stress. Both facilitators accepted that this was as good as they were going to get, so the second facilitator turned his attention to Harry. (What follows is a slightly shortened version of the exchange which I have labelled as Phase Five.)

Phase Five - Harry The First Three Questions

- 2nd Facilitator: Harry you were saying that this built up over a long period of time
- Harry: yes
- 2nd Facilitator: on a scale of 1-10 on the day you struck Karl how angry were you?
- Harry: about 8-9
- 2nd Facilitator: ok um you to solve the problem which you called bullying you decided to lash out with your fist, yes?
- Harry: yes

The first question was a closed one, designed to build rapport with Harry, by establishing what they both knew (that there had been a long build-up to the event). In saying ~~Yes~~ as his answer, Harry drew himself into a relationship with the facilitator.

Although this connection or relationship between facilitator two and Harry had some degree of warmth, (as against being cold, or neutral) this was not a ~~romantic~~ relationship or one based on the facilitator trying to make a deeply empathic connection. The facilitator was speaking from his power position, and ~~calling~~ Harry into a responding or ~~subjective~~ position, and through this, seeking to engage with him in a conversation about his own life, as he perceived it (Drewery, 2005).

Facilitator two then asked two more closed questions, to which Harry gave very brief replies. The second question implicitly acknowledged Harry's emotional state on the day in question, by asking him to rate his anger level. There was no judgement there, no expression of moral concern, merely an attempt to bring that level of anger into Harry's consciousness. In putting his own figure on the anger level, Harry was constituting himself differently, potentially seeing himself as having a response, rather than just responding (Drewery, 2005).

It is important that all parties agree on the facts. In saying the one word, *yes* Harry in fact was acknowledging a wrongdoing, publically. (*I hit him.*) This had elements of priestly confession, and I would argue that it was the first stage in his own journey of repositioning, and without it nothing else would have happened. It was also important for the others (including his parents), to *hear* this public statement; it brought everybody into a common endeavour, a mutual group focus. It was what they were there to sort out. The first three questions then, established some rapport and common ground for the group to proceed from.

The third question asked of Harry was put as a way of establishing the facts . *you called it bullying, and decided the solution was a number of punches.* To which Harry (again) answered, *yes.* At the simplest level of analysis, this was a closed question with a predictable answer, not apparently going anywhere. Appearances can be deceptive.

By engaging in this kind of conversation, facilitator two was positioning Harry in such a way as to allow him the possibility of re-storying his own life, of hearing himself recognizing his own feelings , owning his own behaviour, and therefore of becoming the subject of his own life, rather than living out the story of subjugation that had become his dominant theme, the way he saw himself.

This is what the RJ theorists call *respectful conversation*(Drewery, 2005; Llewellyn & Howse, 1999; Vaandering, 2010; Winslade & Monk, 2008). It does not assume anything about the person, or judge them, but seeks to find out more. In finding out the *more* however, it raises the possibility of change, of taking up a different identity. This then allows them to position themselves differently with new narratives, which in turn leads to their seeing and behaving differently. Thus we see that the facilitator is more than a passive recipient of information, he/she is working to bring the speaker to understand that the story they have told about their life is not necessarily the whole or the only *truth.* Other stories also enable the taking up of other identities. Back to the transcript:

2nd Facilitator: what was the consequence of doing that?

Harry: uuuuummmmm ? ? ?

2nd Facilitator: yeah um can you see any good that might have come out of such a thing?

Harry: not really

2nd Facilitator: going to ask you some really strange questions. When you struck out you know apart from hitting him with your fist what else were you doing for the very first time?

Harry: hitting

In this sequence, facilitator two tried to move Harry to another level of thinking, by asking him about *the consequences* of his actions. This drew a puzzled response, and so the facilitator tried again by asking a paradoxical question: *Can you see any good that might have come out of this?* Harry was not enlightened that time either. What was the facilitator trying to do?

The negative responses to these two questions revealed that he had not cottoned on to Harry's wavelength yet. This was neither good nor bad, it simply pointed up the need to change tack. The third question in this section was prefaced by the comment that there would be *some really strange questions* : here the facilitator was trying to maintain rapport by self-identifying with the boy, acknowledging and therefore validating his confusion. (If you feel strange, it is because the questions are strange.) No blame was being attached to the young man's failure to comprehend, it was as if the facilitator and he were united in a struggle to comprehend strange questions.

2nd Facilitator: forget about the hitting. What else were you doing for the first time? What message were you giving?

Harry: (hesitantly) I don't like to get bullied?

2nd Facilitator: say it a bit louder

Harry: I don't like to get bullied (calmer)

2nd Facilitator: not only did you not like to get bullied, what else were you saying

Harry: mmmmmmm stop it

2nd Facilitator: yeah, and how effectively did saying stop it do you think the message got through?

Silence several seconds

2nd Facilitator : where are you right now?

Harry: in a meeting?

2nd Facilitator: what is this meeting about what's likely to happen to resolve this meeting?

Harry: inaudible

2nd Facilitator: so what model have you given yourself for the future?

Harry: mmmmmmm

2nd Facilitator: when the next bully comes along and takes your lunch and pushes you round what are you going to say or do?

Harry: well just stop it to start off with so that I will do something about it so that it won't happen again

2nd Facilitator: hopefully not! (loud laughter from all) Talk to your mum and dad about alternative ways you've got to the first bit it's taken you four years but now you've got to the first bit what did you do for the first time? Three or four words

Harry: aaaaaahhh

2nd Facilitator: dad, can you tell him, tell him dad

Bruce: he stood up for himself

2nd Facilitator: (turning to Harry) you say it lō ..

Harry: (quietly) I stood up for myself

2nd Facilitator: ok when you say that you are looking at me and kind of smiling what does that feel like?

Harry: aaahhh really good

2nd Facilitator: yeah ok everybody here wants you to take the good bit not where you whack somebody cos that was where you went over the line. Have you got anything you need to say to Karl for whacking Him? Look at him, and speak to him

Harry: I'm sorry that I hit you. I could probably have done something different instead of hitting you

2nd Facilitator: (to Karl) What have you got to say to him? Look at him

Karl: sorry for (inaudible)

This can be seen as the culmination of the conversation, a phase where the work of repositioning is cemented into place. With question seven the facilitator adopted a new tack; he instructed the young man to *forget about the hitting* .(Adopting an authoritative position.) Sensing a roadblock to communication, he swept it away, then asked: *What message were you giving?* Instead of an open question with no boundaries at all, the facilitator used the *message* word, thus defining for the student another way of looking at the punching event as one that had *meaning*. It was up to the student however, to specify what that meaning was. The facilitator just had to hope that this hefty push towards vocalization would be sufficient.

Finally then, facilitator and student connected, and maintaining his authoritative position, the facilitator instructed Harry a second time - *Say it a bit louder*, in an attempt to reinforce the new understanding. Harry did so, with more confidence, and it appeared at that point, that the roadblock of understanding had been cleared away and all were on a new path. He was able to answer the next question with the realization that he had also been saying *Stop it*. But then there was just one question too many, and the curtain of confusion came down again.

The facilitator's question *what model have you given yourself* was at a level of abstraction that was too difficult for Harry to comprehend (he replied *mmmmmm*) and so the next question personalized the situation *what will you do when the next bully comes along?* Although it is not particularly clear in the transcript, part of Harry's answer (*so that it won't happen again*) and the facilitator's response: *Hopefully not!* drew from the group a great burst of laughter at that point.

Towards the End Point

In terms of group dynamics, it seems fair to suggest that this was a decisive point when the whole group began to cohere with a common purpose, all having the same aim in mind . how to resolve the situation in

the interests of all the parties. Facilitator two then instructed Harry again to answer his question (*what did you do for the first time?*) with *three or four words*. This was the facilitator speaking from his position of institutional authority, the moral universe established through that discourse of education.

What was he trying to do? There are several ways of describing it: in general counselling theory, he was trying to *reframe* the event. In narrative theory he was trying to elicit an *alternative story*. In social constructionist terms he was raising the possibility that Harry had defined himself one (negative) way, but he could now change the construction to something much more amenable to his sense of self. (He had acted as a person with agency.) Facilitator two was trying to make it easy for Harry by indicating that three or four words would do, but it was still too much. Harry replied: *aaaaahhhhh*

At that point, facilitator two drew on his acquired knowledge of Harry's father, and on his pivotal positioning as father, and invited (or instructed) the father to provide the understanding that was eluding the son. In inviting the two of them into dialogue, the facilitator's words could be understood as inviting father and son into a new relationship, responding to Harry's earlier comment that he had found it difficult to talk to his parents.

In positioning the father as *helpful adult* the facilitator was allowing the father to use his own experiential knowledge to the benefit of his son, thus allowing him to perform something that had previously eluded him, and for the son to hear that his father cared enough about him to want to say it. They were thus being put in a situation where the possibility of the development of a closer more satisfying father/son relationship was being established. That this was happening in a kind of public forum meant that it was witnessed, arguably giving it more gravitas. By their presence, and their implicit acceptance of the exchange as silent witnesses, the group were validating the significance of this emerging connection between these two people.

The father said the five words, and the son was invited (or instructed) to repeat them, beginning with the word: *I*. His reply: *I stood up for myself*. At that point, the facilitator realized that something had changed, because Harry was actually looking directly at him and smiling (rather than head between knees). So he drew attention to the changed posture and expression: *You are looking at me and kind of smiling*. He was positioning himself as observer, and as mirror/reflector. To drive the message home, and deepen Harry's understanding of it, he asked another question: *What does that feel like?* When Harry replied; *aaahhh really good*, he was coming to a real understanding that things had changed. Not only was he sitting upright and smiling, but he was aware that he was sitting upright and smiling. He was feeling good for the first time that night. Harry was beginning to take up a new subject position, and a different understanding of the incident was emerging.

The point of facilitator two's questions was to position Harry as a person beginning to take a position in a different story about himself. In responding to the questions, even when he found them difficult, and through the power of the group process, his thinking changed, his feelings changed, and his behaviour changed.

Both boys then exchanged apologies, and the meeting was effectively over. Before the analysis can conclude however, it is necessary to say something about Karl.

Karl

After the first couple of minutes, when Karl had been re-positioned as the offender he had been silent. Both facilitators had asked him a number of questions drawing out only that he had actually listened to the other story (he could repeat the essence of it), and would cease name calling. Three times there were silences of several seconds after his answering of a question. Right near the end, he was instructed to look at Harry, which he did, and gave a mumbled apology, of which only the first word *sorry* could be heard. A ten second silence followed.

His silences and general body posture suggested a degree of shame and/or confusion. After all he had gone in to the meeting as the good guy, and had promptly been more or less forced (that is by the moral power of the opposing story), to re-position himself both in relation to the story of the incident but also to Harry and to his parents Harré & Van Langenhove (1991, p.399). It was a lot to take in, and it is not surprising that the speed of this switch would require significant effort of him.

His parents had much more to say than he did, and clearly they were dis-oriented and discomforted by the positional switching as well. It is significant that they did not seek to challenge this implicit act of re-positioning, but rather sought to find a way through it. In listening to the story with quiet acceptance (while acknowledging their sense of shock and surprise), and by acknowledging the suffering of the other family, a bond was forged that enabled the anger and hurt to be resolved for both sides. Jenny's last comments were: *I think I can leave with a positive feeling....but I guess today it can be a new beginning for both of you. If you pass each other in the corridor, say hullo and keep* (words lost in outbreak of laughter)

Conclusion

It is a fundamental part of narrative mediation theory, as defined by Winslade and Monk (2008) that people make sense of their lives by constructing stories about themselves. In this way of understanding social interaction, the job of the facilitator is to listen for what is not said, but taken for granted.

Harry had come to see himself as powerless, while Karl was busy exploiting his power (which Harry defined as bullying). This was a relationship which did not achieve good things for either boy. The conference enabled both families and both boys to resolve ongoing tensions thus allowing them to continue their education free from the destructive effects of such a dysfunctional relationship.

While the conference itself took only twenty five minutes, the whole process of setting it up took about two hours. Schools are fond of claiming

that RJ conferences take far too much time, yet their own processes for handling this dispute had seen it linger on for four years until it blew into a significant crisis. This rather suggests that RJ is a time limited process that may bring about full resolution, while the traditional disciplinary system is a time extended process with a signal lack of resolution.

Chapter Five: The Interviewees' perspectives

Chapter four was the description and analysis of conference one. In this new chapter, I will make use of the personal interviews completed with six of the seven participants (one was unavailable) to enlarge our understanding of what happens in an RJ conference. It will be clear that the participants (in slightly different ways) all regarded it as being successful, where ~~success~~ is defined as a meeting which resolves the conflict issue to the satisfaction of all parties, setting up a new relationship whereby all may go on in peace. My purpose however, is in understanding how that endpoint (whatever it was) came about. Success is less important than understanding the process by which that ~~success~~ was arrived at.

I argued in chapter two that ~~Restorative Justice~~ is not about restoring what was there before, but transforming it, creating a new more satisfactory relationship between the people concerned and doing so by making it possible, through the work done within the conference for them to take up different subject positions in relation to the problem, as well as each other. In these interviews the participants in this conference seem to agree that ~~relationship~~ was restored as a new kind of relationship, something mutually beneficial to all parties.

Harry's Family

Harry's family were expecting me and had re-arranged their daily schedule to suit. All three sat on the sofa, the son between his parents, in a nice show of solidarity, and asked if they could be interviewed together. Although this was not what I had anticipated I made an intuitive decision to go along with it. In the event, both parents were happy to sit back and let their son answer my questions to him, without trying to answer for him.

For the first few minutes, the parents made the conversation, and as I reflect on the transcript of that conversation, it is clear that this chance to talk further about their family trauma was really important to them. Harry's father expressed some disappointment with the meeting in that he

had wanted to ask Karl some questions but had understood that this was not allowable procedure.

Harry's mother (Ann) revealed herself as a fairly sharp observer; noting Karl's body language and where he was looking. This moved the father (Brian) to observe that he thought the other family now understood them more, *so that was a good outcome of the meeting*. Ann said (of the meeting)

I've never been in a meeting like that before you know cos normally you would think that in that kind of meeting everyone is angry at each other and they are ready to let rip and everything but because it was a controlled environment and it was calm it was actually quite good I felt that we could get our point across

Here she was describing a key aspect of the RJ process, that it is inclusive, non-confrontational, and everyone got an equal chance to speak and be heard, and I will return to this in the final chapter.

The Dean

This point about the emotional climate of the meeting was also addressed by the dean who had agreed to take part in the conference. He had had a number of earlier unproductive meetings with this particular family and reflected on the nature of the difference between them:

My past dealings with this family have been of a different nature, it's been a little bit more confrontational – 'my son has a right to come to this school what are you going to do about it?' [In this meeting, the difference was] probably when Harry's dad said what he wanted – he wanted his son to come to school, and how it makes him feel when he sees his son going through that....that is the most I have heard Harry say in any meeting I have had with him. I think the matter was resolved through the sharing of the victim family and the reaction of Karl's mother as well.... There is a big contrast between the two systems [of meeting] it's not a them and us and it focusses on what needs to happen to move forward instead of punish punish where behaviour does not change.

The dean here was drawing attention to the emotional aspect of RJ meetings, that in being able to hear the father speak with sadness about his son, he was able to construct him in a quite different way, not as a demanding obstructive parent, but rather as another suffering human being who just wanted the best for his boy. RJ meetings allow for, and encourage the expression of emotion which in turn allows for the possibility of creating relationships of equality, dignity and respect. (Llewellyn, 2012). In the dean's eyes, it was a combination of the sharing of emotion, plus the absence of confrontation and punishment that enabled the two groups to move together in a common resolution. So he too was drawing attention to RJ process rather than any feature of language.

The View of Facilitator One

Barry (facilitator one), when asked for his comments on the conference (which he largely, ran) began by saying that it had *ticked most of the boxes* that he had in mind, having prepared this list of needs before the meeting. He was asked to compare the usual school response to wrongdoing, with the RJ response, and began by saying that he thought *there were some similarities*, and observed that there was a lot of pressure from staff for students to suffer consequences, to be punished, most obviously by being stood down. As the conversation continued, it led to the following exchange:

Interviewer: So was this in fact a model that worked without consequences?

Barry: Yeah yeah I suppose it was [and] it's better because the outcomes are more positive and you are likely to end up with I don't know citizens who have strategies for dealing with things which aren't just based on power relationships and punishment.... every person in this group had some power, they could put their spoke in and come to some common agreement.... It is a big contrast to the [existing] system.... Punishment versus relationship.... In an RJ meeting you draw kids out and value them, it's totally different to the classroom

This interview revealed a man who began the discussion cautiously, unwilling to make too large a claim for RJ, and attempting to measure its success through having previously formulated a list of criteria that he was able to tick off one by one, and therefore declare the meeting successful. He ended by talking about relationship, and making the observation that RJ was a vastly superior system to what he had been doing for many years. To him, the absence of punishment and the spreading of power meant a much more satisfactory outcome. It was these two things that made the difference. As with the previous two commentators, it was these aspects of the RJ process that stood out for this man.

Karl's mother (Jenny) on meetings

Interviewer: what do you think about this RJ process now that you have been through it?

Jenny: I think it's a damn good idea I really do because there is a lot of children who don't communicate with the parents....nobody gets punished I don't really know what I think about this I don't want to see a child done wrong to I mean at the end of it it's the kids schooling that gets punished if they are stood down or withdrawal or whatever

Interviewer: do you think the RJ process changes behavior?

Jenny: I do believe it kind of has Karl has said that there have been a couple of occasions when Harry has spoken to him, and Karl has said hey don't talk to me and Harry has said I'll do what I want and you can't stop me sort of shit, and Karl has come back with Harry I have asked you nicely, please stop talking to me or I will go to Mr () because you are annoying me so instead of nasty mouthing, he has got the right approach to it now it's the nice way it's quite a stunning change and if he can learn that at school, he can also bring it home and that's a real positive thing cos there is a lot of stuff goes down here with the two boys...[that is, her own two sons].

Jenny thought that the RJ process had improved communication between kids and parents, and she grappled with the idea of punishment, suggesting that it had no positive outcomes. She stated that she had seen a big change in her son's behaviour, that he had been given some verbal skills that he did not have before, and that he was able to avoid the verbal abuse interactions at school. She was also hopeful that this would spill over into the home, and the relationship between Karl and his older brother.

So she was talking about the outcome of the process and her final comments were: *this process has worked wonderfully for me.*

Karl on Karl

When I arrived at Karl's place, only he was home, and so I was able to talk with him on his own before the room was invaded by returning mum (recalled by txt because she had forgotten the meeting) and two other siblings who were intensely curious about what was going on. This was the lived moment, and they allowed me to sit in their living room for that time, with the unfolded washing. Their willingness to interrupt the daily routine (around seven pm) and put themselves out for a total stranger, was endearing.

Interviewer: has there been any difference since that meeting we had?

Karl: yeah me and Harry don't fight as much, I barely even talk to him just say hi and walk off....

Interviewer: you are talking much more freely here than you were there was that a pretty off-putting sort of meeting, can you sort of explore that for me?

Karl: well it took me right out of my comfort zone and I went all quiet, too many people....

Interviewer: when Harry came up with that story [about the lunch stealing] you are saying to me now that that was not the whole truth, but you did not take him on, can you tell me about that?

- Karl: it was too I was too worried about mucking things up... saying something wrong not thinking before I say it
- Interviewer: is that what people or adults say to you in the past?
- Karl: yep
- Interviewer: and you have got a history have you of putting your foot in it?
- Karl: yeah....but I did not speak up cos I did not want to muck things up and make more of a fuss

I described in chapter four how Karl had spoken quietly, frequently in monosyllables, and he was certainly more relaxed, using more words, while speaking to me in his own home. From the perspective of positioning theory Karl was saying that he saw himself as a person who *mucks things up*. This had become an aspect of his identity, and it was the story that he told about himself in this situation. His relative silence in the conference proper could then be understood as his way of acting out that understanding.

The RJ meeting positioned him differently, as a person entitled to dignity with a point of view that people were keen to hear. From his mother's account, even this brief (twenty five minute) encounter with an RJ process, had produced some marked changes in his behaviour, suggesting that the process of RJ, in providing a platform of equality dignity and respect, can produce significant change. Karl's mother was hopeful that in modelling this process, the school had opened a way for changed relationships at home.

Harry on Meetings

- Interviewer: what did you think of that meeting?
- Harry: uuh, all rightō cos I got to say what I could say about it what had happenedō .
- Interviewer: ok so in your opinion since then has it resolved that situation?
- Harry: aah yeah it hasō be pretty close to 100%....he does not call me names anymore and he doesn't push me around and he doesn't steal my food

- Interviewer: what do you think about the RJ process?
- Harry: that it's easier because you can hear both sides of the story and hear what the parents have to say about it whereas in withdrawal you just get one side and they get punished for what they have done without hearing the other side
- Interviewer: is the way you respond to stuff different as a result of the RJ meeting?
- Harry: yeah it is uuummmm aaahhh I stop and think of what I want to say to them and then say it instead of using swear words and that

Firstly, Harry considered that the RJ process had pretty much sorted the issue, and my analysis suggests that this happened because he was allowed to tell his story, rather than being silenced and then punished as well, without being able to tell his story. He had also learned some new verbal techniques, and (although it is not in the quoted transcript) he had started going to the school counsellor. It is possible to see this process as creating some significant changes for Harry, which he attributed to *being allowed to talk*. Put in the language of RJ theory, he was accorded dignity, equality, and respect, and he responded to that. In the language of social constructionism, he was offered agency and the possibility of a new more positive identity, a position within which he felt some agency, and a strengthened relationship with his parents.

Summing Up

To return then to the overarching research question of this thesis . are there any distinctive features of language associated with successful RJ conferences - do these interviewee comments say anything which may enlarge our understanding?

The focus has been on the patterns of conversation, or as Drewery (2005) puts it, language as performative action. In this view, language is an action on and in the world, it is doing something. Whether we are consciously aware of it or not, a speech utterance in a social situation, draws the other person(s) into some kind of relationship with the speaker, it positions them, as outlined in chapter three. In RJ conferences, this

positioning of the participants offers them places of equal dignity, concern and respect, in the phrase used by Llewellyn (2012). Each person's concerns are given equal weight, and when one speaks, he/she is listened to respectfully. They are offered the dignity of personhood rather than any position of subjugation or silencing.

These relatively innocuous words carry so much transformative weight! Ann had expected a meeting of anger and shouting, and yet her story of family suffering was listened to sympathetically, and the results surprised her a great deal. Karl's mother Jenny had high hopes that having learned a different way of speaking, the relationship between her two sons would be transformed. Both teachers acknowledged that the RJ process was a more effective way to solve social conflict than the traditional school approach. Everybody agreed that the outcome was good but their observations as to how that came about, were limited to comments about the process, rather than any concentration on particular speech utterances. In this sense, their perspectives are of limited value but they do provide another source of data for analysis through the theoretical models outlined in chapter three. These conclusions will be developed in the final chapter.

Chapter Six: Conference two, Description, Analysis, and Findings

The particular circumstances which gave rise to this conference arose within a part of the school that caters for students from other countries who do not speak English as a first language. This included students who had arrived as part of the NZ government's refugee program and were therefore permanent residents, and fee-paying students whose parents had bought a place for their sons/daughters, for between one and three years.

Narrowing the context down slightly, about twenty of these students were gathered together in a relatively small room at morning interval on the second to last day of the term in July. They were in the room and not outside because it was winter, and cold outside. One of the conference participants, William, drew my attention to these contextual facts to explain why he was in a bad mood that day. In part it was the stress arising from the end of term, and that in turn was exacerbated by the noise from so many people in a confined space. He was absorbed in his own world trying to talk on his cellphone, in his own first language.

Across the room, maybe three or four other students were playing a game of ~~clare~~ and the ~~loser~~ was required to stand on a chair and shout something out loud, very loud. An already noisy room would then get much noisier.

William, in his own words, but assisted by his interpreter, said that he made eye contact across the room with one of the boys, and speaking in English, told him to ~~Shut the fuck up.~~ Of course it was English with a particular accent, and two boys in the other group mimicked his pronunciation, while giving him the bird. Enraged by this, William picked up a (plastic) chair, and threw it at the group. They brushed it aside, whereupon he charged across the room, intending to strike one particular boy. However, the brother of that boy stepped into his path to act as

protector (the brother was significantly smaller) and was pinned against the wall and punched in the face by William before other students and some teachers succeeded in breaking them up.

There was no disagreement about these facts, and so the conference itself consisted of William and his interpreter (who happened to be employed at the school in another department), brothers Norman and John plus their interpreter (who worked in that department), and Susan, who was another student in the department who had taken the most active role in breaking up the fight. She spoke more than adequate English, as well as two other languages.

Analysis of Conference Script

Facilitator Rod: Welcome to you all, to William, Norman, John, Jeremy (translator), Yvonne (translator) and to Susan. We are here to sort out a disagreement between William, and Norman and John. Turning to you first William, would you like to tell us what was going on for you that morning?

In choosing to define the original precipitating event as a disagreement was using neutral non-judgemental language. There was no hint of blame or shame merely a situation to be sorted out. They were being invited into a dialogue (rather than, say, being lectured at). William was being offered a position as information giver, or story-teller, with the assumption that the others present would listen. He was being positioned within the group as a person of equal dignity with all the others, and with this introduction it was established that he had a right to speak, that they had a willingness to listen, and that his story would be taken seriously. He was offered not only dignity then, but respect as an equal human being. Implicit in all this was that whatever his actions might have been, he was ok, he was not a bad person. I was setting up a meeting where the concerns of all would be treated equally.

Response of the Protagonists

William, and then Norman and John spoke, but it came mostly through their translators and can be regarded therefore as being fourth hand. William's story positioned him as the person whose rights (to a reasonable amount of noise control) were being trampled on, and when his attempt to assert those rights was insultingly rebuffed, (as he saw it), he became enraged.

Norman positioned himself as a person with the right to enjoy a game with his friends without having to answer to anyone else, so that his rights to have fun were being trampled on by being told to shut the fuck up. John positioned himself as the brotherly protector, the person willing to take some blows for the sake of filial unity and safety. (Although slightly younger, he was the taller and stronger brother.) All of this was done through sequential conversations, and took some time as everything had to be translated twice . from me, and back to me. There was no dispute about the facts to this point, so after about 15 minutes, I turned to Susan, whom I had positioned as bystander. Her English was very good, and I have chosen to use the script here, noting that it had the (surprising to me) effect of moving the conference almost abruptly into the apology phase:

- Rod: Susan, would you like to tell us what you saw and heard?
- Susan: I was in the room and Wade threw the chair and then they were fighting so I decided to break them up. (Susan was taller than any of them.) I grabbed Wade by the throat and tried to push him away. They were boys you know and very strong. I was frightened and shaking. I got punched on the chest which came up into a bruise the next day.
- Rod: So we have listened to each other and to how this affected Susan as well. How are we going to sort this out?
- Susan: I think you should all apologise.

[At this point, each side apologized to each other, and to Susan. The brothers accepted that they had wounded William upq and he accepted that he was wrong to act in the way he did.]

Susan's story positioned her as peace broker, a person standing above the fray who could see that a limited application of force is sometimes legitimate in order to prevent serious harm occurring to others. The result of her intervention was that she had become a secondary victim, and her response to that forced positioning is dealt with in the personal interview section. Her story confirmed the accuracy of the given accounts to that point. Her categorical assertion that they should apologise was immediately accepted by them (for whatever reason) and it seemed clear that she carried some kind of moral authority within the student group.

A narrative turn

As facilitator I had to make a decision at that point. In the pre-conference meeting with William, he had told a story which had not been confirmed or even mentioned by the two other boys (although it had been validated by the department head). Namely, that on leaving school that day, he had been set upon by the older brother and his glasses had been broken with a punch to the face. I invited William to recount these details, and then asked the other two: "Did you boys know anything about this?"

Brothers: No. We do not talk to our brother. We do not know how he found out. We did not ask him to do that.

Rod: William, can you accept that?

William: Kind of.

[The translator then explained that there was a level of dysfunctionality in the house between father and the three sons.]

In terms of meeting process, this was a problematic lacuna. I had not anticipated that the brothers would deny any knowledge of this event. William expressed some scepticism about the truth of the brothers' response, and it was hard not to have some sympathy for him. (How else would the older brother have known about the incident at school if they had not told him?). It seemed to me that there were only two choices:

challenge their veracity, or let it ride. I chose to let it ride, although of course the unresolved dissonance remained there, like that ancient stone troubling the living stream. What it illustrates, I think, is the difficulty of working within a situation of significant cultural and linguistic difference. I was not confident that I could read their body language accurately, and challenging their veracity through an interpreter would have been cumbersome, and would not necessarily have allowed us to make any progress. (What body language I could read suggested that this was a no-go area, that there was a play of cultural assumptions in operation to which I was not party.)

William was changing positions from mutual instigator of a fight, to innocent victim of an assault. Yet in denying all knowledge of it, the brothers were positioning themselves as innocents also. In terms of meeting process there did not seem to be any middle ground, just two sides protesting their mutual innocence. I decided to change tack slightly.

Rod: How are we going to prevent this happening again?

Brothers: Oh we will just walk away.

William: Yeah, just walk away

Rod: Can you see that this affected lots more people than just the three of you?

Brothers: Oh yes, There were lots of others involved.

William: Yeah it got much bigger

Rod: I think we are getting to a close

William: Can I ask a question?

Rod: yes

William: What about my glasses? It cost \$60 to repair them. Am I going to get anything for that?

Rod: Can you see that these two did not ask for that to happen, and the older brother is not at school, and we have no control over him?

William: I would still like my \$60.

John: Well what about my sore eye where you punched me? What do I get for that?

Rod: Sometimes it is impossible to put things entirely right, and we just have to do the best we can. What do you think, William?

William: I dunno. I suppose.

Rod: I think we are getting to a close.

Jeremy: (William's translator) Yeah I was a boy once and I know how we can get grumpy and everything. Just think about taking a deep breath and keeping the distance between you.

Rod: Because this is (name of city) and it is kiwi country, an accepted way for us all to end the meeting is for all to shake hands. [They did so.]

In asking about his desired \$60 compensation William dropped a bomb, and there will be more discussion of this in the personal transcript section. I had not anticipated it (and nor had his translator). He was positioning himself as aggrieved innocent, and it immediately provoked a response in the same vein from John. So it seemed that suddenly we had two aggrieved innocents in opposition to each other.

In terms of meeting process, this looked like an impasse and was clearly a new phase, which we might label as the phase of near deadlock. I tried a conciliatory mediating response, and got some degree of grudging acceptance from William. It seemed sufficient to me to be able to end the meeting there. On reading the transcript, the decision to close seems almost abrupt, but it was based on my understanding that we had achieved the major desired outcome of the meeting (mutual apologies), and that nothing more was to be gained from continuing with the insoluble issue of the broken glasses.

The contribution from Jeremy (William's translator), was unexpected (by me), and saw him abandoning his neutral position as translator, and assuming the position of well disposed even kindly older man who could identify with them. It also returned control of the meeting to the adults, and because he was known to them as a teacher, he was speaking from within the structure of the institution, confirming the moral

universe of the whole meeting, but in a way that emphasized their dignity and his respect for them.

My conclusion to the meeting positioned them more broadly than before, this time as citizens of a nation-state. I directed them to seal the agreement by shaking hands, on the grounds that it was a practice common to many cultures.

Chapter Seven: The Interviewees' Perspectives from Conference two

William

I have chosen to reproduce the full transcript of this interview because it has a kind of unfolding logic and meaning-making that would be obscured if it was divided into segments. We spoke directly to each other, unmediated by a translator, and I have chosen to omit those bits where there was mutual incomprehension, necessitating a second and sometimes a third attempt to establish clear meaning. What I have tried to do is convey some of the idiomatic nuances of a person speaking English as a second language. It was not part of my research agenda to investigate whether RJ can transcend cultural barriers, but this conference unexpectedly threw that challenge before me. I leave it to the reader to determine what any wider implications there may be.

- Rod: What have you thought about that meeting we were in the other day?
- William: A bit alright a bit not too good
- Rod: Tell me about the bit not too good
- William: They say because they got a family problem with the brother so they can't tell this brother to pay the money for the glasses and so next time I'm thinking if I fight with somebody else and say my friend does the punching then all I have to say is oh I have a problem with my friend. That's a bit unfair because they say they did not tell the brother . but who knows that? They might be telling lies.
- Rod: So for you that is a problem.
- William: Yeah It seems that you just have to say sorry. You don't need to pay the money. It's very unfair for me.
- Rod: Were there any good bits in the meeting?
- William: Like they say they do something wrong first it is a little bit comfortable for my heart I felt little bit better.
- Rod: Have you ever been in a meeting like that before?

William: Yeah in my primary school I got punched on the head and after that we have a meeting. His father came to school to say sorry.

Rod: In your case at school here was it good to punch the boy or would it have been better to do something else?

William: It would be better just to tell that family.

Rod: Did the meeting seem different in any way from what you were used to?

William: No not much. I was feeling a little bit sad because I was thinking you can't do too much. the older brother is not at school.

Rod: That's right.

William: So I think if someone now make me angry I just call my friend to punch him.

[laughter from both]

I dunno. In [country of origin] we have a saying if you do it first time or second time maybe they would call their brother to punch them. In my case the school cannot do anything. I really want the money not for the brother to say sorry to me. I'm not very poor.

Rod: You have lots of money and they have very little money. For them, \$60 is a lot of money.

William: So? You just think you can punch anyone you want? This is little bit unfair. Sure I do something wrong. But they broke my glasses. If he had needed medicine for his mouth I would have paid for that. It's like crazy. You say why you can't call his family. In [country of origin] if someone call his uncle or brother say come punch me after school we just call the police

Rod: Are you still a little bit angry?

William: not much not much

Analysis

Positioned as an education researcher, I positioned him as a person who had shared in a meeting and had a point of view or story to share about that meeting. He accepted that position of relative equality (different roles but equal status) without difficulty. He spent the time grappling with an innate sense of injustice (the incident had cost him money that he was not going to get back), and in seeking to explain this he frequently drew on his own cultural practices as the model. This model rested heavily on the

payment of money as a way righting wrong, of calling the police and using the official (retributive) criminal system.

The second difficulty for him was to be able to express these ideas in a second language, and the script reveals a subtle movement from statement of his position, to self-deferential laughter at his own position, to pretty much an acceptance of the idea that an apology was all he was going to get, and that that was not too bad. He expressed this in a memorable phrase: *like [when] they say they do something wrong first, it is a little bit comfortable for my heart.*

What is it that enabled this transition from considerable discomfort to relative comfort, to occur? What it points to, I think, is that there is a dialectical relationship between what is said, and the created ambience of the meeting that is established by what is said. I would suggest that the words invited him into a particular kind of relationship. So he was invited into a story-telling situation, where his sense of grievance could be stated by him, and then explored by him without interruption or dispute. He was being called into a relationship of respect and equal concern. He could both hear himself, and be certain that he was being heard. He was being offered agency, the chance to describe the situation as he saw and felt it. This created the possibility of him being able to move a little from his established position of justice as repayment in money towards the idea that there might be another way of looking at it.

Translator Jeremy

I have chosen to pick out bits of this transcript rather than re-producing the whole thing, and have endeavoured to keep the idiomatic flavour as far as possible.

Jeremy: This was different from any meeting I have been to before because we have got all parties there and a witness. I believe Yvonne (the other translator) and me were not just playing a role as interpreter, in some way we became a supporter as well.

Rod: Tell me more about that

Jeremy: This kind of talk not really happen a lot in their life before. So I could see that both parties were nervous at the beginning, but in the end when they start to feel that people are sitting there as their supporter and they start to be more open to tell their thoughts, or argue point or whatever. But not just something coming to their mind just because the teacher says so. I am not teacher sitting beside William, I tell him I'm a supporter, so he feel more free to express his opinion.

Rod: Thank you, I did not really pick that up. Can you think of anything else that was different?

Jeremy: In other school meetings we have got a Head of School being there – looks like some form of power over the student. In your meeting we all equal.

Rod: You picked that up?

Jeremy: Yeah yeah that is the message. You can have your different opinions and it go different, and it go to the same. This is a meeting with a purpose as well, in other school meetings the power over, the discipline, you must follow this or you are out. But this one, no consequence or punishment behind it.....But you just sitting there as a supporter not as an opponent to the student.

Rod: Picking up the notion of equalness. What told you that all was equal? How was it done?

Jeremy: That good question. I just got feeling. Probably you sitting there instead of principal sitting there.

Rod: So that made a difference?

Jeremy: Yeah yeah you as person to organize the meeting but you are not getting everyone in trouble. You not judged here. In Asian culture, older person is there held in respect. Because you are not 26 you are 66 and it is different.

Rod: I'm 70!

[much laughter]

That is why the atmosphere make the students think I am not going to be punished, like if they thought they were in court, they would be thinking I must be very careful what I say.... When I found out that William had been attacked after school [which I did not know before] I turned from just being an

interpreter to a supporter. Probably the meeting would have turned out differently if I had stayed as an interpreter.

Rod: Yeah I was thinking about that this morning. That sometimes the interpreter would take much longer to ask the question than I had, and I had no idea what he was saying.

[much laughter]

Jeremy: That's true that's true. I had the impression that William was still holding some anger there so if I don't say anything, just interpret the words.... I think that we had to solve the problem not come there to raise the problem.

Rod Did you pick up anything in the way I spoke to them?

Jeremy: Nothing about the words, but the tone. You did not put heavy words on William and soft words on the others. You do same thing. You ask questions this way, and other boy same way. You use same tone and same speak speed, same simple words to both parties. This tells them that I am sitting here and I have no [favouritism] to anyone.

Analysis

Jeremy knew what RJ was because he had been in one of my training courses a year before, and was well disposed towards it. In reading the transcript, it is clear to me that I positioned him as co-researcher and he responded warmly to that. The discussion was fraternal and the exchange was punctuated with loud laughter from time to time. His intuitive decision to broaden his role from just being interpreter to being supporter as well was a change in his position within the group so that he was actively working *with*, rather than doing things *for*. There can be little doubt that this changed the relationship as well, so that it was less threatening for William while he wrestled with his innate sense of injustice.

Jeremy had a clear grasp of the play of power, commenting on my even-ness of tone and speech in going from one to the other, and his discussion of the cultural play of the dignity of age while normal to him, was a revelation to me. The idea that we were all equal (despite the deference) was obvious to him, as was the significance of each person being allowed full accounts of their involvement, so that as a result, the

participants would move towards common ground and resolution. He expressed it in a memorable phrase: *You can have your different opinion and it go different, and it go to the same.* He considered this to be a big contrast with the usual kinds of school meetings where some person clearly in authority would be openly wielding that authority trying to impose solutions rather than letting them arise out of the exchange of dialogue.

This was related to the absence of any threat of punishment which allowed the students to speak openly rather than watching their words carefully in case they got them into trouble. His assumption that we were there to work cooperatively towards a solution came out in the sentence: *I knew that we had to solve the problem not come there to raise the problem.*

Susan

- Rod: What was different about that meeting?
- Susan: I don't know. [Maybe] the discussion the people who had a part all discussing it.
- Rod: At one point I said to them, ok boys how are we going to sort this out and you said something
- Susan: I said they had to be best friends and forgive each other like shake hands put things in the past.
- Rod: Why was it important for them to do that do you think?
- Susan: Because if they don't forgive each other or shake hands like it will be worse for them, like he would be holding something inside his heart like the more he hold things inside him like anger it would get more difficult or more violent .
- Rod: How was the meeting helpful?
- Susan: More than five people there and they like listen to one opinion and what happened and all that and we felt like how the other people felt when the fight happened .
- Rod: Anything else about that meeting, like, %Oh, I want to say .
- Susan: Actually I hide stuff while we talking cos I don't want to cause more troubles. In the fight my phone got lost and I couldn't find it for a couple of days. I did find it but it was kind of crushed and all that like it would not work

properly so I had to buy a new phone. But I did not want to tell anybody about it cos more dramas.

Rod: Well that was very generous of you.

Susan I did not want more problems getting bigger and bigger and we did not know who had done it

Rod: Well I'm sorry you tried to sort it out and got punished

[laughter]

Susan: Yeah I got punished but it was ok just a phone

Rod: I think that says something really nice about you

Susan: Oh thank you [smiling and laughing]

Analysis

Susan was a relatively recent arrival in NZ, speaking English as a third language. Her perceptions of the meeting therefore as well as being triangulated had other layers of resonance, including the fact that she had never heard of RJ. Nonetheless she seemed to sense that bringing the parties together for discussion. (*they like listen to one opinion and what happened and all that*) would allow some degree of empathy to develop (*we felt like how the other people felt when the fight happened.*) She had a clear moral position on the idea of harbouring anger, and confidently directed the boys to apologise to each other.

What was happening here was an interplay between a personal value system and a group process. I had no idea that this was her value system, or that she would play it out in this way. As it turned out, her ideas and the group process were perfectly compatible, and her input was a significant part of swinging the meeting towards resolution.

Translator Yvonne

Rod: Have you thought anything at all about the meeting we were in the other day? Anything at all?

Yvonne: I don't know

Rod: Tell me about your role as translator

Yvonne: I am a teacher aide and bi-lingual tutor

- Rod: In that meeting I would ask a question and you would spend maybe five times as long explaining it to them. Can you tell me about that?
- Yvonne: ok some of the words need to be explained a lot more
- Rod: Gerald said that he moved from just being interpreter to being a supporter. Did anything like that happen for you?
- Yvonne: Maybe that was same as me as well because I know them when they first arrive so they are more than just student , they are acting me like I their aunty, they even call me aunty so some of the way I interpret their words I was support as well
- Rod: Did the meeting succeed? Resolving the issue?
- Yvonne: Some ways it succeed but the after school thing they could not sort it out. The departmental head has investigated it but also does not know how to sort it out.
- Rod: What do you think about the money for the glasses?
- Yvonne: I have no idea
- Rod: William carries a sense of grievance. All they have to do is say sorry but I am the one who needs the glasses
- [laughter]
- Rod: Would you recommend that kind of meeting in any future situation?
- Yvonne: Definitely yes because they come face to face and apologise so each side can understand what was happening. In our country we did not work like this we would punish
- Rod: The RJ thing is about not punishing anybody. Any thoughts?
- Yvonne: It is good in one way but is soft in other way. Look like they have some feeling left even though they apologise so not solving one hundred per cent. Something still left behind maybe 10-20%. But I notice that [the younger brother] has changed a bit after the incident he did not come to school all the time but now he is here a bit more.

Analysis

Yvonne confined her role to that of neutral translator but she could see that the process was different from what she was used to (*no punishment*), and that bringing people face to face was useful, even if in this particular case it achieved only an 80%- 90% success rate. Her comment that the younger brother was attending school more regularly since the meeting,

was a small piece of evidence that the RJ process can change thinking and behaviour.

Findings

I have just set out a description and an analysis of a conference and four personal interviews subsequent to that conference, (the two brothers were omitted because of difficulty of access in the time available) and it is now reasonable to ask what that information or data tells us. The research question that frames this thesis is about the role of language in the process of conferencing . are there any distinctive patterns of language which may contribute to the success of an RJ conference?

In order to answer this question, I have called on various theoretical models of language to assist in the process. Perhaps the basic idea is that of language as performative action (Drewery, 2013). So what ~~actions~~ have been ~~performed~~ in this conference? The most useful interpretive lens for understanding this has been positioning theory, that in the act of speaking to another we position them in a particular way, calling them into some form of relationship and thereby allowing a form of subjectivity.

In this conference, the primary outstanding feature is that the participants were called into an agentive relationship, with each student being allowed even encouraged to talk about what happened as they saw it, thereby constituting themselves as autonomous subjects within a relationship to others, a relationship of equal rights to speak and to be heard. In being allowed to recount the (partial) narrative of their own being, to construct an account of their own lives as they saw it, each student was also being offered a position within a relationship of equal dignity and concern (Lewellyn, 2012).

That this is more than a nice academic theory is attested to by Jeremy in his observations about power. For him, the obvious difference from normal school disciplinary meetings and this conference was that there was no underlying agenda of power. He observed that the tone and the speed of my speech was evenhanded to all parties, (*not heavy on one*

and soft on another) and that the possibility of punishment had been removed. While they followed a culturally prescribed pattern of according me (as facilitator) respect because of my age, so did they perceive me as ~~respecting~~ them because of my way of speaking. (Incidentally, despite my earlier intention not to comment, this is a small piece of evidence to support the possibility that an intentionally purposive way of speaking can cross over the boundaries of language and culture.)

Success and the RJ script

Was this a ~~successful~~ RJ meeting? Not entirely. William was left with a lingering sense of injustice about the cost of his broken glasses. While he could understand that the school had no jurisdiction over the older brother who had actually done the damage, it still seemed unfair to him. He needed something more than an apology, only a degree of material recompense would serve to repair the harm.

The transcript of his personal interview a few days later is interesting in this regard. Most of the time was taken up with this sense of injustice, and my responses to him were not strictly speaking from any RJ script, but rather from the manual of counselling: the invitation to ~~tell~~ me more a kind of curious questioning, a bit of reflection. What was all this about? Normally, there would be no follow-up meeting to an RJ conference, this one happened purely because of my research program.

Yet I positioned him as a kind of co-researcher, calling him into a relationship of relative equality, combining perhaps the practices of counselling and RJ. He had some degree of ironic self-detachment and we were able to make a warm connection despite the barriers of language, and I came to see him as a very thoughtful young man. I imagine he felt respected by this encounter, including the fact that I engaged with him on the difficult questions of justice and this may also have helped to settle his lingering sense of the need for recompense.

Does RJ guarantee anything?

What findings have come out of this fifteen minute encounter? Perhaps that the RJ script (which is a basic part of any training program), is not necessarily sufficient in itself, that there are a number of (pretty bog standard) counselling skills which can also be critical in the restorative process. I tend to read William's personal transcript as a movement from discomfort to relative comfort, based largely on the last two lines of the dialogue: *Are you still a little bit angry? Not much not much.* It comes across to me as a piece of music, with the last two notes repeated, diminuendo.

The finding, I suppose, is that it is unreasonable to expect that one RJ conference lasting anything from 25 to 90 minutes will *necessarily* achieve a complete turn-around in habituated ways of thinking. For William, it is most likely that the larger part of his change of view came after the RJ meeting through the fortuitous event that I needed to record his views for my own research purposes. The RJ meeting laid the groundwork for that, but it was not sufficient in itself.

Chapter Eight: Some Conclusions from the Research Data

The point of any journey
Is to return to the place where you began
And to know it for the first time.

T.S. Eliot

In this concluding chapter, I shall go beyond the description and analysis of two conferences to draw out some larger conclusions that the research data may point to. My research question directed me to look for any discoverable patterns of language that may play a part in determining whether an RJ conference is successful or not. I took patterns of language to mean patterns within the structure of conversation. Pursuing this idea took me into a detailed examination of various theories about conversation. Taking a broadly social constructionist view, it became clear to me that although conversations may vary in their content and the idiomatic style of the contributors, I was looking at particular kinds of conversation in a particular place.

Namely, conversations which emerged between people caught up in some kind of dispute (verbal and/ or physical) in the location of secondary school. The broad context then was a state institution for adolescent education near the beginning of the second decade of the twenty first century (2013).

These disputes involved adolescents parents and teachers. Conversation then could go six ways . teacher/student; teacher/parent; parent/student; teacher/teacher; parent/parent; student/ student/ RJ conferences are deliberately set up to cater for this kind of multiple interaction. RJ practitioners believe that people can solve their own social problems and disputes if they are brought together in a particular way. This may be thought of as another take on the idea of a talking cure. Unlike Freudian psychoanalysis however, this is not a cure for the individual psyche, but the mending of a rift in the social bonds that allow people to live peacefully with each other.

When people meet together in an RJ conference the only thing that takes place is conversation, the exchange of words, talking. It's just that RJ conferences are structured to produce a particular kind of talking, a particular kind of conversation. The processes, or structure of an RJ conference are fairly easy to see, and the previous four chapters contain a number of observations by the participants on the aspects of structure that stood out for them.

The conclusion that structure or process is important is thus fairly easy to draw: the circle of participants all at the same height, the order of speaking and what they are encouraged to speak about, the courteous listening without interruption, the permission to have a visible/audible emotional response. None of the participants in the two conferences could see anything beyond structure/process, and nor could they have without extensive familiarity with other sophisticated arguments about what language and conversation is.

This emphasis on structure is also replicated in the RJ training manuals of Thorsborne (Thorsborne & Vinegrad, 2006). She lists about six stages and facilitators are taught to move the conversation through all six. In her understanding, this is what RJ conferences are all about. Her careful choice of exemplar questions reveals an implicit acceptance of the role of language, and at one point she does offer a strong caution against using ~~the~~ the type of language and tone of voice used by school officials investigating an incident (p.37) but this is the limit of her acknowledgement of the power of language in the process of conferencing.

Based on the research data that I have collected, I shall argue that it is not sufficient just to talk about structure because it is only half of the equation. The other half is language, and (it seems to me), the two things (structure and language) are dialectically related, each building on the other. The writer who perhaps has done the most to relate a range of theoretical ideas about language to the process of RJ conferences, is Drewery in a range of publications but particularly the work from 2005.

Her position may be described as an eclectic mix of philosophy psychology and anthropology, leavened with a perspective taken from the European post-modernists. She is concerned to explore the connection between language and the formation of the self, or identity.

It is possible to identify this process of identity formation at work in conference one. As the nominal offender, Karl was positioned in the meeting as son student and friend. Initially he positioned himself as an injured innocent. This latter positioning was quickly challenged and overturned as Harry's family told their story of their son being bullied by Karl.

This kind of overt contradiction of Karl's identity could easily have led to angry denials in the face of the risk of ego-annihilation and identity destruction for him. Yet this did not happen, and I argue that it did not happen because nobody judged or attacked Karl. Instead, they chose to describe the effects of his actions on them. In so doing they allowed him to acknowledge his past behaviour and its consequences, and then to take up a new moral position, to work from within a new sense of moral agency. To put it another way, he was offered the chance of a new more mellow identity as part of a new way of relating to Harry.

Ann (Harry's mother) was surprised at the absence of shouting conflict and anger. It was absent because of the careful choice of words which the various parties had been encouraged to use. The pattern of the conversation reveals the power of words to influence the outcome. Karl was not defensive or aggressive because he had no need to be. He was not attacked, belittled, humiliated, judged or punished. Yet he changed as a result of the use of words that facilitated the possibility of a new way of relating, and therefore a new sense of identity or self. This idea may also be expressed by adapting a phrase made popular by Bill Clinton: ~~It's~~ the language setting stupid. What this conference has revealed is that if one approaches conflict in school from a consciously different language setting, then the changed language allows for, even creates or produces the solution and resolution of the problem.

At this point, I would like to draw out some implications from the research on the concept of *relationship*. RJ commentators from Zehr onwards have all emphasised this fundamental aspect of the process. Yet the term is problematic in some degree as it does not specify any ethical component. What kind of *relationship* would one be thinking of? RJ commentators (I would argue) have assumed a positive ethical component and use the term as shorthand for *good relationship*, while frequently failing to define what that is, or how one achieves it.

When a person speaks from within the discourse of human life perceived as *relationship* for instance, this is some distance away from the person who speaks from within the discourse of punishment offenders and retribution. The difficulty of bridging this gap is rarely addressed. They are different moral universes and it is possible to argue (following Foucault) that each moral universe, or discourse, produces the object of which it speaks: offenders in the traditional discourse, and *relationship* issues in the second or alternative discourse.

Accordingly, in both of the RJ conferences one boy was previously positioned by the school as offender, and another boy or boys, positioned as victim(s). Harry had already been punished, and William would have been except that his status as a fee payer (which meant he was of economic value to the school), seemed to require further thought. So we may say, this particular discourse had framed the school authority's understanding of what had happened, and its proper response to that understanding. An offender had been produced, and he would be punished, in each case.

In terms of social theory, we may say that the school had offered some subject positions, or identities which served to frame the event in the binary oppositions of right and wrong. One person was right, and the other had been wronged. The school authorities had investigated the situation and then taken action on the basis that a rule had been broken. This is the conventional and traditional process of both the school and the

wider society. It is the discourse of retributive justice and it is deeply embedded, even if it is largely ineffective.

Restorative Justice on the other hand operates from within a very different discourse, or way of understanding social conflict. It is not about establishing which rules were broken, or who was right or wrong, or even whose story was true. The object of which RJ speaks, is respectful relationship, and if there is a problem to be sorted, then it is a problem of relationship. We may describe this as the social constructionist framework, and it is the approach that I have used throughout this thesis in order to understand the RJ process. It takes the view that meaning is constructed relationally, or socially. The RJ process then is to look closely at how those meanings are constructed. Rather than having a priori categories of offender/victim, right/wrong, or referring to a rule book, it invites the people involved to talk about their understanding of how the conflict came about. In this exchange of respectful dialogue, new understandings are created, and new forms of relationship follow, based on the exercise of equal dignity concern and respect.

To illustrate, Harry and Karl had fallen into a dysfunctional unbalanced relationship where Harry became the victim, and this had negative consequences for both boys. In conference two William and the brothers were in a relationship of proximity (placed there by the school), and neither side knew how to manage the tensions of such close confinement in non-aggressive ways. Eventually, each side attempted to assert their rights to space through the exercise of physical force, creating a new relationship of toxic anger, fear, and uncertainty between them, and within the wider group.

Taken together, these two conferences reveal the need to be very clear about what the restorative part of RJ actually means. In some ways the word is a complete misnomer, in that if the effect of holding RJ conferences for both sets of boys had been to restore them to what they had before, then this would have been a complete exercise in futility. What they had before was a form of dysfunctional relationship. By

contrast, the process of the conferences was a way of establishing a different more respectful and equitable form of relationship, not by preaching it, but by modelling it, and setting it up through offering them all a more acceptable more communal (and arguably more ethical) way to understand what had happened amongst them so that they could go on in peace rather than in war. A restoration to a new state of affairs. (Perhaps it would have been clearer if Restorative Justice had been called ~~relational justice,~~ but that is another argument.)

To return now to the question of the gap between the conventional educational discourse, and the RJ discourse; each discourse contains its own sense of the proper way to act, its own sense of moral agency, of how one ought to behave. This is not necessarily always a clear guide, as the school found when trying to find a suitable punishment for William. They were severely discombobulated by his fee paying status and the implication that it might have given him some kind of superior rights.

In conference two there was a point where William faced a challenge to his assumed moral position on how the damage to his glasses might be compensated for. He wrestled with the implied alternative position being put forward by the RJ conference he was taking part in, that things have to be contextualised, that there are a range of factors that have to be considered before justice can be done. The gap between the two positions was not completely bridged, but the educative benefit of being made aware of a different way of looking, of the possibility of exercising a different kind of moral agency, would seem to be considerable.

Advancing this idea of moral agency I now wish to address what the data may say about schooling. It is the comments of the three teachers (one dean, one facilitator and translator Jeremy) that I wish to focus on. What they seem to be confirming is that the standard school response to student conflict is to bring to bear the weight of institutional power as the way of re-solving it. All were critical of this in terms of its effectiveness. Their comments suggest that schools rarely offer students independent

moral agency, but rather follow a long established pattern or culture of rule-based conformity, operating by locating and then punishing the offender. That this largely discounts any needs of the victim, or damage to relationships more generally, is not perceived as being a matter of much consequence. Schools then do not address the underlying causes of dysfunctional relationships, or make any overt effort to establish what Bickmore (2011, p.1) refers to as efforts which are designed to create positive peace. This is because they remain unaware, or at least uninterested in understanding that patterns of destructive conflict (violence) are both symptoms and enforcers (p.1) of relationships of unequal power and social exclusion.

All three respondents could see that power and punishment operated as negative blocks in the resolution of the effects of social conflict. This does raise the question, I would suggest, about the ethics of schools maintaining a failed disciplinary system when an alternative process that is superior in every way is available. What kind of moral agency are schools acting out of when they wilfully continue to utilise systems that actively work against the creation of institutions (and possibly societies) that are better able to create structures for people to live more peacefully with each other? This is particularly important in situations of diversity. The current default position is to insist on conformity.

The thread of this analysis at this point is leading us in dialectical fashion back to the beginning which (possibly) we may begin to understand for the first time. The research question was whether there were discoverable patterns of language in RJ conferences. The answer is in the affirmative. What the facilitators say and how they say it is critical in establishing relationships based on equal dignity, respect and concern. What is the future then of RJ? Perhaps the concluding words should be given to the reflective and ambivalent comments of the dean from conference one who had caught a glimpse of what might be, yet was firmly anchored in the sense of what is:

There is no need now for any subsequent action by the school on this matter. RJ would make my life as dean so simple. I might be out of a job. I agree that the implications of RJ are transformative, just not here, not yet.

The Limits of this Research

This has been a qualitative study and subject therefore to all the limitations of the genre. It required me to listen to what people were saying, and then to find meaning in what was said through the lens of Social Constructionism. It is really important to note that it was an examination of only two conferences. There is not sufficient data here to support anything more than a tentative analysis of the RJ process as a whole. This account is therefore closer to a well-informed sketch plan than any comprehensive blueprint. That said, the work may still be a helpful part of the journey towards a more comprehensive and more sophisticated understanding of the processes at work when human beings come together in this particular way to sort out their differences and find a path to peaceful living. I am reasonably confident that any new research program on (say) ten recorded conferences would produce more insights, or at the very least more nuanced insights. I would not expect them to produce a different pattern of language use, however. What I hope I have shown in this last chapter is that there is a distinctive pattern of language at work in these two conferences, and I am arguing that that this evidence suggests that the restorative justice process generally, may be critically dependent on this language pattern for its success. Any greater level of certainty about making this link will have to await a far more comprehensive piece of research.

Where to from here?

In one of the early chapters, I discussed (and dismissed) the argument that restorative justice practices had existed from time out of mind, suggesting in passing that it needed its own robust intellectual base. This thesis may be seen as a small move in the direction of establishing that base. What I have not had time or space to do was to cast a necessarily cold critical eye on the (fervent) belief that RJ has transformative power for whole societies, that in changing the way we think and behave, that this is

sufficient in itself to bring about big changes in society as claimed by Vaandering (2011). It is an argument that foregrounds individual or moral agency over structure, and while the changes it imagines might be eminently desirable, the belief in the transformational power of the process could usefully be set against the massive power of established systems and ideologies to resist that sort of change.

Alternatively it would be possible to look at RJ in schools as an alternative form of educational pedagogy along the lines suggested by Biesta (2003). That instead of the purpose of education being to produce students who are self-motivated and self-directing, that education be directed to establishing a relationship of infinite responsibility for the otherness of the other (p.62). In other words that some research be directed at the big question of the desired end result of education, other than its role as an agent of social control and the reproduction of the status quo. There is after all no question that RJ represents a radical challenge to the established way of thinking and doing things in schools.

Appendix one – Covering letter

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THE UNIVERSITY OF
WAIKATO
Te Whare Wānanga o Waikato

APPENDIX 1: COVERING LETTER

February 2013

Dear

This year I will be studying to gain a Master of Education degree from Waikato University. I am inviting you to be one of the participants in my study, which is on Restorative Conferencing. This research project has ethical approval from the University of Waikato Faculty of Education research Ethics Committee. As you will shortly be participating in one of these conferences, I am seeking your permission to attend, and record the proceedings. A day or two later, I would like to interview you about that conference experience. That could take up to one hour, at a time and place convenient to you.

Subsequently, I will listen to the recordings in an attempt to find out what has occurred that made it into a successful conference, or not. I hope that the issues will be resolved to the satisfaction of all parties. Be assured that your privacy will be maintained. Only I get to listen to the recording. I will send you a transcript of your own personal interview, and you may change it, or approve it. In either case, you will need to contact me. As for the transcript of the full conference interview, it will not be possible for me to send out individual copies of this, as this could breach your personal confidentiality. It will be sighted only by me.

You may withdraw from the research program up to the time that you formally notify me that you have approved the transcript of your personal interview.

Please note that you will not be named in any report, and any identifying details, like gender and age, will be obscured. Whatever transpires in the conference, will remain private to you, the other participants, and me. Nothing can be used against you, or bring you into disrepute. The thesis will be read by me, my supervisor, and a marker, and it will become available to the public if it passes. Should any unresolvable dispute arise between you and me, it can be referred for mediation to my thesis supervisor, as per the letterhead.

At some later stage, the thesis material may be used in journal articles, or be part of some presentation. I am obliged to point out that it may be possible in some situations,

for a few people to be able to identify the school. But that is all. It will not be possible to identify individuals.

If you are happy to be recorded and then interviewed, then please sign the consent form which accompanies this letter. Thank you.

Rod Holm Associate Professor Wendy Drewery (Supervisor)

06 35 70752 Hamilton 07 838 4699

Appendix two - Informed Consent: Student

Title of Research Topic: *Constructing a Successful RJ Conference: A Tentative Analysis*

As the parent of _____ . And having read the covering letter, and the information sheet, I give my consent for my son/daughter to take part in Rod Holm's research project. I understand that my child will take part in:

- (a) A Restorative Justice conference, which will be recorded
- (b) a personal interview which will also be recorded

Parent Name: _____ .

Parent Signature _____

Date: _____

Researcher: Rod Holm ph 35-70752

Appendix Three - Interview Questions

1. Would you say that the conference resolved the issue?
2. Was there any one thing that particularly stood out for you?
3. Was there anything that you particularly disliked?
4. Do you consider that the process was fair to all parties?
5. Has your understanding of conflict in school changed in any way?
6. Has anything else changed for you as a result of this meeting?
7. Should the Restorative Justice process be used more often?
8. How would you describe this process to someone else?
9. Where should punishment fit into the school system?

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