

A Multidimensional Approach, Inspired by Depth Realism and the Criminological
Imagination, to the Cartographic Exploration of Restorative Justice and the Reconstruction of
this *Chaotic Conception* into a 'Double-Focus Analytic Lens'

Paula Hirschmann

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Department of Criminology
Faculty of Social Sciences
University of Ottawa

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ABSTRACT

In this thesis I delineate an *alternative approach* to ‘understand’ and ‘*make sense*’ of restorative justice as a concept, practice, and field. This is informed by the ontological and epistemological foundations of *depth realism* and the *abductive research strategy*. I draw on several authors including John Tagg, Pierre Bourdieu, Karl Marx, Derek Layder, C. Wright Mills, Anthony Woodiwiss, and Norman Blaikie to develop my approach and I take the extant literature as data for meta-analysis. The thesis argues that restorative justice is *chaotically conceptualized* (Marx) in the literature and that a conception of ‘scope’ implicitly connects this literature. Drawing on depth realism (Tagg, Woodiwiss, Blaikie, Layder, Mills) and *sensitizing concepts* borrowed from Derek Layder, I develop a conception of ‘scope’ to enable an understanding of restorative justice as a ‘two sided’ (Layder) or ‘double-focus’ (Bourdieu) concept, one that captures both objective and subjective elements of the field and practice of restorative justice. This reconstruction of the *concept* of restorative justice is presented as a typology (a *conceptual scheme* or ‘map’), which incorporates the most micro and material elements to the most macro and abstract. To account for why some interpretations of restorative justice have become dominant or more influential than others, I use the work of Bourdieu to explore restorative justice as a site of symbolic struggle. In its entirety, this *approach* allowed for the excavation of a deeper *meaning* of restorative justice and the *polysemic* nature of this phenomenon to be captured.

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CHAPTER 1

AN EXPLORATION OF THE RESTORATIVE JUSTICE TERRAIN

Introduction

The following is a semi-fictional narrative concerning the production of this thesis. It characterizes the general *essence* of the entire thesis or the *philosophy* behind the research process. Employing literary devices that capture the notion of *depth* in reality and fiction (Potter, 1998; Ruggiero, 2003), it attempts to bridge the divide between art and science, an *antinomy* (Bourdieu, 1988) against which I later argue. Thus, the style is purposefully distinct from the remaining chapters of the thesis. This inconsistency is (hopefully) excusable, if only for its potential to facilitate the appreciation of this contrast and therefore encourage the reassessment of some unfortunate *dualisms* ~ such as the distinction between art and science ~ that only serve to inhibit research in the social sciences (see Bourdieu, 1988). Following this narrative is a detailed legend that defines many of the bolded terms and connects the narrative more directly (or less abstractly) to other sections in the thesis, while also merging these realities. The stylistic formatting used has been reproduced throughout the thesis, indicating concepts and terms of importance or key *parts* of the *whole*.

The only viable academic sensibility is to encourage people to let their minds wander, to travel intellectually across the boundaries and frontiers and perhaps never return to them. It is connections with myriad cultures of knowledge that are crucial for the vitality of criminology (Ericson & Carriere, 1994, p. 97).

I started this journey, as a novice **explorer**, searching for a land called *Restorative Justice* (RJ), a small island just off the coast of Criminology (a larger land mass), in the greater Social Science region. This land was said to hold great treasures and thus was considered a worthy pursuit for many adventurers, new and experienced. Of even more interest to me was that it was believed to be the site of the **criminological imagination**. This was a treasure of great value, once existing in the land of Criminology, which had been lost due to a conflict between Criminologists (the indigenous population of Criminology) and villagers from a neighbouring land known as *Criminal Justice*. Restorative Justice was said to hold this

treasure somewhere deep within its midst. So, like any good explorer, I began my adventure by investigating the previously constructed **maps** of this territory, in order to guide me in my travels.

A ‘Chaotic Conception’

It wasn’t long before I discovered that there was something incoherent about these maps. Many mapping expeditions had occurred in the past few decades, since the 1970s when RJ was first ‘discovered’; there were multiple attempts at outlining the parameters or boundaries of this territory. However, no map seemed complete nor, even, adequate to fully describe and explain this territory. There were many questions left unanswered and places left unexplored, among other misrepresentations. The boundaries seemed weak or not fully defined. It was as though this territory could not be mapped or simply did not exist; a Bermuda Triangle of the Social Sciences. This unknown land seemed even more intriguing.

A New Exploration of Old Territory

Starting from the beginning, an exploration of this territory was sought. I had to **understand** this place that everyone was talking about, but no one could properly describe. However, in order to commence this expedition, a new **lens** ~ a new way of viewing this territory ~ had to be employed. The other maps lacked *depth*; the maps were simple two-dimensional **representations** of Restorative Justice. They were not sufficient to exhibit all of the aspects of this territory: the fault-lines, boundaries, and elements making up this vast space. I realized that the lens used to view Restorative Justice required a broader **scope**, so I set out to widen and expand it.

Multiple Worlds

Given the confusion and diversity in the individual representations of RJ, I decided that I would focus on these maps for a while and see what information they, themselves, could provide. Although analyzing these maps seemed less connected to the island (the phenomenon I wanted to investigate), it was only the first ***stage*** of a potentially long exploration. I would also need to investigate the cartographic process, the explorers that had produced these pieces and, through them, the territory itself. Unsurprisingly, as I investigated and compared the maps further, I made my first discovery: Restorative Justice was not *a* new world to be explored, but ***multiple worlds***.

I believed that Restorative Justice could be *understood* in this way; this approach showed potential to offer insight into different *dimensions* of RJ, especially those not yet fully examined. Interpreting those maps already produced would enable the creation of a meta-map, incorporating the many ***visions*** of Restorative Justice these explorers had. Beyond this, however, I needed to understand how some explorers had already claimed ownership over the territory, while others were left competing for land and why certain maps were preferred over others. So I developed a plan ~ a ***strategy*** ~ that would help make this exploration fruitful.

Cartographic Tools

I knew various *tools* would be required in this exploration; I needed some sort of ***apparatus*** that would enable my ***visualization*** of restorative justice to be constructed. I started with analogic frameworks to help make the mapping easier. These lenses would be used to help shape my vision of this territory, one that would be more wholistic than the other (already existing) visions. I needed to see that the space was multi-dimensional and the

mapping of it might include meta-physical and physical spaces or different **levels** of reality. As in *photography*, I had to see what was being photographed, what was included in the picture, but also what might lie outside the frame. The practice of *photogeology* acted, therefore, as an emblematic model for the procedure that would need to be followed: a breakdown of Restorative Justice, including all the elements that constituted this island (the fault-lines, boundaries, and geological elements mentioned earlier). From *linguistics*, I took the notion of *polysemy* to acknowledge the plurality in the *visions* of Restorative Justice already produced and the potential that lay in the understanding of *multiple worlds* and *levels* of the phenomenon. These two analogic frameworks enabled me to adjust the ‘lens’ I would employ (metaphorically and literally) and thus change the *view* I might have of Restorative Justice.

The Journey

The mapping ~ or cartographic adventure ~ would need to include a breakdown of the smallest visible parts, followed by an acknowledgement of those elements that were not visible (both material and immaterial). Some of these *invisible* elements would not be found within the maps themselves, or even indicated within the legends, but in the comparison between the maps; I would have to look at how these maps were used and where they came from. To do this, I employed another ‘map’ ~ a **research map** ~ that had been created to help explorers in their ventures. I used this *research map* to first separate the different elements of Restorative Justice and then piece them back together in a more coherent fashion. It established an ordering, a *structure*, that would allow me to compile information from numerous other maps of the island and create a more detailed map, one that seemed

fuller, more complete, and that would have flexibility. The result was a more adequate and wholistic map that could easily be adjusted after further explorations of this territory.

Next, I needed to try to explain why these different constructions of Restorative Justice seemed so different, why some were accepted more readily than others, and (more generally) the *connexions* between them. This would entail a broader cartography of the maps themselves, in relation to each other. For this, I looked for help from a more experienced, reputable, explorer: Pierre Bourdieu. This was someone who had taken on greater expeditions and attempted a mapping of the social world more generally (a territory he called ***Social Space***). I translated my own map using the cartographic rules he had laid out in his work, attempting to *explain* all the patterns and inconsistencies I had found. This added the *depth* I needed to accomplish the task I had set out to complete: the construction of a true *visualization* of Restorative Justice.

Discoveries

Through this process of *exploration*, I managed to construct a multidimensional map of the territory, maintaining relations between material and immaterial elements, producing a wholistic representation of the space. I was able to establish some coherency within, between, and beyond the maps that I was evaluating in order to create my own version: the meta-map, a **synthesis** of previous maps. This **reconstruction** had depth and dimensions that were not as obvious or clear in past representations. This meta-map conveys the *idea* of Restorative Justice, what it means in *relation* to other places, and a number of visible and invisible *forces* and influences that changed the *vision* of RJ presented.

Beyond that, I discovered that the land was actually a **battlefield**. Explorers considered Restorative Justice to be very *valuable* and not just for the purposes of mapping the territory,

but for laying claim over the land itself. Once this became apparent, I had to focus more on the explorers themselves, taking their maps as material evidence of their *status* as explorers and what *value* they perceived RJ to hold. I came to understand that the various ‘fault-lines’ constructed by different explorers (within their own versions of the maps) were actually *created* by them; the *visions* and misrepresentations of the island reflected their own *views*. Furthermore, the *conflicts* that erupted ~ following the production of these distinct visions of Restorative Justice ~ implied specific ***rules of engagement*** that also had to be considered in order to better understand these struggles and what they themselves might *mean*. It became clear that certain maps of Restorative Justice were more readily accepted ~ considered to be more accurate ~ based on the status of the explorers creating them and where they were situated within this symbolic space.

Lost Treasure

Throughout this short expedition, beyond the successful discovery of a new way of *visualizing* RJ, I was able to find the lost *criminological imagination*. Furthermore, I learned that this invaluable ‘lost treasure’ did not exist exclusively in the land of Restorative Justice, but originated in the *journey* to *re-discovering* this unique island. It was through this *process* that I had developed skills and avoided various **traps** that had led other explorers astray. I had attempted to seek **clarity** where before there had been only confusion. Even more importantly, I had sought out new *tools*, new devices, to help me *see* Restorative Justice differently. The *criminological imagination*, therefore, lay in the successful *visualization* of Restorative Justice; it consisted less of a material substance and more of an intangible **value**.

Roadmap to the Thesis

The following chapters describe this analytic journey in more detail, beginning with an elaboration on the methodological and theoretical tools employed for this expedition. Then there is a description of the various elements of Restorative Justice that were found. Included in this section is a basic meta-map illustrating these elements and their interconnection. The section following that provides an even more layered and dimensional analysis of the territory, employing further theoretical tools to enable a *visualization* of the terrain, which provides an explanatory element to the map. The final chapter explores the *apparatus* used to construct the *visualization*, potential follow-up expeditions, and the utility of the map provided.

LEGEND

(of terminology used)

Apparatus: For the purposes of this thesis, the ‘apparatus’ is an analytical construct which enabled the reconstruction of restorative justice as a *concept, practice* and *field* and allows for a *visualization* of the phenomenon. The methodological and theoretical foundations for this *apparatus* are discussed, at length, in Chapter 2. It is composed primarily of the *sensitizing concepts* used (i.e. *scope; self, situated activity, setting, context*) and the meta-theoretical foundations (ontological and epistemological assumptions) upon which this conceptualization was established. This apparatus gradually takes its full form throughout the rest of the thesis.

Battlefield: Loïc Wacquant, in describing Bourdieu’s concept of ‘field’, makes reference to the notion of a battlefield, in which there is competition for the accumulation of various forms of capital (Bourdieu & Wacquant, 1992, p. 17). Similarly, restorative justice itself was understood not just as a practice, but a *field*, as well as a means of obtaining *capital* for restorativists and academics more generally (see Chapter 4).

Chaotic conception: Borrowed from Marx (1978, p. 237). In his discussion of ‘production’ Marx (1978) explains how economists have created a *chaotic conception* of this phenomenon and how this issue can be resolved through the method of political economy. This thesis follows a similar approach to resolve the *chaotic conception* of restorative justice.

Clarity: This is later referred to as ‘sense-making’ ~ the primary purpose of this research initiative ~ following an approach laid out by C.W. Mills (1959). As is explained in the second chapter of this thesis, it is not enough to simply *understand* some phenomenon, but *make sense* of it.

Criminological Imagination: A term first used by Williams (1984), adapted from Mills’ (1959) *sociological imagination*, to signify what is needed to revitalize the criminological discipline. As he explains, criminology must avoid a preoccupation with statistical methods and focus more on the exploration of theoretical avenues (Williams, 1984).*

Explorer: Readers should equate this term with *researcher*, but not exclusively those that take on exploratory projects (as Stebbins [2001] has labelled this particular class of academic).

Lens: Many academics use this notion of a ‘lens’ in a similar context, referring to the framework through which a *vision* or *visualization* (Woodiwiss, 2001) comes to be (see Layder, 1993; Woodiwiss, 2001; Frauley, 2010). The ‘lens’ constructed within this thesis is comparable to the “set of double-focus analytic lenses” discussed by Bourdieu, as a *tool* to be used in *reflexive* social research (see Bourdieu & Wacquant, 1992, p. 7). I have reformulated this concept [i.e. *double-focus analytic lens*] to demonstrate that the two lenses presented in the following chapters (Chapter 3 being the [subjective] *objectivist* lens and Chapter 4 being the [objective] *subjectivist* lens) are actually two dimensions of the *same lens* ~ a connexion that is not objectionable as it reflects the approach advanced by Bourdieu (see Bourdieu & Wacquant, 1992). This notion of a [single] ‘lens’ also appeals to the photography analogy embedded in this thesis.

Levels (of reality): This term signifies the stratified nature of reality that some *realists* believe constitutes the social sphere, incorporating micro- and macro- level phenomenon or those relating to *agency* and *structure* (Benton & Craib, 2011; see also Mills, 1959; Craib, 1992; Layder, 1993). This will be the philosophical, or *meta-theoretical*, basis of the entire thesis and relates to Tagg’s (1988) suggested approach to the history of photography.

Maps: When I use the term ‘maps’, I am referring to academic literature; this is the analogous foundation for the rest of this chapter.

Multiple Worlds: This notion of ‘multiple worlds’ is adopted from Mouton, who actually claims the existence of three worlds or levels of reality: World 1, the world of objects, or “the world of everyday life and lay knowledge”; World 2, the world of subjects, or “the world of science”; and World 3 or “the world of metascience” (1996, pp. 8–9). This thesis, in its entirety, attempts to account for all three worlds, approaching the topic *from* the third world and paying particular attention to that of the second through a *reflexive* overview (especially Chapter 4).

Photogeology: This discipline will be referenced (occasionally) in the rest of the thesis simply as a means to merge the two analogies used throughout the text: photography and cartography. In this way it is simply meant to simplify the references being made and eliminate (as much as possible) any confusion.

Photography: Tagg (1988) was instrumental to the production of this thesis, especially in his discussion of photography and *depth* [realism]. It was from his work that I became aware of how I might approach the exploration of restorative justice. His attention to aspects within and beyond the content of the photograph inspired an evaluation of the restorativist literature that considered intra-, inter-, an extra- textual elements (see also Potter, 1998).

Polysemy: Defined simply it is “the ‘multiplicity of meanings’ of words”, or the potential for a word to hold multiple meanings (Ravin & Leacock, 2002, p.1). There are a few distinct approaches to *polysemy*: the classical and prototypical approach (Ravin & Leacock, 2002; Riemer, 2010). When discussing the structure of the interconnections between texts, the distinction between these approaches and how they apply to the conceptualization of restorative justice will become more evident (see *Conflicts and Connexions* in Chapter 3).

Reconstruction: Chapter 3 and Chapter 4 ~ or the first and second lens of the *double-focus analytic lens* (see Bourdieu & Wacquant, 1992) ~ actually constitute this ‘reconstruction’. Along with the specific *approach* taken, this is one of the main contributions of the thesis: to provide a *re-visioning* of restorative justice.

Representations: Distinctions will be made in later chapters between ‘representations’, the goal for *realists*, and ‘re-presentations’, the unfortunate (limited) *visions* produced by *naïve realists* (see especially Woodiwiss, 2001; Tagg, 1988; Sayer, 1984). The purpose of the *map* of restorative justice was to provide a *representation* or a *visualization* of what restorative justice is (i.e. its ontological foundations), incorporating both *visible* and *invisible* dimensions, elements at the micro- and macro- level of social reality (see Woodiwiss, 2001).*

Research Map: This is the ‘research map’ developed by Layder (1993) that guides researchers, enabling an understanding of the ontological foundations of their own and others’ research projects. It includes four levels, identified as *sensitizing concepts* in the thesis (*self, situated activity, setting, and context*), while also focusing on such contextual factors as *history* and *power* (Layder, 1993).

Rules of Engagement: Referred to in Chapter 4 as ‘principles of differentiation’, these are some of the particular *cartographic rules* that allow the mapping of *social space* (Bourdieu, 1987b, p. 12).

Scope: This was the main *sensitizing concept* (Layder, 1993; Blaikie, 2000) used to help guide the project. In a general sense, it refers to those forces which *inhibit* and, conversely, *facilitate* restorative practices. It incorporates the four ontological levels of Layder’s (1993) research map: *self*, *situated activity*, *setting*, and *context*. The concept scope was broken down in this way in order to provide *depth* and exploit the dually referential (Layder, 1993, p. 149) nature of restorative justice.*

Alternatively, the ‘scope’ of restorative justice can be interpreted [literally] as the parameters of our *vision* of restorative justice. While Chapter 3 contributes a wholistic and multidimensional *model* or *conceptual scheme* (Blaikie, 2000, p. 168) *representing* this *vision*, Chapter 4 provides a justification for the inclusion or exclusion of restorative practices under this broader *classificatory system*. Together these two ‘lenses’ offer a new and expanded *scope* of restorative justice.

Synthesis: By taking the literature on restorative justice and using these *visions* to reconceptualize the practice, synthesizing the most frequently cited pieces (Currie, 2007), I have developed a more “complete image” (Garland, 1990, p. 280) of this phenomenon. This *synthetic* approach is a neglected component of social science research, specifically within criminology (Currie, 2007). Studies that have sought to create such a synthesis (*see, for example*, Garland, 1990; Blaikie, 2000), develop coherency and *make sense* of the knowledge often *chaotically* (Marx, 1978) produced by academics that remain inaccessible until this ‘translation’ (Currie, 2007).

Social Space: The meta-physical space, correlating with its material equivalent, which constitutes the differentiation of classes and distribution of capital (*see* Bourdieu, 1987b; Bourdieu, 1989).

Stage: Concatenation entails multiple subsequent studies, usually by the same researcher, (Stebbins, 2001) and, therefore, this initial exploration will enable follow-up research.

Strategy: This term refers to the *research strategy* ~ “a logic of enquiry” as defined by Blaikie (2000, p. 86) ~ employed for this project. According to his text, there are four main strategies: inductive, deductive, abductive, and retroductive. Each strategy is associated with distinct ontological assumptions and can answer different *types* of questions posed in the research process, such as ‘what’, ‘why’ (Blaikie, 2000, p. 86). The research strategy employed for this particular project was *abduction*.

Traps: This term refers to the *chaotic conceptions* (Marx, 1978), or distorted *visions*, of restorative justice, as well as the issues within *criminology* more generally as outlined by Williams (1984).

Understand: Blaikie refers to five main objectives of *basic* social research: to *explore*, *describe*, *understand*, *explain* and *predict* (2000, p. 72). As Blaikie (2000) explains, however, research initiatives can have multiple objectives. This thesis, for example, attempts to explore, describe and, to a lesser extent, explain, with the ultimate goal of *understanding* and *making sense* of restorative justice.

Value: For some *explorers* (or academics) this may translate into what Bourdieu (1986) calls ‘capital’.

Visions: *Re-presentations* of social reality, often restricted by ocularcentrism or a focus on sensory abilities to perceive empirical phenomena (Woodiwiss, 2001) assuming a direct *correspondence* between the representation and reality, *thought object* and *real object* (Sayer, 1984, pp. 54~55, 63, 67).*

Visualization: A *representation* of social reality (Woodiwiss, 2001).*

*These concepts, in particular, will be described in fuller detail in chapter 2.

CHAPTER 2

METHODOLOGICAL CONSIDERATIONS

Introduction

Restorative justice is a *chaotically conceptualized* (see Marx, 1978, p. 237) phenomenon; it is replete with ‘conceptual conflicts’ (Gavrielides, 2007; Gavrielides, 2008), which divide restorativists in their conceptions of the practice and inhibit coherency. In order to resolve these conceptual issues, in part resulting from weak ontological and epistemological foundations (see Woolford, 2009), this thesis has taken an *alternative* qualitative approach as outlined by Derek Layder (1993). It involved the **reconstruction** of this phenomenon through an evaluation of the extant literature on restorative justice.

This chapter begins with a detailed discussion of the ontological and epistemological assumptions constituting a meta-theoretical framework for this thesis. This is informed by John Tagg’s (1988) distinction between two types of *realism: photographic or naive realism and depth realism*. Acknowledging the relationship between text and an external reality, I dissect the approach Tagg (1988) used in his analysis of *photography as a field of practice* and transform it into the analytic tools used for this project.¹ In doing so, I proceed to explore the foundations of *meaning*; outline the alternative forms of qualitative research that were used in this research endeavour; discuss the *abductive* research strategy informing the project; and outline the *normative* methods (Madison, 1988) that were used to *guide* the

¹ To refute any contestation to this unorthodox approach in advance, this perceived relation between the visual, images, and criminology is not an arbitrary connection. On the contrary, images are closely linked to criminology, especially at a time where ‘crime’ is increasingly being “imaged” for all to see (Hayward, 2010, pp. 2, 9; reiterated in Carrabine, 2012, in the context of *visual criminology*). This interdisciplinary link, and especially the blurring of various boundaries between art and science, makes this novel approach all the more valuable, as it demonstrates how work in criminology might be inspired by other disciplines and useful tools (Nelken, 1994; see also Bourdieu, 1988).

analysis of dominant and peripheral restorativist literature. This chapter establishes the foundations for the *apparatus* that was constructed throughout subsequent chapters; a **lens** through which we can view restorative justice.

*Photographies*²

If we examine a work of ordinary art by means of a powerful microscope, all traces of resemblance to nature will disappear – but the closest scrutiny of the photogenic drawing discloses only a more absolute truth, a more perfect identity of aspect with the thing represented (Poe, 1980, pp. 37~38).

The assumed accuracy and perceived reflection of reality that photographs have historically been attributed, is expressed in this excerpt from Poe’s *The Daguerreotype*³. This tradition of “**photographic realism**” was informed by Cartesian dualisms in the wake of the Enlightenment and progression of ‘scientific’ thought (Kember, 2003, p. 207). This tradition existed at a time when photography was not considered an ‘**art**’, but a tool of science, a mechanical device which enabled a process that could not occur through artistic expression, a process whereby Nature was given “the power to reproduce herself” (Daguerre, 1980, p. 13).

In his non-traditional historical analysis of photography, *The Burden of Representation: Essays on Photographies and Histories*, John Tagg (1988) critiques this perceived relationship between photographs and reality. According to the *photographic realist* perspective, photographs portray the *real*; there is no reality beyond this mechanized **representation**. Due to its assumed connection with this *naïve* or *empiricist realism*, any **meaning** created through photography was “subject to a definite closure”, *limited* to what the image overtly portrayed, what it *signified* (Tagg, 1988, pp. 99). As Tagg explains, the

² This title signifies both the plurality of meanings of photographs and the numerous possible perspectives from which the analysis of photography might begin (see Tagg, 1988). As will be argued, a similar approach is necessary when examining *restorative justice*.

³ The daguerreotype was an early form of the photograph, introduced in 1839 (Tagg, 1988).

relationship between *signifier* and *signified* is such that they “appear not only to unite, but the signifier seems to become transparent so that the concept appears to present itself, and the arbitrary sign is naturalised by a spurious identity between reference and referents, between the text and the world” (1988, p. 99).⁴

According to Tagg’s analysis of this *photographic realist* tradition, the photograph is commonly understood as a mere representation, albeit a distorted representation, of that which it seeks to replicate, neglecting a “whole hidden corpus of knowledge” (1988, p. 100). Conversely, Tagg (1988) argued that the photograph does mirror ***a reality***; it overtly portrays a small segment of the ***real***, but also includes the reality of the mechanical and discursive process itself. As Tagg explains, “what is also real is what makes the print more than paper – what makes it meaningful” (1988, p. 4).

Tagg introduces to the study of photography a different conception of *realism* to help us understand photography as

a social practice of representation, an overall form of discursive production, a normality which allows a strictly delimited range of variations. It works by the controlled and limited recall of a reservoir of similar ‘texts’, by constant repetition, a constant cross-echoing. By such ‘silent quotation’, a relation is established between the realist ‘text’ and other ‘texts’ from which it differs and to which it defers. It is this mutuality which summons up the power of the real: a reality of the intertext beyond which there is no-sense (1988, pp. 99~100).

This distinct conception of *realism* introduces the notion of intertextuality, how the image interacted with and made reference to other similar images, contributing to a broader discursive reality beyond the image itself (Tagg, 1988).⁵

⁴ Following this perspective, the relation of the photograph to external *material* and *discursive realities* is largely eliminated; instead, these connexions are replaced by a primarily self-referential system within which these texts are understood (Tagg, 1988, pp. 99~100).

⁵ The use of photographs within the legal system, for example, portrays this intertextual connection in developing a narrative.

To understand this level of ‘reality’, Tagg suggests we look beyond the “‘magic’ of the medium” and towards “the conscious and unconscious processes, the practices and institutions through which the photograph can incite a phantasy, take on meaning, and exercise an effect” (1988, p. 4). Thus, in defining photography Tagg (1988) suggests that there is no common ‘sense’ for this term. Photography is without identity;

[i]ts status as a technology varies with the power relations which invest it. Its nature as a practice depends on the institutions and agents which define it and set it to work. Its function as a mode of cultural production is tied to definite **conditions of existence**, and its products are meaningful and legible only within the particular currencies they have. Its history has no unity. It is a flickering across a field of institutional space. It is this field we must study, not photography (Tagg, 1988, p. 63).

In this passage Tagg (1988) rightfully represented the multiplicity in the purpose, form, and production of photographs in the signifier “*photographies*”; a grammatical anomaly, he acknowledges, but nonetheless appropriate.⁶ His emphasis is on photography as a **practice**, whose meaning is not defined by a singular agent or institution, but takes on **multiple meanings** determined by its position within this **field**⁷ (Tagg, 1988).

Tagg (1988) argues that through the evolution of photography, photographs began to develop both a *lay value*, in their capacity to be inexpensively reproduced, capturing the experiences of individuals and immortalizing them through this reproduction, and an *evidentiary status* within the legal system, as a form of **capital**. Thus, for a more wholistic understanding of the image and its meaning, we need to engage in a deconstruction of the

⁶ Similarly, Althusser (1970/1971) distinguishes between ‘ideology’ and ‘ideologies’. Ideology is seen to have no history in the sense that it is eternal, existing (in a general sense) as a *form*; “its history is external to it” (Althusser, 1970/1971, p. 161). In contrast ‘ideologies’ signifies a plurality; each ideology having “*a history of their own*” which are “determined in the last instance by the class struggle” (Althusser, 1970/1971, p. 160). This last signifier thus makes reference to a materiality in the sense that there is a cyclical process wherein ideas become materialized through action, influenced by rituals of particular institutional bases, or apparatuses, which contribute to the reproduction of these same ideas (Althusser, 1970/1971, p. 169). As expressed above, Tagg’s notion of *photographies* holds similar connotations, in its dependence on this “*field of institutional space*” (1988, p. 63).

⁷ By suggesting we look at this “field of institutional space”, Tagg is also acknowledging the need to understand practices in terms of their constitutive *structures*: the material, discursive, and other symbolic forces of influence (1988, p. 63).

“technical, cultural, and historical process in which particular optical and chemical devices are set to work to organize experience and desire and produce a new reality – the paper image which, through yet further processes, may become meaningful in all sorts of ways” (Tagg, 1988, p. 3). The photograph, following from Tagg’s (1988) position, is **polysemic** and dependent on the broader social, economic, discursive, and political influences of the historical period, as well as the process of photography itself. While lay and legal forms of value are understood according to a *naïve photographic realist* understanding of the photograph, as a mirror of truth, these forms of value are only possible because of the *polysemic* nature of the photograph as discussed above (Tagg, 1988).

What Tagg (1988) has proposed, then, is a more critical approach to the *photographic realist* stance that has been adopted by many of those consuming, producing, or reproducing photographs. This approach is one which challenges the notion that the ‘real’ is at the same ontological level as the ‘represented’ (Tagg, 1988). It is therefore not sufficient to simply take the photograph’s image at face value; its meaning extends beyond the representation to the broader discursive and social factors contributing to the *practice* of photography (Tagg, 1988). In this way, Tagg (1988) acknowledges a ‘**depth’ realism** (Benton & Craib, 2011, p. 126) for this craft, which in turn translates into a novel epistemological approach to the study of photography.⁸

Tagg’s (1988) rejection of the restricted meaning of photography, what it signifies, and of “photographic realism” (Kember, 2003, p. 202) ~ the traditional perspective taken by those involved as subject or object within this artistic field ~ provides a starting position for the

⁸ Edwards and Hart (2004) explicitly acknowledge the potential that photography has for the understanding of a different level of ontology, new directions for epistemology and, subsequently, alternative methodological practices. They explain that “photography differs ontologically from any other visual medium” (Edwards & Hart, 2004, p. 9) and, furthermore, acknowledge those (like Tagg [1988]) who have explored “the epistemological bases from which images were made” (Edwards & Hart, 2004, p. 7).

development of a greater, **reflexive**, understanding of a text.⁹ By breaching the **boundaries** within the field of art history, Tagg (1988) has provided a model methodological approach that may be used within other disciplines and applied to other social practices and signifiers such as restorative justice. It is this approach that has been adopted within this thesis and deconstructed further below.

From Vision to Visuality: Setting a Preliminary Framework, inspired by Tagg

The precursor to a range of other problems within social research, specifically theory, is our tendency within Western society to privilege the *visual* (Woodiwiss, 2001, p. 2). This ocularcentric perspective feeds the empiricist notion that ‘sense data’ is the focal point for research and that language may act as a “neutral symbolic means” through which ideas may be re-presented (Woodiwiss, 2001, pp. 2, 7; *see also* Sayer, 1984, pp. 50~51). This ‘vision-dependent representationalist paradigm’ results in *visions*: simple *pictures* of social phenomena (Woodiwiss, 2001, p. 3), something like the ‘visions’ produced within restorativist literature.¹⁰

The ocularcentrism described by Woodiwiss (2001), which results in the limited perception of what the ‘real’ entails, is precisely the problem Tagg (1988) seeks to resolve in his analysis of photographs and photography. As Tagg suggests,

[r]ealist texts are based on certain, limited plurality of language which is, however, subject to a definite *closure*: the text is nothing but what it can *denote* or describe,

⁹ By text I mean, a “discursive ‘unit’”, which may take the form of written texts, symbols, spoken words, artefacts, etc. (Phillips & Hardy, 2002; Parker, 1990). In the analysis of visual art, this is the image; whereas, for the current project this ‘text’ is the restorative justice literature used for the analysis.

¹⁰ This notion of *visions* as exemplified in the literature on restorative justice signifies the uni-dimensional analyses provided by restorativists, their tendency towards a positivist epistemological approach (with a strong emphasis on empiricism), but more importantly the lack of clarity in the conceptualizations and *classificatory systems* (Bourdieu, 1987b) used by the restorativists. As will be seen in subsequent sections, this *chaos* is based upon the plurality of *visions*, but also how the restorativists attempt to resolve the conflicts that they discover. This will be made more apparent in Chapter 3 when the literature is reviewed and Chapter 4 when a more thorough analysis of the *second world* ~ the world of subjects (Mouton, 1996) ~ is explicated.

together with the rhetorical grace with which it does so. It rotates between these two terms in a pre-ordained oscillation: from *description* to rhetoric; from *observation* to expression. In this movement, it is the business of the language-medium only to ‘express’ or ‘communicate’ [emphasis added] a pre-established concept (1988, p. 99).

The *naïve* or *photographic realism* that Tagg (1988) describes, as discussed above, follows this ‘vision-dependent representationalist’ paradigm.

In line with Tagg’s (1988) analysis, Woodiwiss proposes a shift; one that will take the ‘nature of language’ and the use of words to be “part of a social **apparatus** for making things and actions visible or signifying them” (2001, p. 3). He proposes that this *significatory paradigm* be followed. It is based on the poststructuralist position, the foundation for which consists of: *signifiers*, the “sets of sound differences or impressions”; *signifieds*, the “sets of mental or conceptual differences or impressions”; and *signs*, which are the combination of the *signifier* and *signified* (Woodiwiss, 2001, p. 10). Following this paradigm language becomes not just “a collection of pictures” as the *vision-dependent representationalist paradigm* would suggest, but “a system of picturing” or “an inter-related set of conceptual signs which makes the social picturable” (Woodiwiss, 2001, pp. 3, 38).¹¹

Although this poststructuralist approach provides an overview of the *signification* process and, therefore, distinct levels of meaning found *within* the text (the “internal features”)¹², it neglects elements in Tagg’s analysis which go beyond the photograph, namely “the processes by which these meanings are constituted within definite and specific social practices and rituals at given levels in the precise historical social formation” (1988, p. 163).

¹¹ Acknowledging the primarily conceptual nature of the problem within restorative justice literature, Woodiwiss (1990; 2001) is seen to provide a foundation for an appropriate research strategy that will enable the ‘re-visualization’ of restorative justice as a concept, while addressing the stratified nature of its reality.

¹² This suggests a focus on *intra-textual* elements that influence the meaning of a text (see Potter, 1998). Tagg (1988) would agree that intra-, inter-, and extra- textual elements (i.e. structure, guidelines, etc.) must all be considered in the proper determination of meaning (see Potter [1998] and subsequent sections of this chapter for further discussion).

Thus, beyond this foundational understanding of the *purpose* and *function* of language, within social theory, Woodiwiss (2001) proposes a set of preliminary guidelines in the development of ‘visuality’, which help to confront the failings of post-structuralism. The most essential of these principles is a “realist metatheoretical foundation”, including all the ontological and epistemological assumptions this philosophy entails (2001, pp. 57).¹³ Unlike other research philosophies, *realism*¹⁴ begins with a preconception of the stratification of social reality (Benton & Craib, 2011, pp. 125~126). Depth realism considers “the surface appearance of things as potentially misleading as to their true character” (Benton & Craib, 2011, p. 121). Following from this, the production of knowledge is ultimately a *process*, one which involves a concerted effort to reach beyond this surface (Benton & Craib, 2011, pp. 121~122). Thus, *realists* use a metaphor ~ the notion of *levels* ~ to acknowledge this idea that social reality ultimately involves *depth*, or various *dimensions*, some of which are more accessible, or more *visible*, than others (Benton & Craib, 2011, p. 126; *see also* Woodiwiss, 2001).

In order to understand these different levels and how they may be accessed through written text (as this thesis argues we must do), a more intricate relation between the conceptual and the empirical must first be established. As Sayer explains, at the most fundamental level the ‘real’ involves both ‘thought objects’, or concepts, and ‘real objects’, those empirical things that *thought objects* make *reference* to (1984, pp. 54~55). This

¹³ Woodiwiss offers further suggestions for the development of what he calls ‘neo-classical’ theory that rejects the *vision-dependent representationalist paradigm* (2001, pp. 57~58). However, for the purposes of this thesis, this primary principle contributes adequately to the meta-methodological framework being constructed.

¹⁴ *Realism* (or *depth realism*) must be distinguished here from *naïve realism* or the *photographic realism* (Kember, 2003, p. 207) discussed above. From this point forward, *realism* or *depth realism* (used interchangeably) and *naïve realism* (or on occasion *photographic realism*), will be the signifiers used to differentiate the two forms.

relationship is further influenced by the various ‘sense relations’¹⁵, the relationships (whether positive or negative) between similar or connected *thought objects*, which contribute to their *meaning* (Sayer, 1984, p. 55). For example, *thought objects* might have a synonymic or antonymic relation and it is this connexion that will provide the subject with a basis for further understanding the individual *thought objects* themselves as well as their *reference* to *real objects* (Sayer, 1984, p. 54). However, the converse is also true; this is a two-way interaction. As Sayer states,

to be successful, the act of reference must simultaneously invoke or construct sense relations. Conversely, the ‘play of difference’ constituted among sense-relations in conceptual systems is reciprocally confirmed by reference to, and by action within, the material world (1984, p. 55).

It is, therefore, partially due to this interactive influence of *sense relations* that there remains a connexion or a form of *reference* between the *thought object* and *real object* (Sayer, 1984, p. 55). This *reference* is distinct from *correspondence*, the relationship that *naïve realists* accept, as there is no perceived equivalency between the *thought object* and *real objects* (Sayer, 1984, pp. 63, 67).¹⁶

Beyond these foundational principles, *visuality*, and the paradigm from which it evolved, acknowledges both the *internal* and *external* structures influencing language as well as the relationship between them (Woodiwiss, 2001, p. 12; *see also* Craib, 1992, who promotes the recognition of this relationship). These structures enable language to be used as a *medium* (Woodiwiss, 2001, p. 12), but also further establish the relationship between *signs* and *referents* (Potter, 1998). As Potter explains, the structure of language itself is influenced by

¹⁵ As Sayer notes, new concepts are primarily developed through connexions to pre-existing ones (1984, p. 60). Therefore, these *sense relations* may be perceived as particularly important in the establishment of novel concepts, such as restorative justice, at their inception (*see Chapter 3*).

¹⁶ This relationship highlights the distinction between *representation*, the connexion between the *conceptual* and the *material* based upon the *significatory paradigm*, and *re-presentation*, the focus of empiricism and the *vision-dependent representationalist paradigm* (*see Woodiwiss, 2001*).

‘real’ external structures, which has enabled the evolution of language (1998, p. 177). In other words, “[l]anguages are the way they are because we are the way we are [...] in relation to how the world is” (Potter, 1998, p. 177). These structures may be cognitive, psychological, physiological, or sociological, and exist as an external reality to the structure of language (Potter, 1998, p. 177). It is these external structures that provide a *materiality* to language, beyond the institutionalized written word (Potter, 1998, pp. 177~178). To provide an illustrative example, *physiological constraints* result from human anatomical structures (e.g. how the larynx is constructed), which restricts, for example, the length of words. If based on linguistic restraints alone, this length would not otherwise be constrained (Potter, 1998, p. 176). Thus, these external structures provide a link to the material, ‘empirical’, world or, at the very least, acknowledge social influences/forces (i.e. sociological structures), which are themselves (to some extent) material.

Following this *realist* philosophy, *visuality* focuses on the connexion between language and the external social world, ‘sociality’, which mainly comprises the economic, political, and cultural aspects of social life (Woodiwiss, 2001, pp. 12, 171).¹⁷ For Tagg (1988), looking further into the art of photography, into its history, it became apparent that there are many aspects of the ‘photos’ that need to be considered. As Tagg explains,

Histories are not backdrops to set off the performance of images. They are scored into the paltry paper signs, in what they do and do not do, in what they encompass and exclude, in the ways they open on to or resist a repertoire of uses in which they can be meaningful and productive. Photographs are never ‘evidence’ of history; they are themselves the historical (1988, p. 65).

¹⁷ Woodiwiss (2001) actually places primacy on that which is *invisible*: phenomenon at the structural ~ or macro ~ level. Critics of this approach have suggested that by focusing on this other ‘level’, that of *structure*, the ‘surface level’ is then neglected (Craib, 1992, p. 145). This *reductionism* is assumed to be avoided through the *substantive* approach, which acknowledges the multi-dimensionality of meaning and reality that Mills (1959), Craib (1992), and Layder (1993) insist should be the focus of research. This interrelation will be the subject of further discussion.

In this passage, Tagg (1988) makes reference to what he calls the “‘externals’ of photography”, the connections between photographs and the *practices* of photography, the historically situated *contexts* of these photos, and the *structural forces* that allowed the growth of the photographic industry. Thus, when Tagg refers to photographs as *currency*, he is acknowledging meaning beyond that which is influenced by *internal* structures (1988, p. 163). He is identifying the connexion ~ the *continuum* ~ between the object (the photograph in its material form) and its use within an institutional space, its involvement in historically situated social practices, and its ultimate function for the state (Tagg, 1988, p. 165). As Tagg suggests,

[p]hotography is a mode of production consuming raw materials, refining its instruments, reproducing the skills and submissiveness of its labour force, and pouring on to the market a prodigious quantity of commodities. By this mode of production it constitutes images or representations, consuming the world of sight as its raw material. These take their place among and within those more or less coherent systems of ideas and representations in which the thought of individuals and social groups is contained and through which is procured the reproduction of submissive labour power and acquiescence to the system of relations within which production takes place. In this sense, while it is also used as a tool in the major educational, cultural and communications apparatuses, photography is itself an apparatus of ideological control (1988, pp. 165~166).¹⁸

Signification, therefore, provides only a contribution to the totality of *meaning* within and beyond the photograph. *Visuality* supersedes what Tagg refers to as “a classical semiotic account of immanent systems and codes of meaning”, which he suggests “cannot specify the institutional nature of signifying practices, their patterns of circulation in social practice, or their dependence on specific modes of cultural production” (1988, p. 23). In other words, it exceeds a simple intra- or inter- textual reading of a text, influenced primarily by their internal structures, which results in the determination of a superficial meaning, and

¹⁸ See also Carrabine on “the power of images” (2012, p. 463).

incorporates aspects of meaning external to the text itself (*see also* Potter, 1998). *Visuality* and the *realism* adopted by Tagg (1988) enable a broader understanding of what constitutes the *real*.¹⁹

Thus, these connexions between the *visible* and the *invisible*, *internal* and *external* structures, and the *conceptual* and the *material* provide a preliminary **framework** for the understanding of the multi-dimensionality of both language and social reality. Tagg (1988) demonstrates not only the acknowledgement of all these relations, within his analysis of *photographies*, but also the deployment of a research approach that has utilized them as a foundation.

The following research strategy discusses further the *modus operandi* used for the interpretation and critical *evaluation* of the literature on restorative justice. This strategy enables access to these distinct dimensions of reality and, therefore, of restorative justice as well.

The Research Strategy: Abduction and Understanding

Using the artistic lens, or “frame of interpretation” (Danermark, Ekström, Jakobsen, & Karlsson, 2002, p. 93), provided by Tagg (1988), this study has made use of **abduction**: the inferential technique that allows individuals to “move from a conception of something to a different, possibly more developed or **deeper** conception of it” (Danermark et al., 2002, p. 91; *see also* Alvesson & Sköldberg, 2009). Although abduction is a mode of inference not usually associated with disciplines outside the natural sciences (Blaikie, 2000, p.114), this task holds an important role in the social sciences: allowing for new meaning to be infused

¹⁹ That being said, these two perspectives ~ that of *signification* and the more ontologically robust *depth realism* ~ are not at all at odds and are less distinct than portrayed in this section. Referring back to Potter (1998), the notions of *meaning* and *reality* are interconnected. The distinction made here is meant to emphasise how they are different, but also complementary.

into phenomena that are perceived to be fully understood (Danermark et al., 2002, p. 91). In contrast to the *inductive* approach, which involves an exclusive focus on findings *generalized* from the *data*, or the *deductive* approach, which involves the testing of tentative ideas, *abduction* is *cyclical* and enables the researcher to draw from data while also incorporating their own thought processes, ideas, and ingenuity (Blaikie, 2000, pp. 103, 106; Alvesson & Sköldberg, 2009).

This approach, according to Blaikie, “is a process by means of which the researcher [read *subject*] assembles lay accounts of the phenomenon in question [put forth by the *objects*], with all their gaps and deficiencies, and, in an iterative manner, begins to construct their own account” (2000, p. 181). In my case, because I am interested in scholarly accounts of restorative justice, I assemble academic accounts of RJ to construct a wholistic and deeper understanding of this phenomenon than can be found currently. Contributing to the efforts made to combat the *chaotic* (Marx, 1978) nature of restorative justice, I have attempted to minimize the ‘gaps’ and ‘deficiencies’ in the conception of this phenomenon, as outlined by other restorativists (*see* Gavrielides, 2007; Gavrielides, 2008; Woolford, 2009).²⁰

As indicated above, there are two stages involved in this abductive process that require a reflexive flow between ‘lay descriptions’ and the translated descriptions of the social researcher (Blaikie, 2000, p. 117). While the first stage involves the description of the meanings constructed by social actors, the second stage involves the development of categories and/or concepts that enable the **understanding** or explanation of these meanings (Blaikie, 2000, p. 117). Part of this second stage would involve the formation of less evident connections between phenomena, using an established framework (Danermark et al., 2002, p.

²⁰ The particular gaps existing within the restorativist literature are explicated thoroughly in Chapter 3 where the literature is reviewed.

93). It is, essentially, a ‘redescription’ or ‘recontextualization’ (Danermark et al., 2002, p. 94).

Thus, at the outset, abduction focuses on a level of interpretation that enables meaning to be projected from the actual *objects* under investigation (Blaikie, 2000, p. 115). This conceptualization of abduction endorses the ontological assumption that portrays *social reality* as the product of that which is constructed by social actors [the *objects*] (Blaikie, 2000, p. 115). Abduction takes into consideration multiple, individual realities, but also *intersubjective realities*, which, in turn, constitute the social world (Blaikie, 2000, p. 115).²¹ At first this may seem to presuppose a constructivist ontology; however, approaching abduction from a *realist* ontological foundation, the role of the *object* as well as the *subject* must be redefined.²² As Sayer suggests, being ‘socially-defined’²³ is more so indicative of the construction of the *meaning* of social objects, which presupposes an interaction between the two that has real effects for the subject as well as the object(s) (1984, pp. 28~32). As Sayer states,

[u]nlike natural (i.e. non-social objects) they are not impervious to the meanings ascribed to them. What the practices, institutions, rules, roles or relationships *are* depends on what they mean in society to its members. In this sense, meaning is not merely descriptive but constitutive (1984, p. 32).

As this illustration of the abductive approach appears to focus predominantly at the level of agency (or the activities of individuals) and how actors construct their own realities

²¹ One must also acknowledge levels of reality beyond meaning as an immaterial or ‘perceptual’ thing, as there is a material component as well (refer back to the discussion of the *material* and the *conceptual*).

²² Blaikie has acknowledged that the abductive strategy is underlined by a constructivist view, an ontological position distinct from that of the other strategies (2000, p. 120). This position conflicts with the *depth realist* approach taken within this thesis; however, further discussion in this section will include the steps taken to provide more ontological depth to this strategy.

²³ This term needs to be read as dually referential, in the sense that it refers to the defining of the object by the objects themselves as well as by the subjects, which encompasses the totality of *abduction* (see Blaikie, 2000). In this case there is the added dimension of restorativeness as both subjects (analysing restorative justice) and objects of enquiry for this thesis (see Mouton’s [1996] *three worlds*), as explained below.

through meaning, it may be critiqued based on a lack of attention to other, *invisible*²⁴, dimensions: the influence of structures on these agents (see Woodiwiss, 2001). However, this approach may be supplemented by the realist perspective. As Potter suggests, “[r]eality, in one sense exists as an unbounded continuum yet our knowledges of it postulate divisions, boundaries” (1998, p. 180). Thus, “[t]he universe is an open system yet our knowledge production process demands closure” (Potter, 1998, p. 180). What can be inferred from Potter (1998), and what has undoubtedly been accomplished by Tagg (1988), is a removal of these boundaries constructed through the specific ontological assumptions of the researcher and those material obstacles manifesting in an empirical reality. If the role of the social researcher (in the second stage of abduction) is to fill in the ‘gaps’ that exist in the data provided by the *objects* under study, this may involve creating further access to other dimensions of reality, acknowledging its stratified nature and the existence of both *visible* and *invisible*, material and immaterial, elements.²⁵

The data selection itself has shown to broaden this scope. For this thesis, the ‘objects’ under study are the accounts of restorativists involved in the production of literature that shapes the meaning of restorative justice, as well as the actors themselves and how they are situated within this field as ‘subjects’. As noted by Woolford (2009), the meanings and concepts surrounding restorative justice are actually developed through the discourses of governing authorities, restorative justice agencies, theorists, activists, and a variety of other stakeholders. However, by focusing on the discourse in the literature²⁶, I have been able to grasp a more diverse understanding of the phenomenon, considering the variety in foci of the

²⁴ This is not to say that these *invisible* elements/forces do not have any materiality. On the contrary, as many *realists* propose (see Sayer [1984], *for example*), it is the intersection of micro-/macro-, material/immaterial, and subject/object, through which we can obtain a better understanding of the ‘real’.

²⁵ See also Danermark et al. (2002), concerning a realist oriented abductive approach.

²⁶ This approach has been used before by Garland (1990). His analysis of penalty, within the literature on punishment, proved to provide him with an insight into how culture influences, and is influenced by, punishment.

research and the populations, institutions, and fields that were targeted. Therefore, although it is discourse specifically pertaining to scholars in the field of restorative justice, the data also incorporates a variety of other influences, which is dependent on the work of each researcher. Thus, the stratified nature of the approach, its ability to penetrate multiple ‘worlds’, the worlds of both *subjects* and *objects* (Mouton, 1996), is even more complex; not only is there a reflexive overturn of conceptions of restorative justice constructed by social researchers, but also an access to the agents, institutions, and fields which are involved in the construction of another ‘reality’ of restorative justice, this reality having been constituted through *meaning* (see Potter, 1998).²⁷

As the scholarly literature on restorative justice is so extensive, it was been necessary to limit it to a manageable sample. In his study of ‘penality’, Garland was selective in his gathering of literature on punishment, explaining that his intention is “not to offer a full account of the literature”, but to assist in his interpretation of the “reality of punishment” (1990, pp. 21~22). He was purposefully selective in what he chose to analyze (Garland, 1990). Similarly, I have utilized a judgmental/purposive sampling technique (Blaikie, 2000; Berg, 2007). According to Blaikie (2000), this type of sampling method is used in situations where a specific type of case, or a variety of different cases, is required for the data sample. My own research has required a data set that includes a diverse set of studies on restorative justice, but also research that is considered to be very influential within the field, attempting to arrive at a ‘typical’ (Blaikie, 2000, p. 117), or dominant, understanding of the *reality* of restorative justice as a concept, while also attending to the *polysemic* nature of the phenomenon.

²⁷ Thus contributing to a truly multidimensional *reconstruction* of restorative justice.

To use Tagg's (1988) concept of '**regime of sense**', a suggested meaning is only acceptable if it fits within the dominant discourse of the time period under consideration.²⁸ In this case, the most prominent literature has been sampled for the study; those pieces of 'evidence' most widely circulated and recognized: the text with the most evidential force²⁹. These 'well-circulated' pieces hold more 'truth' or more closely reflect the current 'reality' of restorative justice. However, these representations only offer a *partial* reality of this phenomenon, allowing for the *dominant* understanding of restorative justice to be established, but also requiring supplemental texts that would reflect the marginalized or *dominated* literature.³⁰ The full sample in its entirety offered greater insight into this concept, by exploring the plurality in the meanings of restorative justice, contributing to a more robust conceptualization.

This explanation of the *abductive* strategy so far, has only demonstrated how a *re-presentation* of the literature may be established, a simple *description* of the *visions* produced by restorativists, which may have resulted in nothing more than another *literature review* (see, for example, Menkel-Meadow, 2007), albeit one establishing a higher level of *understanding* of the phenomenon by acknowledging *ontological depth*. The following

²⁸ Tagg discusses the use of photographs as evidence and suggests that in order to be accepted as evidence, it must fit within the 'regime of sense' established by the dominant discourse that becomes accepted when signifiers (i.e. photos) are believed to fully represent the signified (Reality) (1988, pp. 99~102). Anything that lies outside of this 'regime of sense' is questioned and generally not (wholly) accepted as evidence (Tagg, 1988).

²⁹ The pieces were selected from the *Social Science Citation Index*, a database which enables access to research within multiple disciplines and the production of a citation analysis to determine the frequency of citations.

³⁰ According to a citation report conducted in January 2013, some of the most frequently cited pieces pertaining to restorative justice in the past 10 years (in regards to total number of citations) were Sherman (2003); Latimer, Dowden, & Muise (2005); Wenzel, Okimoto, Feather, & Platow (2008); Muncie (2005); Schroeder, Steel, Woodell, & Bembenek (2003); Theidon (2006); Tyler, Sherman, Strang, Barnes & Woods (2007); Casella (2003); Harris (2003); Downes & van Swaaningen (2007); and Tonry (2005). A few of the *less* frequently cited pieces included McEvoy (2007) and Braithwaite (2006). The more peripheral pieces used (referring to frequency of citation and/or conceptualizations of RJ) were Roche (2006) and Gavrielides (2008). This 10 year range was required to gather an adequate number of articles, but was not imposed on the supplemental literature included during the *abductive* process. Other literature (used in whole or in part) was incorporated into the sample for the purposes of filling in the 'gaps' (Blaikie, 2000, p. 181) left by the pieces initially selected (i.e. Sayer, 2000; Stanfield, 2006; Denzin, 2009; Dancy, 2010). The work of various restorativists was also included when they were cited frequently [in-text] throughout the sample (i.e. Christie, 1977; and to a lesser extent Zehr & Mika, 1998; Marshall, 2003). Finally, literature that initially informed the direction of the thesis was also included to varying degrees (i.e. Menkel-Meadow, 2007; Gavrielides, 2007; Woolford, 2009).

sections will explore the next steps in the approach: those which enabled a determination of *meaning* through the interpretation of text.

Sense and Sense-making: Beyond Understanding, Towards Meaning

With the ultimate goal of developing an *understanding* of some phenomenon (Blaikie, 2000; Alvesson & Sköldbberg, 2009), restorative justice as a supposedly well-established phenomenon still lacking in clarity, can undoubtedly benefit from a research strategy such as abduction and the production of a means of *visualizing* it through the application of a realist meta-methodological framework. Garland (1990) illustrates this ‘sense-making’ technique, exploring the concept ‘penalty’ and connecting punishment to a wider cultural context. Thus he attempts to refute taken for granted assumptions concerning punishment, in order to understand its ‘reality’ (Garland, 1990). However, the simple *understanding* of the restorative justice literature is an illusive task considering the inconsistencies in theory and practice which have prevented previous reviews from establishing a clearly defined conceptualization based on existing accounts of RJ (see Gavrielides, 2007; Gavrielides, 2008 for such an argument). It is, therefore, essential to differentiate the first stage of abduction in which the phenomenon is *understood* through the lens of the *objects* [the researchers], from the determination of its *meaning*.

Wittgenstein (1968) adequately portrays this distinction through the following quotation.

Consider the following form of expression: “The number of pages in my book is equal to a root of the equation $x^3 + 2x - 3 = 0$.” Or “I have n friends and $n^2 + 2n + 2 = 0$.” Does this sequence make sense? This cannot be seen immediately. This example shews (sic) how it is that something can look like a sentence which we understand, and yet yield no sense (Wittgenstein, 1968, pp. 140~141).

Thus, the focus of this thesis is to surpass this level of simple *understanding* because, as Wittgenstein (1968) clearly demonstrates in his example, we can have an understanding of something, but yet not *make sense* of it.³¹

Making Sense of Sense-Making

Mills (1959), a proponent of *sense-making*, provides a means of targeting and obtaining a more wholistic reality of some substantive phenomenon. Mills proposes that researchers acknowledge the relations between the ‘micro’ and ‘macro’ levels of social reality through, for example, the interconnection between the *biographical*, an individual’s personal history or the ‘intimate features’ of the individual, and the *historical*, in the sense of a temporal period or epoch through which ‘remote transformations’ (in the context of structural influences) occur (1959, p. 7). In other words, Mills (1959) suggests that we maintain a focus on *substantive issues*: perform research in consideration of concerns that cross multiple levels of ontology (*see also* Craib, 1992; Layder, 1993).³²

This connexion between the *individual* and the *universal*, the *personal* and the *remote*, *private* troubles and *public issues*, or the *biographical* and the *historical* (Mills, 1959), is actually inherent in the restorative movement itself. This project draws from a connection Andrew Woolford (2009) proposed which links restorative justice to C. Wright Mills’ *sociological imagination* (1959). He explains that restorative justice is especially relevant to both of what Mills (1959) has termed *private troubles* and *public issues* (Woolford, 2009). Ideally restorative justice, the concept, can transcend the boundary between these two poles of social reality and allow RJ to become a truly “dual reference” or “two-sided” concept (*see*

³¹ It is believed that a basic *understanding* of restorative justice, through the description of inconsistent texts, would simply contribute to the mystification of this practice and provide another nonsensical compilation of ‘visions’.

³² This movement between levels and seemingly cyclical process, referencing various ontological strata, the material and the abstract, itself denotes an *abductive research strategy* (Blaikie, 2000).

Layder, 1993, pp. 130,149).³³ This is especially important because, as a social movement (see, for example, Thomson, 2004; Woolford & Ratner, 2008), restorative justice can be considered a “meso-social phenomenon” as defined by Blaikie (2000, p. 189).

This classification identifies the nature of restorative justice as situated between macro- and micro-levels of social reality. Woolford (2009) does explain, however, that this opportunity, for restorative justice to bridge *private troubles* and *public issues*, is rarely developed to its fullest potential within restorative justice programs. However, referring back to the relationship between *concepts* and *referents*, the concept of restorative justice itself must also align with this dualistic nature; if the concept of restorative justice can be *reconstructed* to consider both of these ‘distinct’ dimensions, the practice of RJ may follow. Thus, it has been an essential part of this thesis to bridge this gap within the understanding of RJ through the analysis of these texts; to understand not just restorative justice a concept, but what it *means* as a practice in relation to other practices and institutions and in the broader social, economic and political context.³⁴ Like Tagg’s (1988) analysis of photography, this interpretation has extended beyond the individual texts and even beyond the meaning produced between the texts ~ which aligns with the realist perspective ~ to the broader socio-economic context.

For Mills, the entire research process should involve this “quality of mind”, the *sociological imagination*, which will allow researchers “to use information and to develop reason in order to achieve lucid summations of what is going on in the world and of what

³³ As Layder explains, the primary function of such concept is to be “capable of referring to both the subjective and objective aspects of the social world” (1993, p. 130).

³⁴ Obviously the extent of this contextualization has been limited by restrictions placed on the scope of this project. Therefore, certain elements were explored in more depth than others. In particular the *economy of knowledge* and its influence on the production and reproduction of restorative justice has been fully explicated in Chapter 4. This focus is justifiable on the basis that it is an important aspect relating to *reflexivity*, a dominant theme within the thesis more generally, and which maintains a focus on the ‘third world’ (Mouton, 1996). Further exploration could more adequately develop some of these other contextual aspects.

may be happening within themselves” (1959, p. 5). This ‘summation’, or the fruits of social scientific labour, must be *open* to critique; as Mills suggests, this requires “a carefulness and attention to detail, a habit of being clear, a skeptical perusal of alleged facts, and a tireless curiosity about other possible meanings, their bearings on other facts and notions”, while also attending to the banalities of scholarship such as “orderliness” and “system” (1959, p. 127). Thus, the focus on sense-making must not only include an attempt, on the part of the ‘intellectual craftsman’ (Mills, 1959, p. 120), to explore a greater meaning beyond the individual or his situational context, but also to allow his conclusions to be properly evaluated by others and explored in even further depth. This draws on the notion of **reflexivity**, a concern with *how* research is being performed³⁵, while avoiding a restrictive lens that may not promote plurality in *meaning* and *reference*.

Restorative Justice, Criminology, and the ‘Criminological Imagination’

Framing the restrictive lens *currently* used to view restorative justice is an inflexibility within the criminological discipline, which extends to social sciences more generally; a tendency towards a restricted theoretical scope, limited cross-fertilization between and within disciplines, and the dichotomization of perspectives in social research.³⁶ In his discussion of the “**criminological imagination**”, an offshoot of Mills’ (1959) concept, Williams (1984) suggests that there have been a number of factors limiting the discipline, resulting in a lack of creative research and theoretical development within criminology. He suggests that empirical scientism, dualistic theories³⁷, and a strong focus on criminal justice has caused a

³⁵ A scientific practice is reflexive when it constantly “turns back onto itself the scientific weapons it produces” (Wacquant, 1989, p. 55).

³⁶ See, for example, Williams (1984) and Nelken (1994) for a critique of the criminological discipline, and Mills (1959) and Bourdieu (1988) for a critique of the social sciences more generally.

³⁷ These are theories that embrace *dichotomies* (Williams, 1984). Williams deems this ‘dualistic propensity’ to be “one of the greatest failings of modern theory”, suggesting that dualisms should “be recognized for their destructive nature” (1984, p. 104).

“demise” in this adapted form of Mills’ (1959) *sociological imagination* (Williams, 1984).

The divide between theory and research, or theory and empirical material, is particularly damaging (Williams, 1984) and has therefore been of primary focus for this thesis.³⁸ This absolute distinction [between theory and empirical research] is perceived by some to be an unnecessary consideration within the social sciences that simply “fuels the concurrent growth of methodological perversion and theoretical speculation” (Bourdieu & Wacquant, 1992, pp. 174~175).

As Mills (1959) and Williams (1984) both suggest, these issues stem largely from a hyper empiricism within many fields of study: a restrictive notion of what *Science* entails. While an exclusively empiricist focus can distort and inhibit the development of useful and creative theory (Williams, 1984; Bourdieu & Wacquant, 1992), this seemingly technical focus also corresponds to a broader dilemma in the production of knowledge: how methodology and methods are perceived and, even more importantly, how they are employed and what purpose they serve (see Mills, 1959; Bourdieu & Wacquant, 1992; Alvesson & Sköldberg, 2009).³⁹

Thus, this project has taken on what Potter calls a “softer, less restrictive notion of science” (1998, p. 174; see also Bourdieu, 1988, p. 781), one which utilizes the most appropriate tools to inform and facilitate the research process, and enables a “more inventive, imaginative, and creative” approach to research (Bourdieu, 1988, pp. 781~782). To accomplish the reflexive task of overcoming the disciplinary failings discussed above, the researcher must reject “any rigid set of procedures”, while using concepts “only when he has

³⁸ This argument acts as another justification for the use of the *abductive* research strategy.

³⁹ At this point it is appropriate to distinguish between epistemology, methodology, and method, which Mills does adequately in suggesting a hierarchical classificatory system where *epistemology* is the broadest, in the sense of being a *philosophy of science*; followed by *methodology*, as the very general approach to research; and then *methods*, the specific tools employed (1959, pp. 57~58; see also Sayer, 1984; Bourdieu, Chamboredon, & Passeron, 1968/1991, for reflections on these distinctions).

had good reason to believe that by their use he enlarges the scope of his sensibilities” (Mills, 1959, p. 120). Furthermore, as social researchers, we must “mobilize all the techniques that are relevant and practically usable” (Bourdieu & Wacquant, 1992, p. 227; *see also* Craib, 1992, *esp.* pp. 250-253), regardless of which discipline these techniques originated.

It has been suggested that in order for criminology to evolve, it requires a fresh perspective that crosses the boundaries that have been imposed on the discipline (Barton, Corteen, Scott, & Whyte, 2007, p. 12). Therefore, the proposed solution is not only to bridge the gap between criminology and other academic disciplines, but also the gap between art and science, a gap which does not, or more likely, *should not* exist within the social sciences (Panofsky, 1957; Madison, 1988; Ruggiero, 2003).⁴⁰ Art and science may in fact be complimentary, especially within the context of ‘social sciences’ where it has been shown that the artistic field can both supplement and itself be enhanced by science (*see* Potter, 1998; Woodiwiss, 1990). One may even go so far as to say that artists are better able to approach sociological issues and that “today, as in the past, the problems thus posed are better investigated by artists whatever their media, than by social theorists” (Woodiwiss, 1990, p. 2).

Following from this argument, the notion of a radically distinct and irreconcilable difference between art and science is simply another ‘antinomy’ parallel to that of the ‘subjective-objective’ debate, prohibiting the production of knowledge and plaguing social scientific disciplines (Bourdieu, 1988, pp. 777, 780). As Panofsky suggests, “[i]t is in the search for **intrinsic meanings** or content that the various humanistic disciplines meet on a common plane instead of serving as handmaidens to each other” (1957, p. 39). Just as the art

⁴⁰ *See also* Mills, especially in his discussion of the *sociological imagination* as a task for both ‘scientists’ and ‘artists’ and the practices of social scientists as a ‘craft’ (1959, pp. 5, 13, 195).

historian can draw from the documents produced by other professionals, those historians delving into the disciplines of religion, politics, philosophy, poetry or the social, “should make analogous use of works of art” (Panofsky, 1957, p. 39).

The current project, therefore, draws upon the writings of an alternative history of photography. John Tagg (1988) ventures outside of the artistic realm and manages to provide this subfield of art history with a substantive focus, a means of surpassing the limitations imposed by the *naïve realist* approach, by **exploring** the *ontological depth* of photography as a *practice*. Just as John Tagg (1988) employs techniques that are not traditional within his field, I have approached my analysis equipped with analytical approaches from multiple disciplines. In particular, it is assumed that art history, specifically the history of photography, and the methods by which art and photography are analyzed, can inspire the production of a different **lens** ~ comparable to the “double-focus analytic lenses” described by Bourdieu, incorporating both an *objectivist* and *subjectivist* moment (Bourdieu & Wacquant, 1992, p. 7) ~ through which restorative justice may be *visualized* (Woodiwiss, 2001).⁴¹ The approach taken might be referred to more generally as an *alternative qualitative approach* (Layder, 1993) informed by *abduction* and *depth realism*.

Alternative Qualitative Approaches

Beyond emulating the ontological and epistemological assumptions of *depth realism* inherent in Tagg’s (1988) work, the approach used was distinct from traditional qualitative approaches.⁴² As introduced above (*see Introduction*), Layder (1993) proposes that there are a number of other less common forms of qualitative research that follow this *realist* position.

⁴¹ The notion of an ‘objectivist’ and ‘subjectivist’ lens also aligns with the two stages of the *abductive* process as defined by Blaikie (2000); it enables a reflexive overturn of the conceptions of restorative justice as explicated by restorativists in the literature.

⁴² This ‘alternative’ approach carries with it distinct *objectives*, reflected below, which are different from those associated with ‘traditional’ qualitative approaches (Layder, 1993).

Of particular significance to this project are the practices of (1) “clarifying concepts and assessing their usefulness” and (2) producing “**sensitizing concepts** and theoretical description” (Layder, 1993, pp. 48~49).⁴³ This first alternative includes the explication of concepts and the testing of their utility. Layder explains that this process might involve an attempt by the researcher to “redefine such concepts by exploring their empirical dimensions” (1993, p. 48). For restorative justice, this is particularly important considering the numerous *conceptual conflicts* (Gavrielides, 2007; Gavrielides, 2008) that inhibit coherency.

As Layder (1993) explains, this first approach has been emulated by other researchers to very productive ends. It maintains the purpose of “focusing on an important concept which has been associated with a particular area with the view to illustrating its usefulness or its limitations for research” (Layder, 1993, p. 48). Garland (1990), in his analysis of *penalty*, provides one example of how this approach might be used to further develop an understanding of some phenomenon, albeit one that was initially seen as unproblematic. He was able to shed light on the limitations of how it had previously been conceptualized within the literature, specifically the neglect of its *polysemic* nature, thus providing a dimensionality to what had been perceived to be a planar phenomenon (Garland, 1990). Gavrielides’ (2008) work might also be seen as an attempt to approach research in this way, by deconstructing the concept of restorative justice and delineating its ‘fault-lines’. Thus, beyond ‘clarifying’ and demonstrating ‘utility’, or lack thereof, this approach may also provide opportunities for further research and development of some phenomenon.

⁴³ Although some may question the usefulness and validity of these ‘alternative’ approaches, restorativists themselves have demonstrated the need for such endeavours and explicitly advocated for this type of work to be done for restorative justice (see, for example, Gavrielides, 2007; Gavrielides, 2008). By calling into question the foundations of this concept and proposing further research of this nature, this *chaotic conception* (Marx, 1978) has become a *rational abstraction* (see Sayer, 1984, p. 126).

The second approach involves the production of *sensitizing concepts* and the construction of *descriptive* theory (Layder, 1993). Although theory may be understood as synonymous with *explanation* (Blaikie, 2000), many social researchers also believe that there is room for *description* and the development of concepts (Sayer, 1984; Layder, 1993; Blaikie, 2000). As Sayer (1984) explains, theorizing and the research process (or development of knowledge) may involve “[c]hanges in the structure of conceptual systems and hence in meanings”, which may be “precipitated not only by empirical, practical anomalies but by discovery of inconsistencies or omissions in the system through theoretical reflection” (1984, pp. 74~75).⁴⁴ Thus, the approach required for such a research endeavour may be distinct from and contrast with the objectives of traditional qualitative approaches, requiring the researcher to “‘explicate’ problematic concepts; that is, give concise definitions to important but vaguely understood terms” (Sayer, 1984, p. 76).

Using this approach for restorative justice becomes particularly important, and challenging, as traditional ‘definitions’⁴⁵ have not always been seen as appropriate or adequate (*see, for example*, Gavrielides, 2008). Thus, the task of reconstructing the concept of restorative justice has been accomplished by using *sensitizing concepts* (Layder, 1993; Blaikie, 2000) to assemble a **conceptual scheme** for the phenomenon (Blaikie, 2000, p. 168), which has been developed in subsequent chapters. The broadest sensitizing concept framing this *scheme* is ‘scope’, which will be outlined further below.

⁴⁴ In this case, the conception of theory is much more broad, encompassing tasks and approaches not commonly associated with ‘theorising’, but that constitute this process (*see, for example*, Sayer’s discussion on *normative explication* [1984, p. 76]).

⁴⁵ In the ‘classical’ sense, focusing on *necessary* and *sufficient conditions* (Ravin & Leacock, 2002, p. 7; *see* Chapter 3 for further discussion).

Scope: Self, Situated Activity, Setting, and Context

In this section I focus on the main *sensitizing concepts* that helped form the *conceptual scheme* or *model*. For this thesis, *sensitizing concepts* have been used to both guide the research focus as well as help to establish clarity in the interpretation of the literature. According to Blaikie (2000), sensitizing concepts are meant to act as clues to indicate what might be investigated. These concepts are vaguely defined and are intended to orient the research (Blaikie, 2000). Furthermore, sensitizing concepts “can provide useful, although sometimes provisional, means of ordering data” (Layder, 1993, p. 149). Ideally, these *background concepts* should be *dually referential*, in that they refer to objective and subjective facets of social life, which, in turn, translates into a focus on micro- and macro-level aspects of the phenomenon (Layder, 1993, pp. 130, 149). These concepts should also be theoretically versatile and provide a broad empirical **scope** (Layder, 1993, pp. 130, 149). They may also draw attention to temporal and spatial dimensions, enabling further ‘depth’ throughout the analysis by acknowledging “the notion of process, or the passage of activity and institutions through time and space” (Layder, 1993, p. 130).⁴⁶

Likewise, ‘scope’, the *sensitizing concept* used in this thesis, was intentionally constructed as a flexible concept, one that could be mobilized to develop an understanding of a lesser known phenomenon (RJ), and that takes on specific meaning only within the context of that phenomenon (the texts).⁴⁷ The very general operationalization of this sensitizing concept was: the limitations that are placed on the implementation of restorative justice processes. This is, however, a negative interpretation of the concept, one that examines the

⁴⁶ This is a particularly important dimension. As Potter states, “social reality changes over time” and, therefore, “[m]eaning and texts possess historicity” (1998, p. 182). Thus, in order to access *meaning* and enable *visualization*, change must be taken into consideration (Woodiwiss, 2001, p. 160).

⁴⁷ This attribute can be found in the ‘open concepts’ to which Bourdieu refers (Bourdieu & Wacquant, 1992). As he explains, “concepts have no definition other than systemic ones, and are designed to be put to work empirically in systematic fashion” (Bourdieu & Wacquant, 1992, p. 95).

potential *minimization* of the phenomenon it is making reference to. *Scope* can also be interpreted positively, in that it may refer to the extension of elements, or the entirety, of the phenomenon being analyzed. This positive aspect of scope has been explored further by evaluating the dominant means of conceptualizing restorative justice.⁴⁸

Thus, an initial definition of ‘scope’ was used in order to direct the analysis. However, as Becker describes the craft of photography below, concepts can also be formed to fit what is being analyzed in order to ‘frame’ the reality presented through the practice of photography. In this way, photographers

work in the opposite direction [of the traditional sociologists], needing to find concepts that adequately convey what is important in what they give us to see, the explicit conceptualization working for both photographers and viewers to provide a framework for their joint work of making sense of what they see (Becker, 1974, par. 106).

As Blaikie suggests, “[t]he task [within the sensitizing tradition] is to reshape the concept to identify the nature of the common aspects within the diversity of other features” (2000, p. 137). This justifies the very general conceptualization that was used in the initial stages of the research as “[u]ntil this is done, it is premature to impose predefined (definitive) concepts on the phenomenon” (Blaikie, 2000, p. 137).

To promote further *utility*, ‘scope’ as a concept had to first transcend the signified meaning produced in earlier restorativist literature reviews (*see, for example*, Menkel-Meadow, 2007; Gavrielides, 2008). A more refined notion of *scope* ~ one that enabled a deeper and more wholistic *understanding* of restorative justice, a more adequate visualizing of the *field* and the *practices* of RJ ~ was developed throughout the analysis. Thus, beyond its role as a sensitizing concept used to orient the project more generally, scope became a

⁴⁸ This aspect of ‘scope’, in particular, was used to bring new *meanings* and *realities* of restorative justice to light, in both Chapter 3 and 4.

conceptual apparatus, used in order to expand the visual field and construct a more adequate *visualization* of restorative justice (Woodiwiss, 2001).

In order to accomplish this, however, the *sensitizing concept* scope had to be broken down further; the notion of *depth* and two-sidedness (*duality*), discussed above, had to inform the analysis or *frame* the research endeavour. Layder's (1993) *sensitizing concepts* were used for just this purpose: as categories that enabled the organization of data, helping to shape its form and enable the connexions between the distinct elements and levels of restorative justice; they became essential elements of the broader concept of *scope*, identifying the different layers of restorative justice that needed to be explored. The following is a breakdown of these sensitizing concepts, ordered from most concrete to most abstract, the most micro of phenomena to the most macro.

- **Self.** “[A]n individual’s sense of identity, personality and perception of the social world as these things are influenced by her or his social experience” (Layder, 1993, p. 74). Layder suggests that self and situated activity are inherently interlinked as “selves cannot easily be separated from the social situations in which they are routinely embedded” (1993, p. 74).
- **Situated activity.** This level of social research specifically targets the “dynamics of interaction”, or the resulting outcomes, of communicative interaction between two or more individuals (Layder, 1993, p. 80). Research at this level is not, therefore, focused on just the behaviours of each individual involved in the activity, but the effect of all the personalities and individual behaviours interacting (Layder, 1993). These interactions are further influenced by spatial and temporal dynamics, which may be contextual factors considered in the research (Layder, 1993).

- **Setting.** The physical and/or geographical location of a phenomenon: the site of situated activity. This level of social research is unique, in that it is not always recognized as a separate dimension of social research, beyond the scope of self and situated activity (Layder, 1993, p. 89).
- **Context.** A macro-level dimension that focuses on the distribution of various resources, relative to the type of social group being analyzed, including such things as material goods or services, but also power, status, and authority (Layder, 1993). Layder (1993) also suggests that there are a number of macro-level features that are cultural, as opposed to structural or material, which may include norms, values, or other behavioural regulations.

To reiterate, then, the *depth* in this *realist* approach taken ~ the intersection of the levels of theory and reality discussed above ~ provides a dimensionality that is necessary and sufficient for the reconceptualization of restorative justice. The “*theoretical ‘anarchy’*”⁴⁹ that Layder (1993) postulates, which was followed in this *alternative* approach, aligns with the basic tenet of abduction: the mutual emphasis on and continual movement between both theory ~ in this case the development of concepts ~ and empirical data (or ‘cases’) (Alvesson & Sköldberg, 2009). This approach enabled a better understanding of this phenomenon, but also a means of *making sense* of restorative justice.

As explained above, the techniques or ‘methods’ used within this thesis have not been of primary focus, as the *purpose* has been to produce *substantive research*⁵⁰ (Mills, 1959). The tools being used, therefore, should *enable* the researcher to direct his/her attention to these *substantive issues* being explored (Mills, 1959) and it is this *utility* that is of importance. In

⁴⁹ By “*theoretical ‘anarchy’*”, Layder is referring to an alternative method of theory construction, which attends to multiple levels of both theory and reality (1993, p. 53).

⁵⁰ Again, this focus on *substantive research* is in relation to that which crosses multiple levels of ontology and in this case produces a wholistic *representation* (Woodiwiss, 2001) of some phenomenon.

this way, method has been employed in the “normative sense” (Madison, 1988, p. 28). Method, understood in this *normative sense*, is based more upon judgment and reasoning than specific analytical techniques (Madison, 1988, p. 28). It involves the use of *principles* that will guide the researcher in making appropriate decisions given the circumstances (Madison, 1988, pp. 28~29).⁵¹ According to Madison, this is not the mastering of specific skills, but the application of basic principles, which is never an exact “science”, but, as he suggests, “is always only an art” (1988, p. 28). Some of the more specific principles used to construct the *model* (a product of this approach), will be discussed in the following chapter.

Conclusion and the Roadmap Continued

A primary focus of this thesis, therefore, has been to *make sense* and reconstruct the concept of restorative justice, by first unearthing and then questioning the common sense notions of restorative justice as a *concept*, a *practice*, and a *field*. This project has sought to clear the fault-lines, or ‘gaps’ (Blaikie, 2000, p. 181) in the knowledge of restorative justice, and provide further avenues for exploration into alternative ‘meanings’ that emerge from this movement.

Thus, my project is not meant to reveal the history of the movement or produce a history (in the literal sense) of restorative justice practices.⁵² It follows Tagg’s (1988) epistemologically *realist* approach, which allows him to surpass the micro/micro divide and understand photographs, and those who produce them, not just as entities in and of themselves, but as parts of a greater whole, players of a game at the societal level. This *depth*

⁵¹ In contrast, the notion of method taken in “an abstract and formal sense” is one based upon specific techniques that can be applied in a standard way, which are used “to make possible exact knowledge” (Madison, 1988, p. 28). A methodology that is preoccupied with method in this ‘formal sense’ (Madison, 1988, p. 28), “consists of a compendium of errors of which one can say that you must be dumb to commit most of them” (Bourdieu & Wacquant, 1992, p. 244). More concisely, “‘it is the science of the jackasses’” (Bourdieu & Wacquant, 1992, p. 244).

⁵² This avenue has been explored by other researchers. See, for example, the work of Daly and Immarigeon (1998).

and substantive focus has contributed to the *visualization* of restorative justice as a set of *practices*, which are also connected to an external *field*, and the *structural forces* influencing them.⁵³

This chapter has provided a *guide* for the interpretation of the remaining chapters; a roadmap that may direct readers in their understanding of the purpose or function of the thesis, the process undertaken, and how this *reconstruction* of restorative justice should be understood. Subsequent chapters have incorporated an analytic reading of the literature that enabled the production of not just a *picture* or *vision* of restorative justice, but an example of how it may be *visualized as a dualistic concept and stratified field of practice*.

Chapter 3 begins with a discussion of the more specific *normative* methods (Madison, 1988) employed in the *reconstruction*. This is followed by a brief overview of the literature on restorative justice, the origins of the concept, and its subsequent fragmentation and problematization; this section explores restorative justice as a *chaotic conception* (Marx, 1978). A sample of the literature, taken as data, was then synthesized in the production of a model, or *map*, which is further explicated throughout the chapter, including its individual parts, the connexions between the distinct elements explored, as well as the coexisting fault-lines, and the contextual forces that contribute to the concept's current incarnation.

⁵³ In following Mills' (1959) approach to social research, the intention is to develop a 'substantive' research project that acknowledges both micro- and macro- level phenomena and seeks to avoid the agency/structure dualism well-documented in the literature on social theory (Sayer, 1984; Craib, 1992). Structure, therefore, as Danermark, Ekström, Jakobsen, and Karlsson note, is not necessarily limited to 'macrostructural' phenomena, but simply refers to mechanisms that influence what an object is and allows it to be differentiated from something which it is not (2002, p. 47).

CHAPTER 3

The [Subjective] Objectivist Lens

The *ontological* and *epistemological* foundations of *depth realism* set out in Chapter 2, as well as the *abductive research strategy* (Blaikie, 2000) discussed, provides for a useful way to visualize RJ and its multidimensional, *polysemic*, **reconstruction**. In the following chapter, the practice has been consolidated into a model or *map*. This meta-vision is the first of two **lenses** to be used in the establishment of a **visuality** (Woodiwiss, 2001) for restorative justice. Prior to a presentation and explication of this *conceptual scheme* (Blaikie, 2000, p. 168), there will be an exploration of the *normative methods* (Madison, 1988) used in this reconstruction, followed by a brief review of the literature to trace the rather **chaotic** (Marx, 1978) conceptual foundations of this practice.

Exploring the Normative Methods Used to Reconstruct RJ

In his introduction to *The Grundrisse*, Marx (1978) problematizes past attempts by economists to develop a coherent understanding of *production*. Similar to the current problematization of the concept of restorative justice, Marx (1978) suggested that past attempts had been inadequate, lacking appropriate technique. Thus, in his analysis of the *chaotic conception* of ‘production’, by economists of the time, Marx argued for a revised version of the method of *political economy* (1978, p. 237). His approach allowed for the breakdown of specific parts of an organic whole, the re-assembling of said parts, while at the same time explicating the various relations between the parts, their connexions, interaction, and ordering (Marx, 1978). As restorative justice has been problematically conceptualized since its inception in the 70s, it can benefit from such a thorough reconstruction.

Through this critique, Marx distinguishes between what he calls the *material* and the *conceptual* (1978, p. 238). He explains that there needs to be a distinction made between reality, a *concrete* or material reality, and *mental* reality (Marx, 1978, p. 238).⁵⁴ Thus, Marx suggested that one should not focus exclusively on the ‘preconditions’ of some phenomenon, specifically determined by its conceptualization and *constructed* through its understanding (1978, p. 226). These conditions are purely based on the constructs of the mind and have a limited relation to the material thing to which it refers, producing a tautological relation (Marx, 1978, pp. 225~226). He suggests that a more appropriate method would be that arising “from the abstract to the concrete”, which is “the way in which thought appropriates the concrete, reproduces it as the concrete in the mind” (Marx, 1978, p. 237).

The deconstruction of the material thing into its constitutive parts, into the most *simple*, *abstract* components, however, is to some extent problematic, as it is only the initial stage of the configuration of some phenomenon (Marx, 1978, p. 237). Beginning with what is perceived to be most concrete, what is more directly observable and ‘whole’, there must be an initial breakdown (Marx, 1978, p. 237). This breakdown enables the extraction of the various relations through which it is constituted, the “unity of the diverse”, whereby “the abstract determinations lead towards a reproduction of the concrete by way of thought” (Marx, 1978, p. 237). Furthermore, these abstract categories must be understood within historic relations (Marx, 1978, p. 241).⁵⁵ His unique contribution to this distinction, then, is that the material thing corresponding to the concept, the referent, may not ‘exist’ at a certain period in time, but the relation between that material thing and some other phenomenon may

⁵⁴ This relates back to a number of distinctions, described above, especially in reference to the work of Sayer (1984) and his discussion of the distinctions and connexions between a *concept* and its *referent*, *thought objects* [mental reality] and *real objects* [concrete reality].

⁵⁵ That is not to say that these categories must be developed sequentially according to a chronological ordering, but that they should be ordered based on their interrelations (Marx, 1978, p. 243).

in fact still be relevant to the order or *typology* (as defined by Layder 1993, p. 137). In other words, depending on the time period, the epoch, material referents may be interchangeable within the ordering (Marx, 1978, p. 239).⁵⁶ After the initial breakdown, a reverse ordering must then occur so as to progress from the simplest abstract categories that are applicable to all societies to those categories that are specific to the structure of the current epoch (Marx, 1978, p. 244). He suggests that these categories should also be ordered based upon an increase in scope (in the geo-spatial sense), moving from micro categories to more macro categories (Marx, 1978, p. 244).

These guiding principles suggested by Marx (1978) were used in the interpretation and analysis of the literature in this chapter, contributing to a reconstruction of this *chaotic* concept into a *conceptual scheme* (Blaikie, 2000, p. 168). The next section provides a brief review of restorative justice in its *chaotic* form prior to its *reconstruction*.

A Brief Review of the RJ Literature: A Chaotic Conception

[T]here is of course always a danger of prematurely scrapping a promising hypothesis by being overly critical at an early stage. In the case of restorative justice this might have been a pertinent concern in the 1970s and the 1980s when the movement was still in its infancy struggling to gain foothold. But today things have changed enormously. The child has come of age... (von Holderstein Holtermann, 2009, p. 191).

Many restorative justice proponents agree that ‘restorative justice’, as a developing social movement (Thomson, 2004; Woolford & Ratner, 2008), evolved in the 1970s (Marshall, 2003; Gavrielides, 2007; Woolford & Ratner, 2008). It is Albert Eglash (1977), however, who has been credited with establishing the *concept* of ‘restorative justice’, identifying it as

⁵⁶ This will be illustrated during the discussion of the various *signifiers* of restorative justice.

one of three forms of justice: distributive, retributive and restorative (see Van Ness & Strong, 2002; Gavrielides, 2007).

Restorative justice was initially conceptualized as an advanced form or extension of *restitution* (Egash, 1977). Also referred to as *creative restitution*, it was seen to be in an antonymous relation with *retributive* and *distributive* justice on a number of factors (Egash, 1977), its meaning established based on the distinct *sense relations*⁵⁷ (Sayer, 1984) it had with these other two types of justice.⁵⁸ While Egash acknowledged the conflicting perspectives of retributive justice (associated with *punishment*) and distributive justice (associated with *treatment*), he also suggested that these types of justice were similar in many respects (1977, p. 91), thus implying a positive *sense relation*.⁵⁹

Egash further established the meaning of restorative justice by conceptualizing a number of forms of restitution and situating restorative justice within these different forms (1977, p. 93). The variations of restitution discussed by Egash included: *spontaneous restitution*, which is non-coercive, made as an act of ‘free will’, and usually occurs outside of the criminal justice system; *mandatory restitution*, which is coerced, historically taking the form of some monetary compensation, and situated within a criminal justice context; *ritual restitution*, which is a combination, as an act of ‘free will’, but in a regulated form; and finally, *guided restitution* (which he also calls ‘creative restitution’), the type of restitution in which this restitutive act is required, but the form is determined by the offender, not some external regulatory body (1977, p. 93).

⁵⁷ As defined in Chapter 2. Again, these are “the set of connections [...] that tie [*thought objects*] to other words” (Sayer, 1984, p. 54).

⁵⁸ It should be noted that later conceptualizations neglect to demonstrate this relation between RJ and distributive justice ~ in either a positive or negative sense ~ and hold a different understanding of this form of justice, as discussed below.

⁵⁹ Similar, for example, in terms of their approach to/considerations of the *offender’s behaviour*, *offender’s role*, *victim’s role*, the *situational* context in the aftermath, the *resolution* after the harmful occurrence, and levels of *responsibilization* attributed to the offender by these two types of justice (Egash, 1977, pp. 91~92).

Although Eglash did incorporate some ‘guidelines’⁶⁰ in order to protect both parties (victim and offender) from the potential misuse of creative restitution (1977, p. 94)⁶¹, it is clear that the simplicity of this conceptualization offered a flexibility in the interpretation and approach of restorative justice. As the passage introducing this section indicates, this flexibility was initially accepted, but over time the practice of restorative justice was expected to become more developed and refined.

Conversely, over forty years after its inception the state of restorative justice appears *chaotic*. The academic discourse is replete with conflicting dichotomies pertaining to the conceptualization, definitional clarity and underlying theoretical framework of the subject as well as its connection to the traditional criminal justice system and its position in relation to this system (Pavlich, 2005; Gavrielides, 2008; Woolford & Ratner, 2008). Many scholars have noted that restorative justice literature ~ reflecting the practice itself ~ is extremely inconsistent (Pavlich, 2005; Gavrielides, 2007; Gavrielides, 2008; Woolford, 2009). More specifically, there are inconsistencies in the literature concerning how restorative justice *should* or *may* be implemented.⁶² Of particular concern are the types of offences eligible for restorative processes (Cameron, 2006; Daly, 2006; Cossins, 2008) and how restorative justice should be situated in relation to the traditional system (Wright, 2002; Hudson, 2002; Lokanan, 2009).

⁶⁰ Comparable to what have since been internationally referred to as ‘safeguards’ (see, for example, Muncie, 2005).

⁶¹ For example, it has to involve an ‘active’ effort on the part of the offender, which must be constructive and directed at helping the victim; this effort being directly relational to the “nature of the damage or harm resulting from the offense” and reparative of that harm (Eglash, 1977, p. 94). This ‘helping’ behaviour on the part of the offender should be reciprocal: the offender should also receive support in return (Eglash, 1977, pp. 95~96). Furthermore, in order to be accurately labeled as ‘creative’, this restitutive act must extend beyond expectation of any parties involved (offender, family, friends, courts), to the extent that it improves the situation beyond its earlier state (what he coined the ‘second mile’) (Eglash, 1977, pp. 94~95). Finally, he suggests one further normative consideration in concluding that this *creative restitution* may be used in situations of *minor* harm and (in this case) even prior to an offense (Eglash, 1977, p. 96). In cases of *major* harm, it “fits best as a probation requirement” and may not be possible during or after a period of incarceration (Eglash, 1977, p. 96).

⁶² This, among other concerns, may be considered both a conceptual and practical issue (not a conceptual *or* practical issue, as some may suggest).

Taking this latter concern as an illustrative example, since its realization in the 1970s the conceptualization of this form of justice has shifted from a self-sustaining *alternative*, to a complementary system (Gavrielides, 2007). Despite this shift, restorative justice is commonly interpreted as an ‘alternative’ form of justice (Zehr & Mika, 1998; Pavlich 2005; Woolford & Ratner, 2008) and understood as being in a dichotomous relationship with the ‘traditional’ or ‘retributive’ justice system currently used in Western societies (Egash, 1977; Zehr, 2002; Woolford, 2009).⁶³ Informal justice practices in the past, which have been classified as restorative, have acted as absolute alternatives (Woolford & Ratner, 2008). These informal justice practices were the only forms used and remained independent of the dominant retributive system (Woolford & Ratner, 2008). However, contemporary ‘restorative processes’ have been primarily implemented as a supplement to the established system (see Guidoni, 2003; Hannem & Petrunik, 2007; Elliott, 2007). As a result, RJ proponents have acknowledged that restorative processes are easily co-opted by the traditional system and have suggested that measures should be taken to prevent this from occurring (Zehr & Mika, 1998; Piché & Strimelle, 2007). In contrast, however, other proponents believe that it is impossible or unwise to separate the two forms of justice (Woolford & Ratner, 2008; Lokanan, 2009). Still others understand restorative justice in terms of varying degrees on a continuum, ranging from a complete alternative to a default system (Van Ness & Strong, 2002; Ashworth, 2002; Lokanan, 2009; von Holderstein Holtermann, 2009).

This example demonstrates the inconsistencies within the literature and the *conceptual conflicts* (Gavrielides, 2007; Gavrielides, 2008) that threaten the potential for a coherent conceptualization of restorative justice and, following this, consistency or coherence of

⁶³ Woolford (2009), in particular, offers a history of this connection and a critique.

practice. These issues seem to substantiate Gavrielides' (2007) suggestion that social movements need to develop before they can establish limitations and consider the potential consequences of using the proposed alternatives. However, as explained above, more than four decades have passed since its introduction and restorativists have failed to adequately attend to these deficiencies.⁶⁴

There has, however, been a substantial amount of literature written that is critical of the restorative justice movement, seeking to develop a higher level of definitional clarity and eliminate these 'conceptual fault-lines' (Pavlich, 2005; Gavrielides, 2007; Woolford & Ratner, 2008; Woolford, 2009). Braithwaite (1999), for example, has made a concerted effort to analyze a vast array of the restorative justice literature, obtaining a general understanding of what proponents were saying about the use of restorative justice as an alternative; he analyzed the pros and cons presented by restorative proponents and opponents.

Braithwaite is often commended for his efforts within the field of restorative justice; he is considered to be a significant contributor to its development (see Latimer, Dowden, & Muise, 2005; Roche, 2006; Menkel-Meadow, 2007; Woolford, 2009). However, despite his potential contribution, there are limitations to this piece in particular. While Braithwaite (1999) attempts a general overview of the principle debate within the field (whether it should or should not be implemented), his study is unable to grasp the full *scope* of restorative justice. Braithwaite's (1999) evaluation is based more on the development of a *normative* approach⁶⁵, not a full description of the reality of RJ. That is, Braithwaite (1999) offers a prescriptive analysis of restorative justice based on some of the conflicts within the literature,

⁶⁴ An ultimate 'solution' to these issues is obviously not expected or necessary; what is desired is an attempt to direct conceptualizations to these concerns and/or use substantive techniques to problematize their current conceptions (such as those discussed in Chapter 2). A few attempts in this general direction have been made and will be explored throughout the rest of this preliminary *review*.

⁶⁵ See Braithwaite (2002) for an example of a model of restorative justice (the responsive regulatory pyramid) that has been developed based on these normative ideals.

but does not provide a full discussion of the *reality* of restorative justice in comparison, for example, to that which a *depth realist* ontology provides. Furthermore, the restorative justice movement has progressed, since the 1990's, and there now seems to be a need to focus on more specific issues pertaining to the implementation of the alternative (Gavrielides, 2007).

A more recent review of the literature by Menkel-Meadow (2007), provides a summary of the more current pieces and, in particular, the *empirical* studies that provide evidence for (and against) the practice. In this sense it was an actual *literature review*⁶⁶, a skeletal overview of the dominant issues portrayed in the literature. Of those influences on the practice that were acknowledged, most are focused on 'forces' in the negative sense: those that inhibit, or restrict, the restorative justice processes, not those that are involved in its evolution or manifestation (Menkel-Meadow, 2007). Thus, it provides a *limited* contribution to the analysis of these influential forces; one that lacks a full acknowledgement of *scope*, in the positive and negative (or facilitating and inhibiting) senses. Furthermore, restorative justice is again recognized as a contrasting process to the retributive/traditional system (Menkel-Meadow, 2007). There is no acknowledgement of other forms of justice and only a very limited discussion of other contextual factors is provided (Menkel-Meadow, 2007). When context is mentioned, primarily as a discussion of concurrent movements, its influence on the practice of restorative justice is not fully described (Menkel-Meadow, 2007).

Finally, in an influential study performed for the European Institute for Crime Prevention and Control (in affiliation with the United Nations), Gavrielides (2007) identifies six major "fault-lines" of restorative justice concerning: its relationship to the traditional system; how it

⁶⁶ I differentiate this from a *review of the literature*, which is an important aspect of the current study. The literature has been used in this thesis as 'data' for an analysis that also considers contextual and structural forces influencing the practice, these forces not necessarily having been mentioned by the authors. This data, therefore, acts as a concrete base off which further abstraction ~ isolation of individual forces influencing the object (observable or not) ~ can occur (Sayer, 1984; Danermark et al., 2002).

will function (i.e. either inside or outside this system); whether the definition should be based on the outcomes or processes involved in RJ; who should be included within the ‘circle’ of stakeholders; if RJ includes (or even *should* include) punishment; and what the principles of RJ are and how flexible they should be. In order for this movement to progress, he explains, these fault-lines will have to be addressed individually and in collaboration with the others (Gavrielides, 2007).

Gavrielides (2007) does not, however, thoroughly discuss the issue of ‘scope’. He only minimally identifies the potential issue of scope within one of the six conceptual fault-lines, which is his question of whether restorative justice is process- or outcome- based (Gavrielides, 2007). He suggests that by examining RJ as process-based, the definition ~ or understanding ~ of restorative justice becomes too restricted, thus limiting its scope (Gavrielides, 2007, p. 40). Despite Gavrielides’ (2007) limited acknowledgement of this conceptual aspect of restorative justice, I argue that all of the issues that he and others discuss ~ the *fault-lines* outlined above ~ do deal with *scope*, defined as the limitations for the use of restorative justice (*negative sense*) as well as those forces which disable these limitations or *enable* the practice of restorative justice (*positive sense*).⁶⁷ Scope is, conceptually speaking, the link between all of these *conceptual fault-lines* that Gavrielides (2007) has indicated. The concept of scope, as I develop it here, provides us with a means to address the fault-lines collectively as Gavrielides (2007) suggests we should.

My thesis contributes to this effort to deconstruct and (potentially) resolve the *conceptual conflicts* of restorative justice by examining the most and least prominent pieces of restorativist literature. This chapter provides a *description* and *understanding* of restorative

⁶⁷ These influences are described as thoroughly as possible in the sections below considering the depth to which they were constructed within the literature. They are not meant to suggest a *causal* relation between the factors presented and restorative practices; the model presented in this chapter is not an ‘*empirical-causal* model’ (see Blaikie, 2000, p. 173).

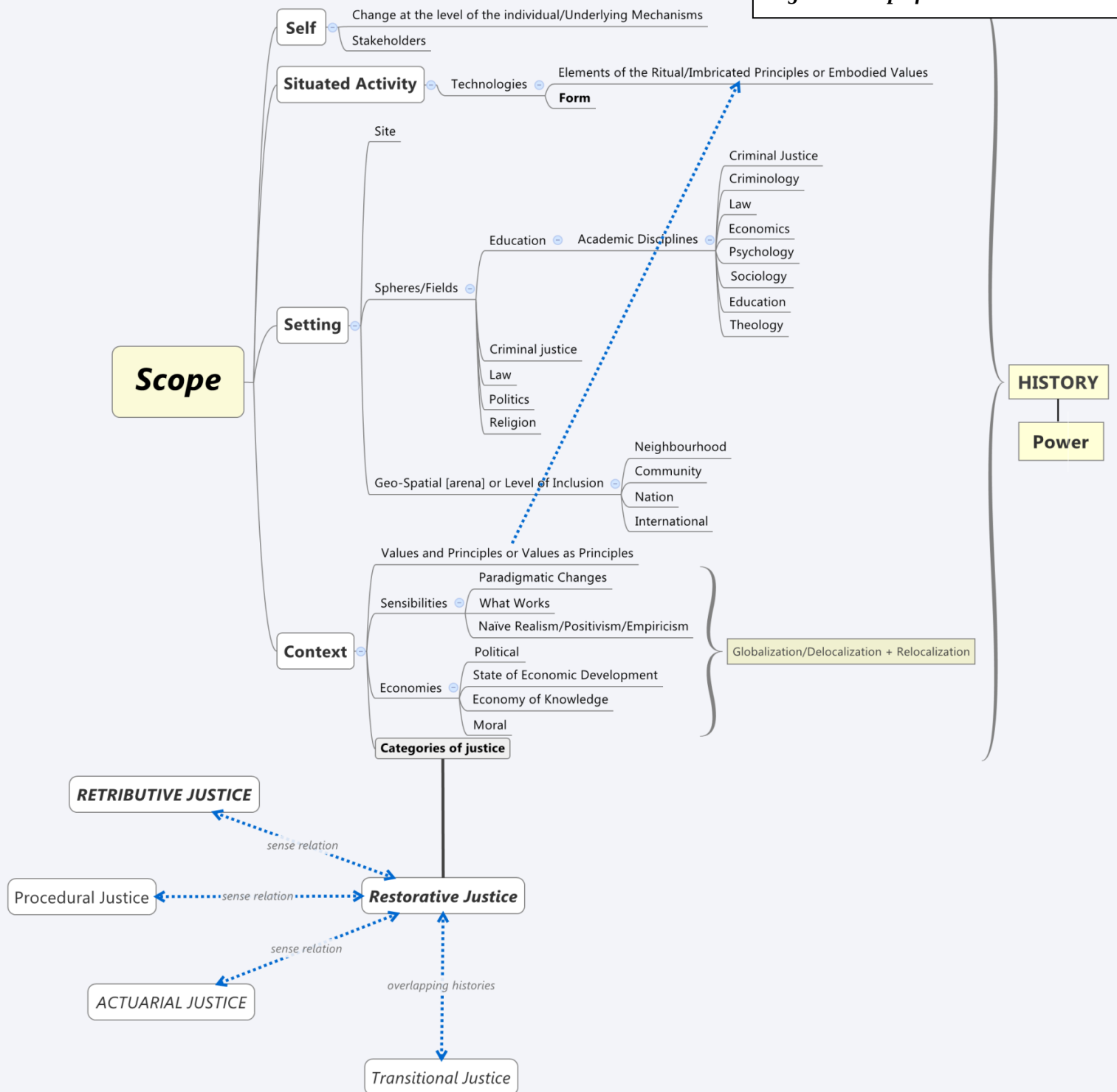
justice and supplements previous initiatives that explore the conceptual foundations of this field (see Braithwaite, 1999; Menkel-Meadow, 2007; Gavrielides, 2007). The following section looks at the process involved in reconstructing the ontological *structure* of restorative justice or what the ‘*scope*’ of restorative justice has been determined to be; it provides a snapshot of my approach and discussion of its origins. Located within this discussion is an illustration of the *model* produced, followed by a detailed elaboration of the scope of restorative justice, focusing not only on the breadth of the literature itself⁶⁸, but the component parts of this phenomenon. This model reflects the stratified nature and *polysemic* value of restorative justice as a *concept*, *practice*, and *field*, and utilizes the sensitizing concepts provided by Layder (1993). The fourth section offers a re-evaluation of the *conceptual conflicts*; an analytic reconstruction made possible by the revised and expanded *scope* of restorative justice.

Mapping the ‘Scope’ of Restorative Justice

Following the process outlined by Marx (1978), I have separated restorative justice into its component parts of which the greater whole is constituted. This process, which reflects the *theoretical anarchy* advocated by Layder (1993) and constitutes the *abductive strategy* (Blaikie, 2000) outlined in Chapter 2, has been applied to the extant literature on RJ. The reconstruction of the concept of restorative justice, in its many *senses* (i.e. as a *practice* and *field*), has been captured in my model (see p. 52, *figure 1*; p. 140, *figure 2*), or *map*, of restorative justice. While this map outlines the constitutive elements of this concept and shows which of these elements interact, it also enables one to see the stratification of restorative justice into levels that parallel those reflecting social reality more generally.

⁶⁸ Though this is implied by the dimensionality of the map.

Figure 1: Map of Restorative Justice



Thus, the model aims to clearly illustrate the component ‘parts’ of restorative justice practice, grounded in the literature. It situates these parts ontologically so they can be understood in relation to one another and, thus, in a wholistic manner as a more complete and concrete concept. The ‘levels’ identified follow from the *sensitizing concepts of self, situated*

activity, setting and context provided by Layder (1993), which were described more thoroughly in Chapter 2. These *sensitizing concepts* are used to increase the scope of our vision and understanding of restorative justice, which is captured by the tailored mapping of relations between component parts of RJ presented in the following sections.

The four *sensitizing concepts* should be understood as distinct but interconnected elements of this concept of *scope*, and provide a necessary dimensionality for the reconceptualization of restorative justice. They provide for a means of connecting the *conceptual conflicts* discovered by Gavrielides (2007; 2008). These components are ordered from the most micro of elements to the most macro, the most inclusive to the most specific, as Marx (1978) initially proposed.⁶⁹

Self

Self is the most micro-level category of *scope*, encompassing two elements of restorative justice: *change at the level of the individual* (or the underlying mechanisms of the practice) and *stakeholders*. Each element will be discussed in turn.

Change at the level of the individual corresponds with what Layder refers to as ‘*self-identity*’ and the ‘*individual’s social experience*’ (1993, p. 73). These changes occur within individuals: the participants of the restorative justice processes. These may align with certain restorative justice *aims* determined by particular stakeholders such as academics and policy-makers, for example (Menkel-Meadow, 2007; Gavrielides, 2008), whether *process* or *outcome* -based (Gavrielides, 2008).

These *changes* are constituted by the transformative impact of *moral emotions* (Harris, 2003). These are considered the smallest component parts of the model, but also seen as the

⁶⁹ This strategy was used when it was deemed appropriate and did not interfere with the internal logic of the ordering, Layder’s (1993) conception of these concepts and their interrelations, or the typology that naturally evolved from my dialogue with the data.

underlying mechanism of restorative justice (Sherman, 2003; Tyler, Sherman, Strang, Barnes & Woods, 2007). They include remorse, guilt, empathy, and hope, which are all considered positive; anger, humiliation, fear, and disgust, believed to be negative and counterproductive to restorative processes (Sherman, 2003); as well as embarrassment (Harris, 2003). These emotions are intertwined with identities (Theidon, 2006), whether shared/communal or individual/distinct. Thus, through the negotiation of values and the internalization or embodiment of these values in response to a conflict, the statuses and identities of individuals change (Wenzel, Okimoto, Feather & Platow, 2008). Since *identity*, itself, is composed of various levels of abstraction, individuals can develop relations based on a number of shared ‘intra’- or ‘inter’- group characteristics or values (Theidon, 2006). These underlying psychological mechanisms of restorative justice are described as being influential and leading to compliance and belief in the legitimacy of rules/laws, the adoption of values, or compliance with these shared values or formalized laws (Theidon, 2006; Tyler et al., 2007). Those values that are shared communally contribute to a broader moral structure (Tyler et al., 2007). Thus, this is the level where individual transformations occur, particularly those relating to identity and the connection between individuals through identity, which facilitates compliance with shared values and norms and further contributes to a broader *moral economy*.⁷⁰

Stakeholders are those individuals partaking in the process, outcome, construction, or evaluation of restorative justice.⁷¹ Some of the more prototypical examples of stakeholders include: offenders; victims, which may be an individual, group/organization, proxy (i.e. community representative, as identified by Harris, 2003; Menkel-Meadow, 2007; Wenzel et

⁷⁰ The notion of a *moral economy* will be discussed further in the following sections.

⁷¹ This definition is an attempt at summarizing the diversity in roles that stakeholders have been portrayed as having. This is, as with all the other components represented, exclusive to the literature reviewed and may not constitute the entirety of stakeholders involved in restorative processes more generally.

al., 2008); family/friends, or supporters; members of the community; and facilitators, which may include trained police officers, professionals, or paraprofessionals (see Christie, 1977; Sherman, 2003; Harris, 2003; Latimer et al., 2005; Roche, 2006; Menkel-Meadow, 2007; Gavrielides, 2008). These are the ‘stakeholders’ commonly identified within the restorative justice movement and can be seen to hold prominence early on. Less frequently identified within the literature include such stakeholders as professionals/paraprofessionals/practitioners⁷², which may include prosecutors, judges, police, victim support, community workers, counsellors, social workers, criminal treatment professionals, prison reformers, lawyers, and psychologists; religious groups; private organizations; funders; theoreticians, and/or researchers/evaluators; public bodies; policy-makers; and academics, especially within criminology, philosophy, sociology, psychology, and law (see Christie, 1977; Sherman, 2003; Casella, 2003; Latimer et al., 2005; Braithwaite, 2006; Roche, 2006; Downes & van Swaaningen, 2007; McEvoy, 2007; Menkel-Meadow, 2007; and Gavrielides, 2008 *for individual mentions*). There are also *specific academics* that hold a monopoly over the concept or are considered more prominent in the field: those academics that are frequently cited and explicitly identified as restorativists, such as Howard Zehr, John Braithwaite, Nils Christie, and Tony Marshall (see Latimer et al., 2005; Muncie, 2005; Roche, 2006; McEvoy, 2007). Other stakeholders include administrators, teachers, school staff, parents, students (Casella, 2003), politicians (Downes & van Swaaningen, 2007), and international state bodies (McEvoy, 2007). Further classifying these stakeholders are the general roles held by the actors and the prominent distinctions made between them,

⁷² Although ‘professionals’ were identified as key stakeholders among some of the restorativists (Sherman, 2003; Roche, 2006; Downes & van Swaaningen, 2007), the examples of stakeholders provided varied widely. Professionals are also linked to ‘facilitators’, as described above.

such as *state* versus *non-state actors* (Menkel-Meadow, 2007) and those involved in the *execution* versus those who are invested in the *solution* (Gavrielides, 2008, p. 173).

Situated Activity

This broader category includes a number of restorative justice ‘technologies’ (Muncie, 2005, p. 56), including the *forms* this practice takes and the micro-level elements involved in the *process* of restorative justice: the *principles* or *embodied values*. Each of these elements is explicated below.

Technologies. *Situated activity* is composed of a number of *technologies* of restorative justice, ‘technologies’ being a term adopted from Muncie (2005, p. 56). Interpreted from his text, it refers to a more material or manifest form of justice or *response* to crime or conflict (Muncie, 2005). Within this broader category he also includes human rights, authoritarian, responsabilizing, and retributive *technologies* (Muncie, 2005, p. 56). For the purposes of this model, it is meant to signify the distinction ~ which Muncie has presented (explicitly) and others have indicated (implicitly) ~ between material occurrences (or the manifestation of ideas) versus the ideas themselves (Muncie, 2005, p. 56; *see also* Tonry, 2005), but also the *interrelation* between the material and immaterial components. Thus, in introducing the level of *situated activity*, it is important to present the connection between the *values* upon which restorative justice is based and the corresponding *situated activity* that occurs, which further interacts with the *form* that the restorative justice practice models. As Wenzel, Okimoto, Feather, and Platow explain, there is a distinction between the practices that are performed (i.e. in the sense of ritualistic practices) and the form, or structure, that the restorative processes take (2008, p. 378). Each of these two elements will be discussed in turn.

Elements of the Ritual/ Imbricated Principles. These are various embodied values; those that take on a *concrete* form and enable, or constitute, the ‘practice’ of restorative justice.

Although I have been emphasizing the interconnections between material and immaterial phenomena, as *situated activity* is a more ‘micro’ level it is important to acknowledge the prominence of that which is more *concrete*. Furthermore, while engaging with the literature it became apparent that it was necessary to separate the broader overarching ‘principles’ of restorative justice ~ upon which the practice is based and which exist at the level of *context* ~ with the more imbricated values: those elements of the practice that become embodied.

Again, some of these values are more prototypical and may be used more frequently in restorative practices. The most frequently mentioned include reparations/restitution/compensation (Christie, 1977; Casella, 2003; Sherman, 2003; Schroeder, Steel, Woodell & Bembenek, 2003; Latimer et al., 2005; Braithwaite, 2006; Menkel-Meadow, 2007; McEvoy, 2007; Tyler et al., 2007; Gavrielides, 2008), which includes donations, community service (Sherman, 2003; Tyler et al., 2007), or agreement to treatment (Sherman, 2003), and may fall under the broader category of *censure* (Wenzel et al., 2008); narration/dialogue/direct communication (Casella, 2003; Latimer et al., 2005; Theidon, 2006; Downes & van Swaaningen, 2007; Menkel-Meadow, 2007; Gavrielides, 2008; Wenzel et al., 2008); and forgiveness (Christie, 1977; Sherman, 2003; Menkel-Meadow, 2007; Gavrielides, 2008). Also explicitly and implicitly referenced within the text is the potential for the transformation of social norms and/or reaffirmation or disaffirmation of values (*see, especially*, Christie, 1977; Menkel-Meadow, 2007; Wenzel et al., 2008).

Identified less frequently, but still evident in the literature, are values such as non-violent communication, healing, reintegration, the acknowledgement of harm/injury and the act of repairing said harm, undertakings of new behaviour, shaming, use of talking sticks and other ritualistic tools, reintegrative shaming, truth-telling, the strengthening of relationships, and

face-to-face encounters (see Latimer et al., 2005; Roche, 2006; Menkel-Meadow, 2007; Tyler et al., 2007; Gavrielides, 2008 *for individual mentions*).

Many of these can be (and often are) separated into elements of the *process* and elements of the *outcomes* of restorative practice, which creates a dichotomy within the conceptualization of restorative justice (*as seen in* Gavrielides, 2008). Another way of categorizing the elements is to isolate some based on their usefulness for *evaluation*, in the sense of contributing *outputs*⁷³, such as those suggested by Latimer, Dowden, and Muise (2005). The *evaluative components* that they considered include satisfaction, restitution compliance, recidivism, redress, vindication, healing, reparation, fair treatment, habilitation, reintegration/satisfaction and fairness (Latimer et al., 2005).

Finally, although overlap between restorative and transitional justice has been allowed in this reconceptualization, the elements identified exclusively within the *framework* of *transitional justice* include: prosecution, reparations, truth seeking, institutional reform, vetting and dismissals (McEvoy, 2007), and ‘administration of justice’ (Theidon, 2006). This last value may be said to encompass all of the other elements, dependent on its conceptualization. Similarly, the *forms* to which these practices subscribe may differentially emphasize the aforementioned values.

Forms. Alternatively identified as ‘styles’ (Woolford, 2009), or ‘models’ (Latimer et al., 2005, p. 138; Roche, 2006), *forms* is one category that has remained relatively consistent throughout the movement in the sense that there are specific referents to which restorative practices are continuously likened. The dominant forms that are clearly identified and acknowledged within the restorative justice literature include victim-offender mediation

⁷³ Not quite in the sense to which Muncie refers when discussing *actuarial justice* and managerialism (2005, p. 40). The similarities and differences in the conceptualization of restorative and actuarial justice will be discussed more below.

(VOM), victim-offender reconciliation program (VORP), sentencing circles/healing circles, and family group conferences (*see, for example*, Menkel-Meadow, 2007; Gavrielides, 2007; Gavrielides, 2008; Woolford, 2009).⁷⁴ These dominant forms are based upon specific models established at the beginning of the movement, such as the Kitchener, Ontario VORPs (*see* Roche, 2006, p. 219); New Zealand juvenile justice practices (Sherman, 2003, p. 15; Menkel-Meadow, 2007, p. 168; Roche, 2006, p. 219); and Canada's circles (Sherman, 2003, p. 15; Muncie, 2005, p. 42). These referents link ideas about the different *structures* that may inform restorative practice to the specific practices that have already been *implemented*.

Other forms include peer mediation, conflict resolution programs, governance councils, school service (reparations) (Casella, 2003); community 'moots' (Menkel-Meadow, 2007); specialized reparative courts (Menkel-Meadow, 2007); and local 'indigenous practices',⁷⁵ (Muncie, 2005; McEvoy, 2007). These are referred to less frequently and may be labelled the 'peripheral forms' that some restorativists are now trying to get acknowledged within the literature (*see* Casella, 2003; Roche, 2006; Menkel-Meadow, 2007; Woolford, 2009).

Although these peripheral forms are represented by different *signifiers*, indicating that the practices may be distinct, there is significant overlap with other 'more established' *forms* of restorative justice, such as the 'peer mediation' described by Casella (2003) and VOMs, for example. One issue that evolves from this classificatory system is the overwhelming focus on

⁷⁴ Latimer, Dowden, and Muise (2005) also acknowledge each of these, with the exception of VORPs, excluding other practices based on the use of a definition that delineates necessary and sufficient conditions. They explain that although these forms are distinct 'practices', the principles informing each are similar (Latimer et al., 2005).

⁷⁵ This 'form' is closely connected to Maori practices (via sense-relation), which are considered to be the model for family group conferences (Roche, 2006). Thus, they may be referred to as a *dominant form* by some restorativists. As a *signifier*, however, 'indigenous practices' also refers to less frequently cited practices that have not necessarily contributed to the formation of a *dominant* form and are not accepted by other restorativists. In fact, some believe that equating (but not connecting) restorative justice to *informal practices*, more generally, is problematic (Roche, 2006; Woolford, 2009). At this point the meticulous reader might notice what would (on the surface) appear to be a discrepancy, regarding 'dominant' versus 'dominated' literature in relation to 'prototypical' versus 'peripheral' aspects of restorative justice in the sense that some of the more peripheral aspects of this reconceptualization may actually be drawn from the 'dominant' literature (i.e. most frequently cited) and vice versa. However, an adequate understanding of these notions of 'prototypical' versus 'peripheral' requires an acknowledgement of a deeper interconnection and will force the reader to focus on intertextual relations that exist regardless of the 'status' of these pieces and the dichotomous framing of discourses.

form (or the label representing the form) and a lack of focus on the *processes/procedures* involved or an inattention to the requirements/elements of the practices being met (*as seen in* Tyler et al., 2007).

Finally, in a slightly different sense, restorative practices can also be understood as auxiliary practices, including those that are part of ‘responsive regulation’ (Braithwaite, 2006) and those falling under the category of *transitional justice*, such as the Truth and Reconciliation Commissions discussed by McEvoy (2007). Although TRCs have been accepted as a more general *form* (Menkel-Meadow, 2007; Woolford, 2009) and the literature reflects a connexion between transitional justice and restorative justice (Theidon, 2006; McEvoy, 2007), they are still part of a distinct *category* of justice or relating to “new institutions of justice” (*as summarized by* Menkel-Meadow, 2007, p. 169).⁷⁶ Furthermore, transitional justice practices are seen to work, *generally*, at a *macro-* (McEvoy, 2007, p. 421) or formal (Woolford, 2009) level.⁷⁷ Some of the practices associated with transitional justice include peacemaking circles and community-based restorative justice programmes, truth recovery projects, reparations bodies, special trials and local tribunals (McEvoy, 2007; *see also* Theidon, 2006). Again, these are labelled with ~ or at least connected to ~ the signifier ‘restorative justice’, while also being framed within the *context* of *transitional justice*. These practices hold the same broad value that other restorative processes endorse: emphasis on local values and the link between culture and justice (*see* later discussion of *context* and *values*). McEvoy also suggests that some of the subtypes identified are actually ‘grass-roots’ transitional justice practices (2007, p. 413). He endorses a particular focus on these practices

⁷⁶ These *new institutions of justice* might be viewed in their totality as a branch of justice sprouting from the RJ movement in the 1990s (Menkel-Meadow, 2007, p. 169). It is this historical connexion that bridges these two categories of justice ~ restorative and transitional ~ in the *Map of Restorative Justice*.

⁷⁷ RJ has been critiqued on the basis that it may not be able to function at a greater capacity in regards to geo-spatial *scope*; it is believed that a national or international level of restorative practice could not be managed (Menkel-Meadow, 2007, p. 180).

and their community orientation (McEvoy, 2007, pp. 413~414). This perceived preference would again imply a link between restorative justice and more micro forms of conflict resolution.

From Braithwaite's (2006) perspective, however, restorative justice is a dominant process in a larger model that outlines proposed responses to regulatory breaches: *responsive regulation*. This model also includes *deterrence* and *incapacitation* (Braithwaite, 2006).

Both of these alternative conceptions of restorative justice ~ as a set of practices employed within a distinct category of justice and, conversely, a major component of a broader model of justice ~ require an even deeper analysis of *sense-relations* (see Sayer, 1984) and the interconnections between 'distinct' *forms* or *categories* of justice and the *values* or *principles* that they endorse.

Setting

As indicated by the literature, there are multiple dimensions of *setting*. The following is a breakdown of the typology, from most micro to most macro.

Site. The *site* of restorative justice is *where*, more specifically, the situated activities take place; the physical or metaphysical spaces of restorative practice. For example, organizations, the family, neighbourhoods, schools, clubs, corporations, criminal justice institutions (i.e. prison, courts, corrections), Universities, and in particular the Australian National University, where the Reintegrative Shaming Experiments (RISE) were performed by RegNet, are all distinct 'sites' (see Christie, 1977; Sherman, 2003; Casella, 2003; Harris, 2003; Latimer et al., 2005; Braithwaite, 2006; Tyler et al., 2007; Menkel-Meadow, 2007;

Gavrielides, 2008 *for individual mentions*). There are also more peripheral sites, even *within* the criminal justice arena, such as drug courts and mental health courts (Sherman, 2003).⁷⁸

Spheres/Fields. Included within the category of *fields* (or spheres) are the fields of *education, politics, law, Criminal Justice, and religion*. Within this broader field of *education* is the field of *academics*, which encompasses all of the related disciplines of influence (i.e. criminal justice, criminology, law, economics, psychology, sociology, education, theology), as reflected in the literature. For the purposes of this thesis, a conceptual distinction must be made between fields in terms of *disciplines* and other fields of *practice*. When *disciplinary fields* are mentioned, they are considered a sub-field of *academia* and, thus, their struggles are often at a conceptual level and generally concern the construction and evaluation of restorative justice.⁷⁹

As explained in the previous section, there are dominant *forms* of restorative justice: those variations of *situated activity* widely accepted by restorativists as models for the practice, which are both linked to the initial movement and, consequently, act as specific referents. These forms are often connected to a particular field, that of Criminal Justice, whether practically or conceptually (Harris, 2003; Sherman, 2003; Latimer et al., 2005; Roche, 2006; McEvoy, 2007). In a more peripheral piece of literature, Roche (2006) brings forth this argument. Roche (2006) indicates that there is a power struggle within the different fields for the monopoly over restorative justice practices. He claims that restorative justice has been

⁷⁸ While ‘courts’ were named broadly in the context of criminal justice institutions, these courts are much more specific and infrequently mentioned.

⁷⁹ In counter to any critique that this reflects the same dichotomy (theory versus practice) that plagues Gavrielides’ (2007; 2008) work, this distinction is simply made for the purposes of establishing some [weak] boundaries. This distinction might be interpreted as a simple differentiation between the ‘first world’ and the ‘second world’ ~ that of *objects* versus that of *subjects* ~ defined by Mouton (1996). Thus, I am not suggesting that theory and practice are distinct or that the academic literature cannot or does not influence the practice of restorative justice significantly, but am simply reflecting on a difference in the level of abstraction. In contrast, Gavrielides’ (2007; 2008) pieces seem to indicate a disconnection between the role of the academic and the role of the practitioner. While there may very well be some particularities to each, I do not categorize them in the same binary fashion. Tonry (2005) provides a thorough analysis of the potential influence and *application* of theory and academia more generally.

taken over by this field to such an extent that in response he constructs a new signifier: *restorative criminal justice* (Roche, 2006). This ‘struggle’ is a conceptual struggle as much as a practical one, as he suggests that the *label* of restorative justice itself holds a prominent *value*.⁸⁰ Roche (2006) questions why the dominant conceptualization of restorative justice comes from within the criminal justice system, when there are other fields that follow this approach. This attempt to depart from the Criminal Justice field is reflected in multiple pieces under review (*see, for example*, Casella, 2003; Braithwaite, 2006; Wenzel et al., 2008). Thus, this has been identified as another significant *conflict* within the literature and will be a primary focus in the following chapter when these symbolic struggles are explicated more thoroughly.⁸¹

Geo-Spatial [arena] or Level of Inclusion. These are the ‘levels’ referred to by Gavrielides (2007; 2008)⁸², discussed as *restrictions* that effect restorative practices by Menkel-Meadow (2007), and incorporated in-text ~ in various capacities, both implicitly and explicitly ~ by other restorativists (*see, for example*, Theidon, 2006; Braithwaite, 2006; McEvoy, 2007). Some examples of these levels include neighbourhoods, communities, nations, and a collection of nations or an *international* level (*see, for example*, Christie, 1977; Menkel-Meadow, 2007; Gavrielides, 2007; Gavrielides, 2008). Beyond this generic notion, certain geographical spaces are specifically identified within the literature as being involved in practicing restorative justice, including New Zealand; Australia; Canada; USA; Japan; parts of Europe (especially the United Kingdom) and more specifically England, Scotland,

⁸⁰ This is further exemplified by the notion of ‘rebranding’ of informal practices with the RJ label (Roche, 2006; Woolford, 2009).

⁸¹ There are many who claim that restorative justice has been ‘co-opted’, as RJ was not able to disconnect completely from the ‘traditional’ system (Zehr & Mika, 1998; Piché & Strimelle, 2007). This concern will be interpreted as a battle between distinct fields of influence, while acknowledging a number of actors and institutions within and outside of these interconnected ‘systems’.

⁸² Although he refers to these explicitly in terms of the conceptualization of RJ, I extend these ‘levels’ to its practical application.

Norway, Austria, Belgium, and Singapore (see Harris, 2003; Latimer et al., 2005; Muncie, 2005 for individual mentions).

Furthermore, within the broader context of the movement there are particular nations and communities associated with important *referents*. For example, the Maori from *New Zealand* are frequently mentioned in relation to restorative practices (Sherman, 2003, p. 15; Muncie, 2005, p. 42). *Australia*, the location of the Australian National University, the site of the Regulatory Institutions Network (RegNet), is also perceived to be a great proponent of restorative practices (Sherman, 2003). It has also been suggested that specific nations differentially place more or less value on certain principles. For example, Africa focuses on solidarity, reconciliation, and restoration (Muncie, 2005).⁸³

Within this category of *setting*, there is a further distinction made between ‘developed’ and ‘developing’ nations and how they are characterized in relation to what *forms* of RJ are used (Christie, 1977; Braithwaite, 2006; Theidon, 2006; Downes & van Swaaningen 2007). As such, there are regional differences in material and immaterial conditions that should also be considered (Muncie, 2005). This would include contextual factors such as demographics (as seen in Downes & Swaaningen, 2007) and national and local cultures (Muncie, 2005), which may influence the practice of restorative justice.

As suggested by Muncie (2005) and Downes and van Swaaningen (2007), other macro-level forces that influence restorative justice at the level of *setting* are globalization, sensibilities, and changes in states of economic development.⁸⁴ Of particular relevance is the notion of *transitional* states, which are those going through significant changes (both

⁸³ The fact that these values are employed in the particular practices of Truth and Reconciliation Commissions should also be noted. Again, this demonstrates an acceptance of a *sense-relation* connecting *restorative justice* and *transitional justice* (as demonstrated in the *Map*).

⁸⁴ These ‘forces’ are more thoroughly discussed in the *Context* section. The point of introducing them here is to demonstrate that the levels being discussed are not completely separate, but maintain a fluidity and interconnection.

material and immaterial) (Theidon, 2006; McEvoy, 2007). These macro-level changes influence the justice practices undertaken, which is illustrated through the occurrence of such practices as ‘restorative-like’ activities at both state- and community- levels (Theidon, 2006; McEvoy, 2007). These distinct levels of restorative practice (i.e. micro- versus macro-versions) and how they are interconnect with *forms* and *imbricated principles* are most clearly distinguished within these *transitional contexts* (as indicated in Theidon, 2006). However, this context also illuminates how the different levels of restorative justice may conflict (see, especially, McEvoy, 2007; Menkel-Meadow, 2007).

Context

As reflected in the literature, there are a number of *connexions*⁸⁵ between RJ and other types of justice; from more abstract notions of justice (i.e. distributive), to more concrete embodied forms (i.e. actuarial). To some extent, this connexion to other forms of justice indicates that RJ is simply part of a greater whole or one ‘category of justice’ among many (Schroeder et al., 2003, p. 385). It is, therefore, important to acknowledge the focus within the literature on the conceptual ambiguity of restorative justice in relation to other ‘ambiguous’ categories of justice. For example, there are similar values at play among the different categories; certain ideas of justice correspond to multiple categories, such as the notion of *censure* relating to both retributive and restorative justice (Wenzel et al., 2008). Furthermore, while on an immaterial or conceptual level there are similarities between these categories, there are also broader ‘contexts’ ~ structural and/or material influences ~ that

⁸⁵ In particular, restorative justice is most commonly *contrasted* with retributive justice (see, for example, Sherman, 2003; Wenzel et al., 2008). Although the closest, yet, to providing a *visualization* of restorative justice, Woolford (2009) also focuses on this distinction, albeit from a more critical perspective. This preoccupation is primarily based on the *history* of RJ and the evolution of this alternative to the retributive system (Roche, 2006; Gavrielides, 2008).

may support or provide the ideal conditions for multiple categories of justice (*see, especially, Casella, 2003; Muncie, 2005*).⁸⁶

Although each *category* can be broken down, similar to how restorative justice has been, it is beyond the scope of the current project to deconstruct and reassemble the component parts of each of these other categories of justice and then establish the interconnections between them in their entirety. Therefore, the following will be a brief overview of these categories, along with their connexions to restorative justice, as discovered within the literature.

Multiple Categories of Justice. Five other distinct *categories* of justice are identified within the literature, with varying degrees of association to restorative justice, levels of abstraction, and material referents. These categories include retributive justice, distributive (or re-distributive) justice, procedural justice, actuarial justice, and transitional justice⁸⁷.

Retributive justice, as defined by Wenzel, Okimoto, Feather, and Platow, “is the reestablishment of justice through unilateral imposition of punishment on the offender consistent with what is believed the offender deserves” (2008, p. 381).⁸⁸ As mentioned above, retributive justice is commonly contrasted with restorative justice. This does not, however, suggest that the relation between RJ to other categories of justice is exclusive to retributive justice or that restorative and retributive justice have no connexion besides a negative relationship.

⁸⁶ A focus on the *conditions of existence*, therefore, is also essential (but not sufficient) for understanding *what* restorative justice is.

⁸⁷ Transitional justice has been excluded from the general summary, as it is best understood in direct relation to restorative justice. This connexion is developed thoroughly throughout the rest of the chapter.

⁸⁸ As will be reiterated many times, definitions are not always sufficient in the representation of phenomena because they lack *depth*. However, the interrelations between RJ and retributive justice will be explicated in further detail below. Thus, for the purposes of this section, this *general* description is sufficient.

Distributive justice, the least frequently mentioned category within the literature, concerns the equitable distribution of tangible and intangible goods (Schroeder et al., 2003).⁸⁹ Distributive justice, like restorative justice, deals also in phenomena at the level of norms, values, and emotions. In particular, it is concerned with *norms of equity and equality* (Schroeder et al., 2003, p. 377).

Procedural justice is identified broadly as ‘due process’ (Muncie, 2005) or ‘fairness’ (Rawls, 1971; Rawls, 1999; Rawls, 2001, *as cited in* Schroeder et al., 2003, p. 376; Tonry, 2005, p. 1259). Based on the references made by the restorativists, procedural justice appears to be the *dominant* conceptualization of *justice* in a more general sense.

Actuarial justice, according to Muncie, incorporates a managerialist approach influenced by evidence-led policy, with a focus on risk assessment, outputs, and efficiency in punishment (Muncie, 2005, p. 39; *see also* Casella, 2003; Downes & van Swaaningen, 2007). Responsibilization and accountability are two dominant *values* relating to this category of justice (Muncie, 2005).

Some categories such as distributive or procedural are more ‘abstract’ than restorative or retributive, in the sense that they are portrayed as being values that are embodied in various practices, but primarily exist as philosophical principles for ‘justice’ (Schroeder et al., 2003; *and to a lesser extent* Harris, 2003; Wenzel et al., 2008). In contrast, there are practices, institutions, and more *material forms* attributed to retributive, restorative, and actuarial justice (*see, for example*, Casella, 2003; Muncie, 2005). However, there are also scholars who discuss restorative justice in more abstract terms and seem to identify its primary

⁸⁹ According to Schroeder, Steel, Woodell, and Bembeneke (2003), this ‘sense of justice’ focuses pre-emptively on personal and collective ‘satisfaction’ and the equitable distribution of resources. The way this category is described necessitates an understanding of its relation to other categories of justice that are more reactive. For example, if there is dissatisfaction or a perceived inequitable distribution, there may be cause for some reassessment and resolution of these distribution concerns through re-distribution, which in turn may involve the mobilization of some other justice practice. For this reason, the alternative *signifiers* ‘re-distributive justice’ or ‘(re)distributive justice’ are also used in this chapter.

ontological status as a set of distinct *values* (see Harris, 2003; Schroeder et al., 2003; Wenzel et al., 2008).

Furthermore, some restorativists have indicated that there are common values shared among some of these ‘distinct’ categories of justice (see, for example, Casella, 2003; Muncie, 2005). In addition to similarities at the level of principles and values, there are some structural influences that may enable multiple categories of justice, or even approaches to crime and harm more generally, to evolve, coexist, and even prosper (Muncie, 2005; Tonry, 2005). Thus, these categories of justice do not exist in isolation; different categories of justice interact and can be at play depending on the political and economic climate (Casella, 2003; Sherman, 2003; Tonry, 2005; Braithwaite, 2006). Policies implemented within various institutions may reflect a number of contrasting or even conflicting values, as demonstrated by Casella (2003) and implied by Muncie (2005). Similarly, broader regulatory models, such as *responsive regulation*, encompass multiple categories of justice with varying degrees of influence (Braithwaite, 2006). It can therefore be assumed that dissecting the similarities and differences in *values* informing these categories of justice and the mutual or exclusive *conditions* that support them, illuminates the unification and/or division of these categories of justice in practice.

Values as Principles. Contributing to restorative justice as a distinct category of justice, then, are the broader contextual values that constitute restorative justice. Restorativists may refer to these values as ‘principles’ (see, for example, Zehr & Mika, 1998). Using the sensitizing concepts provided by Layder (1993), these values may be broken up and divided into *overarching values*, that distinguish it as a “notion of justice” (Wenzel et al., 2008, p. 376), and the translated *embodied values* or elements of rituals, which are performed in

various restorative practices.⁹⁰ Thus, in the most abstract sense, these *overarching values* are the ‘sense’ of *justice* attributed to restorative justice.

The main principles ~ broadly defining this particular *category* of justice (Schroeder et al., 2003, p. 385) and most widely accepted within the literature analyzed ~ include the following elements: participation (Christie, 1977; Sherman, 2003; Harris, 2003; Casella, 2003; Latimer et al., 2005; Theidon, 2006; Menkel-Meadow, 2007), accountability⁹¹ and responsabilization (Latimer et al., 2005; Muncie, 2005; Theidon, 2006; Tyler et al., 2007; Menkel-Meadow, 2007; Wenzel et al., 2008); informalization (Schroeder et al., 2003; Muncie, 2005; Braithwaite, 2006; Roche, 2006; Menkel-Meadow, 2007); collectivity/communitarianism (Sherman, 2003; Latimer et al., 2005; Muncie, 2005); voluntariness (Sherman, 2003; Latimer, et al., 2005; Gavrielides, 2008); democracy, including all the values related to this notion such as deliberation, participation, and accountability⁹² (Casella, 2003; Muncie, 2005; Braithwaite, 2006; Menkel-Meadow, 2007), and *autonomy* of groups or *agency* more generally. Although only suggested implicitly in many of the articles, *agency/autonomy* appears to be of particular importance (*see, for example*, Tyler et al., 2007; Gavrielides, 2008). Other values mentioned include inclusiveness (Casella, 2003; Roche, 2006); creativity (Braithwaite, 2006; Menkel-Meadow, 2007; Downes & van Swaaningen, 2007); deliberation (Roche, 2006; Braithwaite, 2006); rehabilitation (Muncie, 2005; Theidon, 2006); empowerment (Braithwaite, 2006; Gavrielides, 2008); and consensus (Sherman, 2003; Latimer et al., 2005). Finally, those less explicitly shared within the literature reviewed are principles such as relationality;

⁹⁰ These ‘embodied values’ were delineated earlier under *situated activity*.

⁹¹ McEvoy (2007) refers to a *collective accountability*, distinguishing between ‘accountability’ understood within the context of restorative justice (collective) and retributive justice (individual), but not accountability within ‘actuarial’ terms.

⁹² Many restorativists used the term ‘democracy’ to *supplement* another signifier, in an attempt to reference a more specific value (i.e. [democratic] participation). This connexion between restorative justice and democracy, however, was also strongly referenced in a more general sense.

negotiation of morals and [sense of] community; respect; moralizing; the ‘4 R’s’: repair, restore, reconcile, reintegrate (Menkel-Meadow, 2007); a future orientation; equality; voice; dialogic morality; fairness (this one being particularly interesting, as it is commonly referred to as a procedural value); satisfaction; legitimacy (of the law [or norms]); harm reduction; faith/religion-based; harmony; customary practices, flexibility/discretion/consideration of circumstances; outreach; a ‘bottom-up’ approach; and reform (see Casella, 2003; Latimer et al., 2005; Muncie, 2005; Braithwaite, 2006; Roche, 2006; Menkel-Meadow, 2007; Tyler et al., 2007; Gavrielides, 2008; and Wenzel et al., 2008 *for individual mentions*). At an international level, the United Nations posited participation, confidentiality, and procedural safeguards as the underlying principles to restorative justice (Muncie, 2005).⁹³

Looking at the more ‘macro’-focused set of practices, historically related to and interconnected with restorative justice (Menkel-Meadow, 2007), *transitional justice* is associated with accountability, ‘justice’, reconciliation, statelessness, and community autonomy (McEvoy, 2007). These principles are clearly not at odds with the values that are assumed to reflect restorative justice more generally.

Sensibilities. We can define *sensibilities* as “shared assumptions and understandings [...] that shape perceptions of the world” (Tonry, 2005, p. 1239). These assumptions include both “the problems we consider important, and the solutions we think viable” (Tonry, 2005, p. 1238). This element is also referred to as the “temper of the times” (Tonry, 2005, p. 1244); it reflects a dynamic, temporal, dimension to restorative justice, among other categories of justice, and the influence of various immaterial forces on its use and acceptance. According

⁹³ Many of the values delineated above might be said to constitute *situated activity*. However, they were placed in this broader category primarily due to the sense of the concepts reflected and their textual context within the literature. The fact that there is a clear relation between these two classes of values reiterates the interaction between these levels and the porousness of the categories constructed.

to the typology presented in the model, this would be a broad notion ~ encompassing a number of ‘shared assumptions’ or ‘understandings’ of the world ~ as described below.

Paradigmatic Changes. Following a slightly more narrow focus than sensibilities more generally, Sherman (2003), in particular, discusses a number of different justice ‘paradigms’. Included within these paradigms are: *expressive economics*, *expression*, *economics*, and *emotional intelligence* (Sherman, 2003). These align with the implementation of various practices of justice and follow the general categories outlined by other restorativists (i.e. retributive, restorative, and actuarial justice).

Some restorativists also referred to the idea of *movements*, sometimes concurrent (Downes & van Swaaningen, 2007), and the proliferation of human rights (Muncie, 2005), which fits with this idea of changing sensibilities and, at a subordinate level, paradigmatic changes.

What Works. This is a catchphrase informing the implementation of restorative practices, resonating within the literature, and supposedly acting as a *rational* for changing policies. It was a driving force to the restorative movement (Roche, 2006) and, based on the current literature, is still a dominant influence (*see, for example*, Latimer et al., 2005; Menkel-Meadow, 2007).

In the early years of the movement, the notion of ‘what works’ was interpreted in a unique way by Nils Christie (1977). According to Christie’s (1977) conception, our focus should not rest exclusively with the ‘results’ of these processes, such as treatment and reduced recidivism (i.e. measurable phenomena). Instead, our interest should lie with its pedagogical potential and the opportunities these practices provide for *norm-clarification* (Christie, 1977, p. 8). In contrast, upon reviewing the literature decades after Christie’s (1977) proposal, it is clear that restorativists appear to be especially focused on the *evaluative capacity* of

restorative justice and, in particular, rates of recidivism (*see, for example*, Latimer et al., 2005; Tyler et al., 2007). The *evaluative components* considered now, however, are not *exclusively* material/ empirical, but also ‘intangible’, holding symbolic value in a cultural and political sense (*see* Muncie, 2005). However, this would seem to create further issues in the evaluation of restorative justice, given the decisively positivistic approach to these evaluations (*see, especially*, Latimer et al., 2005) and the fact that some of the values considered important for its assessment are particularly difficult to measure (*see* Sherman, 2003). As will be discussed below, the *positivist* perspective presently influencing the field actually creates a conflict between our current understanding of how we should determine ‘what works’, what ‘outcomes’ should be valued, and our understanding of restorative justice.

Naïve Realism, Positivism, and Empiricism. Although restorative justice is described by some as being inherently ontologically and epistemologically flawed (Latimer et al., 2005; *see also* Woolford, 2009), there appears to be a positivist orientation reflected in the approach taken by restorativists. This rigid notion of science includes an emphasis on quantitative analyses of ‘what works’ in terms of both *process* and *outcomes*.⁹⁴ Furthermore, and following from this position, there is an empiricist orientation to these evaluations; a focus on individual results or changes at the level of the individual, which are (generally) quantifiable and relating specifically to the aforementioned notion of ‘what works’ (*see* Harris, 2003; Sherman, 2003; Latimer et al., 2005; Menkel-Meadow, 2007; Tyler et al., 2007). This naïve realist/empiricist lens includes a tendency to focus on crime rates and the *material* conditions that influence the fluctuation of these rates (Downes & van Swaaningen, 2007). The positivist focus and attention to the empirical described thus far can be examined

⁹⁴ This is demonstrated by the general nature and focus of some of the literature reviewed.

in connection to a new ‘managerial’ or ‘actuarial’ focus, the evolution of which appears to coincide historically with the progression of the restorative justice movement (see Muncie, 2005; Downes & van Swaaningen, 2007).

Although influencing the *fields* of criminology and criminal justice more generally (see *earlier critique initiated by* Williams [1984]), these shifts in our approach to research have potentially limiting effects on the conceptualization of restorative justice in particular. For example, the measurability of the processes involved in these practices and their subsequent results may actually restrict how restorative justice can be conceptualized. This is illustrated by the limited sample used by Latimer, Dowden, and Muise (2005), where only a few forms were accepted as being ‘restorative’. This restriction goes against Mills’ (1959) emphasis on *substantive research* and is illustrative of the effects of what he calls an *abstracted empiricism*.

To supplement and support this assessment of the restorative justice literature, is the notion of a broader “evidence-based research movement” that is refocusing on *standards for science* (Denzin, 2009, pp. 139~140). This movement postulates a positivistic approach to research, particularly targeting evaluation, which necessitates a fetishizing of the techniques used to produce research (Denzin, 2009, pp. 139~140). The restorative justice literature under review demonstrates an alignment of these two movements ~ the restorative justice movement and this *evidence-based research movement* ~ especially evidenced by the references made to ‘*what works*’ and resulting in the reduction of restorative justice to its ‘objectifiable’ effects (see Harris, 2003; Sherman, 2003; Latimer et al., 2005; Menkel-Meadow, 2007; Tyler et al., 2007).

Others have also reflected on this dominant positivist approach to restorativist research (Stanfield, 2006; see also Dancy, 2010, on *transitional justice*). Stanfield (2006), for

example, acknowledges the influence of positivism within research on restorative practices. Similarly, within the subfield of transitional justice, the movement from a prescriptive approach, to one of critical analysis, to the current dominant domain of an *evaluative orientation* (or consideration of ‘what works’), following a positivist approach, has minimized the complexity (and one might argue the difficulty) associated with the assessment of this social phenomena (Dancy, 2010, pp. 356, 364, 366).⁹⁵

However, not all disciplinary fields are, necessarily, equally susceptible to this positivist orientation. As McEvoy (2007) suggests, positivism exists prominently within the legal field. Therefore, this concern may be particularly relevant for specific forms of RJ such as Truth and Reconciliation Commissions, which are thought to be dominated by the field of law (see McEvoy, 2007). To combat this dilemma, it has been suggested that criminology take a more dominant role (McEvoy, 2007).⁹⁶

Economies. A number of distinct economies evolved from the literature including political economy, the state of economic development, the economy of knowledge, and moral economy, each of which will be discussed in turn.

Political economy. The shift to neo-liberalism, described by Muncie (2005), has played a role in the use of restorative practices as well as various other approaches falling under one or more categories of justice. The changes resulting from this shift to neo-liberalism and the subsequent focus on responsibility and accountability include: the devolving responsibility of

⁹⁵ In this case Dancy (2010) does not argue *against* positivist research in the sense of attempting to make generalization across samples possible, but more so argues *for* the complementary use of ‘interpretive-critical logics’ within this new evaluative milieu. Dancy (2010) also identifies the frequent association between positivist research and quantitative techniques. Although suggesting that these two are *not* equitable by any means, he explains that “[t]he latter is almost always in service of the former” (Dancy, 2010, p. 363). Thus, Dancy (2010) has found this same cyclical relation ~ between evaluation, positivism, and quantitative analysis ~ that has been highlighted as a theme across the literature currently under review. This thesis simply makes a stronger connection between these forces and a tendency towards a focus on the empirical, or the objectification of this phenomenon more generally, and some other ‘structural’ influences not mentioned in Dancy’s (2010) work.

⁹⁶ Of course this precludes the empiricist tendencies within criminology itself (see Williams, 1984).

the state in its role to govern and its transference to the individual, families, and communities; the commodification of crime control; a widening material inequality; and a burgeoning ‘scientific realism’ and emphasis on ‘what works’ (Muncie, 2005). These are conditions, both material and immaterial, that are seen to enable or disable, align or not, with restorative practices and values. Muncie (2005) indicates that regardless of whether the political power identifies as social democratic or neo-conservative, these factors are influential in the transformation of justice. Similarly, McEvoy identifies changes in values occurring simultaneously with the rise of neoliberalism, including: accountability, empowerment, “non-discrimination legitimacy”, transparency, and partnership (2007, p. 430). Although not all of the restorativists consider these contextual forces, there are references within the texts to the ‘management of behaviour’ and risk management or managerial approaches used (*see, for example*, Tyler et al., 2007 and Latimer et al., 2005, *respectively*). The state of the *political climate*, as discussed by Downes and van Swaaningen (2007) and Tonry (2005), is said to further influence the implementation of justice, based on its stability or instability.

The state of economic development, of the nation under consideration, is also of concern for restorativists. There was a distinction made within the literature between those nations that were either developed or considered to be in a state of development (Muncie, 2005; Roche, 2006; McEvoy, 2007). Furthermore, factors such as whether the nation is in a state of prosperity versus instability (Downes & van Swaaningen, 2007); is considered well-resourced (Braithwaite, 2006; McEvoy, 2007); has networking capacity and to what extent (Braithwaite, 2006); and its status as a strong state, with strong markets and civil society (Braithwaite, 2006), were all considered influential in the implementation and success of restorative (and other) practices. In Braithwaite’s (2006) text, for example, these advanced

material conditions are seen to enable *responsive regulation*, which is a model for the implementation of primarily restorative practices.

However, not all restorativists considered a ‘developed’ state to be conducive to restorative practices. Writing decades before most of these other restorativists, Christie (1977) explains that industrialized societies are actually *problematic* as there is a threatening *segmentation*, lack of participation, industrialization, and professionalization. Despite this criticism, there has been a proliferation of restorative justice within Western countries (Tonry, 2005, p.1268).

The economy of knowledge. This element signifies the relationship between restorative justice as a concept and its *use(s)* and *value* within the literature for academics and other restorativist stakeholders involved in this field. This entails the process of *production* and *reproduction* of restorative justice as a concept and, relatedly, as a practice as well. Following the cartographic tools developed by Pierre Bourdieu (1972/1977; 1986; 1987b; 1989; 1994), this element has been the main focus of the following chapter. The final section of this chapter more adequately introduces this component of the model.

Moral economy. Moral economy, as conceptualized by Sayer⁹⁷, entails the “norms and sentiments regarding the responsibilities and rights of individuals and institutions with respect to others” and, as he suggests, “go beyond matters of justice and equality to the conceptions of the good” (2000, p. 79). Moral economy was rarely mentioned *explicitly* in the reviewed texts (*see, for example*, Theidon, 2006), but was often *implied* and is extremely relevant to the *practice* of restorative justice.

⁹⁷ This concept had to be developed further, using material outside of the data sample, in order to fill in the blanks left by restorativists in their descriptions.

Moral economy holds influence at multiple levels within the model: at the level of *context*, as abstract values/norms; *situated activity*, as interactive restorative practices that allow an overturn of values; and *self*, as the embodiment of values/norms. However, it is the interconnection between these levels that is most important; as explained by Downes and van Swaaningen (2007), the ‘moral climate’ can change responses to crime and, conversely, be changed by responses to crime. For example, as Tyler, Sherman, Strang, Barnes, and Woods (2007) argue, morality encourages beliefs in the legitimacy of the law as well as its processes, influencing compliance and future behaviours. At the other end, some of the restorativists noted that morals/norms/rules/laws can *change* via the practice of restorative justice (Christie, 1977; Menkel-Meadow, 2007; Wenzel et al., 2008, p. 378). It is believed that practices may result in the establishment of a “new moral community” (Theidon, 2006, p. 436).

Beyond this mutual connexion between restorative justice practices and the broader moral economy, forces which influence the establishment of a moral economy include the cultural context (Theidon, 2006), such as the notion of collectivism versus individualism (Schroeder et al., 2003; Downes & van Swaaningen, 2007; Wenzel et al., 2008) and group cohesion (Schroeder et al., 2003; Theidon, 2006). Furthermore, according to Sayer (2000), morals also interact with political economy. This is seen, especially, in the *function* of human rights discourses (see Muncie [2005], *for what can be considered to be an illustration of this interaction*).

The elements above constitute the primary typology presented in the model. However, apart from the main *sensitizing concepts* provided by Layder (1993), there are two other *contextual* factors of importance in this wholistic approach to social research: *history* and *power*. Thus, there is a breakdown of these dimensions below, followed by an explication of

the *connexions* that can be made between all of the components discussed and the *fragmentation* that exists between them, enabling a broader ‘scope’ of the concept of restorative justice.

History (Forces)

As explored above, the model illustrates the component ‘parts’ of restorative justice, based on what is presented in the literature, and situates them ontologically so that they can be understood in relation to one another. However, there are also various ‘forces’ expressed within the literature that have been influential in the establishment of the ontological status of restorative justice as a *concept* and *practice*. Some of these ‘forces’ may be more adequately categorized under the broader concept of ‘history’. Thus, this next section will contribute to the introduction of a temporal element, consisting of a plurality of minute forces. As Layder states, “it is useful to think of these smaller constituent ‘histories’ taking place ‘inside’ the larger narrative sweep of historical time which embraces them all” (1993, p. 173). Similarly, history takes on an important role in what Mills (1959) refers to as *substantive research*. As he suggests, the approach of the *sociological imagination* is to bridge individual life histories (or *biographies*) with the broader social context. While restorative justice, itself, connects *stakeholders* on a micro level, it is also influenced by external social forces that have enabled the evolution of this movement and can therefore be considered within a matrix of other social movements and changes at a more macro- level. This next section will focus on this *larger narrative*.

Conflicting Histories. One mundane aspect of the literature is the notion of conflicting histories. As is well known, restorative justice developed ‘within’ the field of criminal justice or, more specifically, within the institution of the criminal justice system, while at the same time emphasizing reform and an attempt to provide an ‘alternative’ (Roche, 2006; Menkel-

Meadow, 2007; Gavrielides, 2008). As can be seen clearly within the *transitional justice* context, there is an inherent attachment to ‘justice’, the law, and the Westernized idea that ‘justice’ literally means ‘formal’ processes (see McEvoy, 2007). In contrast, there is the conflicting proposal that restorative justice is to be broad, dealing not just with crime, but with harms and conflicts (see earlier pieces written by initial proponents of RJ such as Christie, 1977; Zehr & Mika, 1998).

Another element of ‘history’ within the literature is the interactions of concurrent movements. Roche (2006) and Menkel-Meadow (2007) suggest that ADR (alternative dispute resolution), although dealing with ‘civil disputes’, is the equivalent to restorative justice. There are also the Peace movement (Menkel-Meadow, 2007) and Human Rights activism (Muncie, 2005; Menkel-Meadow, 2007), which are viewed as being influential and concurrent forces.⁹⁸

More generally and on a broader geo-spatial scale, *globalization* ~ the interconnection of nation-states through economy, politics, law, and culture (Muncie, 2005, p. 36) ~ is seen as an active force within the restorative justice movement. Although not explicit within most of the articles reviewed, it presented itself implicitly as a factor in a number of restorative processes, including those falling under the category of *transitional justice* (Muncie, 2005; Braithwaite, 2006; Theidon, 2006; Downes & van Swaaningen, 2007). This ‘force’ was considered to have three interrelated influences: globalization, delocalization and relocalization. Muncie (2005) describes globalization as the interaction between nation-states and the movement of ideas, systems, and institutions. As he explains, there are growing trends of policy transfer at the international level, as well as the more general spread of

⁹⁸ These movements will not be of major focus, simply because they are not considered to be a *primary* influence on restorative justice practices.

Western ideals (Muncie, 2005; *also indicated in* Casella, 2003; Downes & van Swaaningen, 2007). Other contributions to this idea of globalization are *human rights* as ‘global moral thought’ and the notion of imperialism (McEvoy, 2007, p. 418; *see also* Muncie, 2005). Although acknowledging the power of globalization as an active force in the formation of justice, Muncie (2005) does suggest that there are opposing forces such as delocalization and relocalization, which enable a more diversified, local, influence. This is precisely the influence that some restoratивists expect (or desire) the restorative justice practices to follow (*see* Christie, 1977; McEvoy, 2007).

These historical-contextual elements reflect additional macro- level forces that influence the conceptualization of restorative justice and contribute a temporal dimension to the analysis, reflecting an evolution of the concept and practice. As clarified in Chapter 2, there was no attempt made to delineate a ‘history’ of restorative justice (or trace its origins), but more so provide a reflection on its *development* as a concept more generally and excavate the [symbolic] conflicts occurring within the field. The following is a more focused discussion of how these conflicts are to be understood in the subsequent chapter.

Power

Interconnected with *history* and thus not a wholly distinct contextual element, is ‘power’ (Layder, 1993). As of yet this element has not been *explicitly* explored as a distinct dimension, as Layder proposes it should be in a wholistic research project (1993, pp. 151~152).⁹⁹ However, an earlier mention of the ‘regime of sense’¹⁰⁰ and the notion of *dominant* versus *dominated* literature, indicates the manifest focus and importance of this

⁹⁹ As he explains, this dimension is often neglected or distorted in social research and the construction of social theory, especially in studies derived from a traditional *grounded theory* approach, which neglect macro levels of social reality and thus the influence of *power* at this level (Layder, 1993, pp. 151~152).

¹⁰⁰ Given the similarity in their conceptualizations, it can be assumed that Tagg (1988) is making reference to the *regime of truth*, or “the ensemble of rules according to which the true and false are separated and specific effects of power attached to the true”, as defined by Foucault (1980b, p. 132).

dimension in the thesis; it implies an exploration of *subjugated knowledges* and the “*historical knowledge of struggles*” (Foucault, 1980a, pp. 81, 83).

These *subjugated knowledges* should be understood firstly as historical contents (Foucault, 1980a, p. 81), what might be called *artefacts*, which themselves are useful because they enable “us to rediscover the ruptural effects of conflict and struggle that the order imposed by functionalist or systematizing thought is designed to mask” (Foucault, 1980a, p. 82), but also those “knowledges that have been disqualified as inadequate to their task or insufficiently elaborated: naïve knowledges, located low down on the hierarchy, beneath the required level of cognition or scientificity” (Foucault, 1980a, p. 82). This project has dealt with both forms in the sense that less frequently cited academic texts, or those holding less authority of ‘scientificity’, have been “brought into play” (Foucault, 1980a, p. 85) to challenge the dominant discourses concerning restorative justice. The work of Gavrielides (2008) and Roche (2006) for example, two of the more peripheral pieces¹⁰¹, have been incorporated into the synthetic analysis¹⁰² and used to excavate the *struggles* (Foucault, 1980a, p. 83) that have occurred within this field, which are more aptly discussed in *Conflicts and Connexions* (this chapter) and Chapter 4. In this case I am not dealing with, necessarily, knowledge that has been “disqualified from the hierarchy of knowledges and sciences” (Foucault, 1980a, p. 82), but those that are less *valued* and occasionally coming from localities (or disciplines) that are not usually associated with the field of restorative justice. Thus, this evaluation of the literature specifically pertains to this “*historical knowledge of struggles*” (Foucault, 1980a, p. 83).

¹⁰¹ I am referring, here, to their conceptualization of RJ/ frequency of citation.

¹⁰² This is not so say that they have been ‘recolonized’ (Foucault, 1980a, p. 86), as the synthesis incorporates these pieces in order to reshape the conceptualization of restorative justice.

Power, in this sense, follows a network formation, is distributed unevenly, and becomes *mobilized through subjects*, manifesting itself in both positive (enabling) and negative (inhibiting) forms (Foucault, 1980a, pp. 98~99). This manifestation and the materiality of this power would suggest that there should be an “*ascending* analysis of power”, the same ‘reverse ordering’ (Foucault, 1980a, pp. 95, 99) that I have adopted from Marx’s (1978) method of *political economy*. The smallest components and most minute relations, reflecting a network of power, are of greatest importance in the determination of these struggles, which themselves exist at the level of subjects (Foucault, 1980a, p. 101). The literature on restorative justice ~ each article taken as an individual artefact ~ is seen to reflect these struggles, as a material manifestation and reproduction of them.

In excavating these struggles, there is also a reflection on ‘truth’ as signifying more than an accepted discourse, but also the rules to “what *governs* statements and the way in which they *govern* each other so as to constitute a set of propositions which are scientifically acceptable [true]” (Foucault, 1980b, p. 112). These ‘rules’ constitute a distinct ‘regime of truth’ that structures and is structured by the functioning of these ‘rules’ (Foucault, 1980b).

Truth may be conceived in similar terms as ‘wealth’: something to be continuously *produced* (Foucault, 1980a, p. 98). Taking the *geneological* method¹⁰³ outlined in Chapter 2, it is this production/reproduction which is of primary focus in the next chapter. This is where the *struggles* within the field of restorative justice have been reconstructed and explored, through a topographical mapping of the distribution of ‘power’ in the form of *capital*¹⁰⁴, which itself contributes to the acceptance or rejection of these discursive orders. The following section delves further into some of the rules involved in the determination of what

¹⁰³ In the same fashion as Foucault’s ‘anti-science’, the *alternative qualitative approach* presented in Chapter 2 unearths these struggles just discussed and attempts to avoid any form of ‘centralizing powers’ that frame a ‘scientific discourse’ (Foucault, 1980a, pp. 83~84).

¹⁰⁴ In this case, one of its material forms being published academic works.

can be accepted as ‘true’ and what influences the subjugation of knowledge, as implied in the literature, and the disconnections between dominant and dominated conceptualizations of the practice, earlier referred to as *conceptual conflicts* (Gavrielides, 2007; Gavrielides, 2008).

Conflicts and Connexions

Replicating the fragmented nature of criminology, restorative justice has what one might call disconnections or ‘fault-lines’: the *conceptual conflicts* highlighted by Gavrielides (2007; 2008) and referenced in earlier sections. Mobilizing the concept of ‘scope’, these *conflicts* can now be viewed using a different lens. This final section employs the expanded vision of restorative justice presented above to re-evaluate the *fault-lines* in the restorative terrain.

The following is an outline of the fragmented nature of restorative justice and where these fragmentations occur within the model proposed, as well as within other *visions* of restorative justice (such as the one postulated by Gavrielides¹⁰⁵). Following the prescriptive approach Marx (1978) advocated for in his discussion of *chaotic conceptions*, the interrelations and broader connexions¹⁰⁶ between the component parts of restorative justice were also explicated. This final discussion and critique of past *visions* will enable and encourage a *polysemic visualization* of restorative justice (as opposed to the strict adherence to *dichotomies* and polarization), once again increasing our *scope* for visualizing restorative justice as a *concept, practice, and field*.

¹⁰⁵ Depicted in his *model* (Gavrielides, 2008) and presented in two of his publications (Gavrielides, 2007; Gavrielides, 2008).

¹⁰⁶ The exploration and explication of these connexions further demonstrates a reflection on the intra-, inter-, and extra-textual rules (Potter, 1998) or structures considered while performing the evaluation, both those implied by the text and imposed by the methodological and theoretical framework established in Chapter 2. The structures shaping my model conflicted with previous modes of framing this knowledge of restorative justice.

Conceptual Fault-lines

By distinguishing the different elements that constitute this ‘category of justice’ (Schroeder et al., 2003; Menkel-Meadow, 2007), this model also provides an opportunity to understand how restorative justice can be fragmented and where these fragmentations occur. Again, this is similar to the focus on ‘fault-lines’ articulated by Gavrielides (2007; 2008), who suggested that this undertaking be continued in further research. To begin this exploration, Gavrielides (2007; 2008) identified a number of conflicts, on a conceptual and empirical level, which have been enumerated in previous sections. They include (1) the connection between restorative justice and the criminal justice system, (2) the positioning of restorative justice within this system, (3) the definition of restorative justice and whether it focuses on processes or outcomes, (4) whom may be considered stakeholders, (5) the relationship between restorative justice and punishment, and (6) the ‘principles’ of restorative justice as well as the flexibility of said principles (Gavrielides, 2007; Gavrielides, 2008). In establishing his own model, Gavrielides (2008) suggests that the *fault-lines* are ordered from most to least foundational. However, these *fault-lines* take a different shape when translated within the current model (see p. 52, *figure 1*; p. 140, *figure 2*), in both the literal sense (based on the models’ unique shapes) and in the sense that these models present a different *ordering* of restorative justice and, therefore, a different ordering of the conflicts as well. Thus, the point of my model is not to overshadow the conflicts presented by Gavrielides (2007; 2008), but to demonstrate a further understanding of these conflicts, how they function, whether they serve to limit or enable RJ, and to situate them (ontologically) in the broader picture of restorative justice.

The first conflict proposed by Gavrielides (2007; 2008), as he defines it, would appear to align most with the element of *fields*, as it concerns the relation between restorative justice

and the ‘traditional’ criminal justice system. However, as the ‘traditional system’ is often conflated with retributive justice ~ or, at the very least, the *traditional system* is seen to follow a retributive approach ~ this conflict would lie primarily at the level of *context*, where the various categories of justice are situated. The *sense relation* represented within the model acknowledges a relative connexion between these two categories; however, that relation is also juxtaposed by the sense relations connecting restorative justice to the other categories of justice (i.e. [re]distributive, procedural, actuarial, and transitional).

The second conflict, the notion of where restorative justice lies within the traditional *system*, corresponds to the level of *setting*, specifically in the relationship between the two subcategories within this level: *spheres/fields* and *sites*. While some of the *sites* [of restorative practice] exist within the *field* of criminal justice, others do not and are connected to (or exist within) alternative *fields*.

The third fault-line ~ the question of whether the definition should be based on the outcomes or processes involved in RJ ~ is confronted by the approach taken in this analysis. Gavrielides (2007; 2008) notes that by adopting either of these options, the definition for restorative justice would ultimately become too broad or too narrow in scope. This assessment, of course, presupposes a *definitive* means of defining some phenomenon. In this case, the conditions outlined for restorative justice ~ either *process* or *outcome* based ~ would identify if the practice or concept being considered was ‘restorative justice’ or *not*. Thus, this *conflict* presents a much more serious *fault-line* in the construction of restorative justice: the actual approach through which RJ becomes defined, which conveys a dualistic nature.¹⁰⁷ The current model does not allow for such a strict definition of restorative justice

¹⁰⁷ This critique of Gavrielides’ (2007; 2008) *dualistic* approach will be discussed in fuller detail below. It was mentioned here simply because this conflict is the simplest and most representative example that may be used for illustrative purposes.

to be constructed; the model presents a novel approach to the determination of the *meaning* of RJ, a *polysemic* approach, which was itself revealed in the literature.

The fourth fault-line concerns the range of stakeholders involved in restorative justice. Again, it has been suggested that there is a prototypical *set* of stakeholders that most restorativists can agree *should* be involved in the restorative practice. However, other more peripheral stakeholders have also been considered within this model.¹⁰⁸ Again, this allows for a distinction between *prototypical* restorative practices and more *peripheral* versions, but also a better understanding of the *range* of potential parties involved.

The fifth conflict can be found at the level of *situated activity* within the model, specifically under the *elements of the ritual*. Punishment was only mentioned infrequently within the pieces discussed; however, when it was presented within the literature, it was more often mentioned in relation to retributive notions of justice (Sherman, 2003; Tonry, 2005) or introduced when restorative and retributive justice were not seen as divergent, but complementary (Theidon, 2006, p. 445). It is clear that retributive notions of justice may be reduced to punishment, but in reality it is simply one ‘component’ of justice (*as seen in* Sherman, 2003, p. 12). Assuming it could be considered an element of *restorative justice*, it would be included in the practice, or *activity*, as described by Christie (1977), the one restorativist who described the use of punishment as a ritual element of restorative justice.

This conceptual conflict would also, potentially, be evident at the level of *context*, as it indicates how restorative justice is understood as a *category of justice* or abstract concept. The fact that it is a defining feature of retributive justice, and considering the *sense relation* between restorative and retributive justice, also makes this positioning reasonable.

¹⁰⁸ Of course this list is not exhaustive.

Similarly, the sixth conflict can also be found at the level of *situated activity*, where *principles* are understood to be embodied, but also (to some extent) at the level of *context*, where the values of restorative justice exist more broadly. Again, as the data suggests, there is a diverse range of principles and significant overlap in regards to individual restorativist interpretations. Those that are most widely accepted may be called more ‘prototypical’, existing as what one restorativist called *restorative credentials* (Muncie, 2005, p. 43).

Thus, these *conceptual conflicts* do not lie at a single ontological level; the fragmented nature of restorative justice, as seen through this *realist* lens, provides further *depth* than in Gavrielides’ (2007; 2008) initial analysis.

A Critique of Gavrielides’ Model

The conflicts presented by Gavrielides (2007; 2008) are undoubtedly of concern, particularly as restorativists have been debating some of these issues since the beginning of the movement (*see, for example, Christie’s [1977] argument for the avoidance of formal systems and practitioners*). However, one of the main critiques that can be directed at Gavrielides’ model of conceptual *fault-lines* is its emphasis on *dichotomies*, which presents the conflicts in binary terms.¹⁰⁹ This emphasis reflects a focus on dichotomies within the restorative justice movement, but also academia more generally.¹¹⁰

Although there must be an acknowledgement and consideration of the dichotomies present, it is also necessary to depart from these dichotomies, as suggested by Roche (2006) and implied by the general essence of some of the more frequently cited restorativist pieces. The literature examined actually reflects more diversity and multidimensionality, indicating

¹⁰⁹ Especially evidenced by his third conflict.

¹¹⁰ See earlier critique of the social sciences and criminology more specifically.

that these dichotomies may be out-dated and narrowing the lens through which restorative practices may be viewed.

Thus, this critique goes back to the preliminary *analogues* (Blaikie, 2000, pp. 172~173)¹¹¹ used to frame the patterns observed within the data, the most important of which is *polysemy*: “the ‘multiplicity of meanings’ of words” (Ravin & Leacock, 2002, p. 1). Although the literature on linguistics identifies a number of “approaches to semantics”, through which polysemy is differentially accounted for, the two of relevance to this thesis are the *classical* and *prototypical* approaches (Ravin & Leacock, 2002, p. 7). The classical approach focuses on *necessary* and *sufficient conditions*, constructing a *distinct definition* for each separate phenomenon (Ravin & Leacock, 2002, pp. 7~8). It is “two-valued” (Riemer, 2010, p. 224) or binary: the phenomenon in question either fits the description or does not; it can be classified under the label, or cannot. This approach is taken by Gavrielides (2007; 2008), who interprets the conflicts within the literature in binary terms and assumes a definition may be established within these terms.¹¹²

This approach, however, based on my own dialogue with the literature, was too restrictive and not accepted by the majority of pieces under review. Although some ‘conditions’ (neither *necessary*, nor *sufficient*) have been identified throughout this chapter, they do not solely determine the definitive *meaning* or ontological framework of restorative justice. In contrast, this model takes the *prototypical approach*, identifying features that have been frequently and infrequently cited within the articles and suggesting a different type of relationship between these component parts and the whole. The data used itself emphasized

¹¹¹ In describing these ‘analogues of mechanisms’, Blaikie explains that their use is a routine practice in the construction of theories whereby the researcher begins by “drawing on ideas from another field of science” (2000, p. 172). In this case, the analogues came from literature on linguistics and semiotics.

¹¹² Thus, although he may also be acknowledging multiple meanings of RJ, these meanings are ultimately constrained by the dualistic approach employed.

(both implicitly and explicitly) this notion of *polysemy*. More specifically, the idea of *prototypicality* became apparent while interacting with the text; the work of these restorativists allowed for the distinction between some of the more common attributes and elements constituting restorative justice and those which were more peripheral or less constitutive.

Thus, in contrast to some other representations and models outlining the conflicts within the movement (*see, for example*, Gavrielides, 2008), the representation of restorative justice that I outline is not ‘dichotomous’ in the sense that it does not break up restorative justice into conflicting dichotomies. Rather, the model I propose indicates *where* dichotomies have been or may be emphasized. The model produced was an amalgamation of the various styles, forms, elements, and forces influencing restorative justice, including those which were peripheral and prototypical, dominant and dominated, as presented by the restorativists. Thus, the solution to this greater *conceptual fault-line* within the literature was actually resolved within the literature itself, through interaction with the texts and use of an analogic framework, which prohibited the use of this binary categorical system that constrains Gavrielides’ (2008) own model.

Restorative justice, therefore, is described in *polysemic* terms, incorporating more levels and dimensions than Gavrielides (2007; 2008) suggests. Among the different levels discussed by the restorativists, there were a number which aligned with the semiotic dimensions referred to earlier (*see* Sayer, 1984; Potter, 1998; Woodiwiss, 2001) and, in particular, the discussion of *signification* and the various ‘levels’ of meaning and reality that may be interpreted through the reading of text. For example, some of the pieces made the explicit connexion between material and immaterial elements (*see* Tonry, 2005; McEvoy, 2007). Intertextually, there were multiple variations, or synonyms, of the main signifier (i.e.

restorative justice), as well as a number of *sense relations* distinguished (see Latimer et al., 2005). There was reference made within some of the pieces to an idea of different ‘senses’ of restorative justice, identified by various signifiers: restorative justice (Schroeder et al., 2003; Muncie, 2005); restorative criminal justice, restorative practices or restorative justice practices (Sherman, 2003; Latimer et al., 2005; Menkel-Meadow, 2007; Gavrielides 2008; Wenzel et al., 2008) or approaches (Sherman, 2003; Latimer et al., 2005; Roche, 2006; Tyler et al., 2007); restorative justice movement (Gavrielides, 2008); restorative (or restorative justice) notion (Gavrielides, 2008, p. 170); and justice restoration (Wenzel et al., 2008).¹¹³ These signifiers, used differentially by restorativists, often reflect their own assumptions about the fields in which restorative justice may be implemented or applied, but also the ontological ‘level’ of concern. For example, as Wenzel, Okimoto, Feather, and Platow explain, ‘restoration’, a more general category incorporating multiple senses or perceptions of justice, is not the same thing as *restorative justice*; the notion of justice understood by these restorativists is based on a social-psychological or ‘lay-philosophical’ conception (2008, pp. 375~376). Alternatively, as was mentioned earlier, Roche uses the term *restorative criminal justice* to signify the dominant conception of restorative justice: that which lies within the realm of criminal justice (2006, p. 220).

As this approach did not reflect a general ‘consensus’ within the literature and the framework used actually illuminates other areas of fragmentation, the following will be a discussion of the unique conflicts examined.

¹¹³ Other ‘synonyms’ for restorative justice were identified by Latimer, Dowden, and Muise, such as community justice, transformative justice, peacekeeping criminology, and relational justice (2005, p. 128), as well as Roche, who suggested reconciliation, informal justice, and transformative justice were equivalent to the RJ *brand* (2006, p. 219). However, as they were not consistently referenced throughout the other articles, were referenced exclusively by one restorativist, and/ or hold connotations beyond the practice of RJ, they were not considered to be key signifiers.

Fragmentation

This analysis of the restorative literature has shown a horizontal split within the model; a division of restorative justice based on the ontological level of focus as opposed to, necessarily, transcending through the levels.¹¹⁴ As was initially explained in the opening section, these ‘parts’ can be disconnected easily; the partitioning of the levels makes it easy to determine the ontological assumptions of each author and, consequently, the ‘sense’ (or senses) of restorative justice to which they refer. For example, Sherman looks at restorative justice as a practice, as part of a greater ‘whole’, or one *component of justice*, in addition to rehabilitation, community based practices, and drug treatment (2003, p. 3). Therefore, in a sense he is examining restorative justice as a *field* in connection with other fields that respond to criminality and conflicts (Sherman, 2003). Similarly, there are those who envision a broader framework of ‘participatory justice’, of which restorative justice is a component (Muncie, 2005). Depending on cultural and other structural influences, restorative justice may be seen as an ‘extension’ of welfarism, education, and rehabilitation, for example (Muncie, 2005). Again, in this *sense*, it is a field that interacts with other fields of practice. In contrast, although still viewing restorative justice as ‘part’ of a greater ‘whole’, Tyler, Sherman, Strang, Barnes, and Woods (2007) classify restorative justice as a *mechanism for compliance*, which would seem to indicate a research focus on aims/results/internal elements of individuals. This is a micro- focus, targeted towards individuals and the underlying mechanisms that produce change within them, analyzing how the *values* endorsed by restorative justice become embodied in practice (i.e. psy-orientations).

¹¹⁴ As Layder (1993) explains in his discussion of the *research map*, academics frequently focus exclusively on one level of the map or one ontological stratum. In the context of restorative justice, it can be *seen* that the restoratists restrict how they portray RJ based upon these levels. He does, however, also indicate that researchers may incorporate a few different levels, while focusing *primarily* on one, which was also revealed within the literature.

Following from this fragmentation, restorative justice is often conflated with specific values, or elements of practice (*imbricated values*), which opens the possibility that restorative justice may be equated with other ‘forms’ or ‘categories’ of justice that share these values. Wenzel, Okimoto, Feather, and Platow (2008) critique this reductionism by way of an illustrative example: restitution. When RJ is reduced to this value, they suggest, it simply becomes compensatory justice (Wenzel et al., 2008).¹¹⁵ This example is particularly significant considering the widely accepted connection restorative justice is believed to have with historical methods of a ‘reconciliatory nature’ (Roche, 2006, p. 222) and has led to the dominant belief that restorative justice is about tariffs or reparations (Sherman, 2003, p. 12). Similarly, when RJ is reduced to a psychological mechanism (i.e. what enables this *situated activity* to function), it becomes comparable to other responses to crime/harm and may hold less *value* (Tyler et al., 2007).

Furthermore, as Roche (2006) suggests, restorative justice, as described within the literature, is defined strictly in terms of ‘crime’, or ‘crime’ as ‘harm’, and even (although mentioned less often within the sample) in terms of breach of regulations (*see, for example*, Braithwaite, 2006). Alternative ‘harms’ are much less frequently discussed beyond the field/sphere of education (*see, for example*, Casella, 2003). Again, this is a broader theme within criminology: a preoccupation with *crime* and lack of focus on harm (Williams, 1984; Barton et al., 2007). Some may argue that this pattern simply reiterates Gavrielides’ (2007; 2008) first two *conceptual conflicts*, concerning how restorative justice interacts with the traditional system. However, the current trends in how restorativists conceptualize the practice, as exemplified by some of the most frequently cited studies, need to be used to map

¹¹⁵ This reduced restorative descriptor may also align with the values of (re)distributive justice, as defined by Schroeder, Steel, Woodell, and Bembenek (2003).

out what restorative justice looks like *now*. It is also important to acknowledge that those restorativists that do allow for this focus on harm, identify a more abstract sense of restorative justice, or encourage a focus on other categories beyond restorative and retributive justice (*see, for example*, Schroeder et al., 2003; Wenzel et al., 2008), make our *scope* of restorative justice broader, adding breadth and depth, and contribute to the construction of other dimensions of the practice.

The Economy of Knowledge: A Preface

Finally, the most important connexion¹¹⁶ that can be gleaned from the more abstract levels of the proposed model is a link between the current concerns in *criminology* and what is occurring in the field of restorative justice. As suggested by many academics, restorative justice has become increasingly important for criminology (*see, especially*, Sherman, 2003; Latimer et al., 2005; Roche, 2006; Walgrave, Aertsen, Parmentier, Vanfraechem, & Zinsstag, 2013). Thus, this thesis is a meta-analysis of the restorative justice literature, but also relevant to criminology as a discipline and the changes that have been occurring within this field, such as increasing fragmentation (Ericson & Carriere, 1994) and increasing division between criminology and Criminal Justice studies (Frauley, 2005). While some academics seem to question whether the dominance of the Criminal Justice field over RJ is justified to begin with, mostly scrutinizing the control that this field possesses, its influence also puts

¹¹⁶ For the purposes of this thesis, at least, which is concerned with *reflexivity* and the realm of the *third world* (Mouton, 1996).

into question the impact criminology and other academic and/or practical *fields*¹¹⁷ have over restorative justice as a concept and practice (Roche, 2006).¹¹⁸

Beyond this changing disciplinary context, academia more generally is increasingly developing the characteristics of an industry, with the main purpose being the production of capital (Walters, 2003). Similarly, there are some who have compared restorative justice to an industry in competition with others (Christie, 1977; Roche, 2006). From this perspective, the signifier ‘restorative justice’ becomes a **brand** (Roche, 2006). The sample selected, in this case, is significant because it shows how restorative justice is conceived within the most frequently and infrequently cited pieces of ‘restorativist’ literature. This selection demonstrated the [lack of] importance of *restorative justice* as the actual topic or subject of the articles, even though they were identified as pieces on restorative justice. For example, Braithwaite’s (2006) piece reveals a somewhat peripheral focus on restorative justice, within a broader framework of *responsive regulation*. In a few other cases, the results of a larger research project provided data for some of the studies currently under review. Using RegNet as an example, the RISE studies performed provided data for multiple consecutive studies (Harris, 2003; Sherman, 2003; Tyler et al., 2007). This demonstrates not only the *value* of restorative justice as a label, but also the value of the research undertaken within this *field*. As reflected in the “evidence-based research movement”, this notion that data should be shared and employed to its greatest capacity (i.e. mobilized in multiple research initiatives)

¹¹⁷ This is where the two conceptions of ‘fields’, as defined above, begin to converge. Roche (2006) makes reference to the field of Criminal Justice in both senses. This is the one field that seems to correspond to an academic discipline and practical field constituted by justice institutions. Again, the conceptual distinctions provided earlier were simply meant to help deconstruct restorative justice into the smallest most constitutive parts. When it is reassembled, these connexions become more visible and clear.

¹¹⁸ The extension of restorative justice into different arenas, however, may be seen to create other conflicts in terms of the ‘scope’ of the concept and practice. Although he limits his discussion to the ‘elements’ of restorative justice, in terms of practiced *values*, Gavrielides explains that there is a main conflict between those who want restorative justice to be broadly defined and understood and those who want RJ be more narrowly conceptualized (2008, p. 173). The *prototypical* approach framing the current model, however, allows for both.

has increasingly been emphasized (Denzin, 2009, pp. 139, 146). Regardless of whether it is desirable or even more productive, data and research become commodities (Denzin, 2009, p. 146) (what will later be defined in terms of *capital*), which hold different values reflecting the competition between *fields* discussed above.

Conclusion

In conclusion, the model offers an expanded vision of restorative justice. The purpose of this chapter was to provide a wholistic overview of the ontological status of restorative justice: what it is and how it is enabled/ disabled, or, more essentially, its *scope*. In doing so, I elaborate a conception of *scope* in an illustrative way by employing the sensitizing concepts of *self*, *situated activity*, *setting*, and *context*. It took into consideration the various *connexions* between these components and what Potter (1998) has referred to as intra-, inter-, and extra-textual elements or rules of interpretation, especially the *structures* influencing this reconceptualization. As this *vision* was more directly connected to the *disciplines* and *fields* involved in its production, employing a more multidimensional approach, a different conception of the *conflicts* and *fault-lines* discovered by Gavrielides' (2007; 2008) was established. Thus, this model can be distinguished from, but also builds upon, Gavrielides' (2007; 2008) previous analyses.

This model is explored and analysed further in the following chapter, which focuses primarily on *making sense* of the map that has been constructed. This is accomplished by reintegrating the fragmented components already discussed, while also further developing the contextual element of *power*. Chapter 4 concentrates specifically on one element of the model: the *economy of knowledge*. As the initial purpose of this thesis was to perform a *reflexive* overview of restorative justice as defined by academics, this is one contextual factor

that could contribute to its re-*visualization* (Woodiwiss, 2001), taking into account the plurality in the *meaning* of restorative justice as a *concept*, *practice* and *field*, the *visions* of restorative justice produced and reproduced by restorativists, and the *view points* (Bourdieu, 1987b; Bourdieu, 1989) from which they are perceived.

CHAPTER 4

The [Objective] Subjectivist Lens

*Any theory of the social universe must include the **representation** that agents have of the social world and, more precisely, the contribution they make to the construction of the vision of that world. It must take into account the **symbolic** work of fabrication of groups, of group-making [...] Such a theory must take as an incontrovertible truth that the truth of the social world is the stake of a **struggle**. And, by the same token, it must recognize that, depending on their **position** in social space, that is, in the distributions of the various species of **capital**, the agents involved in this struggle are very unequally armed in the fight to impose their truth, and have very different, and even opposed aims (Bourdieu, 1987b, pp. 11~12).*

Introduction

In the previous chapter there was an explication of a model, a wholistic reconceptualization of restorative justice, through the mobilization of a sensitizing concept *scope* and its interrelated component parts (i.e. *self, situated activity, setting, and context*). This produced a **vision** [of restorative justice] as defined by Bourdieu (1987b) in the quote introducing this chapter; the model acts as a ‘representation’ of the social world or in this case some smaller social phenomenon, encompassing multiple individual *visions* produced by agents.¹¹⁹ This meta-*vision* was the first step in the production of a **double-focus analytic lens** (see Bourdieu & Wacquant, 1992, p. 7) through which restorative justice may be *visualized*. The second step involves a **reflexive** overturn of this *vision* (the *model*): an analysis of the production and reproduction of the various conceptions of the phenomenon by these *subjects* and an exploration of their inherent **value** (Bourdieu & Wacquant, 1992; see also Bourdieu, 1987b).

In keeping with *depth realism* and the relation between the *conceptual* and the *empirical*, then, restorative justice can be explored as a *site* of *symbolic struggles*, reflecting a ‘deeper’

¹¹⁹ In this case academics are the ‘agents’ of interest, including restorativists and others in the field.

meaning inherent in the *practice*¹²⁰. For this to be accomplished, we must acknowledge both the conflicts occurring between restorativists within the *field* and the distinctions made between the *fields* involved in its construction, representing various ‘views’ and ‘points of view’ within *social space* (Bourdieu, 1987b, p. 2). There must also be a determination of the production and reproduction of these *classificatory systems* through other *structures* influencing the social world ~ those which are reproduced through agents via their ‘structuring structures’ or ‘cognitive structures’ (Bourdieu, 1989, p. 18) ~ and the interactions between them.¹²¹ While others have acknowledged that restorative justice is a *site of symbolic struggle* (see, for example, Gavrielides, 2007; Gavrielides, 2008), they have failed to thoroughly map out this *social space*. By exploring restorative justice in this way, as a ***field of practices***, the ordering of these *classificatory systems* and the *conceptual conflicts* (Gavrielides, 2007; Gavrielides, 2008) discussed in Chapter 3 may be further understood. As the *scope* of restorative justice is a prominent concern within the *field* of restorative justice and the main focus of this thesis, using Bourdieu’s (1986) ***economy of practice*** to determine the various *principles*, *powers*, and *structures*, among other dimensions, will provide an explanation or rather justification for the grouping or *classification* of certain practices as restorative as opposed to non-restorative.¹²²

¹²⁰ As described by restorativists. Although there should be a distinction made between the empirical reality of the practice and its conceptualization by restorativists, it is important to note that the practice itself has also been explored through abstraction.

¹²¹ In other words, these diverse forces/influences, situated at various levels of reality and simultaneously interacting with other levels, can be considered in the determination of which notions and *forms* of restorative justice become accepted and reproduced.

¹²² This analysis is distinct from simply defining restorative justice through *necessary* and *sufficient conditions* or succumbing to the relativistic stance that there are innumerable variations of restorative justice. That is not to say, however, that there are not an infinite number of ‘view points’ from which perceptions of reality may be constructed, as Bourdieu (1987b; 1989) suggests in his discussion of *visions*.

For Bourdieu (1987b), then, this second level of analysis involves a further deconstruction of individual *visions* ~ composed of **categories** or **classes**¹²³ ~ by mapping the *viewpoints* (or positions) from which they came to be, reflecting the *struggles* inherent in their [re]production. Following an approach analogous to the *sociological imagination* (Mills, 1959), that refutes existing dichotomies within the academic field¹²⁴, Bourdieu (1987b; 1989) provides **cartographic rules** for an evaluation of how dominant *visions* are instituted through the differential distribution of *capital*, among other “principles of differentiation” (Bourdieu, 1987b, p. 12), and thus an analysis of the greater *social space*. These are the guidelines explicated in the following section, outlining once more the relation between the *conceptual* and *empirical* and (relatedly) the means through which *social space* and its constitutive *classes* and *fields* may be reconstructed. The third section applies these rules to the *vision* of restorative justice produced in the previous chapter, highlighting another **meaning** of restorative justice on a *symbolic* level.¹²⁵

Bourdieu’s Cartographic Rules

Mouton’s (1996) analogy of *three worlds*¹²⁶ illuminates this multi-layered approach taken by Bourdieu (1987b), who proposes an exploration of the first two *worlds*; both the *reality* itself and the construction of reality, as well as *how* this construction occurs, must all be

¹²³ For ease of reference, *classes* will henceforth be used to signify groups of agents (such as the groups of academics constructing these restorativist classificatory systems, for example) or Bourdieu’s notion of ‘groups’ more generally, whereas *categories* will be used to signify *other constructs* relating to the *visions* of restorative justice that these agents produce. This is not to suggest that distinct social ‘classes’ have been determined through this analysis, beyond the relative distinction between *restorativists* and non-*restorativists* and the representation of labels used by restorativists in their discussion of agents involved in the practice.

¹²⁴ Such as the acknowledgement of micro- and macro- level influences and the interaction, not exclusive force, of agency and structure.

¹²⁵ In its entirety, this chapter also serves to frame the analysis with an *economy of knowledge* for restorative justice (see Chapter 3).

¹²⁶ To reiterate, the *first world* is the world of *objects* or “the world of everyday life and lay knowledge”; the *second world* is the world of *subjects* or “the world of science”; and the *third world* is “the world of metascience” (Mouton, 1996, pp. 8~9).

understood in a proper *sociology of knowledge*¹²⁷. The last chapter focused primarily on an abstracted view of the *first world* (Mouton, 1996); it *made sense* of what restorative justice is or, more accurately, what it is *understood* to be. Restorative justice was reconstructed through a synthesis of its constitutive elements ~ consisting of *categories/classes* and various *structures* ~ having been abstracted from the literature on restorative justice. On another level, in the *second world* (Mouton, 1996), there are the academics (referred to as *restorativists*¹²⁸) whom conceptualize and order the *social world* and produce these representations of restorative justice. This is the world currently under analysis and the one which Bourdieu suggests needs to be critiqued based on the *criteria* used to establish these *classifications* or, more simply, the ‘weapons’ employed (1987b, p. 9).

Bourdieu therefore indicates a number of “principles of differentiation” (1987b, p. 12)¹²⁹, which are the properties that distinguish between categories, often manifested through *observable* occurrences (Bourdieu, 1987b, p. 11). If, as Bourdieu suggests, the ultimate ‘task of science’ is to determine these principles, then the *social space* ~ in which they are constituted and which they partially constitute ~ must be deconstructed and the *powers* in use (or forms of *capital* accumulated and employed within this space) must be understood (1987b, pp. 3~4). The following are those *principles* that will help delineate boundaries of *classes* or *categories*, which are *mobilized* in later sections of the chapter.

¹²⁷ This ‘sociology of knowledge’ would be the realm of the *third world* to which Mouton (1996) refers.

¹²⁸ This is a term initially adopted from Gavrielides (2007) for simplicity, but holds particular connotations within academia. A thorough explication of its value is provided below.

¹²⁹ Which are not altogether different from those presented by academics who have established foundations of prototypicality: a distinct theory of polysemy (Rosch, 1978). These are based upon the psychological *principles of categorization*, including *cognitive economy*, and *perceived world structure* (Rosch, 1978, pp. 28~29). However, this is still distinct from Bourdieu’s methods of analysis which preclude a one-dimensional analysis of classification, limited to perception, and enable an acknowledgement of a “double structuring” that influences classificatory systems (1989, p. 20).

Categories, Classes, and ‘Principles of Differentiation’

What has thus far been referred to as the similarities and differences within the *classificatory system*, resulting in prototypical versus peripheral *types* of restorative justice, Bourdieu has called “levels of aggregation” (1987b, p. 10).¹³⁰ The categories will be differentiated based upon *intrinsic* features (or conditions), as well as *relationally*, as in their particular connexions to other categories (Bourdieu, 1987b, p. 6).

These levels further align with the *position* of the ‘agents’ creating these constructs (as well as their relative *class*), within *social space*, which are comparable to geographic coordinates (Bourdieu, 1989, p. 16).¹³¹ Polarities in the spatial sense (as in opposing *classes* and *categories*) will enable better distinctions, acting as geographical boundaries (Bourdieu, 1987b, p. 12; Bourdieu, 1989, p. 16). It is when this separation is not as pronounced, as in *intermediate zones*, that the distinctions become less *visible* and simply act as vague markers (Bourdieu, 1987b, p. 12). This is particularly problematic with more *objective* manifestations of these differences, such as the distribution of various forms of *capital*, which usually provide the most distinctive boundaries (Bourdieu, 1987b, p. 12).

The distribution of this *capital* positions these agents within a greater *social space* based upon various *dimensions* or a “system of coordinates” (Bourdieu, 1987b, p. 4). The three *dimensions* that influence these positions include *volume*, *composition*, and *trajectory* (Bourdieu, 1987b, p. 4). *Volume*, seemingly transparent, would entail the amount of capital (*en masse*) accumulated by the agent (Bourdieu, 1987b, p. 4). *Composition* is the division of the total capital: the relative weight of each of the distinct forms that it takes (Bourdieu,

¹³⁰ Rosch refers to these as ‘levels of abstraction’, suggesting that there are both horizontal and vertical dimensions to classificatory systems, the former referring to similarities and differences within a single level of this system, the latter referring to similarities and differences between these levels (1978, p. 30).

¹³¹ This divisionary characteristic can also be extended to the *constructs* themselves, as will be demonstrated below.

1987b, p. 4). The third ‘dimension’, *trajectory*, incorporates a temporal element; it is the “evolution in time of the volume and composition of their capital” (Bourdieu, 1987b, p. 4).

Thus, inequalities exist based on this division of *power* (or *capital*) which can be separated into a number of basic forms, including *economic*, *cultural*, *social*, and the broader category of *symbolic capital* (Bourdieu, 1986). *Symbolic capital*¹³² ~ or more accurately *social capital*, which is to some degree based on objectified *cultural capital* (Bourdieu, 1986, p. 249) ~ is the ‘power’ that influences these struggles and the dominion of certain *classificatory systems*. The social world is not a neutral territory; there exists a *political struggle* between those who wish “to impose the legitimate principle of vision and division” (Bourdieu, 1989, p. 21). The greater the amassed power an agent possesses, the greater the potential influence they hold (Bourdieu, 1989). The most *dominant* of agents will have the ability to institutionalize the dominant view and (if successful) prevent the acknowledgement of such a dominant view/influence; the vision will remain unquestioned (Bourdieu, 1989). Furthermore, ‘holders of bureaucratic authority’¹³³ have an advantage in the sense that their *visions* may more easily become institutionalized as their *capital* is almost universally accepted (Bourdieu, 1989, p. 22). However, their power is never absolute and, thus, struggles endure between various stakeholders (Bourdieu, 1989, p. 22; Bourdieu, 1994).

In particular, these *struggles* occur when there exists a lack of consensus (whether acknowledged or not). A state of consensus (unacknowledged), or what he has referred to as *doxa* (Bourdieu, 1972/1977, p. 164), occurs when there is homogeneity; in other words,

¹³² According to Bourdieu, this is “the form the different types of capital take once they are perceived and recognized as legitimate” (1987b, p. 4).

¹³³ Such as academics who possess a certain amount of power or *capital*, based upon state-instituted credentials (Bourdieu, 1989, p. 22).

when the *habitus*¹³⁴ of many agents are consistent with the structures external to these agents (Bourdieu, 1972/1977, pp. 80). If occurring, this alignment results in “a commonsense world endowed with the *objectivity* secured by consensus in the meaning (*sens*) of practices and the world” (Bourdieu, 1972/1977, p. 80).¹³⁵ It is a true “harmonization of agents” (Bourdieu, 1972/1977, p. 80). A *differentiated society* comprises a variation of classes or groups, each of which is aligned with an *objective meaning* beyond the superficialities of individual or even collective subjectivities and premeditations (Bourdieu, 1972/1977, p. 81). Thus, this *harmony* that Bourdieu speaks of is most potent *within groups* and results from similarities in *conditions of existence* (1972/1977, pp. 80~81).

The *cartographic rules* explicated above provide a means through which the [simultaneous] construction and influence of *classificatory systems* might be understood. In order to more fully explain the evolution and institution of *classification systems* within *practices* (specifically) and through which these practices are partially constituted, Bourdieu also establishes what he calls an ‘*economy of practice*’ as outlined below (1986, p. 242; see also Bourdieu, 1972/1977; Bourdieu 1989). It should be considered a compilation of all those *rules* identified thus far as well as the more intricate relations to (macro- level) *structures*.

¹³⁴ The most simplistic way of describing this *state* is the notion of “a system of dispositions” (Bourdieu, 1972/1977, p. 214). It is both an objective and subjective force, in the sense that there is no awareness that it *is* a force, no understanding by the agent that there are structures external to the agent, objectively influencing these *dispositions*. It is, in fact, the *natural-ness* of these *dispositions* that is the essence of this *system*. However, again, that is not to say that this is purely an external force acting upon the agent who then ‘acts’ without *will*, although this ‘will’, itself, is partially engineered by *experience* and the *structuring structures* that have been mobilized through these experiences, providing potential actions among which the agent may choose. The agent is not a mere puppet, as he also has an influence on these greater external structures in reproducing them through their [practiced] effects (Bourdieu, 1972/1977, pp. 72~73).

¹³⁵ When there is a lack of conflict or questioning of prevalent categories (*doxa*) other ‘possibles’ are not considered (Bourdieu, 1994, p. 15).

Bourdieu's 'Economy of Practice'

In his exploration of traditional *practices*, Bourdieu (1972/1977) identifies a number of practices in which economic exchange occurs without being accepted into the same *category* or *class*. As he suggests, there may be other *forms/categories/groups* that are not *identified* as fitting under the same 'practice' or other classificatory scheme, but which utilize some of the same processes, involve the same structures, and institute the mobilization of the same 'powers' (Bourdieu, 1972/1977).¹³⁶ When any of these elements are excluded from the *visualization* there is potential for some practices to be misrecognized or remain unrecognized. The reduction of such a phenomenon "to its objective reality" (that which is most easily perceived, for example), prevents the acknowledgement of less visible characteristics that may indicate similarities between practices (Bourdieu, 1972/1977, p. 172).¹³⁷ Following the wholistic approach he set forth, Bourdieu (1972/1977) was able to identify practices that fit constructed *forms* ~ not having been identified as such ~ on the basis of underlying structures, exchanges in forms of *capital* (power), and their *embodiment* within agents.¹³⁸ The conclusion following from such an analysis would be the necessary breakdown of the practices in order to identify the underlying *principles* and *structures*.

In his explication of the *economy of practice*, Bourdieu (1972/1977; 1989) does not prioritize *agency* or *structure*, but their mutual influence. It is the structure, too, which shapes the social world and is constructed through the actions of agents who internalize this structure, which establishes a *structuring structure* within the agent himself, the interaction

¹³⁶ In suggesting that there are other more 'restorative' forms of restorative justice, Roche (2006) flirts with this notion, but fails to adequately reconstruct the *social space* and power relations that constitute this *heterodoxy* (Bourdieu, 1972/1977, p. 168). The 'rebranding' to which Roche (2006) refers, then, is no more than the use of already existing *categories* through which various practices (in response to crime and other conflicts) can be sorted.

¹³⁷ As Bourdieu describes how *economism* minimizes economy to its most basic recognizable forms of exchange, while the exchange of *gifts* in less developed societies, for example, is a comparable interaction to the exchange of money and is equivalent in *value* (1972/1977, p. 172).

¹³⁸ This is distinct from the economists' version of an *economy of practices*, which depends on a very specific and restrictive form of 'capital' (Bourdieu, 1986).

of which he labels the *habitus* (Bourdieu 1972/1977; Bourdieu, 1989). He discusses this relation as “a twofold *social genesis* [emphasis added], on the one hand of the schemes of perception, thought, and action [...] and on the other hand of social structures” (Bourdieu, 1989, p. 14). These broader ‘structures’ are influential in the establishment and ordering of *classificatory systems* (Bourdieu, 1975; Bourdieu, 1989).

To facilitate an understanding of this ordering, the topography of *social space* must be mapped (Bourdieu, 1975; Bourdieu, 1989). This necessitates a charting of *classes* and *groups* and the influence of *structures* (such as *fields*) on this distribution (Bourdieu, 1975; Bourdieu, 1989). In describing the *scientific field*¹³⁹, Bourdieu states it “is always the locus of a *more or less unequal* struggle between agents unequally endowed with the specific capital” (1975, p. 29). These *fields* help demarcate specific *classes* and *classificatory systems* of agents as defined by the relative distribution of specific forms of *capital* according to “the structure of the field”¹⁴⁰, which also determines the means through which this *capital* may be appropriated (Bourdieu, 1975, pp. 27, 29; see also Bourdieu, 1987a). *Fields* (and *social space* more generally) can easily be paralleled with a more physical, geographical, space (Bourdieu, 1994, p. 16; Bourdieu, 1989, p. 16; Bourdieu, 1987b, p. 13). As such, the proximity between different *fields* ~ as well as the *categories* or *classes* within them ~ will influence their relationship and ascertain their level of similarity or difference (Bourdieu, 1989, p. 16; Bourdieu, 1987b, p. 5).

¹³⁹ The explication of which may be extrapolated to other *fields* more generally.

¹⁴⁰ As exemplified by “the degree of homogeneity” or the similarity in the amounts of capital accumulated by agents (Bourdieu, 1975, p. 29).

Finally, Bourdieu (1972/1977; 1989) does not neglect the notions of *history* and *temporality*¹⁴¹ and their interconnection to *habitus*, *structures* (both internal and external), and their replication. Bourdieu suggests that, within practices, *temporal structures* influence the division and hierarchization of *classes* and *categories*, but also the reproduction of said *classificatory systems* (1972/1977, p. 163). As he explains, “[a]ll the divisions of the group are projected at every moment into the spatio-temporal organization which assigns each category its place and time” (Bourdieu, 1972/1977, p. 163). By this Bourdieu is of course referring to the notion of time as a *constitutive structure* of various practices (1972/1977, p. 163). As such, there is a temporal dimension to the construction of categories and their changing meanings (Bourdieu, 1989, p. 20).¹⁴²

[Re]Viewing the Map of Restorative Justice

While the previous section provided *cartographic rules* that may be used in a second-order analysis of the social world, the following will be an application of these rules to the *vision* of restorative justice produced in the previous chapter.

Categories, Forms, and Classificatory Systems

Restorative justice is one of many *categories* of justice constructed by restorativists within which lie a number of distinct *forms* or varieties of practices. Of the plethora of *classificatory systems*, or groups, mobilized within the scholarly literature analyzed, these are the two general *classificatory systems* that are explicitly employed and of particular significance for the understanding of restorative justice. *Categories of justice* fall into the

¹⁴¹ Both of which are dimensions considered to be important to those advancing a *realist* approach (see Mills, 1959; Layder, 1993). Bourdieu emphasizes the importance of this ‘force’ when stating that “all sociology should be historical and all history sociological” (Wacquant, 1989, p. 37).

¹⁴² Bourdieu’s (1972/1977) notion of *temporal structures* will be manipulated later in the chapter in order to explain the specific case of *classificatory systems* within the practice of restorative justice. This vague reference was meant to reflect the importance of time and history and their value as a distinct (but interconnected) structural influence.

level of *context* and, therefore, would be the highest level of ordering acknowledged within the literature. This is the ultimate classificatory system that establishes restorative justice, *itself*, as a distinct construct. *Forms*, however, distinguish a variety of *situated activities* and enable a determination of whether or not they are classified under the broader category of restorative justice.¹⁴³ Beyond this, there are numerous stakeholders involved in the restorative practices, including the different ‘classes’ from which the scholars themselves originate.

As the primary focus of the first ‘lens’ used in this thesis has been the establishment of an **ontological foundation** for restorative justice (see Chapter 3), there will be significant elaboration on the *categories* of justice and *forms* of restorative practice, which contribute to distinct *visions* of restorative justice. While the former are generally accepted¹⁴⁴, the latter are currently under considerable contestation. The ‘classes’ of agents involved in the construction of these categories will be discussed later, when the focus shifts to the *view point* from which these *visions* of reality are being captured.

The first level of this restorative justice *order* is the *categories of justice*. It is accepted (implicitly and explicitly) throughout the literature that there are multiple *types* of justice, one of which is restorative. Although holding the same ontological status, these forms of justice are objectified to greater or lesser degrees; what was earlier described as being more or less *abstract*. However, the distinctions between these different groups are not always finite, but often blurred when broken down into their component parts, especially those *objectively* determined.

¹⁴³ The ‘forms’ referred to in the previous chapter may be perceived to hold a higher ontological status than that of situated activity (i.e. context). However, in this case, they are actual *practices* or, rather, words signifying specific practices and therefore have been situated at that particular stratum.

¹⁴⁴ This is, of course, excluding the distinctions made between RJ and retributive justice. Furthermore, the acceptance of these ‘categories of justice’ was generally passive or implied.

Similarly, there seems to be a common understanding of the various *forms* that restorative justice might take (i.e. VOM's, VORP's, sentencing circles, and family group conferences) and, therefore, they are not of particular focus within the *dominant* literature on restorative justice.¹⁴⁵ However, the less dominant (or *dominated*) literature on restorative justice indicates that *struggles* occur in the definition of the constitutive boundaries or, rather, in the determination of what practices may be considered *legitimate* 'restorative practices'. Thus, *forms* not generally accepted as restorative justice are being presented as potential restorative practices, while others are being contested.

Although a certain amount of "semantic fuzziness" is to be expected (Bourdieu, 1987b, pp. 11~12), the extreme ambiguity of the concept of restorative justice seems to be of particular concern to some restorativists (see Roche, 2006; Gavrielides, 2007; Gavrielides, 2008). Decades after the restorative movement began, the field lies in a state of *heterodoxy* (Bourdieu, 1972/1977, p.168) where the constitutive order is continuously being questioned; more peripheral '*forms*' of restorative justice and broader classificatory systems are still being proposed.¹⁴⁶ More specifically, Gavrielides (2007; 2008) points to a number of *conceptual conflicts*, which became apparent through his review of other restorativists' conceptions. He, among other restorativists, presents this type of justice as a 'site' of conceptual struggles without fully exploring this site as a *symbolic space*. These are the struggles of particular interest: the conflicts that must be mapped to enable a better understanding of the restorative justice terrain. However, before this may be done, acknowledging once more the *depth* of social reality, there must be a discussion of the

¹⁴⁵ Again this 'dominant' literature is the most frequently cited pieces of restorativist text. Bourdieu (1975) discusses 'dominance' in terms of the amount of *capital* accumulated by academics or the amount of *scientific authority* that they hold. This sense will apply later in the discussion, when focusing on specific stakeholders involved in the production and reproduction of restorativist visions.

¹⁴⁶ This can be seen in the numerous *signifiers* used to label restorative practices and the variation in their *senses*.

complexity of the relationship between these constructed categories and their material referents and how this interconnection may be problematized or produce further *conflict*.

Following from an ocularcentric determinism influencing the *legitimacy* of categories¹⁴⁷, the most widely accepted *forms* or *classes* of restorative justice would be those most closely connected to its empirical reality. At the inception of the restorative justice movement, there were a number of practices being performed that were labelled ‘restorative justice’ (Roche, 2006), such as the family group conferences in New Zealand (Sherman, 2003, p. 15; Roche, 2006)¹⁴⁸, the VORPs in Kitchener, Ontario (Roche, 2006, p. 219), and Canada’s circles (Sherman, 2003, p. 15; Muncie, 2005, p. 42). Thus, these are the practices that are *real* in the sense of being *objectively* perceivable. Within the restorativist literature, those constructs which are most *dominant* and remain almost unquestioned are more or less in line with these practices, which have already been *performed* and are *visible*. In other words, those practices which are closely connected to *referents* within the movement are accepted more readily as categories and recognized as constituting the broader category of restorative justice.¹⁴⁹ However, some *categories* may be unrecognized or misrecognized on the basis of this objective determination of *classes*. Therefore, in order to more accurately identify practices fitting under this *category*, following Bourdieu’s (1986) *economy of practice*, there must be a deconstruction of the *processes*, *structures*, and *capital* that constitute restorative justice.

¹⁴⁷ As Bourdieu suggests, there is a distinction between “analytical constructs” versus those “constructs well-founded in reality” or “*cum fundamento in re*” (Bourdieu, 1987b, p. 5). As such, categories hold more *legitimacy* when they relate to real things and are perceived “to reveal things that are already there”, thus invoking a *symbolic power* “of consecration or revelation” (Bourdieu, 1989, p. 23).

¹⁴⁸ Sherman notes that this label is used more generically as a category of practices that does not necessarily include the family (2003, p. 15).

¹⁴⁹ Extrapolated further, when restorativists attempt to connect these categories to more historical forms of conflict resolution ~ those *informal* practices used by indigenous populations or within less industrialized societies, which occurs often according to Roche (2006) ~ they are seeking this power (whether intentionally or not), which will further legitimize their own categories.

Establishing an 'Economy of Practice' for Restorative Justice

As represented within the model, at the most micro level restorative justice involves interactions between individuals (i.e. victims, offenders, and community), their relationships, and the emotions involved in these interactions, previously referred to in terms of the *value* of restorative justice. These interactions involve an *exchange* of both *tangible* and *intangible* values or, following the conceptual framework provided by Bourdieu (1986), what is called *capital*. As a practice, restorative justice is primarily concerned with *symbolic capital*, the *hidden* manifestation of all other forms of capital (Bourdieu, 1989), but especially *social capital* (in this symbolic form) given the importance of these emotional or relational exchanges. These *exchanges* of *social* and other forms of *capital* are constitutive of RJ at a very basic level within the practice; they are the most essential elements, but also those components of RJ that may be *objectively* recognized.¹⁵⁰

However, some restorativists reject this 'reductionist' stance towards the practice of restorative justice. They assume that a focus on the *exchange* ~ often a material, monetary, exchange ~ does not adequately *re-present* the requirements of this category of justice¹⁵¹ and, thus, equate these practices with *restitution* or *compensatory* justice (Wenzel et al., 2008).¹⁵² This critique is made without acknowledging that these exchanges of 'intangible values', emotional responses, and adaptations in senses of identity, parallel 'exchange' in a more general sense (albeit employing other forms of *capital*) and therefore entail a more complex relation between agents, their own internal *structuring structures*, the broader classificatory system, and macro-level structures.

¹⁵⁰ Some forms being more material than others (i.e. monetary restitution as opposed to apologies).

¹⁵¹ It should be understood that while at the most basic level restorative justice is concerned with *social capital*, there are other forms of justice which may also be reduced to such 'objective' (Bourdieu, 1987b) elements, enabling the conflation of different categories of justice and the practices that fall under each.

¹⁵² This critique actually conflicts with the initial conceptualization of restorative justice, which was an advanced form of *restitution* (Eglash, 1977).

These exchanges actually result in changing relations and the establishment or reestablishment of collective identities, previously referred to as underlying psychological effects.¹⁵³ As Bourdieu explains, “[e]xchange transforms the things exchanged into signs of recognition and, through the mutual recognition and the recognition of group membership which it implies, reproduces the group” (1986, p. 250). An illustration of this is Theidon’s (2006) description of identity transformations through *transitional justice*. While acknowledging the in-groups/out-groups and the multiple levels of identity that connect individuals, including those who have harmed and those who were harmed, he suggests that it is actually through the *exchange* of intangible values (emotions) that the group dynamics change, including individual and collective identities (*see* Theidon, 2006). For example, the agents referred to within the literature were presented as either members of a community *or* not, law abiding citizens *or* criminals, etc. These are the *classes* to which agents subscribe or become labeled or re-labeled.¹⁵⁴

These *classes* of individuals are significant before, during, and after the processes, as it is through these practices and the redistribution of *capital* that agents are able to *transform* their identities and manoeuvre between categories. However, as explained through the notion of *habitus*, agents do not necessarily acknowledge or become aware of these categories constructed or their own contribution to this process (Bourdieu, 1989, p. 19). It is actually through *cognitive structures*, having been formed by external structures and the interactions

¹⁵³ Of course the academics that analyse these practices are fixated on the ‘objective’ elements of restorative justice, or those which may be measured, especially the *evaluative* components (outcomes and outputs). The exchange of capital is translated into *variables* to be measured in isolation. Of particular focus, for example, are rates of recidivism (*see* Sherman, 2003; Latimer et al., 2005; Tyler et al., 2007).

¹⁵⁴ These *classes* also include, but are not limited to, those falling under the category of ‘stakeholders’ within the model postulated in Chapter 3. The classes that have been created (such as victims, offenders, etc.) signify the agents involved in the practices as well as the particular *roles* that exist within these practices. Furthermore, many of these categories are ‘well established’ within the literature, even if their particular definitions are debated (i.e. what constitutes a particular stakeholder). Thus, this indicates that on a broader level these *categories* may also be reproduced through these practices or through the institutionalization of these practices (*which will be discussed further below*).

between agents and other types of social phenomenon (i.e. a situated experience), that the agent experiences this “world of common sense, a world that seems self-evident” (Bourdieu, 1989, p. 19).

These underlying *mechanisms* ~ the changes within the individual ~ indicate a focus on the level of *agency*, the interaction between agents and the influence they have over practices through *situated activity*, but demonstrates a limited focus on the influence of more *macro level* structures on agents and vice versa. Following the interdependent nature of this relationship, there must be an acknowledgement of the interaction between the most micro of elements, as well as broader structures upon which they are partially dependent. This is where ***moral economy*** becomes particularly important.

As implied within the literature on restorative justice, there is an *assumed consensus* concerning morality and values and, as a result, the appropriate response to conflict. Restorativists, however, assume that morals, values, and norms are not always shared by all, but that individuals may adapt and transform these *values* through practice. Thus, within the practice of restorative justice there lies *potential* for the re-establishment of order (*see, especially, Christie, 1977*). The practice of restorative justice, then, may either ultimately reaffirm the morals and values accepted within a community or larger geo-spatial area or prove a change in the moral economy is necessary and, as a result, adjusts it in some way.

Finally, coming full circle and acknowledging the ***connexions*** and *interaction* between these different levels of social reality, one must also consider the subsequent internalization of different values, norms, and principles occurring *within* the agent. Thus, of further interest is the notion of ***embodiment*** (Bourdieu, 1972/1977, pp. 87~89) within the context of restorative *practices* and the *principles* that guide them. Consider the various principles that have been mentioned: those that reflect the broader construct, itself, which act as general

rules or guidelines for the practice¹⁵⁵, as well as those that are imbricated within the practice or become *embodied*¹⁵⁶. The embedded principles or values of these practices, which may become *internalized* norms, values and morals, were seen to be of influence within the restorative practices; they helped shape the structure of the practice, in terms of the ritual elements included or the actual performance of the practice, as well as the results, which included the micro-level changes within the individual. Furthermore, although there appeared to be a definitive distinction between these two *levels* of principles¹⁵⁷, it should be understood that one set actually acts as overarching *values* for the practice, which then translate into more *embodied* values or elements of the practices themselves.

Social Space, Fields, and other Structures

Of course, these practices also occur within a broader **context**: a *social space* encompassing various *fields*¹⁵⁸. There exists a relation between the *forms* of restorative practices, particularly the dominant forms, and the *fields* in which these practices occur. Of particular importance for restorative justice is the field of *criminal justice*. This interaction is of significant focus in the literature, as exhibited in peripheral pieces by the less *dominant class* or those not explicitly identified as ‘restorativists’ (*see, for example*, Roche, 2006; Gavrielides, 2008). For example, in his discussion of *transitional justice*, McEvoy (2007) discusses the dominance of particular fields, especially law and the predominance of “seeing like a state”¹⁵⁹ within the legal discipline and its discourses. Conversely, those practices

¹⁵⁵ These principles in particular, however, are not exclusive to restorative practices and, as explained previously, act also as a foundation for other forms of justice.

¹⁵⁶ Just as cultural capital might be ‘embodied’ (Bourdieu, 1986, p. 243).

¹⁵⁷ This division having been implemented for the purposes of deconstructing restorative justice into its smallest, most constitutive, parts.

¹⁵⁸ The model presented in Chapter 3 separates *fields* into two sub-categories: *disciplinary fields* and *fields of practice*, both of which are essential forces informing the understanding of restorative justice as a *concept* and *practice* and contribute to similar effects. Although essential for the deconstruction of restorative justice, this distinction was minimized (or more implicit) within the literature.

¹⁵⁹ Following Bourdieu’s (1994) *Rethinking the State: Genesis and Structure of the Bureaucratic Field*.

found to be employed at alternative *sites*, lying within alternative *fields*, are less frequently cited within the literature and identified as less dominant forms of RJ. Some of these practices, as identified by Roche (2006), include mediation within school systems (within the field of education) (*as seen in* Casella, 2003) and those used for families (social welfare) and within corporations (corporate regulation) (*as seen in* Braithwaite, 2006).

By deconstructing restorative justice and separating it into its component parts, its *intrinsic* and *relational* properties (Bourdieu, 1987b, p. 6) were identified, but also more *macro* elements or external forces that influence restorative practices and enable certain *divisions* and *classificatory systems* to evolve, which include (within ‘advanced societies’ at least) the economy and culture (Bourdieu, 1989, p. 19).¹⁶⁰ These might be considered the ***conditions of existence***¹⁶¹ or the other *structures* to which Bourdieu (1987b; 1989) refers. For restorative justice, there are also changes in ‘sensibilities’, changing paradigms, and the economic and political conditions of the time. *Sensibilities* and the existence of a *moral economy*, in particular, contribute to the distinction or lack of distinction between *forms* or *categories*.¹⁶²

Again, these ‘external’ influences do not remain external or disconnected from the agents or practices to which they are connected; they enable the *institutionalization* of practices and categories. McEvoy (2007) looked at transitional justice from this particular *view point*, following Bourdieu’s (1994) notion of *bureaucratic fields* and acknowledging the state-centricity of some nations and how this influences the practice[s] of justice within these territories. Having close ties to a dominant state authority, a formal criminal justice system

¹⁶⁰ These are two forces used as examples by Bourdieu, as they are of particular influence (1989, p. 19).

¹⁶¹ Not in the sense of *necessary and sufficient* conditions, as in a causal relation between the forces influencing the practice and the implementation of restorative justice, but conditions that expand or constrain the practice.

¹⁶² This is most blatantly obvious when looking at the similarities between *actuarial* and *restorative* justice. The conditions that enable either to thrive are similar and (for some) the practices themselves are seen to be complementary (*see, for example, Casella, 2003*).

was seen to influence the formalized nature and top-down approaches of *transitional* practices and how they should be conceptualized and implemented (McEvoy, 2007). As Bourdieu explains, “one of the major powers of the state is to produce and impose (especially through the school system) categories of thought that we spontaneously apply to all things of the social world” (1994, p. 1). One could deduce from this that the *forms* of restorative justice linked to the field of criminal justice ~ a field that is controlled by the state and, therefore, holds the most *capital* in the form of *physical force* (Bourdieu, 1994, p. 5) ~ will be more dominant and more likely to be *reproduced*. Thus, practices of restorative justice may be said to be institutionalized to varying degrees, depending on the ‘state’ of the society in which the practice takes place. By this I am not referring to a sort of cultural relativism, but more so the conditions in which these practices take place and the *bureaucratic structures* that already exist.¹⁶³

What McEvoy (2007) did not acknowledge, but what was implied in some of the pieces (see, for example, Sherman, 2003; Tonry, 2005; Roche, 2006), is the role of *academia* and the opportunities for ‘worldmaking’ (Bourdieu, 1987b, p. 13) that it provides through the institutionalization of restorative justice categories. Gavrielides (2007), in particular, seemed to minimize the role of academics, as these stakeholders were perceived to inform ~ almost *exclusively* ~ the ‘theory’ of restorative justice. Tonry (2005), however, refutes this claim of limited influence by suggesting that theories and empirical results, born from academic inquiry, can *inform policies* and *sensibilities*. Sherman (2003), too, suggests that it is the role of the criminological discipline and, thus, the academics from this disciplinary field, to influence and change responses to crime or to ‘reinvent justice’. It is, therefore, the academic

¹⁶³ This relates to the *formal* versus *informal* justice distinction and the reproduction of restorative practices within bureaucratic institutions.

field ~ a *structure*¹⁶⁴ ~ and the agents involved in this field through the acquisition and production of *capital*, which influences responses to crime/harm.

According to Bourdieu's *cartographic rules* concerning the relation within and between *fields*, it may be assumed that commonalities would be seen between restoratивists (and other scholars) coming from similar disciplinary *fields*. This, of course, would include their assumptions, research foci, and, more importantly, their categorization and classification of restorative justice as a *concept* and set of *practices*, and the frequency in which their constructs are reproduced.¹⁶⁵ Thus, the similarities and differences in *forms* and *categories* (the two main classificatory systems) might further be explained by the distribution of these academics within *social space* ~ in relation to the *fields* to which they belong and their position within these *fields*¹⁶⁶ ~ as this is one factor that Bourdieu suggests influences commonalities (1987b, pp. 4~5).

The range of fields involved in the construction of restorative justice is, however, vast; the proximity and overlap between disciplinary fields in the evolution of *criminology*, itself, is emulated in the field of restorative justice. *Criminology* is considered to be a ***fragmented*** discipline, both in the sense of being multidisciplinary as well as encompassing a number of distinct perspectives or paradigms of thought (Ericson & Carriere, 1994; Fattah, 1997).¹⁶⁷ Likewise, restorative justice has been reconstructed within multiple disciplinary fields, from a multitude of perspectives or *view points*. From this sample alone, there are pieces brought

¹⁶⁴ By this I mean that the field of academia also maintains specific rules to which the agents working within the field must subscribe (Bourdieu, 1975; see also Bourdieu, 1987a).

¹⁶⁵ For example, the most prominent discipline reflected in the sample was psychology. Within these studies was the focus on individual agents and processes occurring between them: *situated activity*.

¹⁶⁶ In this sense, then, although analogic to the distance between phenomena within *physical space* (Bourdieu, 1989, p. 16), this similarity or 'closeness' is less physical and more social; it adopts a more *symbolic* character and relates specifically to the proximity between those with similar capital (primarily *cultural* and *social*) and the relative volume, composition, and trajectory of that capital (Bourdieu, 1987b, pp. 4, 11).

¹⁶⁷ Bourdieu explains that as scientific fields become established, acceptable epistemological breaks are also institutionalized (1975, pp. 32~33). This fragmentation in criminology may, therefore, actually be institutionalized.

forth by academics in such fields as psychology, law, economics, education, and anthropology, to name a few.¹⁶⁸

Again, this ambiguity and crossover between *fields* (both *disciplinary* and *practice* based) relates back to the issue of *intermediate zones* within *social space*, which ~ to some extent, at least ~ explains why the defining of categorical boundaries is so problematic and questioned within the literature. The concept and practice of restorative justice occupies a space that is situated (relationally) between many other *categories* of justice and among many ‘distinct’ *fields*.¹⁶⁹ Therefore, any attempt at clarifying classificatory boundaries may be difficult. More importantly, as Bourdieu explains of all classes occupying *intermediate zones*, “the room left open for symbolic strategies designed to jam this relationship is the largest” (1987b, p. 12).

Returning to the interactional forces described in the model, these changes, policies, and more generally the institutionalization of practices, can be viewed at an *international* level. The notion of *globalization* and globalizing powers, for example, might be seen as a force that decreases *symbolic* space. Thus, regardless of the boundaries created through geographical topography or physical distance, distinct *forms* or *classes* may become increasingly *similar*, as seen in many pieces that describe the exchange of policies and practices between nations.¹⁷⁰ These structural influences relate back to *conditions of existence* and the similarities that arise when classes of phenomena originate within similar contexts (Bourdieu, 1972/1977), such as similar political economies.

These are the *structures* that get incorporated into *structuring structures*, embodied within the agent through action, and act as an influencing force in shaping the way we think about

¹⁶⁸ Based upon the disciplinary fields from which the scholars are writing, but not necessarily the scientific tools they invoke and the disciplines of influence that they mention within their texts. Thus, this *fragmentation* is multi-layered.

¹⁶⁹ *Transitional justice* is also particularly illustrative of this positioning; it is torn between multiple *fields* and holds close associations with *restorative justice*.

¹⁷⁰ See Muncie (2005), for example, who describes this process as well as its converse in depth.

justice. This notion of ‘justice’ and what justice *means* may be influenced by *fields*, the notion of justice generally being tied to ‘formal’ practices and institutions (see McEvoy, 2007), or the *paradigms* and *sensibilities* of particular time periods (see Sherman, 2003; Tonry, 2005), for example. These external forces provide a context for a ‘sense of justice’ in both a lay-philosophical or cognitive sense (see Schroeder et al., 2003; Wenzel et al., 2008), as well as a broader [common] sense of justice (see Sherman, 2003).

Emphasising “[s]ocial time as form” (Bourdieu, 1972/1977, p.163)¹⁷¹, the history of the movement is particularly important in indicating influential *structures* that help shape the *categories* constructed by restorativists. As restorative justice was a reform of the *traditional system*, a reform occurring within the *criminal justice field*¹⁷², this connexion between *fields* and the first-order categories of restorative and retributive justice (which is associated with this *traditional system*) is especially evident. As such, these were the most frequently contrasted categories, but also the two portrayed as existing within the same *field*. Since restorative justice is often practiced within the field of criminal justice and came into existence within this field, restorativists often characterize ‘restorative justice’ practices as those which are replicated within that same field. These might also be considered the *relational properties* defined by Bourdieu (1987b, p. 6); there are a number of *connexions* between the various classes of justice and practices within each class, which have been explicated in the previous chapter and referred to as *sense relations* (see Sayer, 1984). Thus, Bourdieu (1972/1977; 1989) provides an alternate way of explaining these relations ~ the

¹⁷¹ The temporal link that I am making is more so in consideration of the *reproduction* of earlier ‘forms’ and *meanings* of constructs, based upon their temporal priority. This may be connected to, but not equated with, Bourdieu’s reflection on the greater *capital* acquired by academics who are the founders of some phenomenon and the ‘*distinctive value*’ that these findings hold (1975, p. 25).

¹⁷² In the sense of the broader *social space* not specific to the academic field.

implicit and explicit connexions within the literature ~ between *restorative justice*, *retributive justice*, and the *field of criminal justice*.

The Value of Restorative Justice [Capital]

For restorativists, this temporal element identified by Bourdieu (1987b) is of particular importance; the notion of *trajectory* and the accumulation of *capital* in *interaction* with *time* reflect the status of restorative justice as a movement and how this might influence the *capital* restorativists may accumulate. Roche (2006) acknowledges that particular academics are tied to the movement based on their early entry into the field of restorative justice and production of academic literature on the topic, thus enabling them a “power over words” (Bourdieu, 1987b, p. 14). For restorativists, this *capital* (specifically ***social capital***) would pertain to *objectified* and symbolic *cultural capital*, which includes (but is not exclusive to) their published works, how often they were cited by other academics, and their perceived association with this particular *field*, which may be calculated by their frequent mentions in pieces (their identification or *recognition*, as described by Bourdieu [1986]).¹⁷³

Thus, predominant ‘restorativists’ ~ including Howard Zehr, John Braithwaite, and Nils Christie ~ hold a particular monopoly over the label or *brand* (Roche, 2006).¹⁷⁴ Furthermore, there are individual pieces of literature that are held to be most influential, based upon frequent citation. For example, Tony Marshall’s definition of restorative justice, although not quite ‘universally accepted’ (reflecting the *heterodox* nature of the field), is widely cited and recognized (Gavrielides, 2007, p. 44). This reflects a high level of ‘*scientific authority*’ (Bourdieu, 1975, p. 19).

¹⁷³ This capital is referred to in his other works more specifically as *scientific capital* (Bourdieu, 1975, p. 25). Bourdieu’s broader classifications were used to demonstrate a link between all the forms of capital discussed, but also the variation in forms that apply. Thus, in a sense, through this more *generalized* use of the concept, there has actually been a *specification* of the forms explicated.

¹⁷⁴ The reproduction of this signifier (*restorativists*) itself demonstrates the attribution of capital to certain scholars and links them discursively to this field.

Many have thus acknowledged that restorative justice, *itself*, is valuable to the criminological discipline (see Sherman, 2003; Latimer et al., 2005; Roche, 2006); restorative justice provides opportunity for the accumulation of *capital*. More specifically, it enables the collection of *cultural capital* in the “*objectified state*”, one of the forms to which Bourdieu makes reference (1986, p. 243), but also *symbolic power* in a more generalized form or “the power to make things with words” (Bourdieu, 1989, p. 23). Referring back to the initial focus on different levels of *reality* and, more specifically, the potential for its *construction*, this *power* is linked to the transformation of reality through the production of *categories*. As Bourdieu states, “[t]he social scientist might thus be tempted to set himself up as a referee, capable of adjudicating with supreme authority between rival constructions [...] without realizing that they are part and parcel of reality and that, to a certain degree, they are constitutive of the reality of the social world” (1987b, p. 9).¹⁷⁵

It is not, however, only the production, but also the reproduction and institutionalization of these *categories* that demonstrates this [differential] distribution of *capital* (see, Bourdieu, 1989; Bourdieu, 1994). There are specific institutions (*academic* or *research* based) that are involved in this process of the production and reproduction of knowledge relating to restorative practices. Frequently cited within the literature, for example, was RegNet: an institution established at Australian National University by John Braithwaite, whom is also considered to be a major stakeholder in the restorative justice movement. It is from within this institution that the RISE experiments took place. The data collected from these experiments were used in the production of multiple scholarly pieces (see such articles as Harris, 2003; Sherman, 2003; Tyler et al., 2007). Thus, this replication process provides the

¹⁷⁵ This is of course not to say that academics are the only players in this particular game, but are involved in “struggles not only between scholars, but also between laymen and, among these, between the various professionals in the representation of the social world” (Bourdieu, 1987b, p. 9).

opportunity for the accumulation of *cultural capital*, especially *social capital* for ‘restorativists’, while also *reasserting* those categories manufactured.

Conclusion

Restorative justice practices, in their entirety, then, need to be understood in the same way that Bourdieu (1972/1977; 1987b; 1989) has theorized other *classificatory systems* of social phenomenon; their conception, production, and reproduction through their institutionalization and imbrication in social structures and *structuring structures* of agents, must all be considered. Restorative justice might be understood as a *practice*, and thus deconstructed using an *economy of practice* (Bourdieu, 1986), but also analysed as a *field* of practices or a *site of symbolic struggles*. We cannot take as definitive an understanding of the reality of restorative justice without a broader acknowledgment of the positioning of our *vision* within a broader *social space* and amongst other visions of RJ; the entire network of ***power struggles***, in a sense constituting this new *vision*¹⁷⁶, must be mapped. By reconstructing restorative justice as a *field of practice[s]*, these struggles become apparent and the rules of engagement that apply during these conflicts are made more explicit. It can be understood that there are specific ‘forces’ which make some notions or conceptualizations of restorative justice more *legitimate* and thus these are the conceptualizations that become institutionalized and reproduced in discursive and material forms.

This chapter has contributed further to the **geological** mapping of the terrain of restorative justice, including the particular territories, fault-lines, and distribution of elements. Using *cartographic tools* borrowed from Bourdieu (1972/1977; 1986; 1987b; 1989; 1994), it provides a reflexive overturn of the *visions* that partially constitute this phenomenon and the

¹⁷⁶ In this respect, the map in Chapter 3 represents a meta-*vision* that incorporates a number of distinct pictures of reality.

struggles involved in their production and reproduction; it is the second of two ***lenses*** used to create an **apparatus** for the *visualization* of restorative justice. The final chapter explores the construction of this apparatus and the potential use and value of the *visuality* established.

Chapter 5

Concluding Remarks and Practical Implications

Introduction

The previous chapters have outlined a multidimensional *approach* to the *exploration* of criminological phenomenon, contributing to the reconstruction of restorative justice and the production of a ***double-focus analytic lens*** (Bourdieu & Wacquant, 1992) through which we can *visualize* (Woodiwiss, 2001) this *category* of justice. In concluding this thesis, and replicating the stratified nature of its internal structure, there will be further discussion on these two main contributions being made: the ***reconstruction*** of restorative justice itself and the development of a novel multi-layered ***approach*** to research in the social sciences and criminology in particular.

If theories are instead thought of as more or less distinctive localities within a continuous conceptual map, which is continually and unevenly evolving, both continuity and novelty and discontinuity can be recognized in the development of knowledge (Sayer, 1984, p. 71).

The First Dimension: A [Re]Vision

This project began in response to a perceived *chaotic conception* (Marx, 1978) of restorative justice and a desire to determine a ***rational abstraction***¹⁷⁷ (Sayer, 1984, p. 126) for this phenomenon. While a state of consensus or *doxa* (Bourdieu, 1972/1977, p. 164) within an academic *field* or *discipline* may not be possible or even desired (Ericson & Carriere, 1994, p. 96), the way in which restorative justice had previously been understood

¹⁷⁷ In using this term loosely, I simply want to contrast the coherent conceptualization constructed within this thesis to the *visions* of restorative justice that have been produced in the past. The *rational abstraction* presented attends to this phenomenon with regard to its unique “structure and form” (Sayer, 1984, p. 127), determined through engagement with the literature and the ontological foundations of *depth realism*.

actually indicated more than simple fragmentation, but also a *lack of understanding*. Thus, this thesis has been primarily oriented towards producing a more coherent and *synthetic* conceptualization of restorative justice through the development of a ***diagrammatic representation***¹⁷⁸ (Blaikie, 2000, p. 173) in the form of a *conceptual scheme* or ‘map’ (see p. 52, *figure 1*; p. 140, *figure 2*) and subsequent explication of its component parts. Having used some of the most frequently and infrequently cited literature on the topic, this *model* encompasses the ontological foundations of this phenomenon, while also enabling an exploration of some of the *conflicts* occurring within the ***field*** and where these are situated ontologically; it provided a ***representation*** (not *re-presentation*) of restorative justice (see Woodiwiss, 2001).

To some extent, then, this project is driven by the *ontological tradition*; it attempts to initially determine *what* the phenomenon of concern *is*, mapping its essential characteristics or features (Blaikie, 2000, pp. 130~131). This was justified on the basis that ‘exploration’ and ‘discovery’ are not necessarily exclusive to underdeveloped fields or disciplines that have not yet fully matured, but should be employed liberally and at various stages of a discipline’s evolution, especially within the social sciences (Stebbins, 2001, p. 10). The *model* presented in Chapter 3 is an attempt at establishing a foundation for a current *understanding* of restorative justice, acknowledging its various *dimensions* and ***polysemic*** nature. The compilation and *synthesis*¹⁷⁹ of distinct *visions* of this phenomenon, as conceptualized by restorativists, allowed for *sense* to be made where before there was none.

¹⁷⁸ This type of model reflects the *form* that my model takes, especially the *abstract-analytical* subtype which ‘maps’ abstract concepts and their relations (Blaikie, 2000, p. 173). Although this type of model does not align with the *abductive approach*, it is used primarily to reference the shape that this model takes and not necessarily the *research strategy* employed (Blaikie, 2000, p. 177). The actual complexity of the model itself bridges multiple types of models presented by Blaikie (2000, p. 177). The *conceptual model/ scheme*, viewed to be related to *diagrammatic representations* (Blaikie, 2000, p. 168), more generally represents the model that was established.

¹⁷⁹ This synthesizing technique is an underappreciated tool within criminology as many do not understand how it enables coherency and accessibility within the field (Currie, 2007, pp. 180, 183). Unfortunately, a narrow scope of what is considered ‘scholarship’ has contributed to a disregard for the *value* of this analytic work (Currie, 2007, pp. 180, 183).

In Chapter 4 this meta-vision was *re-visualized* through a broader mapping of the *social space* (Bourdieu, 1987b; Bourdieu, 1989) encompassing the practice. This evaluation offered an *explanation* as to *why* and *how* these individual *visions* of restorative justice are produced and reproduced in a particular way, promoting further **depth** in the meta-vision already produced and highlighting a distinct **meaning** of restorative justice.

The Second Dimension: A New Approach

Of equal (if not greater) importance for this thesis is the *approach* that was used to *explore* restorative justice, including the ontological and epistemological foundations of **depth realism** and the **abductive research strategy** used to construct the *lens*. It was through this multi-layered, cyclical, approach that I attempted to fulfill Williams' (1984) desire for a more theoretically oriented criminology; one which employed **reflexivity**, but did not take the *tools of enquiry* (often *statistical techniques of analysis*) to be the object of study, by maintaining a focus on the *substantive problems* concerning restorative justice (Mills, 1959; *see also* Bourdieu, Chamboredon, & Passeron, 1968/1991; Bourdieu & Wacquant, 1992). The task accomplished might more adequately be described as one which employs the act of 'theorising' (Frauley, 2005) or 'thinking theoretically' (Craib, 1992, p. 5), in order to produce *coherency* and a sound *conceptual foundation* within one subfield of criminology, elements which are lacking within the discipline more generally (Williams, 1984). The approach taken was particularly relevant to *restorative justice* because, as Woolford (2009) suggests, the ontological and epistemological foundations of restorative justice are absent in

most ‘theoretical work’ on restorative justice, and many others have questioned the adequacy of its conceptualization.¹⁸⁰

The **framework** informing this reconstruction followed the *depth ontology* reflected in Tagg’s (1988) approach to analysing the *history of photography* and Mills’ (1959) own stratified (but interconnected) *vision* of reality imbedded in the *Sociological Imagination*. According to Mills, this perspective involves viewing “the most impersonal and remote transformations to the most intimate features of the human self—and to see the relations between the two” (1959, p.7).¹⁸¹ By adopting the foundations of *depth realism*, **dualisms** that are seen to restrict research, such as *micro/macro* and *subjectivity/objectivity* divides (see, especially, Bourdieu, 1988), have largely been overcome.

This task of reconciling the distinct notions or *levels* of reality being explored was enabled through the adoption of a *double-focus analytic lens*, allowing each *level* to inform the other (Bourdieu & Wacquant, 1992, p. 7). As is exemplified by the work of Bourdieu, “[a]n adequate science of society must encompass both objective regularities and the process of internalization of objectivity whereby the transindividual, unconscious principles of (di)vision that agents engage in their practice are constituted” (Bourdieu & Wacquant, 1992, p. 13). In other words, there needs to be a two-dimensional analysis of social reality, the primary dimension being a strict analysis of the phenomenon itself (what one might call an *objectivist moment*), followed by a secondary analysis of the construction of the phenomenon by social actors (*subjectivist moment*) (Bourdieu & Wacquant, 1992, p. 7). This “methodological relationalism” (Bourdieu & Wacquant, 1992, p. 15) reflects the substantive

¹⁸⁰ See Chapter 3 for a complete discussion.

¹⁸¹ As Woolford (2009) suggested restorative justice might enable us to do as a *practice*.

approach desired for the thesis: the prioritization of the *relationship* between different ontological strata under consideration (see Mills, 1959).

The first ***objectivist lens*** has been the focus of Chapter 3, where the ***concept*** of restorative justice was explicated. This expanded ***scope*** of restorative justice was constructed through the mobilization of *sensitizing concepts* (Layder, 1993), which enabled a tracing of the relations between restorative justice and the *forces* that *enable* and *inhibit* the practice, as well as its *conditions of existence* identified within and (to some extent) beyond the literature.

The second ***subjectivist lens*** captures the *classificatory systems* restorativists produced, as well as the agents acting within these systems, and determines where they are situated within *social space* by using the cartographic rules supplied by Bourdieu (1972/1977; 1986; 1987b; 1989; 1994). It focuses more specifically on restorative justice as a ***field of practices*** (a site of symbolic struggle) directing us to the *view points* (Bourdieu, 1987b, p. 2) from which these restorativists constructed their visions, as well as how they *use* RJ and produce and reproduce its ***value***, in the same way that Tagg (1988) deconstructed the uses and value of photographs, exploring the *practice* of photography, and determining a meaning beyond the superficial naïve realist perspective that prioritized the *re-presentations* of the ‘real’ that it produced.

Thus, the approach taken to reconstruct this multidimensional and *polysemic* concept was itself multi-layered, each lens offering ‘objective’ and ‘subjective’ elements. The *first lens* consisted of a *vision* of restorative justice constructed through the mobilization of the concept *scope*; this *sensitizing concept*, itself, a viable “**two-sided**” concept (Layder, 1993, p. 130) that can be used in future research, reflecting on both the micro- and macro- facets of social reality. The *second lens* enabled the *intersubjectivities* of the restorativists to be

explored and the connexion between *thought objects* and *real objects* once again considered (Sayer, 1984).¹⁸² Examining restorative justice through both lenses ~ as a *concept* ([mostly] *objectivist lens*) and *field of practices* ([mostly] *subjectivist lens*) ~ captures the *duality* proposed by those adopting a *realist* approach (Layder, 1993; *see also* Mills, 1959; Bourdieu & Wacquant, 1992; Craib, 1992), presenting *objective* and *subjective* elements beyond even that which is described by Layder in his discussion of “two-sided” concepts (1993, p. 130).

Praxis

Finally, following Mills’ (1959) approach to *sense-making*, research has to be open to *evaluation* and *critique*. According to Sayer, the true means of evaluating a theory¹⁸³ (or other ‘knowledge’ procured through research) is its potential *utility*, what he has referred to as “**practical adequacy**” (1984, p. 66). As Sayer explains, “knowledge can only be judged as more or less ‘useful’, rather than as true or false” (1984, p. 66).¹⁸⁴ While Sayer approaches social research from a *realist* perspective and thus acknowledges a distinction between *thought objects* and *real objects*, *knowledge* and the *material world*, he nonetheless proposes that it is the *relationship* between the two upon which we should concentrate (1984, p. 65). Sayer states that “[t]o be practically adequate, knowledge must generate expectations about the world and about the results of our actions that are actually realized” (1984, p. 66). This

¹⁸² Sayer speaks of *intersubjectivities* in his conception of the *social world* and how it is partially ‘concept-dependent’ (1984, p. 32).

¹⁸³ This is not to suggest that what was produced in this thesis was itself a ‘theory’. Theory takes on a multitude of meanings within scholarly texts, to the extent that it becomes almost devoid of meaning (Sayer, 1984; Craib, 1992; Blaikie, 2000). From this chaos, Sayer identifies three distinct notions of theory: an “*ordering framework*” which does not problematize the meaning of the data being ordered; a conceptualization of some phenomenon; and as a synonym of hypothesis or explanation (1984, p. 49). From these, the second notion can most accurately describe *the practice of theorising* demonstrated in this thesis; it involved a *reconstruction* of restorative justice and its component parts, acknowledging the relationships between *thought objects* and *real objects*, the material and immaterial, all of which constitute such a conceptualization (Sayer, 1984). However, the model or *map* of restorative justice alone does not itself constitute a ‘theory’; it can actually be considered the primary step, enabling further processes through which ‘theory’ is born (*see* Willer, 1967; Blaikie, 2000). The implications of the model’s construction (in relation to theory building) will be discussed more below.

¹⁸⁴ Similarly, Willer notes that models cannot be validated or proven true or false, only determined to be useful, and productive, or not (1967, pp. 20~21, 24~25; *see also* Blaikie, 2000, p. 171).

project attempts to provide this *utility* that Sayer (1984) proposed, bridging the two levels and approaching restorative justice as a *thought object* and a *real object*, examining it as a *concept* as it is explored within social science research by academics and employed by individuals within and outside of academia.¹⁸⁵ Although the justification for and purpose of this project was to *understand* and *make sense* of the *concept* of restorative justice, its empirical **referent(s)** were also considered. Emphasizing this *connexion* (but not *correspondence*) between *thought objects* and *real objects* (Sayer, 1984), it was assumed that making *sense* of restorative justice as a ‘concept’ would contribute to a greater coherency in its ‘practice’.

Reflecting this relation is the assertion that if the concept of *restorative justice* is to become useful as an *analytic construct* and from this a coherent practice established, then this phenomenon must be adequately *understood*. To do that, I had to make *sense* of the literature, establish a *dialogue* with the text (Alvesson & Sköldberg, 2009), and refine the concept using external concepts, categories and **analogues**¹⁸⁶ that could establish an appropriate ordering for the reconstruction. The *sensitizing concepts* used (i.e. *scope: self, situated activity, setting, context*) helped to establish a **structure** or set of regularities.¹⁸⁷ This *structure* further facilitated a breakdown of the *conflicts* involved in the construction of the concept and the problems (referred to as **fragmentation**) with the conceptualizations of this practice, as previously outlined by other restorativists (Gavrielides, 2007; Gavrielides, 2008). By restructuring these conflicts and consolidating them through the mobilization of ‘scope’,

¹⁸⁵ Again, one might make reference to the *first* and *second worlds* discussed by Mouton (1996) and described in previous sections. This analysis incorporated both worlds, and, therefore, the ‘real’ *empirical* world of objects (*first world*) and the evaluations of the ‘real’ by social scientists (*second world*).

¹⁸⁶ By *analogues* I am referring to the depth of *photography*, as it was examined as a *practice* by John Tagg (1988), the notion of *polysemy* from linguistic studies (see Ravin & Leacock, 2002), and the mapping /cartography analogy (in reference to the work of Pierre Bourdieu) employed throughout the thesis.

¹⁸⁷ The “intransitive or relatively enduring social relations, processes, and institutional arrangements” often neglected in social research (Frauley, 2005, p. 257).

a better understanding of this *fragmentation* was established and the *concept* became *more comprehensive* and *less chaotic*. This sensitizing concept also more generally directed the focus to what *forces* may enable or disable the *practice*, the *classificatory systems* established (which, themselves, have *conceptual* and *empirical* effects) and the means through which these conceptualizations become produced and reproduced. This process demonstrated a *reflexivity* previously lacking or overshadowed by the *chaos* seemingly intrinsic to restorative justice; these were the missing elements within the *field* of restorative justice. In its entirety, then, this thesis contributes a *conceptual foundation* for the *practice* of restorative justice.

As concepts may also be viewed as the *foundation* for research (Blaikie, 2000, pp. 129~130), the establishment of this *rational abstraction* (Sayer, 1984, p. 126) provides an opportunity for further exploration and in particular the continuation of *exploratory* research through consecutive studies or *concatenation* (Stebbins, 2001, p. 5). This opportunity lies in both in the ‘testing’ of the *map*, the potential for theory to be derived from the *model* (see Willer, 1967; Scimecca, 1975; Scimecca, 1976; Blaikie, 2000), and the continued evolution of this *visuality* (Woodiwiss, 2001) being constructed for restorative justice.

As stated by Willer, models themselves simply “establish the meaning, particularly the nominal meaning, of the whole theoretical structure” (1967, p. 25). The general premise is that theories may be derived from models, these models explicate connections derived from data, and ‘formal systems’ may be *operationalized* in order to test specific theories (Willer, 1967; see also Blaikie, 2000, pp. 170~171). There is always potential (especially given the *abductive strategy* adopted) to adjust or further develop a model or theoretical idea; data can transform the model with unique empirical examples or exceptions not yet considered (Blaikie, 2000, p. 181; Alvesson & Sköldbberg, 2009). As such, the *model* postulated in

Chapter 3 might be considered a “working model”, as C. Wright Mills’ own work reflects, which “may be corrected and made more useful as an analytical tool” (Scimecca, 1975, p. 146; *see also* Scimecca, 1976, p. 181).

Although this is a *synthetic* reconstruction of restorative justice using a *reflexive* approach, this does not suggest that *exploration* should cease; as Gavrielides (2007; 2008) suggested, this is the beginning of a long journey towards providing clarity within the *field*. That is to say that the *chaotic conceptions* (Marx, 1978) produced by academics in the field need to be understood as such and the *dimensionality* of the concept (and *practice*) proposed here must be further explored. In this way the *sensitizing concept* ‘**scope**’ and the *conceptual scheme* produced in this thesis, may be used to orient future research (*see* Blaikie, 2000).

Finally, this exploration of *restorative justice* terrain ~ as a representative subfield of the greater criminological discipline ~ might be viewed as a *case study*. As discussed fully in Chapter 2, Williams (1984) has critiqued the inadequacy of the criminological discipline, the mismanagement of concepts and the inability of researchers within this field to engage theoretically with their research (*see also* Whitehead, 1985; Barton et al., 2007, *for further critique*). Although the *visualization* of restorative justice presented in this thesis demonstrates the use of his ***criminological imagination*** to combat these concerns, the criminological discipline more generally is still suspect to the conceptual and methodological issues that Williams (1984) directed our attention to decades earlier (*see also* Frauley, 2005). Therefore, the reflexive analysis of this *discipline*, itself, must continue in further research (Williams, 1984; *see also* Nelken, 1994). To assist in these efforts, the multidimensional *approach* presented in this thesis (although employed specifically for the *reconstruction* of restorative justice) may be used in the exploration of other criminological phenomena.

Conclusion

Inspired by photography, the dimensionality of *depth realism* and its stratified ontology (Tagg, 1988; Mills, 1959; Layder, 1993; Craib, 1992), I have attempted to provide a *visuality* (Woodiwiss, 2001) for restorative justice as a *chaotically conceptualized* (Marx, 1978) phenomenon. The *apparatus* developed throughout this thesis provides a novel way of *viewing* restorative justice through a unique *double-focus analytic lens* (Bourdieu & Wacquant, 1992). The primary product of this approach was a model or *map* of the restorative terrain, including all the elements, fault-lines, and real and constructed boundaries, that constitute this *field*. This *model* portrays the *scope* of the first [objectivist] *lens*. Building upon this first lens, the second [*subjectivist*] *lens* adds another (symbolic) dimension to this phenomenon by enabling a view of the greater *social space* in which this *practice* exists. Viewing restorative justice through both of these lenses further increases the *scope* of the *vision*, producing a *visuality* that reflects the various ontological strata constituting this phenomenon (and social reality more generally) and the *polysemic* nature of restorative justice. Avoiding the traps commonly obstructing the path to the *criminological imagination* (Williams, 1984), the strict distinctions between *art* and *science*, *theory* and *empirical research*, and *micro-* and *macro-* level phenomena were surpassed in this journey towards establishing a wholistic *representation* (Woodiwiss, 2001) of restorative justice. Further research in this area is necessary to continue to *explore* the vast expanse of the restorative justice territory.

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APPENDIX

EXPANDED MAP OF RESTORATIVE JUSTICE

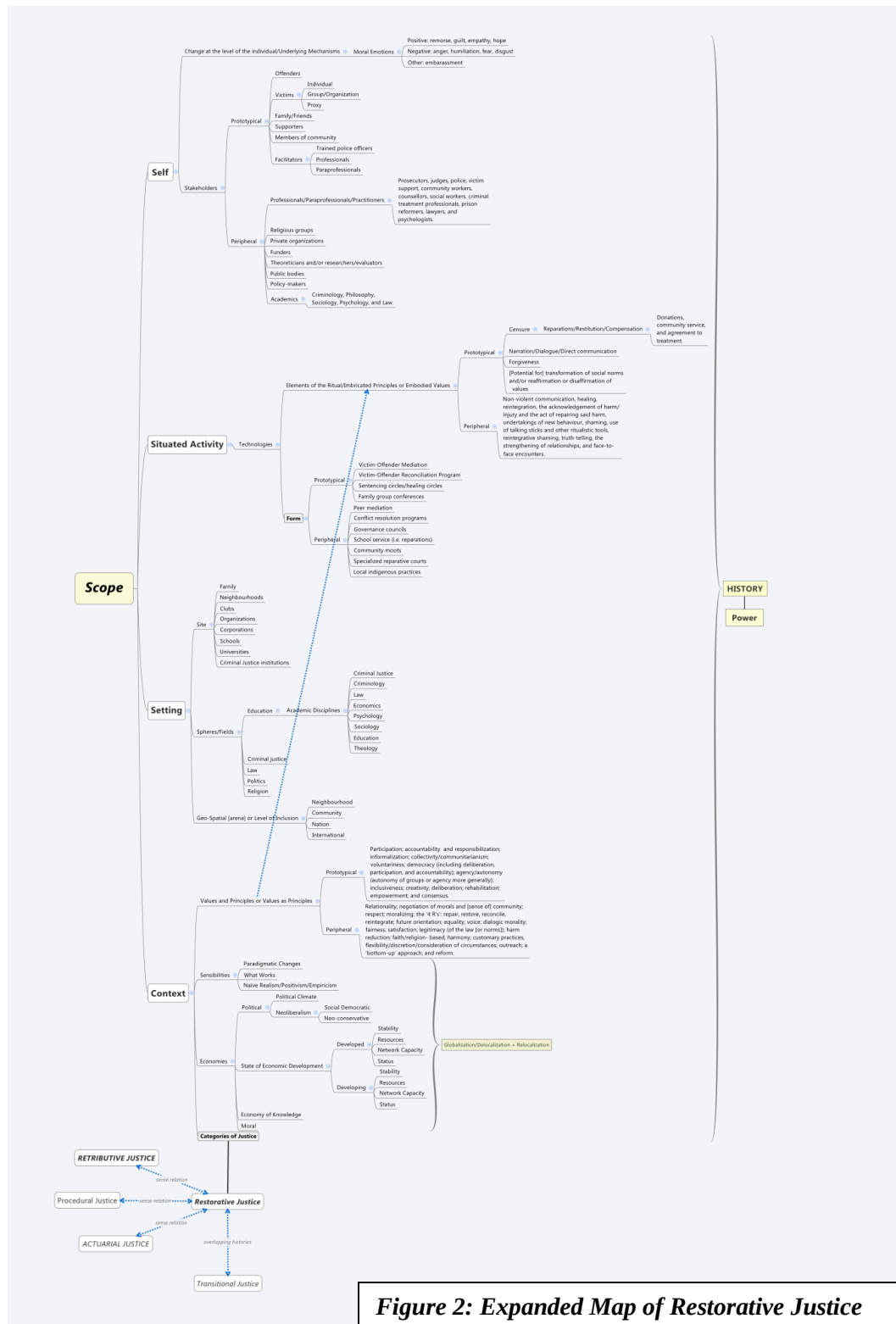


Figure 2: Expanded Map of Restorative Justice