Feminising Restorative Justice: A Critical Exploration of Offending Girls' Experiences of Participating in Restorative Justice Conferences

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Abstract

Supported by a growing political momentum, over the past two decades, the contemporary popularity of restorative justice has expanded significantly and it has become infiltrated within youth justice discourse, resulting in vast amounts of related research and literature. Despite an increase in restorative justice practice there is, to date, a considerable lack of research which explores girls' experiences of restorative justice interventions. By focusing on the experiences of young female offenders, who have participated in restorative justice conferencing, the research study aims to address this gap in knowledge. By utilising Goffman's (1963) perspective on stigma and a feminist influenced, gendered analysis of shame, the research study will fundamentally question the conceptual framework and theoretical premise upon which the development of restorative justice conferencing has been established. In doing so, it aims to raise important contextual arguments about the suitability of restorative justice conferencing used with girls who offend. Drawing upon a summary of empirical findings from interviews, undertaken with thirteen youth justice practitioners and fifteen girls, whose views have been excluded from youth justice discourse, an alternative view of their marginalised knowledge will be provided in order to encapsulate their experience of restorative justice conferencing through a gendered lens. The establishment of such alternative narratives will challenge the ways in which the youth justice system is holding girls accountable for their offending through gender-neutral restorative justice interventions, which fail to take cognisance of the context in which structural inequalities, in relation to gender, shape their formative experiences and have the potential to impact upon restorative justice conferencing.

Declaration of Published Work

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Chapter 1

Chapter 1: Neglected Girls and Restorative Justice

> Under the conditions of oppression, the oppressed must struggle not only against more visible disadvantages but against guilt and shame as well (Bartky, 1990: 97).

1.1 Introduction

There is no single meaning or definition of restorative justice (RJ), therefore explicitly understanding what RJ is in theory, and in practice, is not straightforward (Johnstone, 2011; McCold, 1998; Van Ness and Strong, 2002). Although there continues to be no universally agreed upon definition of RJ, it is commonly understood as:

> A process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future (Marshall, 1999: 5).

In recent decades the concept has gained significant popularity and momentum within criminal justice, political and academic discourse internationally (Cunneen and Goldson, 2015; O'Mahoney and Doak, 2017). Proponents of RJ consider it to be a progressive alternative to responding to crime and deviance and an optimistic way to address existing problems inherent within the CJS (London, 2013). The foundations of RJ philosophy are concerned with repairing harm following the aftermath of an offence, as opposed to the infliction of punishment, and are regarded as a radical alternative to punitive methods of dealing with offending behaviour, which limits the role of the state in delivering justice (*ibid.*). At the centre of RJ philosophy is the desire for an inclusive, participatory approach to conflict resolution, which emphasises the importance of restoring relationships between victims, offenders and their communities (Crawford, 2002).

In practice globally, contemporarily and historically, RJ has been afforded different names, has manifested in different ways and operates both formally and informally in various settings (educational, communities, criminal justice) (Van Ness and Strong, 2002). Since the 1960s, however, RJ has been at the centre of a fundamental debate concerning the delivery of criminal justice within Western society. From the 1980s onwards, the popularity of RJ has increased considerably, receiving unprecedented support whilst RJ policy exchange and practice has proliferated globally (Cunneen and Goldson, 2015; McLaughlin *et al.*, 2003). Since this time, the theoretical premise, upon which RJ is founded, has become closely associated with Braithwaite's (1989) Reintegrative Shaming Theory (RIST). This association, between RIST and RJ, has sparked 'spirited debate' concerning the appropriateness of utilising shame in order to deliver justice (Braithwaite and Braithwaite, 2001: 4). As a result, the concept has come to occupy a 'central, if controversial, position within the theoretical understanding of restorative conferencing largely as a result of the formulation of reintegrative shaming theory' (Maruna *et al.*, 2007: 25). Throughout society, shame has been used as an intrusive penalty for offenders and the practical application of RIST has been described as an 'attempt to revive shame', resulting in 'oppressive conformity' (Johnstone, 2011: 105-106). By critically exploring young female offenders' experiences of participating in RJ conferencing, the central arguments and discussions developed within this thesis aim to broaden the debate regarding the role of shame within RJ practice. The development of such debate is specifically concerned with questioning whether the core principles of RJ conferencing are beneficial and appropriate for the sample of girls who took part in this research study.

This introductory chapter will identify the central themes and questions, relating to the use of RJ conferencing with girls who offend, which will be critically explored in subsequent

chapters. This chapter will provide a brief introduction to the empirical research undertaken to inform the study and the central research questions to be addressed. Finally, a summary of all chapters will be provided. This is an original piece of research that is exclusively concerned with young female offenders' subjective experiences of participating in RJ. Utilising Goffman's (1963) theory of stigma and the concept of spoiled identities, the intention of this thesis is to explore, through a gendered lens, the extent to which dominant discourses of femininity, inherent within social construction, have the potential to impact upon girls' experiences of shame during a RJ conference.

The central arguments contained within this thesis are unique in the fact that they examine the need for gender-sensitive approaches to RJ practices for girls who offend. In doing so, this research contributes to the development of alternative narratives to RJ discourse, which bring to the fore girls' subjective experiences of participating in RJ conferencing which have remained marginalised and neglected within academic inquiry. The development of such alternative narratives accentuates the extent to which contemporary RJ practices have developed in a way that neglects the salient role gendered power relations, social control and inequality determine the differential needs and experiences of girls who enter the youth justice system (YJS). What appears to be the systematic marginalisation of gender throughout RJ policy and practice therefore leads to the conclusion that the core process, dynamics and practices of RJ conferencing are not only inadequate for girls but also have the potential to fundamentally harm those who participate.

1.2 The Origins, Development and Influences of Restorative Justice: An Alternative Paradigm to Punitive Justice?

'According to its proponents restorative justice is not a new invention but is a return to traditional patterns of dealing with crime and conflict' (Zernova, 2007: 7). From the twelfth century onwards, following Western colonisation, criminal justice became monopolised by the emergence of a state 'central power', resulting in older justice values becoming replaced by an adversarial model of justice (Johnstone, 2011: 30). This punitive model of criminal justice continued to prevail and it was not until the 1960s that RJ traditions, concerned with the 'native values and customs' of colonised countries such as Australia, New Zealand and North America, began to re-emerge (Johnstone, 2011: 30).

Efforts to revive conflict resolution practices began due to a loss of faith in post-colonial methods of criminal justice (Johnstone, 2011). Such disdain for the adversarial paradigm of justice is responsible for the beginnings of the RJ movement in the 1970s (*ibid.*). This movement became pivotal with regards to initiating support for a new paradigm of criminal justice, concentrated upon principles of restitution, accountability, reparation and reintegration, as opposed to oppressive punishment and social control (Johnstone, 2011; London, 2013; O'Mahoney and Doak, 2017). A number of writers have been particularly influential in provoking interest in the development of alternative paradigms to punitive justice (see for example, Barnett, 1977; Christie, 1977; Zehr, 1990). The common aspirations of such proponents of informal justice practices was the replacement of punitive models of criminal justice with alternative ones which, enhance the role of victims and restrict the role of the state in delivering justice (Gavrielides, 2011; Johnstone, 2011).

Various social justice movements and theoretical frameworks have also proven to be influential in shaping the emergence

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and development of RJ in contemporary society. For example, the victims' movement, the informal justice movement, the women's movement, penal abolitionism, feminism and peacemaking criminology (Barnett, 1977; Christie, 1977, 1982; Harris, 1991; Hulsman, 1986; Pepinsky and Quinney, 1991; Zehr, 1990, for example). What these theoretical frameworks and social justice movements have in common is that they support restitution as the goal of criminal justice intervention and assume an oppositional position to punitive criminal justice practices (Gavrielides and Artinopoulou, 2013).

Whilst these approaches have been influential in promoting alternative paradigms of crime control, the 'social dimensions of restorative justice' have come to be closely associated with the idea of 'reintegrative shaming' developed by Braithwaite (Marshall, 1999: 30). Reintegrative shaming provides a theory of crime, based on a framework of social control, which would lead to effective crime control and offender rehabilitation (Braithwaite, 1989). RIST seemingly provided the theoretical framework for the RJ movement in Western society (Zernova, 2005) and is 'one of the most frequently cited among those exploring alternative modes of crime control' (Cayley, 1998: 273).

1.3 Reintegrative Shaming: Conceptualising the Development of Restorative Practices

The central premise of RIST is:

> . . . that locations in space and time where shame is communicated effectively and reintegratively will be times and places where there is less predatory crime – less crime that is a threat to freedom as non-domination (Braithwaite and Braithwaite, 2001: 39).

The theory, therefore, emphasises the fundamental role shame occupies in criminal sanctioning and its ability to

prevent offending (Braithwaite, 1989). The process of shaming can be described as 'all social processes of expressing disapproval which [have] the intention or effect of invoking remorse in the person being shamed and/or condemnation by others who become aware of the shaming' (*ibid.*: 100).

Braithwaite (1989: 85) suggested that the social conditions, which facilitate reintegrative shaming, are contained within a 'communitarian society [which] combines dense networks of individual interdependencies with strong cultural commitments to mutuality of obligation'. He suggested that such societies 'not only have the capacity to deliver more potent shaming, they can also deliver shaming which is more reintegrative' (*ibid.*: 87). According to Braithwaite (*ibid.*: 9), shaming within this context functions as a process of 'moralizing social control', which:

> . . . is more likely to incite compliance with the law than repressive social control. Because criminal behaviour is mostly harmful . . . and agreed to be so by most citizens, moralizing appeals which treat the citizen as someone with responsibility to make the right choice are generally . . . responded to more positively than repressive controls which deny human dignity . . . (Braithwaite, 1989: 9-10).

Braithwaite (1989: 55) does, however, acknowledge that 'shaming runs the risk of counterproductivity when it fades into stigmatization'. He refers to a distinction between 'reintegrative' shaming and 'disintegrative shaming' (*ibid.*: 55). Reintegrative shaming, according to Braithwaite, is 'shaming which is followed by efforts to reintegrate the offender back into the community of law abiding respectable citizens through words or gestures of forgiveness or ceremonies to decertify the offender as deviant' (*ibid.*: 101). Reintegration and shame, however, do not occur concurrently but form part of a sequence whereby reintegration is achieved before the deviant label becomes the individual's 'master status' (*ibid.*:

101). Shaming, within the context of reintegration, should therefore only focus upon the deviant act, not the individual, and is distinguished from stigmatisation through attempts to 'maintain bonds' following the experience of shame. Disintegrative shaming, however, is:

> . . . shaming in which no effort is made to reconcile the offender with the community. The offender is outcast, her deviance is allowed to become a master status, degradation ceremonies are not followed by ceremonies to decertify deviance (Braithwaite, 1989: 101).

In 2001, the theory was revised and shaming, as the primary focus of the theory, became replaced with shame management. Whilst the initial theory contended that reintegrative shaming was sufficient in reducing criminal behaviour the revised perspective suggested that the key variable, central to recidivism, is the impact shame has on individuals and the way in which they are able to constructively manage their feelings of shame (Braithwaite and Braithwaite, 2001). The central argument being that engaging in reintegrative shaming, as described by Braithwaite (1989), will support the individual to engage in constructive shame management whilst stigmatising shaming results in unresolved feelings of shame, which will have a negative impact on criminal behaviour (Braithwaite and Braithwaite, 2001).

The development of RIST accounts for the fundamental, and problematic, role shame occupies within the theoretical underpinnings of RJ (Maruna *et al.*, 2007). The theoretical arguments contained within RIST are considered to be an important influence with respect to the growth of RJ in Western society and have had a significant practical impact on the development of restorative practice, particularly restorative conferencing (Retzinger and Scheff, 1996; Young and Goold, 1999). Although the revisions to RIST do

acknowledge relevant critiques concerning the use of shaming, the revised theory maintains that shaming deviant and criminal acts are salient to 'preventing injustice and enabling restoration' but only if undertaken in a reintegrative manner (Braithwaite and Braithwaite, 2001: 5). Braithwaite's ideas however, are not unequivocally accepted and critics have raised important questions with regards to the use of shaming penalties as a formal response to offending behaviour (Johnstone, 2011; Karp, 2000; Van Stokkom, 2002; Walgrave and Aersten, 1996).

Such questions centre upon the extent to which shame, evoked within an offender, would function in a reintegrative manner, as suggested by the theory. Given that it is the individual who determines whether their experience of shame is reintegrative or stigmatic, and 'not the shamer', there is no way to guarantee, 'despite . . . good intentions', that the shaming which is intended 'to be reintegrative might be taken by the offender to be stigmatic [as] the benchmark for actions must be their impact, not their intent' (Morris, 2002: 167-167). Furthermore, it is questionable whether the 'social conditions' characteristic of post-modern, urbanised societies provide an adequate communitarian environment which would facilitate reintegrative shaming (Dignan, 1992; Johnstone, 2011; Walgrave and Aersten, 1996). Notwithstanding established critiques which problematise the role of shame in offender punishment and contest the empirical and theoretical foundations upon which RIST is based (see for example, Karp, 2000; Maxwell and Morris, 2002; Van Stokkom, 2002), the theory has been influential in promoting and shaping RJ practice, guided by broader concerns in relation to facilitating a 'fundamental' change in the modes of social control, which required a shift in attitudes towards offending and offenders (Johnstone, 2011: 96).

1.4 Restorative Justice and Reintegrative Shaming: Developments in Practice

Whilst developments in restorative practice have originated in various countries and can be traced back to informal justice practices used globally, the most modern revival of restorative practices have been derived from Aboriginal peace making practices and Maori customs used in North America, Australia and New Zealand (Wallis, 2014; Zernova, 2007). Therefore, there are a variety of programmes that have contributed to the development of RJ in Western society, such as: victim-offender mediation, sentencing circles and restorative conferencing (see for example, Cayley, 1988; Stuart, 1996; Zehr, 2005). Central to all of these applications of RJ is a facilitated encounter between victims, offenders and members of their community (Wallis, 2014). However, it is the restorative conferencing model which appears to have had the most influential impact with regards to the application of Braithwaite's (1989) RIST and the proliferation of restorative practice outside of Australia and New Zealand (Johnstone, 2011; Van Ness and Strong, 2015).

The model of restorative conferencing, initially used in New Zealand, took the form of Family Group Conferencing (FGC) (Van Ness and Strong, 2015). Adapted from 'whanau conferences', practiced by Maori people, FGC was used primarily in youth offending cases as a response to the over representation of young Maori people in the New Zealand CJS (*ibid.*: 84). FGC was introduced by The Children, Young Persons and Families Act (1989) and provided a statutory requirement for all young offenders aged 14-17 years old to be referred to a conference (Raye and Warner Roberts, 2007).

Family group conferences were 'conceived as instances of reintegrative shaming in practice' (Zernova, 2007: 13). Those facilitating FGC 'in accordance with Braithwaite's theory

[made] the distinction between ''reintegrative'' shaming and ''stigmatising'' shaming' in order to 'ensure the conferencing process complied with the principles of reintegrative shaming' (*ibid.*: 13). It is the development of the FGC model that 'acted as a catalyst for, and beacon of, the international restorative justice movement' (Crawford and Newburn, 2003: 27).

Following the introduction of FGC in New Zealand, the model was then extended to Australia and was subsequently adapted by the Wagga police force into a scripted model of restorative conferencing (Raye and Warner Roberts, 2007; Zernova, 2005). The Wagga model was 'heavily influenced by Braithwaite's theory of reintegrative shaming' (Crawford and Newburn, 2003: 29) and has arguably 'proved the most influential' in terms of the development of RJ conferencing within the United Kingdom (UK) (Young, 2001: 195).

1.5 Restorative Justice in the Youth Justice System

The implementation of RJ, as a response to young peoples' offending behaviour, can be traced back to the New Labour government (Crawford and Newburn, 2002). New Labour sought to introduce the key components of RJ practice as an alternative approach to delivering justice to victims and transforming the behaviour of those who offend (*ibid*.). This alternative approach to the management of offenders took effect almost immediately and it became clear that this change represented a significant shift in the conceptualisation of criminal justice.

The White Paper 'No More Excuses' (Dignan and Marsh, 2001: 98) paved the way for the first of New Labour's reforms which sought to 'build upon the underlying principles of restorative justice' (Home Office, 1997: 32) by institutionally incorporating the fundamental concepts of:

Restoration: young offenders apologising to their victims and making amends for the harm they have done;

Reintegration: young offenders paying their debt to society, putting their crime behind them and rejoining the law abiding community; and

Responsibility: young offenders - and their parents - facing the consequences of their offending behaviour and taking responsibility for preventing further offending (Home Office, 1997: 9.21).

Introduced by The Crime and Disorder Act 1998 (CDA), and the subsequent Youth Justice and Criminal Evidence Act 1999 (YJCEA), RJ became formally incorporated into the YJS's response to young people's offending behaviour (Crawford, 2002; Crawford and Newburn, 2002; Dignan, 1999; Goldson, 2000; Haines, 2000). RJ has since become, and continues to be, embedded within youth justice discourse, prompting significant amounts of criminological research and associated critical literature (Cunneen and Goldson, 2015).

The application of RJ, as a response to youth offending, has been conveyed through a variety of RJ interventions, for example: pre-court diversion, restorative cautioning, YOPs, reparation schemes and RJ conferencing (Crawford and Newburn, 2002; Cunneen and Goldson, 2015). However, within the context of this research study the focus is explicitly on the use of RJ conferencing with young female offenders. RJ conferencing can be described as a process whereby 'victims and offenders involved in a crime meet in the presence of a trained facilitator with their families and friends or others affected by the crime, to discuss and resolve the offence and its consequences' (Strang *et al.*, 2013: 3). As discussed, 'RJ conferencing has strong theoretical connections' to RIST (*ibid*.: 9) and the 'developed and applied forms of Braithwaite's theory are the focus in restorative justice conferences' (Kim and Gerber, 2012: 1064). Although RJ conferencing is used by the youth justice service within

England and Wales, as an intervention for young people who offend, it has developed outside of a statutory framework and can form part of any type of sentence with young people, including those who are subject to diversionary or statutory intervention (Crawford and Newburn, 2003).

As such RJ conferencing can form part of a variety of statutory and non-statutory sentences and interventions given to young people. For example, RJ conferencing can form part of the conditions of a referral order contract (see chapter 3) or form part of police restorative intervention. In this context, RJ conferencing may 'occur in isolation or in tandem with a reparative act' (ACPO, 2011: 3).

Despite the multifaceted contexts in which RJ conferencing may be employed as part of a youth justice intervention for young people the formal guidance offered in relation to the facilitation of RJ conferencing indicates that in addition to the offender's consent to participate in the conference, a number of additional outcomes may also be included. For example 'material or financial reparation, either to the direct victim . . . or to the community', as well as a focus on achieving any 'rehabilitative outcomes' identified during the conference, such as substance misuse and mental health needs (RJC, 2011).

According to the best practice guidance on RJ conferencing, offered by the RJC, those participating within an offender capacity must also 'accept responsibility' for the offence (RJC, 2011: 4). The admission of guilt from the perpetrator is recognised as a salient condition for their participation in the conference. It is suggested that under such circumstances, whereby a perpetrator fails to accept responsibility for their offence, it may result in further harm being inflicted upon the victim.

In the context of government policy and existing literature, accepting responsibility and the expression of remorse for offending behaviour are central components to the RJ process (Wallis, 2014). However, there is no guarantee that such conditions are always met. In circumstances, whereby 'offenders and victims contest ''facts'', and offenders have little interest in making amends or in changing their behaviour', Daly contends that RJ conferencing 'should not take place' as a 'damaging dynamic that brings more suffering to those injured' is produced (2008, 134). In addition to negative implications for the victim, the consequences for a young person who is not willing to accept responsibility for their offence or express remorse for their offending may result in the young person being subject to a higher tariff sentence. However, when it comes to considering the consequences for those young people, participating in a non-statutory context, who do not accept responsibility or express remorse, for their offence, during their participation in the conference, no standardized policy or guidance is provided in relation to this.

Since its formal introduction, RJ has been presented as being beneficial to victims, offenders and communities and perceived to be a progressive tool for achieving social justice (Cunneen and Goldson, 2015; McLaughlin *et al*., 2003). It also enables policy makers and practitioners to hold young people accountable for their offending behaviour within a 'moralising and responsiblising' agenda (Johnstone, 2011: 137). Although RJ has been enthusiastically supported by central government, the eagerness upon which it has been transferred into policy and practice has not been unequivocally shared. As such, a considerable corpus of literature has been produced that details the extent to which the introduction of RJ policy and practice has the potential to impact negatively on those subject to it. Such a body of critical literature predominantly emphasises that the ways in which RJ policy has been transferred into youth justice practice has the potential to draw more young people into the YJS,

represents a pre-occupation with the responsibilisation of young people as opposed to their reintegration, as well as contradicting the principles of proportionality and legal safeguarding (see Chapter 3).

The extent to which RJ has developed, and evolved as a progressive tool for delivering social and criminal justice, has been challenged and critics have argued that there continues to be many punitive elements concerning the treatment of young people, inherent within the YJS (Gelsthorpe and Morris, 2002; Gray, 2005; Haines, 2000; Muncie, 1999). It has been suggested that RJ represents 'just one theme' in an otherwise punitive approach to crime control (Gelsthorpe and Morris, 2002: 248). As such, it is contended that the use of RJ interventions, used within the contemporary youth justice sphere, have not necessarily been advantageous to those young people subject to them (see for example, Cunneen and Goldson, 2015; Crawford, 2015; Goldson, 2000; Gray, 2005; O'Malley, 2009). Despite the extensive bodies of literature, both advocating and critiquing the use of RJ with young people who offend, research concerning young female offender's experiences of RJ interventions is significantly limited and continues to remain insufficient. Few empirical studies consider the extent to which the social construction of gender shapes and informs RJ practice and outcomes. Furthermore, within the UK, there is a notable lack of research, which explicitly investigates young female offenders' experiences of RJ conferencing through a gendered lens.

1.6 Neglected Girls in the Youth Justice System

Whilst girls have remained largely absent from criminological inquiry, in comparison to their young male and adult female counterparts, this argument does not imply that young female offenders' experiences have been entirely excluded from

youth justice and criminological discourse. An established body of research, produced by feminist scholars, has been particularly influential in drawing attention to key themes inherent in the responses to, and nature of, girls' offending (see for example, Batchelor and Burman, 2004; Burman and Batchelor, 2009; Cox, 2003; Hudson, 1989; Gelsthorpe and Worrall, 2009; Phoenix, 2012; Sharpe, 2012; Sharpe and Gelsthorpe, 2015; Worrall, 2001).

Young female offenders account for only one fifth of the youth offending population (Criminal Justice Joint Inspection, 2014). Their offending behaviour is often considered less serious than their male counterparts and their involvement is often short-lived (Arnull *et al.*, 2005; Bateman, 2008; Shepherd, 2015). However, 'the reasons for the lesser involvement of females in serious and persistent offending remain seriously under theorised' (Williams, 2009: 34). Research concerning the treatment of women and girls within the CJS has, however, highlighted that they often receive harsher sentences and their offending behaviour is considered more severe by the courts (All Party Parliamentary Group, 2012; Gelsthorpe, 2006; Cocks and Sacks-Jones, 2017).

Race and ethnicity are also variable factors, which impact upon the treatment of, and responses to, young female offenders. Black and minority ethnic women and girls have been described as a 'minority within a minority' within the CJS (Cocks and Sacks-Jones, 2017: 4). Black females account for 8.8% of all the adult female prison population in comparison to 3.3% of the female population overall (*ibid.*), whilst Ministry of Justice statistics published in 2016 reveal that black women are '25% more likely than white women to be sentenced to custody' (Uhrig, 2016: 19). Additionally, research conducted by Feilzer and Hood (2004) has identified higher prosecution rates and longer sentences for girls from ethnic minorities compared to those of white female offenders.

In light of such factors, feminist scholars have demonstrated the importance of challenging the culpability of girls' offending behaviour by repositioning the state, and informal agents of social control, as the subject of interrogation (Sharpe, 2012). An international body of empirical research has revealed the 'importance of victimisation in the aetiology of young women's offending' (*ibid.*: 18) and the extent to which gendered violence and victimisation shapes the lives of girls who enter the YJS (see for example, Batchelor, 2005; Bloom *et al.*, 2003; Belknap and Holsinger, 2006; Burman *et al.*, 2000; Chesney-Lind, 1989; Goodkind *et al.*, 2006; Howard League, 1997; Schaffner; 2006; Sharpe, 2012).

The most 'consistent findings' of such research identified that girls involved in the justice system have experienced significantly high levels of 'violent and sexual victimisation' (Sharpe, 2015: 8). For example, research in the UK has suggested that two out of five females have experienced violence at home (Social Exclusion Unit, 2002). In comparison to boys, girls have experienced profound levels of abuse and exploitation in their relationships and are identified as three times more likely to experience sexual abuse (Phoenix, 2012). Furthermore, high levels of social exclusion, educational marginalisation, social care intervention, neglect and poverty are often prevalent characteristics of girls' formative experiences (Sharpe, 2015; Social Exclusion Unit, 2002).

However, the prevalence of violence, abuse, poverty and neglect, in the lives of girls who offend, is not a problem which is confined solely to England and Wales. Existing research and literature reveals that such experiences also cut across international borders. For example, within the United States, Chesney-Lind and Sheldon (2004:145) have estimated that 40-73% of incarcerated girls have experienced sexual abuse. Research in the United States has also revealed that female victims of sexual abuse are more likely to go missing from home and be truant from school, resulting in contact with the

CJS for 'status' offending (Chesney-Lind, 1989). Additionally, the prominent role criminal justice agencies play in relation to the criminalisation of girls' 'survival strategies' and the sexualisation of their offending behaviour have been highlighted (Chesney-Lind, 1989; Chesney-Lind and Pasko, 2013). Alongside frequent experiences of victimisation, empirical research in the United States also suggests that there is a 'significantly higher likelihood of mental health problems' for girls, specifically those detained in young offender institutions (Belknap and Holsinger, 2006: 60).

Despite such insights, regarding the experiences of girls who come to the attention of criminal and youth justice agencies, there has 'historically been a tendency to group girls and young women's risk taking behaviours alongside those of boys and men', based upon the flawed assumption 'that girls and boys are the same' (Centre for Youth and Criminal Justice, 2014: 1). Although both young males and females in conflict with the law 'share a set of universal needs, there are also key differences in terms of behavioural issues, domestic expectations and risk factors' (Batchelor and Burman, 2004). Thus the 'gendered experiences of young women render them in need of different and innovative strategies' (*ibid*.: 276).

Responding to, and working with, girls in the YJS is, however, 'considerably hampered by a set of interrelated problems' (Batchelor and Burman, 2004: 267). The first is their 'relative invisibility in a system dominated by, and designed primarily for men' (*ibid.: 267)*. The second is that girls have 'particular and identifiable needs, stemming from what is frequently characterised as individualised troubles' (*ibid.: 267)*. Third is 'their status as troublesome young females', who are perceived as 'intractable, malevolent and extremely difficult to work with' and finally 'programmes and initiatives designed specifically with girls in mind are few and far between' (*ibid*.: 267).

Furthermore, the history of girls within youth justice reflects attempts to control their behaviour, through criminal justice and welfare interventions, and their narratives often reveal a background of differential treatment compared to their male counterparts due to 'concerns about their sexuality and their independence' (Gelsthorpe and Worrall, 2009: 209). Criminal justice responses to offending girls have a history of subjecting them to inappropriate or gender-neutral interventions which fail to acknowledge the gendered contexts of their offending and their differential experiences within a male dominated YJS. As a result, their 'distinct experiences have often been overlooked' (*ibid*.: 209), despite the fact that they create complex needs which increase their vulnerability to criminalisation (APPG, 2012; Chesney-Lind, 1989; Sharpe, 2012).

Attempts to explain criminality amongst girls have arguably been overshadowed by a tendency to contextualise their offending in relation to social class and moral development, which enforce sinister images of female offending, entrenched within normative expectations associated with the ideals of femininity (Sharpe and Gelsthorpe, 2015). As discussed, girls have consistently represented a minority within the offending population. However, in recent years there has been a 'burgeoning interest among criminologists . . . in crime and violence perpetrated by girls and young women' (Sharpe and Gelsthorpe, 2015: 49). Although concerns about the increase in girls' offending have arguably 'deflect[ed] attention from the actual nature and context of their lawbreaking' (Sharpe, 2012: 24), they have also 'prompted attempts to reconfigure criminal justice responses to them, through gender-specific programming' (Sharpe and Gelsthorpe, 2015: 49).

Despite being subject to critique on the grounds of misconstrued assumptions concerning girls' offending, the development of such programming aims to 'advance equitable treatment' within youth justice practice (Sharpe, 2015: 2). The

epistemological foundations, upon which gender-specific programming have been developed, begin with the understanding 'that girls and women are gendered subjects, with particular, gendered social experiences, who therefore require a holistic, therapeutic approach to intervention in recognition of the social origins of their troubles' (Sharpe and Gelsthorpe, 2015: 57). As such, 'it is now commonplace to argue that a criminal justice system designed for boys and men does not meet the needs of girls and women who find themselves in it' (Sharpe, 2015: 1).

It is now acknowledged that 'interventions for girls and young women should aim to provide a comprehensive . . . service that addresses the complexity and multiplicity of their support needs [and] must also be explicitly gender responsive' (Bateman and Hazel, 2014: 4). Additionally, it has also been recognised that, in comparison to adult female offenders, girls 'have distinctive needs because of their younger age and stage of emotional development' (Burman and Batchelor, 2009: 279). Therefore, it is suggested that the 'real-life context of young women's offending demands a consideration of the key determinants of gender *and* age' (*ibid*.: 281). Whilst the development of gender-specific programming is concerned with responding to the 'broader context of limiting social and structural conditions' (*ibid*.: 279), which characterise girls' experience, RJ policy and practice continues to operate within a gender-neutral framework. In contrast to the conceptualisation and development of gender-specific provision for girls, official RJ discourse fails to acknowledge the gendered constructs of girls' lives and the ways in which structural inequalities impact upon girls' offending and their subsequent criminalisation.

Whilst literature concerning restorative and youth justice has expanded significantly, over the past two decades, it can be suggested that 'very little to date is known about female offenders' experiences of restorative conferencing' (Österman

and Masson, 2017: 21). The limited gendered analyses, which do exist, 'are largely of a theoretical nature, often focusing on the potential gendered benefits and risks' for those who participate (*ibid*.: 5). Despite there being 'an absence of reliable national data', concerning the demographics of participants engaging in RJ interventions, the Restorative Justice Council (RJC) (2015b) claims that:

> There is no evidence to suggest that female offenders are less likely than their male counterparts to benefit from restorative justice if they take part. Indeed there are indications that it may even be more effective (Restorative Justice Council, 2015b).

A lack of evidence, regarding female offenders and RJ, cannot be used to unequivocally state that there would be no negative implications for women and girls who participate. This is because 'the advocacy and critical literature on gender and restorative justice is strong on speculation and weak on evidence' (Daly, 2008: 112). Literature, which does discuss issues of gender and RJ, suggests that almost all 'feminist discussions address the ways in which it may help or hinder female victims . . . [and] few have ventured to consider how it may help or hinder female offenders' (*ibid*.: 113).

The gender gap, within RJ research, is amplified when considering the experiences of young female offenders' participation in RJ interventions. At present, there is 'no evaluation of the "effectiveness" of RJ as a response to young female offenders' (Sharpe, 2012: 153). Those commentators who do address this issue have raised a number of concerns relating to the use of RJ with girls who offend (*ibid*.). For example, the appropriateness of encouraging girls to express shame for their offending, the ways in which 'community values and expectations' associated with appropriate female behaviour may influence outcomes within RJ practice (Alder, 2003: 118) and the understanding that girls are more difficult to work with compared to boys (Alder, 2003; Sharpe, 2012).

Therefore, there remains 'a number of unanswered questions about restorative justice practices in relation to young women offenders' (Alder, 2003: 125).

The empirical study underpinning this research study is attempting to bridge the gap in knowledge, concerning gender and RJ, by drawing upon the experiences of offending girls who have participated in a RJ conference. The very fact that girls' experiences are being marginalised, by a failure to acknowledge the presence of gender within RJ practice, necessitates the need to bridge this gap in knowledge. This research is, therefore, unique in the fact that it is bringing to the forefront of academic inquiry the voices of girls who have, thus far, remained unheard within the context of RJ discourse. Addressing this shortfall in knowledge is crucial for the progression of youth justice practice. The issues raised are crosscutting and relevant to the YJS as there is a clear disparity with regard to the response to young people's offending. However, there is an obvious lack of consideration or focus concerning the ways in which gender-sensitive approaches can be incorporated into the YJS's attempts to working with young female offenders. By creating knowledge, informed by the voices of girls and providing an insight into their own subjectivities, this research is providing an original contribution to knowledge and an alternative insight into the process of RJ conferencing, which challenges the existing constructs of male-centred knowledge that presently dominate existing RJ discourse.

1.7 Aims and Objectives of the Thesis

The theoretical perspectives and methodology, utilised to underpin this research study, are connected by a feminist framework concerned with the ways in which the social construction of gender shapes the individual and collective experiences of women and girls within the social world. This

research, therefore, engages with the social construction of femininity, gendered forms of social control and dominant discourses of appropriate female behaviour, in order to challenge the ways in which such gendered power relations function within RJ practice and shape gender subjectivities in order to maintain the gender order. Such concerns provided the framework for the following aims and objectives of this research:

- To investigate the role gender plays in the relationship between RJ and young female offenders.
- To question the need for gender sensitive approaches to RJ practices used within the YJS.
- To critically examine the role shame plays within young female offenders' experiences of RJ.

The Principle Research Questions

The research study sought to critically explore, through a gendered lens, young female offenders' experiences of participating in a RJ conference and to investigate the following research questions:

- Is gender implicated within girls' experiences of RJ?
- What implications does the RJ principle of expressing shame have for young female offenders?
- Is there a need for gender-sensitive approaches, within or as an alternative, to the use of RJ with girls who offend?

The Empirical Research

The theoretical arguments presented, throughout subsequent chapters, are supported by the empirical data generated from the research study undertaken. The research methods utilised to complete the empirical research are influenced by feminist research methodology, in the form of qualitative, semi-structured interviews. The interviews were undertaken within

five youth offending services and one police service between December 2014 and July 2016. The sample of participants included fifteen girls who participated in a RJ conference and thirteen youth justice practitioners. All of the girls who took part in the research resided in the North West of England and all practitioners interviewed worked within a youth offending service within the North West of England.

The Decision to Undertake this Research: Personal Reflections

My decision to undertake research with girls involved in the YJS stems from my experience of working with young people, as a practitioner, in third sector and statutory services. Working as a referral order panel member within a youth offending team (YOT) in the North-West of England, from 2012-2017, I was provided with a first-hand insight into the application of criminal justice policy and practice for young people who offend. In 2013, I was appointed as a child sexual exploitation intervention practitioner. During my time in this role, I worked closely with children and young people personally affected by sexual exploitation. All of the direct work referrals I received from the police and social care services, during my two years in this role, were exclusively for girls and young women.

As such, I worked closely and consistently with a number of girls during my time as a practitioner and was able to develop strong relationships with them. Reflecting on the time I spent with the girls I worked with, I was able to identity patterns in terms of the their behaviour and in the professional responses to them. I witnessed, on a regular basis, how expectations relating to the social construction of gender and dominant

discourses of femininity, influenced the treatment of and responses to girls in the services I worked within. I observed the ways in which subtle and overt mechanisms of social control shaped the lives of these girls. Although, I was already aware of the social injustices girls faced, within and beyond the YJS, through academic scholarship and my own personal experiences, I had not been exposed to this in the context of working with young people directly.

As I became acutely aware of the marginalisation and disadvantage the girls I was working with were subject to, and the extent to which others disregarded their agency and autonomy, I began to feel complicit in shaping these experiences. Based on these reflections I realised that in order to really understand girls' experiences in the social world, and in particular their offending behaviour, experiences of victimisation and resistance, in addition to making a positive change to their lives, the social inequalities and structural determinants emanating from the social division of gender required acknowledgment. It is these reflections which played a central role in my decision to undertake research, which centralises the voices of girls and situates them at the forefront of knowledge production.

1.8 Summary of Chapters

Chapter two presents the core theoretical frameworks underpinning this research study. The intention of the chapter it to conceptualise the social construction of gender and the ways in which it functions as a determining feature of individual experiences within social life. It provides an insight into the ways in which dominant discourses of femininity, inherent within the social construction of gender, have created expectations associated with the ideals of femininity and the ways in which such expectations have become central to the production of gender inequality, oppression and the

social control of females. Utilising feminist perspectives concerning the social construction of gender and patriarchal inequality, provided by theorists such as Bartky (1990), Connell (1994, 2002), Lorber, (1994) and West and Zimmerman (1987, 2009), the chapter explores theoretical insights, provided by Cooley (1902), Becker (1963) and Goffman (1963), concerning the construction of deviant identities and the application of stigma through a gendered lens. Drawing together the arguments presented, in relation to the social construction of gender and the application of stigma to deviant identities, the chapter explores the gender-specific consequences such social processes have for girls who do not conform to dominant discourses of femininity.

Chapter three draws together the relevant literature concerning the application of RJ within England and Wales, as a response to youth offending, and the experiences of girls within the YJS. The chapter begins by conceptualising the absence of girls within youth justice and criminological literature and moves on to consider the nature and extent of their offending behaviour. Drawing upon existing literature, attention then moves on to the ways in which the social construction of gender, discourses of femininity and gendered forms of social control are implicated within the representations of, and responses to, girls who come into the remit of the formal justice system.

Focusing specifically upon the ways in which girls' behaviour has been regulated through criminal justice and welfare discourse, the chapter examines critical perspectives which challenge state and societal responses to troublesome girls. Moving on to focus on the use of RJ, as a response to offending behaviour, the chapter provides an outline of the development of RJ within England and Wales and the theoretical premise upon which it is established. Finally, an overview of the body of critical, criminological, literature surrounding the contemporary manifestations of RJ within the

YJS is presented. Such critical discussion exemplifies the problematic nature of contemporary developments of RJ practices and provides a space in which to acknowledge the gap in existing literature concerning gendered experiences of RJ.

Chapter four outlines the research methods utilised to undertake the empirical study and conceptualises the overarching feminist, methodological and critical criminological influence within which this thesis is situated. It outlines the research aims, objectives and questions underpinning this research study and presents a reflective account of the ethical dilemmas and difficulties encountered throughout its completion. Attention then moves to the key findings arising from this empirical research.

Chapter five presents the findings in relation to a comparative account of practitioners' perspectives concerning the process of RJ conferencing in practice and the girls' subjective experiences of RJ in reality. The discussion and analysis of the empirical data is structured in relation to four themes: conflicting perspectives of RJ in practice, power and control, the victim and offender paradox and the silencing of girls' subjectivities. Through the presentation of empirical data the intention of the chapter is to exemplify the extent to which the girls' narratives of participating in a RJ conference conflicts with the accounts offered by practitioners. The aim is to draw attention to the ways in which the marginalised subjectivities of girls provide an alternative discourse surrounding RJ policy and practice, revealing a critical account of RJ conferencing, informed from a gendered perspective.

Chapter six presents the analysis of empirical data with regards to girls' experiences of stigma and shame. Drawing upon the theoretical framework underpinning this thesis, the chapter provides a critical exploration and reflection of the ways in which girls' experiences of stigma, for their offending

behaviour, has potential implications for their participation in RJ conferencing. Focusing on girls' experiences of shame and practitioners' perspectives concerning the possible negative effects experiencing shame may have for girls, the chapter distinguishes shame as a gendered emotion linked to gender-specific implications for girls. The purpose is to develop a number of key arguments that challenge the use of RJ conferencing with girls who offend, on the basis that the social construction of gender and discourses of femininity may result in differential outcomes and experiences for girls who participate compared to boys. In summary the findings chapters sought to construct an informed argument on the ways in which the social construction of gender can potentially inform, influence and impact upon girls' experiences of RJ conferencing.

Chapter seven critically examines the empirical findings in relation to the theoretical arguments presented in Chapter three and details the significance of the findings in relation to the central research questions. Drawing upon the theoretical arguments underpinning this research study, the chapter suggests that the relationship between girls' experiences of stigma and the social construction of gender may be linked to their experiences of shame during a RJ conference, which in turn presents a barrier to their reintegration into the community. The chapter challenges the extent to which practitioners' perspectives, and official discourse, neutralises and neglects to acknowledge the relevance of gender to RJ practice. As such, the chapter questions the extent to which the gender-neutral construction of RJ, within youth justice discourse, serves to further marginalise and discriminate against girls. The discussion concludes with an analysis of the ways in which each of the girls interviewed demonstrated their agency to resist and challenge the dominant discourse surrounding contemporary RJ practice and in doing so provide alternative narratives to those presented by practitioners.

Chapter eight provides the conclusions, recommendations and implications for future practice concerning the use of RJ with girls who offend. It reflects on the core arguments presented from this research study and draws together the contributions made by each of the previous chapters in order to consider the research as a whole. The chapter concludes with the argument that the dominant discourses, inherent within the social construction of gender, have the potential to impact upon RJ conferencing, resulting in differential experiences and possibly harmful effects for girls who participate.

Chapter 2

Chapter 2: Deviant Girls and Spoiled Identities: Exploring the 'Shameful' Nature of Femininity

2.1 Introduction

Drawing upon a feminist conceptualisation of the social construction of gender, the following chapter will provide a theoretical account of the application of stigma to deviant female identities and discuss how the social processes underpinning stigmatisation have the potential to elicit and exacerbate feelings of shame, within a gender-specific framework. By utilising feminist insights concerning dominant discourses of femininity and gendered forms of social control and inequality, the intention of this chapter is to demonstrate how shame and stigma are produced and reinforced through a framework of patriarchal control, which functions to the detriment of women and girls within society.

Following a discussion of the adverse effects of gendered inequality and control, this chapter considers the significance of resistance and agency in the lives of women and girls. Through the articulation of feminist discourse, challenging the construction of women and girls as passive recipients of structural inequalities, it is contended that demonstrating resistance and agency provides a salient space in which to challenge and make recourse to alternative discourse, which positions women and girls as active agents, with the power to shape and define their own experiences. In this context, the chapter emphasises that the processes of marginalisation, stigmatisation and degradation women and girls are subject to are not a complete process and there are opportunities for, or ways of, embodying resistance.

Shame and stigma remain the core themes underpinning this chapter. The theoretical accounts, concerning the construction of stigmatised identities and the evocation of shame, are presented through a gendered analysis of Goffman's (1963) stigma theory and Cooley's (1902) concept of the looking glass self. Contributions provided by Bartky (1990), Connell (1990, 2002, 2008) and Hutter and Williams (1981), for example, are utilised as a conceptual framework in which to construct a feminist informed critical analysis of the ways in which the social construction of femininity shapes the experiences of shame and stigma for girls in the social world. The intention is to locate the empirical research within an existing body of literature, in order to facilitate a critical discussion, which raises key issues concerning the relationship between the social construction of gender and girls' experiences of RJ conferencing, to be explored in subsequent chapters. Whilst the central focus of this study is concerned with girls, who have committed an offence and are subject to youth justice intervention, the purpose of the discussion and analysis to be developed within this chapter is to inform a coherent argument that identifies the processes and dynamics of social control to which all women and girls are subject. In doing this, the chapter will demonstrate how all females are judged against their adherence to idealised forms of femininity and provide a framework in which to understand how these processes may impact upon girls' experiences of RJ conferencing.

2.2 The Social Construction of Gender, Patriarchy and the State

Due to the dominance of patriarchy in shaping societal relations, the experiences of women and girls have often been excluded from the production of knowledge through academic research (Renzetti, 2018). It was not until the 1970s that feminist contributions to criminology began to emerge. Beginning with the publication of *Women, Crime and*

Criminology, Smart (1976) paved the way for the emergence of a 'distinctive feminist criminology . . . [which] set out to challenge some of the gender-blind assumptions inherent within criminology . . . and to create a space for women's experiences and voices' (Burman and Gelsthorpe, 2017: 213, see also Chapter 3). Since this time, feminist scholarship within criminology has continued to pioneer the argument for women to be included in the study of crime and a vast amount of theoretical developments, research and debates have emerged, which have highlighted the ways in which offending, victimisation and institutional responses to these issues are 'fundamentally gendered' (Renzetti, 2018: 76).

There are a number of central tenants that feminist criminology shares with all feminist theories (Renzetti, 2018). At the core of these insights is 'the recognition that gender is a central organising principle of social life' and a 'socially constructed' concept that determines social norms and expectations, which regulate the behaviour of males and females through discourses of masculinity and femininity (*ibid.*: 74). Whilst it is acknowledged that biology intersects with gender, it is the social construction of gender and its ability to shape and regulate male and female behaviour, which is the focus of feminist theoretical perspectives (*ibid.*). Such perspectives recognise that the concepts of masculinity and femininity create 'exclusive' gender categories, which positions masculinity as 'more highly valued' than femininity, due to the patriarchal system of control upon which society operates (*ibid.*: 75).

The conception of gender as a social construction, which produces and maintains gender inequality in the favour of men, is further developed when considered in relation to the state. By considering gender as 'an aspect of institutions and large scale cultural processes . . ., embedded in organisational divisions of labour, in organisational cultures, in symbolic systems, and in patterns of emotional attachment

and hostility' constructs the state as 'inherently a gendered institution . . .' (Connell, 2008: 118). Conceptualising the state through such a lens has enabled feminist scholars to examine and challenge the role of the state in subjecting women and girls to enduring systems of patriarchal oppression and marginalisation.

Drawing upon such arguments it is suggested that patriarchy is at the core of the oppression of women. According to Connell (1990), patriarchy is 'the serviceable term for historically produced situations in gender relations where men's domination is institutionalised . . . embedded in face-to-face settings such as the family and the workplace . . . [and] reproduced over time . . .' (Connell, 1990: 514). Walby (1990: 1-2) argues that a conceptualisation of the social system of 'patriarchy is indispensable for an analysis of gender inequality . . . [and] essential to capture the depth, pervasiveness and interconnectedness of different aspects of women's subordination'. She suggests that there are six structures of patriarchy embedded within the social world: 'the patriarchal mode of production, patriarchal relations in paid work, patriarchal relations in the state, male violence, patriarchal relations in sexuality, and patriarchal relations in cultural institutions' (*ibid.*: 20).

The state, as a gendered institution and a 'site of gender politics' (Connell, 2008: 118) is 'implicated within a class system of patriarchy' which, arguably, contributes to the establishment and regulation of social 'systems' that oppress women, for example: the family and the economy (Connell, 1990: 515). It is composed of 'gender relations' which function as the dominant 'institutionalisation of gendered power' and is inherently shaped by these dynamics. Such components constitute the 'essential and irreducible' aspects of the state (*ibid.*: 520).

The operation of gender within this system can be referred to as a 'gender regime', and is defined by Connell (1990: 523) as 'the historically produced state of play in gender relations within an institution'. The 'gender regime' is supported by three structures: 'a gender division of labor' which situates male-dominated institutions, such as the CJS and the military, as coercive state apparatuses (*ibid.*: 523). The second element is a 'structure of power' within the internal structure of the state and the bureaucratisation of these structures which function to validate the subordination of women through state power (*ibid.*: 525). Third is the gendered patterning of emotional attachments. For example, what is understood to be 'emotional labor' (*ibid.*: 526). Such as welfare and nursing labour being predominantly assigned to women, thus connecting emotion to the state's 'sexual division of labour' (*ibid.*: 526). Both 'gender regimes' and 'gender relations' operate within wider patterns of the 'gender order' (*ibid.*: 73). The gender order 'powerfully shapes' gender practice, arrangements and relationships within social life and forms part of a social structure that 'conditions practice' through direct and indirect interaction between males and females (Connell and Pearce, 2015: 74). Such interaction produces 'gendered modes of behaviour' (Hageman-White, 1987: cited in Connell and Pearce, 2015: 74) and inequality, which correspond to the gender order (Connell and Pearce, 2015).

The state as the 'central institutionalisation of power has a . . . capacity to regulate gender relations in the society as a whole' (Connell, 1990: 527). For example, the regulation of sexuality through legal definitions or the regulation of violence within marriage through either 'non-intervention' or 'routine management' of men's violent behaviour (*ibid.*: 527). This is arguably because the state is systematically 'bias[ed] towards patriarchal interests in its policies and actions' (Walby, 1990: 21).

Drawing upon such insights, it is therefore contended that gender operates not only within organisations, institutions and social policy and practice but is also implicated within the formation of one's identity through discursive ideologies which transcend into 'interpretive frameworks' (Miller and Mullins, 2009: 219) individuals use to add meaning and understanding to their experiences within the social world (Connell and Pearse, 2015; Lorber, 1994).

2.3 Achieving and Regulating Femininity: Gender, Social Control and Deviance

West and Zimmerman (1987: 125) view gender as an 'achieved status', established within social interaction and constructed through 'psychological, cultural and social means'. The social construction of gender is used as a means to classify individuals into ascribed categories and consists of 'a complex of socially guided, perceptual interactional, and micro political activities that cast particular pursuits as expressions of masculine and feminine ''natures''' (*ibid.*:126). For example, through language, behaviours and 'economic and familial roles' (Kitzinger, 2009; Risman, 2009; 84).

For West and Zimmerman (1987: 126) 'doing gender' reinforces social structures within society through mechanisms of social control. Lorber (1994) argues this process is sustained through society's acceptance of a set of norms and values associated with the social construction of gender, whereby individuals are judged in accordance with their adherence to expectations, determined by their gendered status. Lorber refers to gender as a 'social institution', which accounts for the ways in which individuals organise their lives (*ibid.*: 2). It is the gendered practices individuals adhere to which reproduce expectations associated with masculine and feminine ideals (*ibid.*). These ideals are determined through social processes of 'teaching, learning, emulation and enforcement' (*ibid.*: 2) embedded

within societal structures, institutions and social interaction (Connell, 1987; Risman and Davis, 2013).

Such processes inform the production of a gender identity (Butler, 1990). One's gender identity operates through various contexts in which an individual must meet demands interchangeably. Such as, parenting, sexuality and motherhood (*ibid.*). Such demands are inherent within normative expectations associated with an individual's gender identity and are reinforced through informal sanctions for those who fail to conform to a shared standard of gender appropriate behaviour (Lorber, 1994). The distinctions these expectations produce are salient to the production of gender inequality and social control (Carlen, 2008; Lorber, 1994; Risman and Davis, 2013; West and Zimmerman, 1987; Wharton, 2012).

Critical and feminist scholars have established that females occupy a subordinate position in society, which ascribes them into specific gendered roles and it is this inferior position, which accounts for the oppression and social control of females as gendered subjects (see for example, Carlen, 1988; Carlen and Worrall, 1987; Heidensohn, 1996; Smart and Smart, 1978; Smart, 1989). It is suggested that the social construction of gender accounts for these unequal social structures within society and legitimatises social divisions, which determine women's and girls' disadvantaged status (Lorber, 1994). Ideological discourses of 'domesticity, sexuality and pathology' inform the construction of gender and dictate normative expectations associated with the ideals of femininity (Carlen and Worrall, 1987: 8). These expectations account for differential experiences of social control between males and females (Carlen, 2008). However, gender is an ongoing process and 'accountable to current cultural conceptions of conduct' and thus the ideals of femininity cannot be explicitly characterised (West and Zimmerman, 2009: 114).

'The domestic sphere of the home', 'the traditional community', 'the world of early modern welfare' and 'the world of modern welfare' can be regarded as the key areas in which women have traditionally been subject to social control (Heidensohn, 1996: 779). The differential forms of social control girls experience are manifested through various contexts. For example, reproduction, 'a double standard of morality', 'a subordinate legal status', sexuality and parenting (Smart and Smart, 1978: 3). Such forms of social control are enforced both formally and informally through various institutions, such as the family, criminal justice agencies and welfare institutions (Carlen and Worrall, 1987; Heidensohn, 1996; Hutter and Williams, 1981; Lees, 1983). These institutions employ methods of communicating moral and behavioural expectations associated with appropriate female behaviour (Hutter and Williams, 1981). In line with discourses of domesticity, there is an obligation for women to assume a primary role within the family, which holds them responsible for the basic tasks of 'care, containment and socialisation' (Heidensohn, 1996: 780), resulting in their presence in the public sphere being hidden from view and simultaneously their 'rights, duties and crises' being privatised (Dahl and Snare, 1978: 8).

Sexuality discourses also serve to reinforce conflicting perceptions of female sexuality that subject women and girls to a double standard of behaviour which fortifies sexual promiscuity amongst men and pathologises similar behaviour as immoral and 'shameful' amongst women (Smart and Smart, 1978: 4). These discourses produce stereotypical images and ideas associated with femininity and are enforced through social policy and interactions, which regulate behaviour in line with these ideals. Thus, they serve as a mechanism of social control for females (Carlen and Worrall, 1987; Heidensohn, 1996; Hutter and Williams, 1981; Lees, 1983; Schur, 1984; Smart and Smart, 1978). Drawing upon such insights it becomes apparent that 'the social position of

women is reinforced and maintained at one level by the material inequalities and at another . . . level by ideological processes' (Green *et al.*, 1987: 79).

When theorising the social control of women, it is also important to recognise that men's violence against women is also used as a gendered mechanism of control. For example, Kelly (1988: 33) contends that 'social control is men's purpose when using sexual [and racial] violence against women'. Such forms of violence, Kelly argues, 'are attempts to maintain, rather than challenge, existing power relations' (*ibid.*: 34). In this context, violence against women is only used when other attempts to control them have failed (*ibid.*). The use of violence, as a form of social control, denies women's freedom and agency whilst the ways in which patriarchal society functions enables and justifies men's role in assuming power over women through 'force, coercion or abuse' (*ibid.*: 41).

In contemporary society, the function of violence, as a form of social control against women, has expanded due to the developments of technology in the digital age (Powell and Henry, 2017). Advances in technology have facilitated the emergence of new forms of violence against women, which can be conceptualised beyond physical acts, for example: online sexual harassment, threats, coercion, revenge pornography and digital abuse (*ibid.*). All of which constitute 'individualised and collective harms of technology-facilitated sexual violence' as they function to reinforce discourses of femininity and structural inequalities between men and women (*ibid.*: 65). It is, therefore, contended that the various forms of technology-facilitated sexual violence constitutes 'a form of social control and regulation . . . which in turn serves to reinforce heterosexual and patriarchal norms' (*ibid.*: 155).

When considering the experiences of women and the application of criminal justice, existing research has predominantly focused on the governance of women and girls

through penal institutions and their differential treatment by criminal justice agencies (Burman and Gelsthorpe, 2017). Whilst feminist contributions in criminology have successfully constructed debates concerning women, crime and control within 'mainstream criminology', 'substantive boundaries [still exist] within feminist criminology' (Hannah-Moffat, 2011: 443-444). This is because there is, within feminist criminology, a lack of engagement with feminist or critical scholars beyond the discipline of criminology, whilst other tenants of critical criminology are suggested to have 'limited interaction with feminist scholars' (*ibid.*: 444). It is, therefore, suggested that such 'narrower focuses', concerned with women's experiences in the CJS, restrict the production of knowledge and connection to 'other institutional forms and theorizations about the regulations of gender, sexuality, race and marginality' (*ibid.*: 444). In addition, it has also been argued that feminist criminology needs to expand its research agendas to account for the 'distinctively different gendered patterns of crime and violence that occur across the globe' and beyond the domestic issues of criminal justice within the Global North (Carrington, 2015: 7). Barberet and Carrington (2018) advocate for a perspective of southern criminology in order to address such limitations of feminist criminology and recognise the distinguished forms of violence, crime and control women, across the globe, are subject to.

As feminist perspectives within the social sciences have developed, concern with regards to how the social construction of gender intersects with other social divisions and inequalities, such as class, race and sexuality, to contribute to the oppression of women and girls has also become prevalent (Renzetti, 2018: 75). These intersectional perspectives have become prominent within criminological and social science research more broadly (Burgess-Proctor, 2006). Intersectionality has provided a framework in which feminist perspectives can assert that gender, and other inequalities, are not exclusive categories and that such forms

of oppression intersect with offending, victimisation and treatment by criminal justice agencies (Cooper, 2015). Intersectional analysis recognises that these 'systems of power . . . do not act alone to shape our experiences but rather are multiplicative, inextricably linked, and simultaneously experienced' (Burgess-Proctor, 2006: 31). The ways in which individual experiences are shaped by relational inequalities reveal 'how these inequalities put some societal members at risk to be rendered deviant or to engage in law-breaking and . . . how law and state institutions both challenge and produce these inequalities' (Daly and Stephens, 1995: cited in Burgess-Proctor, 2006: 3).

Goffman (1977: 307) states that the 'interesting' thing about those who occupy a place within a 'disadvantaged category' of people is not 'the painfulness of the disadvantaged, but the bearing of the social structure on its generation and stability'. Unlike other 'disadvantaged categories' women are segregated from each other by 'the stake they acquire in the very organisation which divides them' (*ibid*.: 308). Women are bound to males 'through fundamental social bonds' (*ibid*.: 308). These relationships require both men and women to participate in 'social situations', comprising 'two perfectly divided halves of society': the advantaged and the disadvantaged (*ibid*.: 308). Goffman argues that this social organisation is what makes the 'world considerably like the most patriarchal you can imagine' (*ibid*.: 308). One's 'gender status', therefore, determines differential experiences in relation to 'opportunity, expectations and esteem' (Laws, 1979: 2). As such, it can be argued that 'being a female conditions all social interactions; whether or not the individual is conscious of her femaleness, others are' (*ibid.* 2).

Drawing upon such insights, it becomes apparent that gender is a construction which is pervasive in its ability to shape individual identity and perception of self. This is because it is a 'socially significant' trait, which is 'visible and consequential

in institutional realms' (Laws, 1979: 1). Whilst the arrangement of gender contributes to the construction of one's identity, the inequalities inherent within this arrangement are evidently harmful (*ibid*.). Thus, gender is situated as 'complicated . . . difficult [and] inherently political' (Connell and Pearse, 2015: 8). However, as discussed, masculinity and femininity are 'not fixed by nature' (*ibid*.: 6). They are discursive in nature. Gender is imposed, not only on a structural level, through social, political, cultural and institutional arrangements but through the ways in which 'people construct themselves as masculine and feminine', effectively positioning themselves within the gender order of society (*ibid*.: 6). In this sense, gender becomes the determining feature of social life and adopts a status, which takes precedent over all other statuses.

2.4 The Social Construction of Identity: The Perception of Self in the Eyes of Others

For Goffman (1977: 301) 'sex is at the base of a fundamental code in accordance with which social interactions and social structures are built up'. Such codes establish 'the conceptions individuals have concerning their fundamental human nature' (*ibid*.: 301). Goffman, therefore, argues that gender identity is the deepest source of 'self-identification' society ascribes (*ibid*.: 304). The concept of self and its interconnect with the social world is most prominently addressed in the symbolic interactionist literature, initially developed by Cooley (1902), whose work is considered to be 'the cornerstone of the symbolic interactionist perspective on self-concept' (Gecas, 1982: 10).

Cooley (1902: 152) suggests that individuals develop a reflection of their 'self' based upon a 'somewhat definite imagination of how one's self . . . appears in a particular mind, and the kind of feeling one has is determined by the attitude toward this attributed to that other mind'. Thus, individuals are

continuously aware of how they present themselves, to others, in order to shape their reflection:

> The social self is simply an idea, or system of ideas, drawn from the communicative life, that the mind cherishes as its own. Self-feeling has its chief scope *within* the general life, not outside of it . . . it is the emotional aspect finding its principal field of exercise in a world of personal forces, reflected in the mind by a world of personal impressions (Cooley, 1902: 147).

> . . . the things to which we give names and have a large place in reflective thought are almost always those which are impressed upon us by our contact with other people. . . What we call "me", "mine" or "myself" is, then, not something separate from general life, but . . . it is that phase of mind that is living and striving in common life, trying to impress itself upon the minds of others (Cooley, 1902: 149).

This 'social self' is referred to, by Cooley, as the 'looking-glass self' (1902: 152). The 'looking-glass self' is a social process whereby individuals acquire a sense of social identity based upon how they are viewed in the eyes of others (*ibid.*: 152). Cooley states that:

> A self-idea of this sort seems to have three principal elements: the imagination of our appearance to the other person; the imagination of his judgment of that appearance, and some sort of self-feeling, such as pride or mortification (Cooley, 1902: 152).

Drawing upon Cooley's (1902) insights it may be suggested that an individual's identity can be conceptualised as a social construction, dependent upon the view of others. The validation of one's identity based upon the view of others is shaped by social norms and expectations shared by the rest of society (*ibid.*).

The theoretical arguments provided by Cooley (1902) assert that an individual's self-perception is dependent upon the

impression they make upon others. If an individual fails to assert a positive impression then others perceive them negatively (*ibid.*). Such a perspective suggests that when an individual is not perceived in a positive light they internalise this perception into a negative self-reflection and 'shame' is experienced as a consequence (*ibid.*: 152). According to Cooley, it is the second stage of the 'looking-glass self', the imagination of others' judgement of our appearance, which plays an 'essential' role in evoking the emotion of 'shame' (*ibid.*: 152).

> The thing that moves us to pride or shame is not the mere mechanical reflection of ourselves, but an imputed sentiment, the imagined effect of this reflection upon another's mind. This is evident from the fact that the character and weight of that other, in whose mind we see ourselves, makes all the difference with our feeling. We are ashamed to seem evasive in the presence of a straightforward man, cowardly in the presence of a brave one . . . and so on. We always imagine, and in imagining share, the judgments of the other mind . . . (Cooley, 1902: 152).

Scheff (2003: 1) describes the three stages of the looking-glass self as a process of 'self-monitoring' from the view of others. The 'self-monitoring', individuals engage in is part of a 'dynamic social . . . process' which essentially results in 'self-feeling[s]' of either 'pride or . . . shame' (*ibid.*: 1). Scheff (2005: 149) contends that Cooley's analysis of self-feelings situate shame and pride as the most 'basic social emotions'. Whilst Cooley's ideas have been elaborated upon by Mead (1934: 5), for example, who contended that 'the self' is determined by social interaction with others, little consideration has been paid to the self-feelings described by Cooley (1902). However, it is contended that the work of Goffman has contributed to the development of Cooley's (1902) insights by incorporating the salience of emotions into a theoretical account, which draws upon the conceptualisation of identity construction based upon the view of others (Scheff, 2003: 2005).

Considering Cooley's ideas, concerning the management of one's identity through the eyes of others and the manifestation of 'shame' or 'pride' (Cooley, 1902: 152), as central emotions produced from social interaction, it is suggested that these insights contribute to the 'basic structure' of Goffman's theoretical perspectives, particularly those concerning the 'presentation of self' during social interaction (Scheff, 2005: 150). Goffman's insights can be recognised as providing a more inclusive elaboration of Cooley's ideas, most notably because 'emotions and shared awareness are basic components in all Goffman's thought' (*ibid.*: 150).

Goffman (1971) asserts that individuals manage the way they present themselves during social interaction in order to impress upon others a positive social identity:

> He may wish them to think highly of him, or to think that he thinks highly of them . . . Regardless of the particular objective . . . it will be in his best interests to control the conduct of the others, especially their responsive treatment of him (Goffman, 1971: 3).

It is suggested that individuals will 'act in a thoroughly calculating manner' when attempting to 'influence the definition' of the social situation in line with the response they wish to achieve from others (Goffman, 1971: 5). The individual will also attempt to express themselves in a manner which corresponds to the expectations associated with their 'group or social status', enabling them to be perceived in a 'favourable' light (*ibid.*: 5-6). Additionally, the others to which the individual presents, also 'seek to acquire information about him' (*ibid.*: 1). The information obtained will allow others to make expectations of the individual based on their previous experiences with similar individuals 'as a means of predicting his present and future behaviour' (*ibid.*: 1).

Goffman (1971: 19) uses the term 'performance to refer to all the activity of an individual which occurs during a period marked by his continuous presence before a particular set of observers and which has some influence on the observers'. The performance employed in the presence of others, as a means to 'define the situation', is described as the 'front' 'performance' (*ibid.*: 19). In comparison Goffman also refers to a 'back region' in which 'suppressed facts' make an appearance and the impression made by the 'front performance is knowingly contradicted' (*ibid.*: 97). The 'back region' is kept private from 'members of the audience' in the 'front region' (*ibid.*: 98). Goffman describes the lengths individuals go to in order to ensure they achieve the desired impression as 'techniques of impression management' (*ibid.*: 201). However, despite the 'techniques of impression management', which are employed, occurrences can happen whereby the individual is unable to present themselves in a positive way (*ibid.*: 207).

Goffman (1971: 184) notes that when an 'outsider' witnesses a performer in the 'back region' they observe behaviour which is 'incompatible' with the impression the performer wishes to give (*ibid.*: 184). This exposure, according to Goffman, would 'discredit' the performer by revealing 'negative characteristics', 'forcing upon the audience an image of the man behind the mask' (*ibid.*: 186). Consequently, negative implications are experienced:

> Knowing that his audiences are capable of forming bad impressions of him, the individual may come to feel *ashamed* of a well-intentioned honest act merely because the context of its performance provides false impressions that are bad. Feeling this unwarranted shame, he may feel that his feelings can be seen; feeling that he is thus seen, he may feel that his appearance confirms these false conclusions concerning him. He may then add to the precariousness of his position by engaging in just those defensive manoeuvres that he would employ were he really guilty. In this way it is possible for all of us to

> become fleetingly for ourselves the worst person
> we can imagine that others might imagine us to be
> (Goffman, 1971: 208, emphasis added by the
> author).

Goffman's analysis concerning the consequences individual's experience when they are viewed negatively by others arguably demonstrates the three stages of the 'looking-glass self', described by Cooley (1902: 152). This is because 'intersubjectivity' is a shared component which links both Cooley's and Goffman's ideas together (Scheff, 2005: 156). Both perspectives suggest that 'we spend much of our lives living in the minds of others' and both consider shame as a reaction to being viewed negatively by others (*ibid*.: 156).

Such theoretical insights discussed can be utilised to contextualise the construction of a deviant identity and the application of stigma for those women and girls whose behaviour does not meet shared norms and expectations held by others. The key link between such ideas is, according to Gecas (1982: 11), the understanding that identity is 'situated, emergent, reciprocal and negotiated', thus the view of self is considered as an 'inseparable cause and consequence in social interaction'.

It may be suggested that the theoretical ideas presented by Goffman and Cooley, concerning the construction of identity and individual subjectivities as dependent upon the internalisation of others views about oneself, are reflective of the psychosocial perspective developed by Gadd and Jefferson (2007). Gadd and Jefferson (*ibid*.: 34) are concerned with theorising the relationship between 'self and society . . . in a way that recognises their simultaneous co-presence in any act, but non-reductively'. They contend that the 'inner and outer world' should be considered significant. This means 'thinking about questions to do with structure, power and discourse' in a way that the individual subject is recognised as more than simply a product of socio-economic

conditions (*ibid.*: 4). Gadd and Jefferson (*ibid.*: 4) suggest that the reason for this is because only in the 'inner and out world . . . [can] conscious and unconscious processes, and the resulting conflicts and contradictions', be critically analysed. In doing this it is suggested that a better understanding of individuals as 'internally complex, socially situated individual' subjects will be gained (*ibid.*: 1).

2.5 Enforcing Rules and Breaking Them: The Labelling of Deviant Female Identities

It is contended that the deviance of women is one of the aspects of 'human behaviour most notably ignored in sociological literature' (Heidensohn, 1968: 160). This is arguably due to the recognition that women 'appear to have low rates of participation in deviant activities' (*ibid.*: 161) but can also be more broadly understood as the systematic neglect of women as important to the study of deviance (Heidensohn, 1968; Hutter and Williams, 1981). Hutter and Williams (1981: 14) suggest that such neglect of women, within deviancy literature, arises from expectations of 'normal' women which suppress 'questions from being posed and explored' about deviant women.

Drawing upon Cohen's (1971: 14) conception of what he terms a 'sceptical approach' to crime and deviance, Hutter and Williams (1981: 12) utilise the concept to understand how women are socially controlled through the construction of 'normal' and 'deviant' categories. They define deviance as:

> . . . behaviour that does not accord with those expectations and norms for individual behaviour which are generally shared and recognised within a particular social system. It involves the breach of social rules which are commonly thought of as necessary to cohesion and order within a social group (Hutter and Williams, 1981: 12-13).

Defining what constitutes deviance, however, is 'inextricably related to the difficulty of establishing what is normal' as definitions vary within different social contexts (Hutter and Williams, 1981: 13).

According to Becker (1963), within society there are different types of rules, which govern behaviour, social interaction and reaction. Some of these rules are 'formally enacted' through the law and state agencies, whilst others 'represent informal agreements . . . enforced by informal sanctions of some kind' (*ibid.*: 2). These rules 'define situations and the kinds of behaviour appropriate to them', distinguishing certain acts as acceptable and unacceptable (*ibid.*: 1). Those who break social rules are considered 'outsiders' (*ibid.*: 1). For the individual whose behaviour does not meet the shared norms and expectations held by others, their identity is no longer positively reinforced and instead a deviant identity is constructed (*ibid.*).

Becker (1963: 9) contends that deviance is 'created by society'. However, rather than being established in the 'social situation of the deviant or in "social factors" which prompt his action' (ibid.: 9) he asserts that:

> . . . social groups create deviance by making the rules whose infraction constitutes deviance, and by applying those rules to particular people and labelling them as outsiders. From this point of view, deviance is not a quality of the act the person commits, but rather a consequence of the application by others of rules and sanctions to an 'offender' (Becker, 1963: 9).

In this sense, deviance is a relational product resulting from interaction between a 'rule-breaker' and a social group whose rules have been broken (Becker, 1963: 10). However, the degree to which a transgression will be regarded as deviant depends upon the extent of the harm caused and who has caused it (*ibid.*). As such, the social rules that determine deviance are more often applied to certain groups and

individuals than others. Deviance, according to Becker, is therefore 'not a quality that lies in behaviour itself, but in the interaction between the person who commits an act and those who respond to it' (*ibid.* 14).

This chapter has, thus far, articulated that the gender appropriate ways of behaving, and the mechanisms of social control entrenched within them, are established upon a system of subordination and devaluation, which play a central role in the construction of female deviance. Therefore, for women and girls, it is suggested that being subjected to deviant labels is a routine occurrence due to the extensive range of dominant norms and expectations attached to female identities (Hutter and Williams, 1981; Schur, 1984). Furthermore, the forms of control exercised over deviant females, for not adhering to social rules, provide clarification of 'normal behaviour', whilst illustrating the degree to which subtle forms of social control enforce girls' conformity to appropriate behaviour patterns (Hutter and Williams, 1981.: 9).

However, deviance is not a concept that is consistent throughout society. It is dependent upon social definitions, reliant upon particular cultures and societies, within a specific time and place (Henry, 2009; Schur, 1984). This is because 'modern societies are not simple organizations in which everyone agrees on what the rules are' or how they ought to be applied (Becker, 1963:15). What is considered as deviant is, therefore, a social construction, 'created by society' whereby deviant labels are not simply produced as a result of individual behaviour but are reliant upon the ways in which others define certain behaviours as deviant (*ibid.*: 9). Thus, the deviant individual is 'one to whom that label has successfully been applied' (*ibid.* 9).

Whilst such a perspective establishes that deviance is a product of social processes, dependent upon the reactions of

others to a specific behaviour, a key component of the construction of deviance is the enforcement of 'definitions' which shape social understandings of certain actions, circumstances and individuals, by those who hold the most power (Becker, 1963: 207). Essentially, those who hold sufficient power have the ability to enforce their rules whilst social divisions of 'sex, ethnicity, and class are all related to differences in power, which accounts for differences in the degree to which groups so distinguished can make rules for others' (*ibid.*: 18).

Whilst definitions and categories of deviance are subject to construction by those groups with accessible means to 'political and economic power' within society (Becker, 1963: 191), it is acknowledged that women and girls occupy a position as a 'disadvantaged category of persons in modern society' (Goffman, 1977: 307). It is also widely recognised that they hold an inferior social status in comparison to men, which represents their 'generic devaluation' (Schur, 1984: 23). For example, de Beauvoir asserts that:

> . . . Man represents both the positive and the neutral. . . whereas woman represents only the negative, defined by limiting criteria, without reciprocity . . . Thus humanity is male and man defines woman not in herself but as relevant to him; she is not regarded as an autonomous being. . . She is defined and differentiated with reference to man and not with reference to her; she is the incidental, the inessential as opposed to the essential. He is the subject, he is the absolute – she is the other (de Beauvoir, 1997: 15-16).

Expectations of 'normal' women play a central role in the construction of female deviance as they produce 'stereotypical' images which 'define normal female behaviour' and, in turn, deviant female behaviour (Hutter and Williams, 1981: 16). However, 'stereotypes are not necessarily consistent with actual behaviour, and women in any one society may even be presented with contradictory images

which are considered to represent typical characteristics of behaviour' (*ibid.*: 23). As a consequence their efforts to 'conform to one standard may be treated as deviance when viewed from the standpoint of the opposing one' (*ibid.*: 51). For example, Oakley (1974: 80) refers to women's place within society as occupying a position of 'structural ambivalence'. Oakley discusses how women are ascribed to 'traditional feminine roles' on the basis of their gender status. This role requires them to adopt and adhere to the norms and values associated with their role, predominantly, as a 'housewife', 'wife' and 'mother' (*ibid.*: 81). However, she discusses how 'women are also perceived as human beings, endowed with the potentiality for individual fulfilment' (*ibid.*: 80). The distinction between these values creates the potential for 'contradiction between alternatives of apparently equal legitimacy' (*ibid.*: 81).

Regardless of what the stereotypes of normal and deviant female behaviour consist of, they provide justification for control over women's behaviour and function as a form of regulation (Hutter and Williams, 1981). Moreover, they are 'enforced through informal sanctions of gender-inappropriate behaviour by peers and by formal punishment or threat of punishment, by those in authority, should behaviour deviate too far from socially imposed standards for women and men' (Lorber, 1994: 32). This is because 'females are generally subject to more rigorous social control than males. This enables interpersonal groups to thoroughly dominate those who initially deviate and quickly terminate further involvement in unacceptable behaviour' (Leonard, 1982: 81-82).

Although it is the existence of 'power differentials' which enable deviance to be socially constructed and labelling to take place, it should be recognised that the rules which are established and reinforced through labelling acts deviant are not unequivocally agreed to (Becker, 1963: 18). Despite contested definitions of deviance, it is contended that those

labelled with a deviant identity assert this identity as their dominant status:

> Some statuses in our society as in others override all other statuses and have a certain priority. . . The status of deviant . . . is this kind of . . . master status. One receives the status as a result of breaking a rule and the identification proves to be more important than most others. One will be identified as deviant first before other identifications are made (Becker, 1963: 33).

As a deviant identity becomes an individual's master status, they are likely to be perceived by others as bearing other 'undesirable traits' more generally, producing a 'self-fulfilling prophecy' which functions to 'shape the person in the image people have of him' (Becker, 1963: 34). Effectively those who are labelled as deviant for failing to conform to societal rules are 'stigmatised for their nonconformity' (*ibid.*: 163).

Such analysis, provided by Becker (1963), is critiqued on the grounds that it fails to recognise the structural and institutional patriarchal processes which contribute to definitions of deviance (Franzese, 2009). It is argued that Becker not only neglects to account for the ways in which interactions 'occur within the broader social structure' of patriarchal society but divisions of 'social class . . . race and ethnicity', and the ways in which they influence and determine human behaviour, are also, predominantly, omitted from his analysis (ibid.: 74). The insights provided by Becker 'emphasise that crime and deviance are socially defined, and that certain groups and individuals, especially those lacking wealth, power and status, are more likely to be officially stigmatised as deviants' (Leonard, 1982: 79). However, deviance is largely connected to the structural elements of society, as opposed to the individuals themselves, therefore warranting the need to analyse macro structures of power within society (*ibid.*).

Despite the limitations in Becker's (1963) analysis, concerning macro-level social structures and their influence on the construction of deviance, the application of a label to a deviant identity situates the labelled individual as susceptible to the process of stigmatisation. For Rosenblum (1975) the application of stigma for those women considered deviant coerces others into complying with the structure and operations of patriarchal society.

Drawing upon reflections concerning the construction of deviant identities, the social construction of gender and discourses of femininity, reveals how gender identity is implicated within definitions of deviance. Thus highlighting the ways in which mechanisms of social control contribute to the production of deviant labels in order to ensure conformity to images of ideal femininity (Carlen and Worrall, 1987; Carlen, 1988; Chadwick and Little, 1987; Heidensohn, 1968; Hudson, 1989; Hutter and Williams, 1981; Smart and Smart, 1978). According to Goffman's (1963) conception of stigma, girls who do not conform to these ideals, are subjected to stigma, resulting in a spoiled identity (Goffman, 1963).

Such insights also highlight women's devalued place within society. Such devaluation is evidently characteristic of women's and girls' experiences of social interaction and societal responses to them. However, race and ethnicity, in addition to gender, are also salient factors in determining women's devalued place within society. This is because 'patriarchy interacts with others systems of power – namely, racism – to uniquely disadvantage some groups of women more than others' (Cooper, 2015: 387). It is acknowledged that 'race and gender are not mutually exclusive categories of experience and analysis' as 'discrimination', 'subordination' and 'disadvantage' do not transpire on a 'single categorical axis' (Crenshaw, 1989: 139-140). Black, Asian and minority ethnic (BAME) women are subordinated in differential ways to white women and they experience this intersectionally. In

addition to race and ethnicity, class and sexuality also 'simultaneously operate at both the micro-structural and macro-structural levels' to produce an intersectional experience of gendered oppression, marginalisation, disadvantage and inequality for women and girls (Burgess-Proctor, 2006: 37).

Within society it is therefore clear that masculinity and femininity are constructed in such a way that 'male is normal . . . and female is different, or Other' (Laws, 1979: 4). As such, female gender identities are not afforded equal 'social power', 'participation in society' or access to societal 'benefits' as 'males as a group constitute the dominant class and females are the deviant class' (*ibid*.: 4). For Laws, this 'distinction between the dominant and the deviant' demonstrates that 'being female carries a stigma in and of itself, independent of other attributes with which it may be hyphenated' (*ibid*.: 4).

2.6 Stigma and Shame: The Implications of a Deviant Identity

Goffman (1963: 3) defines stigma as 'an attribute that is deeply discrediting' and states that one who is stigmatised goes from being regarded as 'a whole and usual person to a tainted discounted one'. It is a characteristic, which distinguishes an individual as being 'of a less desirable kind' and is recognised as 'a failing, a shortcoming or a handicap', upon one's identity (*ibid*. 12). Stigma is only established and reinforced through social interaction, entirely contingent upon power differentials (Link and Phelan, 2001; Pescosolido and Martin, 2015). Thus, Goffman (1963: 4) contends that stigmatisation does not occur based upon a single attribute but instead is constructed upon 'the relationship between an attribute and a stereotype'.

Essentially the attribute is determined by others as an undesirable characteristic, which results in a devalued

identity. This devaluation 'works to advantage or disadvantage others through social interactions with individuals, groups, organizations, and "institutions"' (Pescosolido and Martin, 2015: 93). The labels, upon which the stigma is conferred, are reinforced through formal and informal mechanisms of social control whilst the negative consequences of the stigma applied vary according to the extent to which the attribute and stereotype are accepted by others in society (*ibid.*). Once a stigma has been attached to a deviant identity, the individual who is stigmatised becomes 'not quite human' and their identity becomes spoiled in the eyes of others (Goffman, 1963: 15).

Drawing upon the conceptualisation of stigma 'as the relationship between an attribute and a stereotype' (Goffman, 1963: cited in Link and Phelan, 2001: 366), Link and Phelan (2001) distinguish four components which are intrinsic to the construction and application of stigma to spoiled identities. These components are; 'distinguish[ing] and label[ling] human differences', linking 'labelled persons to undesirable characteristics – to negative stereotypes', the 'separation of "us" from "them"' [and] status loss and discrimination that lead to unequal outcomes' (*ibid.*: 367). Additionally, Link and Phelan suggest that stigmatisation is dependent upon 'social, economic and political power' which facilitates the 'identification of differentness', the creation of 'stereotypes, and the separation of labelled persons into distinct categories' (*ibid.*: 367). It is contended that such processes facilitate the 'disapproval, rejection, exclusion, and discrimination' of those stigmatised (*ibid.*: 367).

For Goffman (1963), individuals are classified around attributes associated with a given social identity. These attributes constitute expectations associated with an individual's identity. Goffman notes that such expectations are made in retrospect and are used to construct a 'virtual social identity' (*ibid.*: 12). When an individual does not meet the

expectations which others attribute to their identity, a stigma is attached to their 'actual social identity' (*ibid*.: 12). He therefore theorises stigma as a concept which is embodied within social relationships and occurs as a result of a disparity between an individual's 'virtual social identity' and their 'actual social identity' (*ibid*.: 12).

Goffman (1963: 14) distinguishes between three types of stigma: 'physical deformities, blemishes of character and the tribal stigma of race, nation and religion'. For Goffman, stigma is present only when all members from social categories support the same standards of judgment (*ibid*.). It is suggested that those individuals, who do not depart from shared normative expectations, 'construct a stigma theory' in order to explain the stigmatised individual's departure from their 'virtual social identity' and 'his inferiority', in order to 'exercise variants of discrimination' against them which efficaciously 'restricts' an individual's 'life chances' (*ibid*.: 15).

However, Goffman (1963) notes that those who are stigmatised share the same assertions with regards to identity attributes as those who are not stigmatised.

> His deepest feelings about what he is may be his sense of being a "normal person", a human being like everyone else, a person, therefore, who deserves a fair chance and a fair break . . . Yet he may perceive, usually quite correctly, that whatever others profess, they do not really "accept" him and are not ready to make contact with him on "equal grounds" (Goffman, 1963: 17-18).

At this point the individual becomes 'intimately alive to what others see as his failing' thus the individual is caused to 'agree that he does indeed fall short of what he really ought to be' (Goffman, 1963: 18). The individual is, therefore, socialised into the beliefs and values upon which the stigma is applied. According to Goffman, this acknowledgement is likely to result

in 'self-hate and self-derogation' (*ibid.*: 18). Additionally 'shame becomes a central possibility, arising from the individual's perception of one of his own attributes as being a defiling thing to possess, and one he can readily see himself as not possessing' (*ibid.*: 18).

The theoretical insights provided by Goffman (1971) and Cooley (1902), concerning the construction of identity as dependent upon the view of others are integral to understanding the implications that result from being labelled with a deviant identity and stigmatised. Both Cooley and Goffman suggest that an individual will experience shame as a result of being viewed negatively by others when they have failed to impute a positive social identity. For example, Cooley (1902: 152) contends that the second stage of the 'looking-glass self, the imagination of oneself in the eyes of others, is 'quite essential' in terms of understanding the impact social processes have upon 'self-feelings' or emotions. His analysis suggests that the perception of oneself, based upon the view of others, plays an integral role in the emotions the individual will experience, asserting that the main emotions experienced, as result of being viewed through the eyes of others, is shame or pride (*ibid.*). Additionally, Goffman's perspective on stigma implies that shame is a central emotion, which is manifested in response to being viewed negatively by others (Goffman, 1963 cited in Scheff, 2003: 244). As stigmatisation is a result of social processes, which involves the degradation of one's identity by others, when an individual is stigmatised they are viewed negatively in the eyes of others as they possess a 'discrediting' attribute (Goffman, 1963: 3). The individual who is stigmatised is aware of this devaluation of their social self and, as a consequence, they internalise this negative perception as part of their identity.

However, Goffman's conceptualisation of stigma has been challenged on the basis that it 'assumes the existence of a normatively shared understanding of the criteria for and the

distribution of stigma' (Kusow, 2004: 180). It is suggested that his predominant focus on the experiences of stigmatised groups essentially neglected to consider structural components of oppression and marginalisation and the influence of macro-level components on the processes of stigmatisation (ibid.). As such, it has been contended that whilst Goffman's 'concept of stigma has provided a powerful analytic category for understanding how stigmatized individuals manage the everyday problems attached to their spoiled identities, his treatment does not go far beyond the issues of identity management' (Kusow, 2004: 195).

It is suggested by Parker and Aggleton (2003: 14) that stigma is characterised by 'by cross-cultural diversity and complexity . . . [and] the relative simplicity of existing conceptual frameworks', such as Goffman's conceptualisation of stigma, limit knowledge and 'understanding of [this] phenomena'. They contend that what is missing from Goffman's work is an understanding of 'how stigma is used by individuals, communities and the state to produce and reproduce social inequality . . . [as well as a recognition of how] stigma and discrimination . . . encourages a focus on the political economy of stigmatisation and its links to social exclusion' (ibid.: 17). Nonetheless Goffman's contributions to the stigma concept have 'proved a productive concept, in terms of furthering research on social stigma and its effects . . . [as well as] widening public understandings of stigma' (Tyler and Slater, 2018: 721).

By utilising the theoretical perspectives developed by Cooley (1902), Becker (1963) and Goffman (1963), thus far this chapter has provided a theoretical account of the construction of deviant identities and the application of stigma to those labelled as deviant. The insights provided by Cooley (1902) and Goffman (1971) have been utilised to describe the processes individuals engage in, in order to ensure their identity is perceived positively in the eyes of others. This

chapter will now move on to consider the theoretical insights discussed, in relation to the construction of deviant identities and the application of stigma, through a gendered lens. The aim is to highlight how the application of stigma to deviant female identities is a process, which situates girls' experiences of shame within a framework of gendered responses.

2.6 Regulating Female Identities: The role of Stigma and Shame

For Goffman (1977: 304), individuals construct a sense of 'who and what' they are according to their 'sex class' categorisation and 'judging' themselves in terms of the 'quintessential characteristics' associated with that category. Goffman refers to 'sex class' as a 'category that is purely sociological' and suggests that all societies develop their own framework of 'praised and dispraised attributes' which constitute the required qualities for each category (*ibid*.: 303). It can, therefore, be suggested that Goffman's account of the processes of 'self-identification' individuals engage in determine their 'gender identity' (*ibid*.: 304).

The classification of an individual from birth into a specific gender identity, accounts for 'different treatment', 'different experience' and 'different expectations' , which explain gender-specific ways of 'appearing, acting and feeling' for those who internalise the masculine and feminine ideals attributed to their gender identity (Goffman, 1977: 303). Goffman argues that the ideals associated with masculinity and femininity:

> . . . constitute understandings about ultimate human nature which provide grounds for identifying (at least in Western society) the whole of the person, and provide also a source of accounts that can be drawn on in a million ways to excuse, justify, explain, or disapprove the

> behaviour of an individual or the arrangement
> under which he lives . . . (Goffman, 1977: 303).

Goffman utilises the term 'institutional reflexivity' (Goffman, 1977: 302) to provide a theoretical 'characterisation of the logic of gender difference and inequality' (Brooks Gardner, 1999: 43). According to Goffman the 'biological differences' between men and women which organise social life have no 'necessary features' that justify the 'social organisation of gender' (Goffman, 1977: 302). Instead, Goffman argues that the essential elements which underpin this organisation require an 'integrated body of social beliefs' which permit the operation of these social structures (*ibid.*: 302). Based upon this argument, Goffman therefore contends that:

> It is not, then, the social consequences of innate sex differences that must be explained, but the way in which these differences were (and are) put forward as a warrant for our social arrangements, and, most important of all the way in which the institutional workings of society ensured that this accounting would seem sound (Goffman, 1977: 302).

According to West (1996: 355), Goffman's insights concerning gender have provided 'key analytical resources' for comprehending social situations, interactions and behaviours, as well as expectations associated with them. Whilst it is suggested that Goffman 'never explicitly considered the issues raised by feminists' (Psathas, 1996: 387), his work has been utilised within feminist theory as a conceptual framework for analysing the patriarchal treatment and exploitation of women and to demonstrate the extent to which women's experiences within the social world are 'phenomenally different' to mens (West, 1996: 357). For example, Brooks Gardner (1999: 42-43) has utilised Goffman's insights in order to analyse the 'gender-based' public harassment of women and explain how 'the logic of gender difference' is used to 'maintain, reproduce and perpetuate beliefs about the character of each gender'.

Feminists elaborating upon Goffman's work have also drawn attention to the extent to which unequal power relations establish themselves through interaction between men and women and account for the various ways of enacting gender (see for example, West and Zimmerman, 1987). Although his work on gender remains limited (see for example, Goffman, 1976, 1977), Goffman's legacy within feminist theory is, according to West (1996: 360), 'an appreciation of how power works in interaction between men and women' and a contribution to the understanding of gender, as a social construct, which justifies 'institutional arrangements' between men and women (*ibid.*: 360). Furthermore, whilst Goffman's conception of stigma has been most notably developed through 'activism that has sought to reduce the social stigma of specific health conditions such as HIV and AIDS, body-positive feminism, disability activism, and more expansive social and political movements, such as queer pride' (Tyler and Slater, 2018: 732), the concept of stigma can, and has to a certain extent, been utilised to provide a theoretical argument concerning the application of stigma to women and girls for transgressing discourses of femininity.

According to Goffman (1963: 15) 'stigma theory' is used to explain an individual's deviation from their virtual social identity and apply a sanction to the stigmatised person. It can be suggested that the devaluation of women and girls through the application of deviant labels is a routine occurrence when they are perceived to have 'violated specific gender system norms - by behaving or even presenting themselves in ways deemed inappropriate for females' (Schur, 1984: 7). This is because gender norms are applied to most female behaviour. When such insights are considered in relation to women and girls' devalued and subordinate status within society it becomes clear that stigma functions primarily as a mechanism of social control, which reinforces their structural position within patriarchal society (*ibid.*). This argument suggests that there is a relationship between 'stigma and social power' and

therefore, 'women's vulnerability to stigmatisation rests upon their general social subordination' and their 'relatively poor' position of power within society (*ibid.*: 8). It is suggested that Goffman's contributions have revealed 'the oppressions endemic to the social world by exposing the natural attitudes towards those stigmatised' (Deegan, 2014: 80). For example the process of stigmatisation Goffman discusses illustrates the debasement women experience throughout all aspects of their lives, as well as revealing 'the ways in which women's lives are circumscribed and limited by conventions' (*ibid.*: 81).

The assumptions underpinning 'normal and abnormal femininity are composed of a number of qualities attributed to particular women' (Hutter and Williams, 1981: 24). These attributes 'lead a woman to be seen as less than a whole human being and to her disqualification from full social acceptance' (*ibid.*: 24). For women and girls, being labelled in this way effects the ways in which they are viewed and responded to by others but also for 'her sense of her own identity' (*ibid.*: 24). Therefore, 'when women are labelled, successfully, as members of an "abnormal" group, their sense of self-worth [is] particularly affected by the response of others to them as an individual. . .' (*ibid.*: 25). However, it is suggested that women do not experience the full effects of stigma immediately (*ibid.*). Hutter and Williams suggest that the stigmatised female must be attuned to the 'standpoint' of the non-stigmatised alongside developing an understanding that they bear a stigma and 'the detailed consequences of possessing it' (*ibid.*: 25). Goffman (163: 45) characterises this process as the development of a 'moral career':

> Persons who have a particular stigma tend to have similar learning experiences regarding their plight, and similar changes in conception of self – a similar "moral career" that is both cause and effect of commitment to a similar sequence of personal adjustments (Goffman, 1963 cited in Hutter and Williams, 1981: 25).

It is argued that once a woman 'acquires the identity' of the label attributed to her 'she applies to herself the qualities of low self-esteem and failure as a woman', which she recognises as being associated with those bearing a similar label (Hutter and Williams, 1981: 25). This negative self-perception is then exacerbated by the negative perceptions others associate with her identity (*ibid.*). The stigmatised female has, therefore, acquired a new identity which in turn affects her social status, her relationships and consequently result in her being 'subjected to a greater degree of control over all aspects of her life' (*ibid.*: 26). Furthermore, her opportunities to manage her 'spoiled identity', or present herself with a new identity, which is not devalued, are significantly impaired in comparison to her male counterparts, due to her low social status and devalued identity by virtue of being female (Hutter and Williams, 1981: 27).

Within this context it can be understood that stigma is inherently linked to inequality and 'to properly understand issues of stigmatisation and discrimination . . . requires us to think more broadly about how some individuals and groups come to be socially excluded and about the forces that create and reinforce exclusion in different settings' (Parker and Aggleton, 2003: 16). This is because 'stigmatization does not simply happen in some abstract manner . . . it is part of complex struggles for power that lie at the heart of social life' (*ibid.*: 18). It is 'deployed by concrete and identifiable social actors seeking to legitimize their own dominant status within existing structures of social inequality' (*ibid.*: 18).

Stigma is discursive in nature and arguably 'operates as a form of governance which legitimizes the reproduction and entrenchment of inequalities and injustices' (Tyler, 2013; 212). Therefore, those who are stigmatised within society often 'internalize the stigma that they are subjected to' (Parker and Aggleton, 2003: 18). This is because the structural inequalities and effects of power function to 'legitimize inequalities of

power based upon differential understandings of value and worth' thus reducing opportunities for resistance and contestation (*ibid.*: 18).

Feminist research has been successful in explicitly revealing women's and girls' subordinate position in society (Carlen, 1988; Chadwick and Little, 1987; Heidensohn, 1996; Hudson, 1989; Smart and Smart, 1978). Such literature has provided insight into the ways in which the regulation of female behaviour has subjected girls to conflicting discourses of appropriate female behaviour, resulting in them experiencing increased levels of social control (Carrington, 1993; Hudson, 1989). Based upon such knowledge, it can be argued that females are commonly subject to deviant labels and stigmatisation as a result of falling under a category of femininity, which does not conform to images of normative female behaviour (Carlen and Worrall, 1987; Schur, 1984). Thus, it becomes evident that the social construction of gender plays a role in girls' experiences of stigma. Hutter and Williams (1981) suggest that a stigma may be applied to a female identity in various ways, for example, by criminal justice agencies or through a series social interactions. However, they assert that before the process of stigmatisation, females are aware of the expectations associated with their gender identity. Therefore, when they are stigmatised, feelings of low 'self-esteem and self-worth' are compounded by their perceived 'failure as a woman' (*ibid.*: 25).

It therefore becomes apparent, when considering the affect stigmatisation has upon women and girls, that the 'systematic devaluation' of females as a category of persons and their vulnerability to stigmatisation has 'significant implications' (Schur, 1984: 39). This is because it is evident that, for women and girls, the social construction of gender and the ideals of femininity contained within this construction play an integral role in the construction of their identity.

Furthermore, it can be suggested that women's and girls' perception of 'self' is dependent upon how they are viewed by others (Cooley, 1902: 152). Therefore, they will attempt to define their self-presentation through 'techniques of impression management' in order to shape others 'judgment of that appearance' (Goffman, 1971: 201). However, it is argued that due to the extent to which the social construction of femininity is commanded by a vast array of competing and conflicting expectations and ideals, associated with femininity, the potential for girls to become subject to stigma for transgressing acceptable notions of femininity is exacerbated. Thus increasing the likelihood of experiencing shame for their transgressions.

This is because when stigma is present, the desired identity, the individual wishes to express, can no longer be achieved. For Lewis (1998: 126) the link between shame and stigma, therefore, 'appears obvious' as shame is recognised as an emotion experienced as a result of a failure to achieve a certain 'relative standard' shared by the individual and others within society. Furthermore, stigma is recognised as a mark for those guilty of a 'deviation from the accepted standards of the society' (*ibid.*: 127). Thus, it becomes apparent that stigma is compelling in its ability to elicit shame as when an individual is stigmatised their identity is spoiled in the eyes of others (*ibid.*).

It can therefore be suggested that stigma functions as a mechanism of social control which is 'oriented toward maintaining a particular moral order and the power dynamics with which it is entwined' (Penwell *et al.*, 2016: 450). Within this context stigma, as a social process, can be 'conceptualised as a cognitive, interpersonal and structural mechanism of social control . . .' (*ibid.*: 450). As such, stigma cannot be separated from the dynamics of gendered power relations, which prescribe women to an inferior position within

the social order, through various mechanisms of social control. Drawing upon this argument, shame, as a manifestation of stigma, can be recognised as a form of social control, which serves to maintain the social order.

2.7 Discourses of Femininity and the Manifestation of Shame

For Williams (1993: 90) 'what arouses shame . . . is something that typically elicits from others contempt or derision or avoidance. This may equally be an act or omission . . . it may be some failing or defect. It will lower the agent's self-respect and diminish him in his own eyes' (*ibid*.: 90). Retzinger and Scheff (1996: 319) refer to shame as 'a large family of emotions and affects', which impact (predominantly), negatively upon an individual's self-esteem and self-respect (Lewis, 1992; Tangney and Dearing, 2002; Tomkins, 1963), resulting in avoidance, feelings of rejection, 'embarrassment, humiliation, shyness, modesty, discomfort, awkwardness, inadequacy, insecurity and a lack of confidence' (Retzinger and Scheff, 1996: 319).

For Taylor (1985: 54) shame is a 'moral emotion' which functions constructively by allowing the individual to believe themselves 'to have done something morally wrong' (*ibid*.: 84), thus recognising when they have transgressed moral principles and expectations. Taylor (1995: 176) distinguishes between two different types of shame: 'shame which has a useful function to fulfil . . . and ill-founded shame'. Taylor suggests that the potential for an individual to feel shame is dependent upon whether they possess 'self-respect' (*ibid*.: 80). As such, those who do not have self-respect do not have the capacity to feel shame. For Taylor, this relationship between shame and self-respect is what makes shame constructive (*ibid*.):

> A sense of value is necessary for self-respect and so for shame, so that whatever else may be wrong about the person feeling shame he will at least have retained a sense of value. And secondly, it is a sense of value which protects the self from what in the agent's own eyes is corruption and ultimately extinction (Taylor, 1995: 80-81).

According to Taylor (1995: 81) shame is, therefore, an emotion of 'self-protection' and a requirement for moral integrity. Manion (2003; 22), however, challenges the account of shame as a moral emotion, which functions to reaffirm an individual's moral 'integrity'. She suggests that this conception is deficient as the 'moral relevance of shame must attend to the ways in which shame might be gendered' (*ibid*.: 22). This is because 'the social contexts [of] masculinity and femininity influence what counts as "good instances" of shame for women, and that such standards may erode and not support a woman's moral agency' (*ibid*.: 22).

Bartky (1990) asserts that women are positioned differently to men within the formation of social relations. She critiques 'traditional philosophy' as male-centred knowledge production and thus argues that if knowledge cannot be gender neutral then neither can feelings (*ibid*.: 84). It is therefore suggested that women are 'typically more shame prone than men' and there are gendered patterns in the way males and females experience shame due to the differential perspectives they hold with regards to social and interpersonal relationships (*ibid*.: 85). Thus, shame becomes an emotion, that when internalised, has a different meaning for females (*ibid*.).

It is suggested that the associations between 'femininity and shame persist' because shame is regarded as stereotypically more 'affective' in women's lives (Manion, 2003: 22). This is because there is a tendency to regard shame 'as indicating vulnerability to and powerlessness in response to negative judgements others make of us' (*ibid*.: 23). Therefore, based upon cultural expectations with regards to 'femininity and

masculinity as exclusive opposites, this delineates shame as a feminine response' (*ibid.*: 23).

Furthermore, it is argued that the shame women experience moves beyond the typical shame experienced as a single emotion and is instead a 'pervasive affective attunement to the social environment', which extends beyond women's 'subordination [into] the larger universe of patriarchal social relations, a profound mode of disclosure both of self and situation' (Bartky, 1990: 85). This type of shame, Bartky suggests, is not consciously recognised and is likely to be suppressed and visible only as a 'pervasive sense of personal inadequacy [which] is profoundly disempowering' (*ibid.*: 85). Moreover, women are made to feel shame in the 'major sites of social life' more so than males (*ibid.*: 93). Within this context, shaming behaviour is 'subtle' and those accountable for it are often ignorant of their actions (*ibid.*: 93).

Manion (2003) contends that women are more susceptible to shame when the context, in which shame is likely to be evoked, is concerned with issues of moral integrity. Such situations, for women, are often concerned with their ability to live up to standards of femininity and the continuity of their relationships (*ibid.*). For example, Brown (2007) identifies shame as a gender-specific experience for females. Brown refers to gendered experiences of shame within the context of conflicting and competing expectations associated with the ideals of femininity, which she describes as a 'web of shame' (*ibid.*: 46). Focusing on individual narratives of shame, Brown undertook qualitative research with 215 adult women in the United States, examining why women experience shame, how it impacts upon their lives and the various coping strategies they employ to manage these experiences (*ibid.*). The research informed a collective definition of shame as 'an intensely painful feeling or experience of believing we are flawed and therefore unworthy of acceptance and belonging' (Brown, 2007: 46).

Brown's (2007) findings identified gender as a relevant variable in relation to the participants' experience and internalisation of shame, which is produced as a result of a mix of difficult emotions, such as fear, blame and disconnection. Furthermore, it was identified that the presence of such emotions induce feelings of powerlessness and behavioural changes in order to manage the negative emotions associated with feelings of shame (*ibid.*). Furthermore, Manion (2003: 26) argues that the existing research which identifies gendered experiences of shame raise important 'questions for moral philosophy concerning the status and nature of shame as a moral emotion' which has a constructive function upon 'moral attributes' (*ibid.*: 26). This is because women's proneness to shame is determined by 'demands and expectations regarding feminine goodness' (*ibid.*: 26).

Both Manion (2003) and Bartky (1990) take issue with Taylor's account of 'false and genuine shame', specifically the argument that 'genuine' shame has a productive function (Manion, 2003: 35) and false shame is a 'threat to her integrity' (Taylor, 1995: 176). Manion (2003: 35) argues that it is the context in which one deals with their shame that determines its 'usefulness'. This critique, according to Manion, has 'special salience with respect to the shame . . . some women feel when they see themselves falling short of a traditionally feminine model of goodness . . .' (*ibid.*: 36).

Bartky (1990: 96) challenges the conception that shame provides the opportunity for 'moral reaffirmation', described by Taylor (1985, 1995), by differentiating between the experiences of oppressed and non-oppressed groups within society. She suggests that for women, within a patriarchal society, the extent to which they are able to feel 'truly confident and free, indeed unashamed' is significantly undermined (*ibid.*: 96). This is because shame, for some women, 'is not a discreet occurrence, but a perpetual attunement, the

pervasive affective taste of life' (*ibid*.: 96). Bartky, therefore, argues that the shame women experience is not 'the occasion for moral reaffirmation', as such experiences cannot be used to understand feelings of shame, which *persist* amongst women (*ibid*.: 96). This is because the 'standard accounts' of shame, as one 'of the emotions of self-assessment', express confidence in the ability of individuals to internalise such emotions and despite the distress caused 'these emotions are the price we pay for the very capacity to be moral' (*ibid*.: 96). Thus they also provide the ability to make a 'recommitment to the principles' which have been transgressed and return to the 'moral equilibrium' (*ibid*.: 96). However, Bartky states:

> Shame, for the shame-ridden and shame-prone, is not a penance that restores the proper moral equilibrium . . . For such persons, there is no equilibrium to which to return: "Feeling inadequate" [therefore] may colour a person's entire emotional life. [Thus] under conditions of oppression, the oppressed must struggle not only against more visible disadvantages but against guilt and shame as well (Bartky, 1990: 97).

It can be suggested that the patriarchal structures, which impose oppression, manifest shame within the oppressed as a form of unwavering, 'unconstructive', 'self-destructive' disempowerment (Bartky, 1990: 97). However, the individual who is subject to the analysis of 'moral psychology' is presented with the 'capacity not only to be judged but to judge' (*ibid*.: 97). Such individuals, according to Bartky, have avoided the 'psychological oppression on which modern hierarchies of class, race and gender rely so heavily' (*ibid*.: 97). What is apparent from this analysis is that shame cannot be explained homogenously, as a consequence of individual shortcomings or transgressions, as the structures of oppression, marginalisation and subordination to which women are subject cannot be disconnected from the self-conscious emotions they experience (*ibid*.). Effectively, it can be argued

that such structural inequalities determine individual experiences within the social world.

It is clear that a common feature throughout society is for women and girls to adopt a certain moral integrity, determined by discourses of femininity, which emphasise feminine ideals of domesticity, emotionality, fragility and sexuality (Carlen and Worrall, 1987). When women fail to adhere to these ideals, it is argued that, they are faced with feelings of shame. According to Taylor (1985; 1995), such feelings of shame would be productive in providing the opportunity for one to reaffirm their moral integrity or dismiss the feelings of shame as false. However, feelings of shame, within such contexts, do not support a positive function as encouraging feelings of shame, for women, may coax them into dismissing their own agency. On the other hand internalising shame as 'false', thus rejecting discourses of femininity, is also actively discouraged within society (Manion, 2003).

Bartky (1990: 95), however, argues that the 'feelings' that establish women's shame 'do not reach a state of clarity we can dignify as belief' as they constitute 'nothing less that women's subordinate status in the hierarchy of gender, their situation not in ideology but in the social formation as it is actually constituted'. What overcomes such contexts, in which shame is manifested, is the challenging of women's beliefs about themselves, and the understanding that the beliefs upon which such feelings are constituted, are in fact false. Bartky argues that 'with the collapse of these suspicious . . . beliefs, the shame of which they are said to be constitutive . . . would just disappear' (*ibid.*: 95). Drawing upon Bartky's argument it becomes clear that the capacity for an individual to act with agency is integral in order to oppose such beliefs, as it allows individuals the opportunity for transformation, which challenges discourse (McNay, 2016).

2.8 Exercising Agency: Resistance and Autonomy

Agency is 'socially realised' and is not equally afforded as it is a concept which is determined within a societal context, whereby one's capacity to act with autonomy is restricted by social norms operating upon discourses of power, which shape experiences and situations (McNay, 2016: 39). Agency therefore 'is not inseparable from the analysis of power and, thus, is not so much a thing in itself as a vehicle for thinking through broader issues [of] freedom and constraint' (*ibid*.: 39). Feminist theoretical insights concerning agency are especially attuned to these issues, as women have generally been denied the capacity to act with autonomy due to the social construction of 'female embodiment' as fundamentally subordinate (*ibid*.: 41).

Feminist criminological research has successfully contested androcentric theories of female offending in addition to contextualisng women's experiences of victimisation as being interrelated to their offending behaviour (see Chapter 3). Despite such contribution, it has been suggested that this connection, between offending and victimisation, has resulted in the nature and embodiment of women's agency and resistance predominantly remaining unaccounted for (Burman and Gelsthorpe, 2017). However, in more recent years discourse surrounding women's agency, resistance and power have become salient in contesting the conceptualisation of women as passive recipients of unequal societal structures but also in terms of contributing to more 'nuanced understandings of the dimensions of power' (*ibid*.: 219).

Agency is often comprehended as the ability of an individual to be 'independent or relatively autonomous' and act with 'free will', 'choice' or 'reflexivity' (McNay, 2016: 40). Agency within this context is not determined within the individual and is dependent upon 'social interdependence and the associated

idea that individuals are formed through embodied interaction and social norms, rather than pre-exist [ing]' (*ibid.*: 41). It can therefore be suggested that, for women, this perspective of agency provides a more accurate account of gendered agency as it disregards sovereignty and allows for gendered structural inequalities, between males and females, to be considered alongside the ways in which such inequalities have regulated women's lives (*ibid.*). Feminists are thus 'in broad agreement' that agency requires conceptualisation 'as a situated, embodied and relational phenomenon' (*ibid.*: 41).

It is suggested that agency cannot be understood from an 'exclusively objective perspective but must also be grasped from the subjective perspective of the individual's own experience of the world' in order to understand the way these experiences determine action (McNay, 2016: 42). Thus, agency also has an 'affective' dimension, which, for women, is inherently implicated within their experiences of social control. Agency as a 'relational phenomenon', therefore replaces the focus upon individual intentions within the operation of interrelated structures of power (*ibid.*: 42). Resistance, as an expression of agency, is therefore concerned with relations of power and the opportunity for action (*ibid.*).

'Gendered agency is practiced within normative social, economic and political processes of creating and reproducing gendered identity. The constraints of gender and normative femininity are always a factor in its production, expression and resistance' (Gonick *et al.,* 2009: 6). Although constructions of 'femininity' are internalised as part of one's identity they are, however, 'still mutable, dynamic, immanent and open to transformation' (*ibid.*: 6) and thus exercising agency and resistance reveals how their embodiment is 'contingent and ambiguous' (*ibid.*: 6). However 'new forms of autonomy and constraint' have emerged, which transcend 'dichotomies of male domination and female subordination' and focus upon

relationships of inequality which emanate across race, class and 'generational' divisions amongst women McNay, 2000: 1). Thus, leading feminist theory to reconceptualise notions of 'gender, identity and agency' which reveals gender identity as 'durable but not immutable' (*ibid*.: 2). This idea has, according to McNay, 'prompted a rethinking of agency in terms of the inherent instability of gender norms and the consequent possibilities for resistance, subversion and the emancipatory remodelling of identity' (*ibid*.: 2).

Butler's (1990: 25) conceptualisation of gender as 'performatively constituted' is influential with regard to this reconceptualisation of gender identity as variable. Butler (1990: 23) argues that gender is 'performatively produced and compelled by the regulatory practices of gender coherence' (1990: 24). It is suggested that gender, as a performance constitutes, 'a set of repeated acts within a highly rigid regulatory frame that . . . produce the appearance of . . . a natural sort of being' (*ibid*.: 33). For Butler, the concept of gender as 'performative' is therefore reliant on individuals who appropriate a socially constructed gender-specific identity (*ibid*.: 141).

Butler (1993: 22), however, suggests that the 'symbolic' construction of gender is a 'temporalized regulation of signification, and not as a quasi-permanent structure'. Although the 'performative dimension' of gender is the enforced 'reiteration of norms', such constraint, according to Butler, necessitates that the performativity of gender be 'rethought' (*ibid*.: 94).

Performativity cannot be understood outside of a process of iterability . . . this repetition is not performed *by* a subject; this repetition is what enables a subject and constitutes the temporal condition for the subject. This iterability implies that 'performance' is not a singular 'act', but a ritualised production

. . . reiterated under and through constraint . . . but not determining it fully in advance (Butler, 1990: 95).

The quote provided by Butler (1990) highlights that it is possible to disorder the construction of gender relations and identity. This is because the necessity for social norms, determining the construction of gender and inequality, to be continuously reinforced and performed reveals the extent to which they are unnatural and imitated and thus have the potential to be challenged and revised.

If gender is not tied to sex . . . then gender is a kind of action that can potentially proliferate beyond the binary limits imposed by the apparent binary of sex. Indeed gender would be a kind of cultural/corporeal action that requires a new vocabulary that institutes and proliferates present participles of various kinds of resignifiable and expansive categories that resist both the binary and substantializing . . . restrictions on gender (Butler, 1990: 143).

Butler (1990: 148) argues that 'the task is not whether to repeat but how to repeat or, indeed, to repeat and, through a radical proliferation of gender, to *displace* the very gender norms that enable the repetition itself'. Agency, therefore, is an option to be evoked. Within this context, the expression of agency can be exercised through the instability of gender norms all together. This instability is what destabilises the 'repetition' of norms and 'the power that undoes the very effects by which "sex" is stabilized' and places the 'norms of "sex" into a potentially productive crisis' (*ibid.*: 10). For Butler, it is not a question of discarding such norms all together, it is the act of reforming these norms and practices through the performative capabilities of gender. Gender performativity, in this sense, is embodied by agents who have the ability to resist the boundaries imposed by the construction of gender and challenge the inequality resulting from this construction. Such theoretical insights concerning agency and the fluidity of

gender subjectivity suggests that gender identity is not exclusively 'imposed through patriarchal structures, but as a set of norms that are lived and transformed in the embodied practices of men and women' (McNay, 2000: 15). Within this context, 'resistance demonstrates that empowered agency need not involve an outright rejection of oppressive norms but rather operates through displacement from within' (McNay, 2016: 45).

It is suggested that for individuals to be understood as active agents and not simply 'docile subjects or passive bearers of pre-given social roles, then "purposive agency" must be a fundamental and self-evident property of personhood' (McNay, 2016: 40). However, agency and resistance, demonstrated in this way, are not pre-determined and instead emanate in an unforeseeable way, depending upon 'the multifarious ways in which individuals enact gendered and other cultural norms' (*ibid.*: 45). These accounts of 'agency as resistance' (*ibid.*: 44) demonstrate the variable ways in which women and girls have the capacity to (re)construct their identity and challenge the norms and ideals, which have determined their disadvantaged status within society. The embodiment of agency in order to resist the negative implications of gender, as a social construct, involves interrogating the construction of deviance and the application of stigma and exploring the ways in which stigma and shame can be managed. Thus new ways of empowering those subject to inequality, and in turn reducing the negative impact of stigma by allowing the individual to manage their own identity 'through the creation of oppositional spaces and "pathways" to empowerment', are created (*ibid.*: 45).

2.9 Conclusion

This chapter has demonstrated the extent to which women and girls are subject to gendered forms of social control by virtue of being female. It has argued that the forms of social

control that impact exclusively upon females are determined by the social construction of gender, which accounts for women and girls' unequal and devalued status within society. The rationale behind this has been to present a theoretical argument, which explores the ways in which the social construction of gender is implicated within the application of stigma to deviant female identities and feelings of shame.

Shame, as an implication of being viewed negatively in the eyes of others, has been discussed through a gendered lens and it has been argued that women and girls' experience shame as an emotion that is implicated by the social construction of gender and the ideals of femininity. A theoretical account of gendered agency has been presented in order to examine how the temporal and variable nature of gender creates the potential for women and girls to form their own subjectivities, which resist the confines of the social construction of gender and determine their experiences in line with their devalued and unequal status within society.

The theoretical perspectives presented within this chapter constitute an integral component of the overarching critical analysis of RJ conferencing to be developed. This is because they provide an insight into how shame and stigma intersect with the social construction of gender and function within patriarchal structures of society to produce potentially harmful effects for girls. Such insights provide the basis in which to emphasise the problematic nature of the philosophical and theoretical rationale, as well as the operational dynamics, of RJ conferencing based on the demonstration of shame. In order to contextualise the theoretical arguments and empirical data underpinning this research study, the following chapter will provide a review of the existing literature concerning girls, youth justice and social control in England and Wales.

Chapter 3

Chapter 3: Regulating Deviant Behaviour: Girls, Youth Justice and Social Control in England and Wales

> Somehow, in all the concern about the situation of women and women's issues during the second wave of feminism, the girls were forgotten (Chesney–Lind and Pasko, 2004: 1).

3.1 Introduction

It can be suggested that the 'British story of girls and . . . youth justice is one of changing concerns' (Gelsthorpe and Worrall, 2009: 210). In the past 'they have been socially constructed within a range of legal, welfare, and political discourses as, on the one hand, deeply maladjusted misfits and, on the other . . . dangerous folk devils, symbolic of postmodern adolescent femininity' (Worrall, 2004: 44). Despite such shifting discourses there does remain some 'historical continuities', most prominently in relation to expectations relating to appropriate female behaviour, emanating from dominant discourses of femininity (Worrall and Gelsthorpe, 2009: 211). Therefore, attempts to regulate girls' behaviour in line with such discourses have been a principal theme represented within criminal justice and welfare responses focused upon girls' deviance (Cox, 2003; Gelsthorpe and Worrall, 2009; Hudson, 1989; Sharpe and Gelsthorpe, 2009; Sharpe and Gelsthorpe, 2015). These responses, however, are not consistent and they have been subject to change in line with 'trends in youth justice policy and practice, criminological theorising and . . . socio-political concerns' (Sharpe and Gelsthorpe, 2015: 50).

Despite the development of a body of feminist literature, dedicated to criminological research concerning the responses to and treatment of female offenders, it is suggested that 'scant attention has been paid to the particular needs, characteristics and complexities of young female

offenders' (Burman and Batchelor, 2009: 280). As such, girls' experiences within the YJS have, in comparison to adult female offenders, been routinely marginalised and excluded from youth justice discourse, resulting in young female offenders becoming 'an invisible minority whose offending pathways and distinctive needs have gone largely undocumented and unaddressed' (Burman and Batchelor, 2009: 270). The consequences being that there remains:

> . . . A lack of understanding about the different needs of girls who end up in the criminal justice system, little evidence of what works for girls and few programmes designed specifically for girls. Girls are [therefore] effectively pigeon-holed into a criminal justice system designed for the male majority (All Party Parliamentary Group on Women in the Penal System: 2012: 5)

For girls who form part of the YJS it is suggested that they remain 'the forgotten few' (Burman and Batchelor, 2009: 280) and 'perhaps the most neglected offender population' (Batchelor and Burman, 2004: 277). What we do know is that for girls, who do come into the remit of the justice system, their experiences are implicated by the social construction of gender, inequality, oppression and social control. All of which have contributed to a combined set of unique problems that require recognition and consideration (Batchelor and Burman, 2004; Gelsthorpe and Worrall, 2009).

The shifting landscape of youth justice policy and practice in England and Wales and its failure to acknowledge or respond appropriately to the needs of girls who come into contact with criminal justice and welfare agencies form the focus of this literature review. Drawing upon the dominant themes of welfare, just desserts, risk, crime prevention and RJ, the following chapter will chart the shifting landscapes of youth justice in England and Wales, emerging from the twentieth century, and the persistent failures of the youth justice service to acknowledge and respond to the needs of girls. The

intention is to locate the empirical research underpinning this thesis, within a body of existing literature, in order to contextualise the critical exploration of girls' experiences of participating in RJ conferencing presented in subsequent chapters.

3.2 A Gendered Agenda: Girls, Youth Justice and Welfare

Historical responses to regulating girls' behaviour have been reflective of a 'social and legal preoccupation with regulating female sexuality'; as a result, girls who offend have been subject to prolonged differential treatment within society (Sharpe, 2012: 12). Within criminological theory and enquiry, female offending has remained largely under-theorised in comparison to male offending. Initial perspectives that did offer accounts of female offending considered it only in relation to 'pseudo-scientific psycho-biological theories' which adopted 'an entirely uncritical attitude towards sexual stereotypes of women and girls' (Smart, 1976: 4). The prominence of such gendered, stereotypical presuppositions (see for example, Cowie, Cowie and Slater, 1968) 'offered only narrow and distorted caricatures' of female offending which 'relied on the notions of "normal" femininity regulated through the concepts of morality, respectability, frailty and naturalness' (Monk and Sim, 2017: 4). During the 19th century, girls' behaviour, which transgressed discourses of femininity, was thus regarded as a manifestation of immorality and pathological unhingement (Sharpe and Gelsthorpe, 2009). As such, 'questions of diagnosis . . . treatment' and 'middle class values of respectability and domesticity' dominated criminal justice responses to offending girls (Sharpe, 2012: 10-11).

The more recent history of youth justice in England and Wales, and the legislation and policy changes affecting girls, can be characterised by conflicting discourses of welfare and

justice (Muncie, 2002). Welfare, within youth justice, is concerned with diverting children away from the CJS and responding to their individual needs through 'adaptive "treatment" programmes' (Scraton and Haydon, 2002: 311). Underpinning welfarism was the 'prevailing argument . . . that age and family circumstances should be taken into account when adjudicating on juveniles' (Muncie and Goldson, 2006: 35). In contrast, the justice approach 'implies a commitment to individual rights and due process' (Muncie and Hughes, 2002: 1). Whilst 'neither model has been fully realised in practice . . . [as] youth justice [has tended] to act on an amalgam of rationales wavering between the two philosophies' (Muncie and Hughes, 2002: 1) the values of welfarism are understood to be 'one of the defining characteristics of youth justice throughout much of the twentieth century' (Carrabine, 2010: 13).

In 1908, following the implementation of The Children Act, the YJS was established. Facilitated by various agencies within 'the welfare state, the criminal justice system and the voluntary sector' (Cox, 2003: 7), the newly established YJS was distinguished as operating upon discourses of 'care and protection and control and punishment' (Gelsthorpe and Worrall, 2009: 212-213), integrating two types of children: 'the delinquent and the neglected' (Cox, 2003: 6). During the 1930s, a statutory requirement for courts to ensure the welfare of children was established by The Children Act 1933. As a result, the number of girls being dealt with by the formal justice system on the grounds of welfare concerns, as opposed to 'punishment', increased (*ibid.*: 213). During this first half of the 20th century girls accounted for only 5% of court prosecutions, predominantly for minor offences or 'sexual improprieties' whilst welfare organisations 'accounted for the hidden policing of a significant population of girls' who were incarcerated on the grounds of welfare concerns (Sharpe, 2012: 13).

In the 1940s, however, subsequent legislation reflected a return to discourses of punishment combined with welfarism (Sharpe, 2012). In 1948, following the implementation of a further Children's Act, local authority children's departments were formed, giving the state full responsibility for the regulation of girls' 'delinquent' behaviour (Sharpe, 2012: 13). Such behaviour was often perceived to be 'beyond control', 'lacking proper parental control' or 'being in need of care and protection' (Cox, 2003: 47). As a result, the 1948 Act was accompanied by a further increase in the number of girls being prosecuted within court (*ibid.*). Girls who only engaged in offending behaviour, however, often avoided formal justice and welfare attention as sexual delinquency, considered to be the result of emotional and psychological disturbance, continued to be the determining factor for intervention (*ibid.*). The institutionalisation of girls, therefore, represented what Gelsthorpe and Worrall (2009: 213) argued to be a 'paternalistic measure to safeguard sexual morality' for reasons of 'moral danger and protection'.

During the 1960s, the involvement of girls in the YJS continued to be distinguished by a conflict between discourses of 'care and control' (Sharpe, 2012: 16). The introduction of The Children and Young Persons Act (1969) changed the framework in which the YJS responded to young people in conflict with the law (Gelsthorpe and Morris, 1994; Sharpe, 2012). The legislation meant that children under the age of 14 who offended should only be subject to youth justice intervention if there were also concerns that their welfare needs were not being met (Gelsthorpe and Morris, 1994). The legislation supported a rise in the age of criminal responsibility and the decriminalisation of children through welfare policies, as opposed to criminal justice intervention (Muncie and Hughes, 2002). The Act represented a 'substantial move towards either voluntary agreements or civil proceedings rather than criminal proceedings', thus reflecting a shift

'towards a more explicitly "welfare" orientated jurisdiction' (Bottoms, 2002: 216-217).

Muncie and Hughes (2002: 6) suggest that 'the prevailing political view of the late 1960s was that young offending was largely trivial and transient in nature and above all was so commonplace that the full weight of the law was unjustified and counterproductive'. Welfare policy and practice as a defining feature of youth justice, up to this point, was afforded support based upon the understanding that youth crime was 'a symptom of deep-seated social and psychological problems, such as poor housing, dysfunctional families, damaged personalities and so on' (Carrabine, 2010: 14). However, the election of the Conservative Government in 1979 meant that a number of the elements of the 1969 Act were not implemented as the party 'essentially objected to state intervention in criminal matters through a welfare rather than judicial body' (Muncie, 2004: 254). The Act's focus on the decriminalisation of youth crime was also met with 'strong resistance' by criminal justice professionals (Carrabine, 2010: 13). As such, the welfare principles inherent within the 1969 Act were not fully implemented and instead were 'grafted on' to the existing structure of the YJS, meaning that the 'treatment-punishment continuum was merely extended' (Muncie, 2016: 254). The Act therefore served to 'blur the boundaries between deprived and delinquent children', which had particular implications for girls deemed to be in need of welfare services, as it 'effectively transformed the juvenile court into a body allocating services on welfare grounds' (Sharpe, 2012: 16). At this point, girls were significantly more likely to be drawn into the justice system if they came from a 'broken home' or were referred to court for being 'in need of "care protection and control"' (Shacklady-Smith, 1978: 81).

Up until the 1970s welfarism was the 'established policy framework' in the UK (Garland, 2001: 34). The decades, which characterised welfarism during the mid-20th century,

were described as 'modernist' in values and commitments due to the 'unswerving belief that social conditions and individual offenders could be reformed by the interventions of government agencies' (*ibid.*: 40). During this time, punitive responses to crime and control were less prominent and policy makers, reformers and practitioners heralded the discourse of modernism (*ibid.*). Such discourse contended that deviant and offending individuals could be reintegrated with the support of 'social work and social reform professional treatment and public provision' (*ibid.*: 44).

Penal welfarism in this context formed part of the wider welfare state which utilised new modes of regulation that relied less upon 'law or coercion [and] . . . instead upon the power of . . . expert authority' and the readiness of individuals to accept the advice of professionals in achieving emotional, physical, economic and social security (Garland, 2001: 47). In line with such social contexts, penal welfarism 'embodied a style of social governance' and its success depended largely on informal social controls to ensure conformance to the law (*ibid.*: 49). Public opinion, however, did not exclusively correspond to the discourse of penal welfarism and policy. Nethertheless, those with a structural advantage implemented policy and practice attached to it, whilst public opinion continued to remain more punitive than welfare orientated (*ibid.*).

Despite the evidence of such 'welfare endeavour', within England and Wales, eventually being impeded by 'non-implementation' and 'non-compliance' by police and magistrates, in Scotland things manifested quite differently (Muncie and Hughes, 2002: 8). Following the Kilbrandon report, which supported the dissolution of juvenile courts in replacement of a 'welfare tribunal', the Children's Hearing System was established in 1971 (*ibid.*). The hearings were led by lay people and were considered to be 'an early intervention system for those children who would benefit from compulsory

measures of care and protection' (McGhee *et al.*, 2002: 230). Notwithstanding 'political contestation', the hearing system was considered to be 'one of the few bastions of a welfare based youth justice system throughout the world' (*ibid.*: 8).

The opposition to 'welfare philosophy' evident within England and Wales, during this time, compromised of a number of critiques (Asquith, 2002: 275). For example, critics argued that the theoretical premise of welfarism was 'based on philosophically unsound principles . . . as it is not possible to identify criteria which can be employed to explain delinquent behaviour' and used as a means to support interventions based on a child's 'best interests' (*ibid.*: 276). It was contended that welfare policy and practice utilised a 'rhetoric of therapy' when in actual fact what was 'being exercised . . . [was] a very subtle form of social control' (*ibid.*: 276). On a practical level, welfarism was also critiqued on the grounds that it did not afford young people 'sufficient legal and judicial safeguards' (*ibid.*: 276). In addition, advocates of the justice model argued that young people were being subject to interventions, which were neither proportionate to the offence nor consistent in their application (*ibid.*).

As such, the policies developed upon the underlying principles of welfarism have not proven to be 'uniformly benign' (Gelsthorpe and Worrall, 2009: 210). Furthermore, the values of welfarism, as translated into official youth justice policy and practice and the implications engendered, specifically for girls subject to state intervention also generated considerable critique. It was suggested that the welfare model translated into 'paternalism with associated and unwarranted repressive tendencies in the name of protecting girls' (Gelsthorpe and Worrall, 2009: 210). Drawing specifically upon the gendered impact of the welfare model, Muncie and Goldson (2006: 34) suggested that 'the welfare principle of "meeting needs" acted as a spurious justification for placing excessive restrictions on individual liberty particularly for girls'. This is because girls

were frequently being brought into the YJS for behaviour that would not warrant a formal response if displayed by adults or boys (Muncie, 2004). Most prominently, this was for behaviour that was regarded as sexually deviant and a transgression of their femininity (Hudson, 1989). According to Hudson (1989: 197) 'embedded at the heart of British welfare practices with adolescent girls was almost a psychic fear of predatory female sexuality'. Represented as a 'protector discourse', Hudson argued that welfarism for girls in the 20th century was driven by trepidation of troubled, sexually active girls who were not 'possessed by any one male' (*ibid.*: 296). As such, they were more likely to encounter welfare services due to 'concerns about their perceived sexual behaviour and/or because they . . . [were] seen to be "at risk" of "offending" against the codes of adolescent femininity' (*ibid.*: 296).

In summary, such gendered critiques of welfarism amounted to the contention that girls have experienced 'the advantages and disadvantages of welfarism' to a greater extent than their male counterparts, resulting in 'unwarranted repressive tendencies' (Worrall and Gelsthorpe, 2009: 210), which ensure 'the policing of adolescent female sexuality' and the oppression of girls' sexual agency (Carrington, 1993: 33). Therefore, the prevalence of welfarism during this time continued to reinforce girls' unequal position within society by failing to acknowledge their 'hidden needs' whilst serving to contain, control and regulate them through discourses of adolescent femininity which afforded them 'little social status or power' (Hudson, 1983: 5).

As evidence, throughout the mid-1970s penal welfarism increasingly became subject to attack and support for its modernist discourse swiftly deteriorated. What followed was a shift in discourse concerning the role and nature of punishment relevant to criminal justice. This shift 'marked the beginning of a turbulent period of change' for the penal system originating from the critiques of welfarism (Garland, 2001: 53).

The critique of penal welfarism and the subsequent shift in penal policy and practice first emerged in America due to contention regarding its theoretical integrity, inconsistency with the accepted aims of justice and the perceived misuse of the state's 'power to punish' those who form part of different social divisions and ethnic minorities (Garland, 2001: 54). The movement for penal reform, emerging from the critiques of welfarism, extended to the UK and the guiding principles of just dessert models of justice were soon to be implemented into official policy and practice (*ibid.*:). It is contended that the shift in crime control was the result of 'social, economic, and cultural changes characteristic of late modernity . . . [and] political realignments and policy initiatives' that occurred in response to such changes, alongside the sustained critiques of welfarism (*ibid.*: 76). These changes, occurring in 'late twentieth-century modernity', were manifested through changes to family structure, technological advances, the growth of 'electronic mass media' and 'the democratization of social and cultural life', which affected all spheres of social life and had a significant impact on crime and control (*ibid.*: 78).

The impact of late modernity on crime manifested in various ways, for example: expanded opportunities for crime and reduced 'situational', 'social' and 'self' controls (Garland, 2001: 90). This period of modernity was also characterised by a 'relaxation of informal social controls', throughout different areas of social life, which provided more social space and anonymity (*ibid.*: 90). There was also a number of emergent social trends which saw the transition of women into the workforce, increased rates of divorce and 'the outsourcing of household tasks and child care', all of which provided increased freedoms for women (*ibid.*: 154).

The social changes arising during late modernity provided the basis for a significant shift in British politics. Conservative politics during this period was characterised by a deep-seated aversion to the welfare-state, the politics underpinning it and

the cultural changes influenced by 'late modernity' (Garland, 2001: 98). The party demonstrated its commitment to 'undoing many of the social arrangements that had been established' in the post-war years by 'rolling back the state . . . [and] building a state apparatus that . . . [was] stronger and more authoritarian than before' (*ibid.*: 98). This was a composition of what has come to be known as 'neo-liberalism' and 'neo-conservatism' (*ibid.*: 98).

The combination of such neo-liberal and neo-conservative values impacted largely upon those who form part of social divisions. Neo-liberalism in this sense provided greater opportunities for those who possessed the resources to benefit from it whilst exacerbating inequality for the less powerful (Garland, 2001). As a result, the social divisions between 'the rich' and 'the poor' grew greater as neo-liberalism created divides within society. Within this context crime increased, particularly in disadvantaged areas. It was under such circumstances that crime, alongside other social concerns associated with the underprivileged, such as single parents and welfare claimants, became utilised as a strategic political tool used to uphold 'social and economic policies that . . . punished the poor' and legitimated the development of a 'disciplinary state' (*ibid.*: 102). Crime, in this context, was now viewed as 'a problem of indiscipline, a lack of self-control or social control, a matter of wicked individuals who needed to be deterred . . .' (*ibid.*: 102).

The transition into late-modernity, and the new-right politics which accompanied it, fundamentally altered the way in which 'crime and punishment, justice and control' was considered and how organisations responded to it (Garland, 2001: 103). High crime rates and limits to the effectiveness of criminal justice were some of the salient factors, which created a challenge for policy makers and the penal system as it was becoming a dominant consensus that the state alone cannot control crime. As such the state's 'monopoly of crime control'

deteriorated (*ibid.*: 109). The political implications of this was the development of policies that echoed the anger evoked by crime as opposed to effective pragmatic solutions to the problem.

3.3 Bridging Bias: A Return to Just Desserts for Girls

In the wake of political and social aversion to penal welfarism and the welfare state, a 'return to justice' movement emerged (Carrabine, 2010: 14). The support for this model of justice and the penal policies emerging from this transformation advocated for a model of justice underpinned by 'sentencing proportionate to the offence' the removal of 'professional discretion' and a 'focus on the offence rather than individual circumstances' (Muncie and Hughes, 2002: 8). Support for the justice model promoted the increased use of cautions for 'minor offences' and closer surveillance of social workers to ensure 'welfare intervention would only be used in the most serious of cases' (Muncie, 2004: 263-264). Thus, according to Muncie, the justice approach 'advocated reform of both the English and Scottish systems of youth justice whereby the courts role as an administrator of *justice* would be reinstated' (*ibid.*: 264). The justice model however, was not without criticism. For example, Asquith (2002: 279) has contended that the philosophy upon which it was predicated was not relevant 'for modern societies . . . which are characterized by gross social inequality' (*ibid.*: 279). He suggested that such a model of retribution would 'compound basic social and structural injustices', which are 'not resolvable within a criminal justice system', thus rendering the model as ineffective (*ibid.*: 279).

The persistent debate concerning welfare and justice continued to dominate youth justice throughout the 1970s and 1980s (Muncie, 2004). During the 1979 election campaign the Conservative party gained 'political capital' (Jamieson and

Yates, 2009: 77) by launching a 'strong attack on delinquency', deploring the lenient way 'dangerous young thugs were dealt with' (Muncie, 2004: 266-267). The campaign accused the Labour government of 'undermining the respect for the rule of law' through the administration of 'irresponsible, economic and social policies' which did little to reduce crime (McLaughlin, Muncie and Hughes, 2001: 302). Underpinned by 'the logic of social authoritarianism' (Muncie, 2000: 15), the Conservatives, headed by Margaret Thatcher, criticised those who had created a 'culture of excuses' and pledged to intervene and deter crime through effective sanctioning (Muncie, 2004: 267, see also Muncie, McLaughlin and Hughes, 2001). As such, the 'treatment and rehabilitation' rhetoric of welfarism was to be replaced with the 'rhetoric of punishment and retribution' (Muncie, 2004: 267).

Following their success in the general election, the Conservative government announced its 'short, sharp, shock' regime (Muncie, 2004: 267) and the introduction of The Criminal Justice Act 1982 'saw the reintroduction of traditional criminal justice values, . . . which hit at the root of the social welfare perspective underpinning the 1969 [Children and Young Persons] Act' (Gelsthorpe and Morris, 2002: 240). Contrary to prediction, the resurgence of justice values initially appeared to be successful as the number of offences and custodial sentences for young people 'reduced quite dramatically' (Muncie and Goldson, 2006: 35). This was because the Conservative's authoritarian position was combined with an 'economic and ideological commitment to reducing the public sector borrowing through rolling back the state and reducing welfare intervention' (Jamieson and Yates, 2009: 78). It is suggested that such commitments provided a platform in which opponents of the welfare approach were able to construct 'self-styled' justice based approaches to young offenders which 'premised on the notions of minimum intervention [and] maximum diversion' (Muncie, 2004: 269). As such, social workers and youth justice workers, supported

by magistrates and police officers, utilised opportunities for informal, minimal intervention and diversion to achieve positive outcomes for young people in conflict with the law (Muncie, 2004; Jamieson and Yates, 2009).

It is suggested that such 'progressive policy and practice culminated in the 1991 Criminal Justice Act' (Jamieson and Yates, 2009: 78). The Act 'had the combined effect of separating the systems for dealing with children perceived to be in need of care and those charged with criminal offences' (Gelsthorpe and Morris, 2002: 240). Care orders were abolished and 'the offence condition in proceedings justifying state intervention into family life' was removed (Sharpe, 2012: 17). However, according to Goldson (2002: 389), the progressive developments secured through the advocacy of the justice model and the principles of informal, diversionary intervention were 'always conditional, however, and its fortunes ultimately depended upon the extent to which it continued to suit wider political imperatives'. Therefore, what occurred was a process of bifurcation whereby the use of custody was reserved for serious offenders whilst cautions were given to those young people whose offending was regarded as less serious (Carrabine, 2010; Jamieson and Yates, 2009).

These developments in penal policy and responses to crime were essentially 'adaptive responses' to the state's predicament of crime control (Garland, 2001: 113). Within the context of criminal justice, more broadly, Garland summarises these adaptations as 'the professionalization and rationalization of justice; the commercialization of justice; defining deviance down; redefining success; concentrating upon consequences; and redistributing responsibility' (*ibid.*: 113). Some of the manifestations of these adaptations included: a change to professional practice to manage burgeoning workloads, technology enhanced strategies of manageralist crime control, privatisation of aspects of criminal

justice, a shift in focus from outcomes to criminal justice processes and a relocation of responsibility from the state to the individual as a means to enforce informal crime control. The overall goal of such a strategy was, according to Garland, a new way of exercising state power and governing individuals (*ibid.*).

In theory, the changes which pursued 'a return to just desserts' should arguably have had a positive impact for girls subject to state intervention on the grounds of welfare concerns, as it meant that they would now be responded to on the basis of their offending alone (Sharpe, 2012: 17). Thus the emergence of justice based, proportionate intervention, provided a potential solution to the 'gender bias' girls were subject to under welfarism (Worrall, 2000: 159). Hudson (1989b), however, pre-empted the apparent drawbacks the return to justice movement would represent for girls:

> The problem is that if we rescue girls from the rigidities of notions of orthodox femininity embodied in our judgments of girls as "beyond control" or in "moral danger", we do not eliminate girls being judged by the double standards we apply to girls' and boys' behaviour; rather we transfer judgment from a set of stereotypes connected with girls' behaviour within the family to another set connected with female delinquency (1989b: 108).

Sure enough it became apparent the optimism the justice model presented for girls was short-lived, as in reality 'the "welfarisation" and "soft policing" of young women's behaviour, by both formal and informal social control mechanisms, . . . [gave] way to the straightforward criminalisation of that same behaviour' (Worrall, 2001: 86). As such, 'increasing numbers of young women were being incarcerated, not on spuriously benevolent welfare grounds but on spuriously equitable "justice" grounds' (*ibid.*: 86). From this point, 'earlier discourses which pathologised girls' delinquency, criminalised their welfare needs and established

female sexuality as the principal rationale for youth justice control' were subsided (Sharpe, 2012: 18). Girls were now being 're-assessed and re-categorised . . . as increasing numbers of young women . . . [were] being assigned to the same categories as young men and . . . subjected to the same forms of management as young men' (Worrall, 2001: 86). Such gender neutral responses to offending behaviour not only failed to recognise the needs of girls and the gendered contexts of their offending but it also 'served to criminalise girls and propel them into custody' (Sharpe and Gelsthorpe, 2009: 197).

3.4 Reversing 'Progressive' Practice: The Emergence of Populist Punitiveness

Whilst the shift from welfarism to 'justice based models of correction' had a particularly pernicious impact for girls, the 1980s were commended as a 'progressive moment' within youth justice as the emphasis on decaracaration and diversion yielded a significant reduction in prosecution (Muncie and Goldson, 2006: 34-35). Such success was, however, momentary. Between 1989 and 1992, Britain experienced 'a major economic recession which indirectly . . . served to subvert . . . [this] decarcerative emphasis' (Goldson, 2002: 388).

Combined with high rates of unemployment and a surge in official crime statistics a series of moral panics emerged following rioting and disturbances in a number of housing estates across England (Goldson, 2002; Jamieson and Yates, 2009). Such unrest contributed to the emergence of a 'fermenting body of opinion that juvenile crime policy in particular . . . had gone too far' and public confidence in the Conservatives law and order policies declined (Goldson, 2002: 390). The Conservatives had failed to deliver on their 'electoral promises' to deter crime through increased allocation of resources and punitive sanctioning and in doing

so were placed under scrutiny for their 'dramatically increased "law and order" budget' (McLaughlin, Muncie and Hughes, 2001: 302). What emerged was a consensus for a 'pragmatic settlement' underpinned by the principles of public managerialism, in order to create a 'cost-effective and efficient criminal justice system . . . centred upon "achieving results", "explicit targets" [and] "performance indicators"' (*ibid.*: 302). According to Pitts (2001: 138), the 'triumph of managerialism' was most notably evidenced within the YJS as the welfare and justice dichotomies, which had historically dominated responses to youth offending, were rendered obsolete. Youth justice policy and practice had become aligned with 'a third model, that of corporatism' (Pratt, 1989: 236). Characterised by 'an increase in administrative decision making, greater sentencing diversity, centralization of authority . . . and high levels of containment' the model reflected a greater concern with 'the most cost-effective and efficient way of managing the delinquent population' (Muncie, 2004: 272).

The shift to managerialism was, however, challenged by criminal justice professionals who claimed that their 'professional authority and autonomy' was being dissolved by the new managerial agenda (Pitts, 2001: 139). As trust in the Conservative party weakened, the Labour party sought to exploit such 'political vulnerability' (Goldson, 2002: 389). Abandoning their previous stance, which contextualised youth offending as a 'manifestation of broader patterns of economic inequality and social polarization' (*ibid.*: 389), the party, led by Tony Blair, adopted a punitive, authoritarian rhetoric which attacked the leniency of law and order under the Conservative government (Jamieson and Yates, 2009; Pitts, 2001).

It was, however, the murder of two year old James Bulger in 1993 which 'took the debate over childhood indiscipline and lawlessness to a different level' (Scraton and Haydon, 2002: 314). The incident was 'seen as asymptomatic of social decay and the decline of morality amongst young people'

(Gelsthorpe and Morris, 1999: 210). In the aftermath of this case 'a generic process of child demonization' erupted which acted as a 'catalyst to criticize the ineffectiveness of "liberal", community based initiatives' (Scraton and Haydon, 2002: 314-315). A 'punitive spectacle unfolded' between the Labour and Conservative parties as both battled to establish 'who could be the toughest on child crime' (Goldson, 2002: 390).

The Prime Minister at the time, John Major, called for 'a crusade against crime' articulating that 'society needs to condemn a little more and understand a little less' (cited in Pitts, 2001: 14). The then Home Secretary, Kenneth Clarke, made a promise to create '200 places in new secure training centres for the hard core of persistent and serious offenders' (Pitts, 2001: 17). Clarke's successor, Michael Howard, continued this 'punitive renaissance' (Jamieson and Yates, 2009: 80) and sought to restore the Conservative Governments 'political legitimacy and . . . electoral fortunes' (Pitts, 2001: 18). Utilising further political slogans, such as 'prison works', the Home Secretary 'took it upon himself to wage a populist war against the criminal justice and penal establishments' (*ibid*.: 18). Such abrupt changes signalled a 'death blow to the non-interventionist delinquency management strategies of the 1980s' (*ibid*.: 17), ultimately resulting in a decline in the use of cautioning and a steady increase in high tariff and youth custodial sentences (Jamieson and Yates, 2009).

These changes in the landscape of British politics represented an alternative way of governing crime, consisting of 'crime prevention organisations, public-private partnerships, community policing arrangements, and multi-agency working practice' (Garland, 2001: 179). All of which contributed to pushing 'policy away from retribution, deterrence, and reform . . . towards a concern with prevention, harm reduction, and risk management' (*ibid*.: 171). In line with the agenda of neo-liberalism, these changes accounted for the state's adaptation

to the problem of crime control inherent within the late 20th century. However, when it came to representing penal policy in the public sphere, the focus was actually on restoring the public's trust in criminal justice whilst 'asserting the values of moral discipline, individual responsibility, and respect for authority . . . by punitive means' (*ibid*.: 132). Effectively, what took place was the political hijacking of the 'liberal movement towards just deserts and measured retribution . . . [which] raised the punitive stakes and escalated sentencing far above . . .' those critiquing welfarism anticipated (*ibid*.: 152).

The manifestation of these developments in penal justice transformed penal and welfare discourse. In this context, penal discourse became more 'punitive . . . more security-minded' and concerned with the condemnation and hard treatment of offenders (Garland, 2001: 175). In contrast, the discourse of welfarism became more 'risk conscious' and offenders became constructed as 'dangerous individuals' who needed managing (*ibid*.: 175). The result being an entire shift in the 'orientation and functioning' of the crime control landscape (*ibid*.: 194).

It was this punitive political climate, which characterised much of the early 1990s, combined with a 'series of electoral failures' that the New Labour party 'sought to redefine itself in the law and order landscape' (Crawford and Newburn, 2002: 477). What emerged was a 'third way' politics (Pitts, 2000: 3). The ideology of this 'third way' politics emphasised that 'in an age when globalisation had placed control of the economy beyond the competence of national governments, social policy becomes the pre-eminent issue' (Pitts, 2001: 35). For New Labour the central focus of such social policy was 'youth crime' (*ibid*.: 35). The party made an 'implicit promise' to induce 'a new sense of law and order' into declining Britain (Pitts, 2000: 5).

3.5 Redefining Risk and Youth: New Labour's Continuation of Punitive Politics

According to Muncie (1999: 150) the '"mean and lean" and "more for less" mentalities' of the Conservative government's managerialist mission 'gradually opened up law and order to a series of investigations' which proved to be highly critical of the operations of the YJS. In 1996 the Misspent Youth Report, published by the Audit Commission (1996: 96), declared youth courts as 'inefficient and expensive'. The report advocated the reallocation of resources from 'punitive to preventative measures', arguing that diversion should be the primary priority of the YJS in order to deliver cost-effective and 'pragmatic' strategies to 'prevent' offending behaviour (Muncie, 2004: 274).

The report's recommendations provided support for a manageralist, 'what works', agenda whereby the focus upon 'individual needs, diagnosis, rehabilitation [and] reformation' would be replaced with "actuarial" techniques of classification, risk assessment and resource management' (Muncie, 1999: 150). The aim being to 'build a pragmatic strategy to prevent offending rather than wed the system to any particular broad philosophy of justice or welfare' (*ibid*.: 151). This emergent focus on risk was reflective of what Beck (1992: 22) referred to as a movement towards a 'risk society' whereby modern society had created 'industrialised, decision produced incalculability's and threats' in line with globalisation. For Beck, the shift from industrial society, towards the risk society, was a 'systematic way' of dealing with the 'hazards and insecurities induced and introduced by modernization itself' (*ibid.*21).

Within the context of New Labour's youth justice strategy, the central focus on risk management and crime prevention was 'derived from developmental theories of criminality' (Pitts, 2001: 77) and empirical research focused on 'calculating risk'

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and the 'statistical probability of reoffending' (Muncie, 2004: 276). Such 'risk factor research' indicated that exposure to risk factors in 'psychosocial domains . . . at an early stage of life . . . can *predict* and even *determine* later offending' (Case and Haines, 2015: 101). The work of Farrington (1996) had a particularly influential impact in relation to the *what works* agenda embraced by the New Labour government. Concerned with 'understanding and preventing youth crime', Farrington undertook a review of empirical risk factor research in Western society. Drawing upon the findings of longitudinal research, Farrington identified 'low income and poor housing', social deprivation, 'impulsivity and hyperactivity', 'low intelligence and low school attainment', 'poor parental supervision' and dysfunctional families as potential predictors of future offending (*ibid.*: 1). Farrington also identified 'frequent home visiting', 'intellectual enrichment programmes' and 'parenting education programmes' as some of the 'most hopeful methods of preventing youth crime' (*ibid.:* 4). The identification of such risk factors became the 'credo' for New Labour's youth justice reforms and formed the basis for the 'wide range of pre-emptive interventions introduced' (Muncie and Goldson, 2006: 38-39).

Following their electoral success, New Labour eagerly accepted the Audit Commission's report and 'initiated a root branch reform of the youth justice system' (Home Office, 1997: Cited in Jamieson and Yates, 2009: 83). Appropriating the 'language and technology' of managerialism (Pitts, 2001: 141), New Labour made a commitment to address the 'underlying causes of crime' and prevent offending through early intervention (Muncie, 2000: 17). The practical transference of these commitments resulted in legislative changes primarily targeted at young people and 'represented a radical new departure in the identification and treatment of young offenders', focusing specifically on the tangible identification of risk factors associated with offending behaviour (Muncie, 1999: 148).

These '*New Youth Justice'* reforms were brought about by two distinct pieces of legislation: The CDA 1998 and the Youth Justice and Criminal Evidence Act 1999 (YJCEA) (Goldson, 2000: vii). Underpinned by the principal aim: 'to prevent offending by young people', The CDA (1998: S.37) introduced 'radical' policy developments and structural changes to the YJS (Goldson, 2000: vii). The Act imposed a statutory obligation for local authorities to establish YOTs, comprised of multiagency partnerships between social care, criminal justice and health services (*ibid.*). Furthermore, the Youth Justice Board was established to 'measure the performance of the youth justice system' (Gelsthorpe and Morris, 2002: 242). According to Muncie (2004: 275), such developments represented a 'wholesale dehumanisation of the youth crime issue, such that the sole purpose of youth justice . . . [became] one of simply delivering a cost-effective economic "product"'. Implementing the fundamental principles of 'restoration', 'reintegration' and 'responsibility', established in the preceding White Paper 'No More Excuses' (Home Office, 1997: 32), the Act also introduced a series legislative changes targeting those deemed to be at risk of offending (Jamieson and Yates, 2009). For example, the abolition of *doli incapax*, the introduction of child safety orders, local child curfews, detention and training orders, parenting orders, anti-social behaviour orders, sex offender orders, reparation orders, final warnings and action plan orders (Crawford, 2003; Gelsthorpe and Morris, 1999; Muncie, 1999).

Argued to have 'uncritically accepted' Farrington's conclusions regarding the prevention of youth crime, the interventions introduced by The CDA 1998 were characterised by a preoccupation with concerns over 'irresponsibility and lack of parental discipline' (Muncie and Goldson, 2006: 38). The child curfew provisions enabled local authorities to ban children under ten years old from certain areas for up to ninety days (Newburn *et al.*, 2002). The introduction of parenting orders 'required parents of convicted

young people to attend counselling and guidance classes as well as comply with specified requirements, such as ensuring regular school attendance' (Muncie and Goldson, 2006: 38). Child safety orders were reserved for children under ten who were 'considered to be at risk of becoming involved in crime or behaving in an anti-social manner' (Muncie, 1999: 156). Those children issued with a safety order were to be placed under supervision of the local authority and required to comply with the conditions of the order (*ibid.*). Anti-Social Behaviour Orders provided the police and local authorities to apply for a civil court order to be issued against any individual 'likely to cause harassment to the community' (*ibid.*: 159). Young people issued with such an order were to be subject to a number of conditions, which included, for example, being prohibited from frequenting certain areas in addition to curfews (*ibid.*).

Ominously met with vast concern and critique, the reforms were 'characterised to a large extent by interventionism and correctionalism' (Sharpe, 2012: 28), which provided the police and local authorities with discretion to implement restrictive orders which drew upon methods of 'responsibilisation and remoralisation' in order to restrict young peoples' behaviour (Muncie, 1999: 169). This primary focus on preventing offending through early identification, responsibilisation, and individualised risk management consequently 'swept away the old youth justice' and replaced it with a new 'system for governing troublesome youths via penal repression' which 'fetishized risk assessment' and 'utterly curtailed discretionary professional judgment' (Phoenix, 2016: 123). This 're-politicisation of youth crime', according to Goldson (2000: 46), engaged 'uncritically with rhetorical constructions of populist punitiveness', which undermined diversionary strategies and replaced them with an emphasis on early intervention. The changes were considered indicative of a logic that explicitly supported 'a shift in favour of punishment and crime control,

facilitated by an escalation of punitive forms of oppressive social control' (Gelsthorpe and Morris, 1999: 212).

The Gendered Consequences of Reforming Risk

Whilst substantial critique has developed concerning the emergence of risk management and early identification of offending behaviour, as 'the dominant paradigm in contemporary youth justice' (Sharpe and Gelsthorpe, 2015: 54), limited attention has been paid to the impact such reforms have had for girls in the justice system (Sharpe, 2012). The CDA 1998 made no 'reference to the gender of offenders' and subsequent legislation and policy have remained predominantly 'silent on issues of gender within the new risk-orientated framework', thus leaving girls 'all but invisible in contemporary youth justice policy' (Sharpe, 2012: 23). What we do know, from the few critics that have addressed the gendered implications of this paradigm shift from welfare and justice to crime prevention and risk management, is that the changes had 'particularly dramatic and criminalizing consequences for girls and young women' (Worrall and Gelsthorpe, 2009: 219).

Within the context of criminal justice, the shift towards a risk management and crime prevention paradigm meant that offender populations became 'subdivided, categorized, and classified according to levels of risk' (Hannah-Moffat, 2005: 30). Furthermore, it was contended that the focus on predicting risk resulted in the 'concept of need [being] fused with risk to create "dynamic risk/criminogenic need"' (*ibid.*: 31). For female offenders the emphasis on criminogenic needs proved disadvantageous as the needs associated with this group, for example 'past abuse and trauma, [were] being reconfigured as criminogenic needs' (*ibid.*: 43). In summary, it was suggested that the 'reframing' of these gendered issues as 'criminogenic problems' effectively resulted in the social and structural inequalities, specific to women and girls, being

constructed as 'individual problems or . . . individuals' inadequacies' (*ibid.*: 43).

In 2000 ASSET, a 'standardized risk assessment tool', was introduced by the YJB (Case and Haines, 2015: 102). The tool was designed to assess the relevant risk factors associated with a young person's offending behaviour in relation to various 'risk factor domains' (*ibid.*: 102). Such domains included 'living arrangements', 'personal relationships', 'substance use', 'emotional and mental health' and 'motivation to change' (Youth Justice Board, 2000: 9-26). Briefly explained, the tool was designed to generate a cumulative risk score for each of the twelve domains, which were suggested to determine the likelihood of reoffending (Case and Haines, 2015). Drawing upon the concerns raised above, regarding the fusion between risk factors and 'criminogenic need' the development of ASSET exemplified contention regarding risk-led assessments used with girls in the YJS (Hannah-Moffat, 2005: 31).

This mounting emphasis of crime prevention, through risk assessments, meant that 'being at risk or in moral danger' no longer determined the context of the state intervention girls were subject to (Worrall, 2001: 86). Prior to this change, gender was regarded as 'one of the most certain predictors of offending' which resulted in girls being categorised as low risk (*ibid.*: 87). However, within the context of actuarial discourses of risk management, race and social class became more relevant to predicting risk factors 'than being female' (ibid.: 87). As a result, girls became subject 'to the same forms of risk management' as boys, which effectively resulting in a significant net-widening impact (*ibid.*: 86).

As it stands the concepts of risk management and crime prevention have continued to underpin interventionism within the contemporary YJS. This is evidenced by the introduction of the Scaled Approach in 2010 which is an assessment

framework designed to 'match the intensity of a YOT's work to a young persons assessed likelihood of reoffending and risk of serious harm to others' (Youth Justice Board, 2010: 2). The approach received prominent criticism due to the apparent potential for young people to be subjected to excessive or minimal intervention on the basis of predicted risk as opposed to behaviour (Case and Haines, 2015). In particular the rationale of the Scaled Approach aroused concern regarding the potential for 'girls substantial needs in relation to victimisation, mental health and other gendered "vulnerabilities" . . . [to] be translated into elevated risk scores warranting more intensive penal control' (Sharpe and Gelsthorpe, 2015: 54).

The ascending focus on risk and the subsequent paradigm shift from diversion to crime prevention and intervention, inherent within The CDA 1998, also meant that girls were 'much less likely to be diverted from prosecution than their counterparts a generation ago' (Sharpe, 2012: 29). This was because The CDA Act replaced youth cautions as a pre-court disposal, which accounted for a high majority of young female offenders being diverted away from the YJS, with final warnings and reprimands (Sharpe, 2012). Whereas youth cautions could be imposed 'an indefinite number of times' final warnings and reprimands could only be imposed once, unless there was a 'significant lapse of time between offences' after which any future offences, regardless of their severity, would result in prosecution (*ibid.*: 29). As a result, the number of girls entering the YJS charged with indicatable offences steadily increased (*ibid.*). In addition to the replacement of cautions with final warnings and reprimands the CDA 1998 also 'severely restricted the use of the conditional caution' which was previously 'the most common sentence handed down to girls' (*ibid.*: 30). The Act stipulated that if a young person reoffended within two years of receiving a final warning then a conditional discharge could not be imposed (The Crime and Disorder Act, 1998: s66.4).

During the early twenty-first century, youth justice statistics indicated that recorded offences by girls rose significantly. For example, between 2002/3 and 2005/6 there was a 38.7% increase in recorded offences committed by girls compared to a 6.6% rise in recorded offences committed by males (Youth Justice Board, 2007: cited in Sharpe and Gelsthorpe, 2009: 197). Additionally, statistics revealed a 78% increase in violent crimes committed by girls between 2002/3 and 2005/06 (Youth Justice Board, 2004, 2007: cited in Sharpe, 2012: 33). The punitive turn for girls, however, arguably had the 'toughest' implications for those propelled into custody (Sharpe, 2012: 36). Between the years of 2002/03 and 2006/07 the number of girls being detained within the secure estate increased by 123, amounting to a 25% increase over the four year period (Youth Justice Board, 2004: 2008). The statistical increase in girls' offending generated media debate and concern that a new generation of girls were increasingly exhibiting signs of violent, immoral and bad behaviour, resulting in the gender gap between offending closing at a rapid pace (Worrall, 2004). It was, however, argued that the reported increase in girls' offending at the time was not reflective of an actual increase in offending behaviour but rather that they were being 'subjected to new forms of criminalisation' (Sharpe, 2012: 33). For example, a rise in the targets concerning offences brought to justice between 2002 and 2007/08 created an incentive to criminalise minor offending (Sharpe, 2012.; Bateman, 2008: 2015). As such 'young people figured prominently among the criminalised' (Morgan, 2009: 60).

In 2008 however, New Labour introduced a refinement of the offences brought to justice target, which sought to reduce the number of young people entering the YJS by 20% by 2020 (Bateman, 2015). Thus the upward trend in recorded offences for young female offenders began to reverse from 2006 onwards. As a result, the number of girls entering the YJS has fallen by 88% since March 2006 to March 2016 (Youth Justice

Board and Ministry of Justice, 2017; Sharpe and Gelsthorpe, 2015).

It has been suggested that the cause for this change was the result of a pragmatic response by central government to manage the 'burgeoning workloads associated with the rapid rise in the criminalisation of children' (Bateman, 2015: 77). The new targets replaced the impetus to respond to young people via formal criminal justice interventions, thus effectively overriding the focus on early intervention with a focus on diversion away from the YJS (*ibid.*). The formation of the Coalition government in 2010 confirmed diversion as an ongoing commitment within youth justice policy and practice, as they pledged to continue this trend in the reduction of first time entrants into the YJS (Ministry of Justice, 2010, cited in Bateman, 2015: 23). Bateman (2015: 23) has contended that this 'shift in political mood heralded a broader rediscovery of diversion, encouraging the use of an array of informal pre-court mechanisms', thus producing an overall reduction in recorded female youth crime and child imprisonment (Sharpe and Gelsthorpe, 2015: 77).

3.6 Integrating Restorative Justice in England and Wales: An Alternative Paradigm to Punitive Justice?

In addition to the reconfiguration of the YJS in line with a *what works*, crime prevention agenda, the concept and principles of RJ purportedly underpinned much of the key legislative changes implemented by the New Labour government since 1997. The focus of this chapter will now turn to addressing the reforms, which relate most directly to the principles of RJ and their development within youth justice policy and practice throughout the twenty-first century. The intention is to contextualise and critically explore the development of RJ

within England and Wales as a dominant response to young peoples' offending behaviour.

Whilst attempts to introduce the principles of RJ have proliferated internationally, most notably within the jurisdictions of Australia and New Zealand, prior to the formation of the New Labour government RJ practice in England and Wales, operated outside of a statutory framework and 'depended to a large extent on local initiative and energy' (Gelsthorpe and Morris, 2002: 245). For example, the Thames Valley Police Restorative Cautioning Project, drawing upon the Waga Waga conferencing model, 'championed the use of restorative cautioning in place of the traditional caution' (Crawford and Newburn, 2003: 31). However, it was not until the Thames Valley Police Restorative Cautioning Project became operational 'that the restorative justice movement really took off in the UK' (Johnstone, 2011: 4).

The CDA 1998, subsequently followed by The YJCEA 1999, formally supported the introduction of RJ policy and Practice as a response to youth crime (Goldson, 2000; Crawford and Newburn, 2002). Reparation or action plan orders and final warnings were the reforms introduced by The CDA 1998 that were considered to be most directly related to the principles of RJ (Crawford, 2003). Action plan orders comprised of a three-month, supervised programme, which required young offenders to participate in restorative and reparative activities to victims and/or their communities (Gelsthorpe and Morris, 2002; Hoyle, 2007). Final warnings constituted a replacement of police cautions and were to be used as a means to deliver a 'restorative warning' or engage the young person in a restorative conference (Liebmann, 2007: 145). In addition, the young person receiving the final warning was to be referred to a YOT to participate in restorative interventions, in order to prevent future offending, such as 'victim awareness work, mediation or reparation' (*ibid.*: 145). Additionally YOTs across

England and Wales were also required to engage young people in restorative interventions and significant funding was made available by the Youth Justice Board for the development of RJ projects for young offenders, focusing specifically on victim-offender mediation and FGCs (Young and Hoyle, 2000; Youth Justice Board, 2000).

Whilst The CDA 1998 introduced a number of changes, which incorporated the principles of RJ, the only jurisdiction within the UK to 'adopt a mainstream statutory-based restorative conferencing model', similar to the FGC and Waga Waga model, was Northern Ireland (Haines and O'Mahoney, 2006: 115). Following recommendations by the Criminal Justice Review Commission to incorporate RJ philosophy and practice as a response to youth offending, the Northern Ireland youth conferencing service was launched in 2003 a part of the Justice (Northern Ireland) Act 2002 (Campbell *et al.*, 2005; Criminal Justice Review Group, 2000; Dignan, 2007). The service sought to enable offenders to make amends for their behaviour and desist from re-offending by facilitating a meeting between the young person, the victim and those impacted by the offence (Campbell *et al.*, 2005; Dignan, 2007; Maruna *et al.*, 2007).

Within England and Wales it was the introduction of referral orders and YOPs, introduced as part of the YJCEA 1999, which were regarded as the most significant legislative reforms with respect to the establishment of RJ into the YJS (Crawford and Newburn, 2002; Dignan and Marsh, 2001; Goldson, 2000). Pronounced as 'one of the most radical aspects of the entire youth justice reform agenda' (Dignan and Marsh, 2001: 99) the primary aim of referral orders was to 'prevent young people reoffending and provide a restorative justice approach to achieve this' (HM Inspectorate of Probation, 2016: 10). They consist of a mandatory sentence, between three and twelve months, for first time offenders,

under 18 years old, who plead guilty to an offence (Crawford and Newburn, 2003).

Those given a referral order received an automatic referral to a YOP, which consisted of a minimum of two community volunteers and a YOT practitioner (Crawford and Newburn, 2003). Those invited to attend a YOP include the victim(s) of the offence and supporters for both the victim and the offender. During the panel, a referral order contract, which must include an element of reparation, would be developed with the young person (*ibid.*). The young person must adhere to the contract throughout their order and attend interim meetings with a YOP to discuss their progress. If all elements of the contract were completed by the offender, then their criminal conviction would be spent (*ibid.*). It is the 'inclusive and party-centred' conferencing style approach to decision-making by YOPs, which was deemed to constitute the most significant restorative and reintegrative aspects of these reforms (*ibid.*: 479).

During the first year of their national implementation, 27,000 referral orders were passed (Youth Justice Board, 2004) and the national pilot evaluation revealed that they had been successfully implemented and the key aims underpinning them achieved (Newburn *et al.*, 2002). Thus, it was suggested that within a short period, referral orders established themselves as 'constructive, deliberative and participatory forums' (*ibid.*: 62). In 2015 The Criminal Justice and Courts Act provided the courts with extended powers to increase the length of a referral, order following a subsequent offence, as well as impose a fine of up to £2,500, or revoke the order if the young person failed to adhere to their contract (Easton and Piper, 2016).

Following such initial attempts to incorporate RJ into the YJS, New Labour continued to reaffirm its support for the development of RJ policy and practice within England and

Wales. In 2003, the government published a consultation document entitled 'Restorative Justice: The Government's Strategy' (Home Office, 2003). In 2006, the Youth Justice Board published a RJ action plan, which outlined the aims for implementing RJ practice within the youth justice sector (Cornwell, 2009). The 2006 action plan outlined the government's plan to 'broaden, develop and extend' RJ practice in the YJS (Youth Justice Board, 2006: 3). In addition, the Youth Justice Board set out its plans to strengthen the referral order process, their intention to incorporate RJ practice within the secure estate and their long-term strategy for promoting RJ amongst local and national stakeholders and partners (*ibid.*).

In 2009, The Criminal Justice and Immigration Act (CJIA) (2008) was implemented. The Act amended the statutory framework for referral orders and provided new guidelines for imposing orders, whilst also amending the court's ability to impose discretionary referral order conditions (Edwards, 2011). Furthermore, the Act introduced youth conditional cautions and youth rehabilitation orders. Youth conditional cautions were to be imposed on young people following the use of reprimands and final warnings and before prosecution (CJIA, 2008: S.48). A youth rehabilitation order was made available for magistrates to impose if the young person failed to adhere to compulsory referral order conditions or if they did not plead guilty to an offence in which a non-custodial sentence was recommended. The order allowed magistrates to impose up to fifteen requirements on the young person. Restorative conditions stipulated by the police, magistrates and the crown prosecution service could be imposed as part of a youth conditional caution or a youth rehabilitation order, providing a further avenue for the use of RJ with young people (Edwards, 2011; Hoyle, 2007; Restorative Justice Council, 2015). These reforms set in motion the government's aim to prevent offending behaviour and the use of RJ as a response

to youth offending has continued to evolve over the past two decades (Cunneen and Godson, 2015).

3.7 Beyond New Labour: The Continued Development of Restorative Justice in England and Wales

In 2010, the green paper titled 'Breaking the Cycle', promised a 'rehabilitative revolution' for responding to the offending of young people and detailed the Coalition government's plan to continue the path New Labour paved, by making a commitment to increase the availability of RJ by incorporating it into all stages of the CJS (Ministry of Justice, 2010: 22). Also in 2010, a report titled 'Time for a Fresh Start', published by the Independent Commission on Youth Crime and Antisocial Behaviour, recommended major reforms in the response to young peoples' offending behaviour and emphasised that RJ should be at 'the heart' of resolving offending by young people (Independent Commission on Youth Crime and Antisocial Behaviour, 2010: 5).

Following the recommendations by the commission, government reports and policy statements appeared to reflect the suggested reforms (Cunneen and Goldson, 2015). In 2012, a RJ action plan was published, referencing the government's plans for the development of RJ within statutory and other organisations (Ministry of Justice, 2012). Following publication of this action plan, over thirty million pounds were made available for RJ provision by central government. The funding was predominantly allocated to The Office of the Police and Crime Commissioner (PCC), with a view to developing victim-focused restorative interventions locally (Collins, 2015). Additionally, two and a half million pounds of this funding was allocated to the Youth Justice Board to develop the capability of practitioners to deliver RJ services within YOTs (Ministry of Justice, 2014). In 2014 another RJ

action plan was published articulating the government's plans for the development of RJ in the CJS for the period up to 2018 (*ibid.*) The key focus of this action plan was specified as enhancing 'equal access', 'awareness and understanding' and 'good quality' RJ services delivered in all areas of the CJS (*ibid.*: 4).

In 2016, the House of Commons Justice Committee published an inquiry into the effectiveness of RJ provision within the CJS across England and Wales. The inquiry identified that between the period of 2011 and 2016 a total of three and a half million pounds was made available to the Youth Justice Board, by the Ministry of Justice, to train practitioners in facilitating RJ conferences (House of Commons Justice Committee, 2016). The enquiry made the recommendation that the 'government continue to embed restorative justice into the youth justice system' (*ibid.*: 18). In 2017, the 'fourth iteration of the Ministry of Justice action plan for restorative justice in the criminal justice system' detailed a further objective to ensure 'RJ is made available to victims at all stages of the CJS irrespective of: whether the offender in the case is an adult or a young person' (Ministry of Justice, 2017: 2). The action plan pledged to 'further develop, support and monitor the wider use of RJ and the increased involvement of victims within the youth justice system, including out of court, pre-sentence and post sentence RJ' (*ibid.*: 4).

Examples of RJ policy and practice developments up to this point have included the youth restorative disposal, RJ cautions and pre-sentence RJ (Rix *et al.*, 2011; Ministry of Justice and Youth Justice Board, 2013; Ministry of Justice, 2014b). A youth restorative disposal can be applied to a young person who has not previously received a reprimand and is intended to be an effective and efficient response to anti-social behaviour and nuisance offending (Rix *et al.*, 2011). Restorative youth cautions were introduced by The Legal Aid, Sentencing and Punishment of Offenders Act (2012: 135) and

replaced reprimands and final warnings. The Act determined that, if appropriate, RJ processes should be used in all youth cautions processed as an out of court disposal (Ministry of Justice and Youth Justice Board, 2013). Guidance for imposing pre-sentence RJ is contained within The Powers of the Criminal Courts Act 2000. The Act permits sentencing to be deferred to allow for RJ to take place, such as a victim-offender RJ conference, a community RJ conference or indirect communication (Ministry of Justice, 2013).

Such continued development and endorsement of RJ, by central government, since its formal implementation into the YJS, resonates with the claims made by Case and Haines that:

> Virtually everybody with an interest in youth justice believes that restorative justice is beneficial . . . exclusively benign and [an] unquestionably progressive mechanism for facilitating inclusivity, reparation, resolution and, ultimately, healing and satisfactory closure (Case and Haines, 2015: 137-139).

Not only has RJ received unprecedented support as an alternative approach to the delivery of justice, an evidence base which suggests that certain types of restorative interventions can have a positive impact on reoffending and victim satisfaction has also emerged (Shapland, Robinson and Sorsby, 2011; Sherman *et al.*, 2006; Sherman and Strang, 2007). For example, an international, independent review of the existing evidence base, undertaken by Sherman and Strang (2007), found evidence that the use of RJ interventions did result in the reduction of repeat offending for violence and property crime. In 2013, Strang *et al.* (2013: 18) conducted a further systematic review, focusing exclusively upon the existing evidence base concerning the effects of RJ conferencing in relation to 'repeat offending' and 'victim impact'. The authors examined the evidence presented by ten existing studies, seven of which were completed in the UK, a

further two in Australia and one in the United States, which met eight different selection criteria. The review concluded that victim satisfaction is 'consistently higher' for those who participate in RJ conferencing as opposed to 'normal criminal justice processing' (*ibid.*: 5). Additionally, the authors identified that RJ conferencing resulted in a 'modest but highly cost-effective reduction in repeat offending', saving around '8 times more benefit in costs of crime prevented' in the UK alone (*ibid.*: 2).

A 'strong evidence base' now exists which supports the effectiveness of RJ as a response to offending behaviour and informs the development of criminal justice policy in relation to RJ programmes and practice (Strang and Sherman, 2015: 10). However, the extent to which the use of RJ as an alternative approach to delivering justice has been achieved remains subject to debate. As such, critical perspectives and empirical research, which exemplifies the more sinister side to RJ interventions, have continued to emerge.

3.8 Youth Justice and Contemporary Restorative Justice: Critical Issues

The momentum to incorporate RJ as a formal response to youth crime in England and Wales aroused prominent discontent and critique within academic discourse, specifically with regards to the logic in which the reforms were implemented and the tensions and contradictions which they embodied (Crawford, 2002; Haines, 2000; Muncie, 1999). The dearth of critical literature that has developed since the formal implementation of RJ has characterised the restorative interventions, used by the youth justice service, as disadvantageous to those young people who are subject to them. Most prominently due to concerns in relation to net widening, the extension of social control, proportionality and responsibilisation. Additionally many of the provisions within The CDA 1998 were regarded as contradictory to the

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principles and values of RJ as they continued to represent a punitive, retributive, approach to managing youth offending. (Morris and Gelsthorpe, 2000). RJ principles and practices were therefore argued to be weakened by their incorporation into a system that functioned on a rhetoric of punitive discourse and accountability for individual failure, thus contradicting the values and principles underpinning RJ and preventing its true potential from being realised (Dignan, 1999; Crawford, 2002; Gelsthorpe and Morris, 2002).

For example, referral orders were accused of being a 'cherry picked eclectic mix of principles and philosophical approaches' (Ball, 2000: 211). Whilst their perceived participatory intentions represented an improvement to the 'sterile structures' of the YJS, it was suggested that achieving their RJ objectives would prove to be problematic at reducing youth offending (*ibid*.: 213). In addition, it was argued that referral orders and YOPs were 'poorly articulated and understood' interventions (Haines, 2000: 58), that were introduced as part of a 'shotgun' approach to implementing RJ into the YJS (Crawford, 2002: 172), which featured a stream of inconsistencies, intertwined with 'muddled principles' (Wonnacott, 1999: 281). Moreover, the denial of legal representation before YOPs raised concerns with regards to the potential for them to violate young peoples' human rights (see for example, Ball, 2000; Haines, 2000; Goldson, 2000; Wonnacott, 1999).

The concerns voiced with regard to reparation orders, reprimands and final warnings echoed the concerns raised with regards to referral orders and YOPs (Bell, 1999; Goldson, 2000, 2000b; Muncie, 1999). For example, concerns over the lack of legal assistance to administer reprimands and final warnings were raised as the decision to prosecute or refer a young person to a YOT was effectively left exclusively to the police, thus affording them significant power, whilst also preventing multi-agency decision making at a 'critical stage of

the youth justice process' (Goldson, 2000: 37). With regards to reparation orders, Haines (2000) expressed unease that their victim centred focus overshadowed a focus on the child's best interests. In addition, Peuch and Evans (2001) argued that the use of such interventions embodied the core values of punitive punishment and crime control, which failed to adequately protect children's rights or operate within a socially inclusive framework.

In summary reparation orders, final warnings, action plan orders, referral orders and YOPs all reflected priorities focused upon early intervention and crime prevention (Goldson, 2000; Muncie, 1999). In effect, such measures raised concerns with regards to proportionality, net-widening, coercion and procedural and legal safeguarding, all of which represented profound contradictions to the principles of RJ (Dignan, 1999; Gelsthorpe and Morris, 1999, 2002; Goldson, 2000; Haines, 2000; Muncie, 1999, 2000). Therefore, it was argued that the incorporation of RJ principles into the YJS did not represent a change in the way young people were responded to and instead were developed upon an 'ad-hoc fashion' which continued to marginalise key stakeholders (Gelsthorpe and Morris, 2002: 249).

Moreover, it was suggested that RJ practices, operating within the YJS, formed part of the operational framework of state interventionism which extended the net of social control by drawing more young people into the remit of the CJS at an increased pace (Crawford, 2003). For example, research undertaken by O'Mahony *et al.* (2002), examining police-based restorative cautioning pilots, demonstrates the potential net-widening effects RJ conferencing represents for young people. The research examined case files for 1,861 youth offending referrals in Northern Ireland, from September 2000 to April 2001, and 265 of these referrals were dealt with by a restorative conference. Over 90% of the restorative conferences were for theft and in 80% of these conferences

the goods stolen were under the value of fifteen pounds. The authors argue that subjecting young people, who have committed a minor offence, to a restorative conference held them unduly accountable and was 'disproportionate to the harm caused', whilst also placing the young person 'higher up the criminal justice tariff' (*ibid.*: 18).

The consequences of net-widening through RJ interventions raises further issues with regards to proportionality and principled sentencing (Crawford, 2002). Under the Children and Young Person Act 1993, criminal justice agencies have an obligation to take into account a child's welfare. Furthermore, under The Criminal Justice Act 1991, it must also be ensured that any sentence given is proportionate to the seriousness of the offence (Von Hirsch and Ashworth, 1998; Ashworth, 2013). Principled sentencing advocates that punishment should be in line with the severity of an offence and be consistent in comparison to other related offences. However, considering the dangers of net-widening, inherent within RJ practice, it arguably becomes clear that principled sentencing is not always adhered to. For example, the extent to which referral orders are a proportionate sentence has been subject to debate (Crawford, 2002; Goldson, 2000, Wonnacott, 1999). This is because the power afforded to YOPs to develop a contract which may prevent a young person from frequenting a certain area or engage in direct contact with a victim, whilst also having to participate in reparation, placed a significant emphasis on the young person's individual responsibility, rendering 'the principle of proportionality at risk' (Goldson, 2000: 49).

Another 'fundamental question' raised regarding the use of RJ within the youth justice sphere is whether it is compatible with the retributive characteristics of the CJS (Haines and O'Mahoney, 2006: 116). It is suggested that the development of RJ into the YJS has manifested in a way whereby 'notions of reciprocity, inclusivity, reparation, restoration, healing and

closure', inherent within the theoretical premise of RJ, have been subsumed within official policy which emphasises 'responsibility and responsibilisation' (Case and Haines, 2015: 146). Therefore, 'socio-economic, structural constraints which limit young offenders' choices, as a result deprivation and social exclusion, remain unchallenged as a predictive factor concerning young peoples' offending behaviour (Gray, 2005: 955).

Drawing upon findings from a qualitative research study undertaken in the South-West of England, focusing upon young offenders experiences of RJ and 'social exclusion', Gray (2005: 938) examined the effectiveness of a RJ programme being delivered within one YOT. It was found that the sample of 214 young offenders were 'exposed to a range of personal, interpersonal and social difficulties' which 'amounted to critical levels of social exclusion' (*ibid.*: 952). However, the restorative interventions contained within the programme failed to provide sufficient support or practical help to address these issues. The findings suggested that young people only received help from their participation in the programme in a limited number of cases. The research identified that the 'pursuit of responsibilisation [had] tended to overshadow that of restoration and reintegration in the delivery of restorative justice interventions' (*ibid.*: 941).

The data revealed that the reparation the young people were required to participate in had 'no explicit benefit' towards the victim and thus appeared to be more reflective of attempts to offenders rather than reintegrate them (Gray, 2005: 946). The evidence from the research suggested that the restorative interventions within the programme represented advanced efforts to pursue the responsibilisation of young offenders at the expense of strengthening social inclusion and restoration (*ibid.*). Therefore, it becomes evident that restorative interventions facilitated, by the programme, required young people to assume responsibility 'for the negotiation of their

own social risks' whilst 'limited social support and little sustained attempt to redress structural constraints' was provided (*ibid.*: 953). RJ, in this context, has the potential to become an intervention, which further marginalises young people, whose lives are already characterised by social exclusion and disadvantage (Muncie, 2002). Based upon such insights, it has been contended that the use of RJ within the YJS has been 'harnessed to the interests of reinforcing moral discipline', allowing notions of individual risk and responsibility to prevail at the expense of social justice (Gray, 2005: 938; White, 2003: Cited in Muncie, 2016: 323).

The changes, which constituted 'New Labour's new youth justice fundamentally ruptured the relationship between how we deal with crime and why we do it' (Phoenix, 2016: 123). The critiques presented above have formed part of the development of a 'critical politics of youth justice' (*ibid.*: 124). According to Phoenix (*ibid.*: 124), however, what remains missing from this critical discourse 'is the call for a non-penal response to youthful law breaking . . . that is not targeted at the penal correction of individual young people or framed by and within the penal realm of criminal justice'. It is argued by Phoenix that the theoretical model of youth governance underpinning these critiques is not capable of addressing the current diversity of responses to youth crime (*ibid.*). This is because the youth framework, underpinning these critiques, remain connected to 'official political discourse' concerning youth crime and the YJS which fails to comprehend non-penal ways of dealing with young offenders (*ibid.*: 125). Phoenix, therefore advocates for a change from governing young people in favour of 'a critical youth penalty', which abandons 'the concept of youth justice altogether' (*ibid.*: 133). As such, a space would be opened 'in which it is possible to theorize, analyse and investigate not just specific practices of punishment', such as RJ interventions, but also the reasons why such interventions are manifested in the way that they are (*ibid.*: 134). Whilst Phoenix (*ibid.*: 124) calls for the

abandonment of 'the concept of youth justice all together', in order to respond to offending young people in a 'non-penal' context, what this response does not offer is any insight into the ways in which this may manifest for offending girls.

It is acknowledged that girls are already structurally marginalised and subject to the harmful effects of social inequality, exacerbated by the social construction of gender. They experience the specificities of formal and informal modes of social and state sanctioned control by virtue of being female. They are judged against their adherence to acceptable forms of femininity and effectively do not need to have committed any crime to have their behaviour criminalised. Such knowledge, concerning the social and structural position of girls in the YJS, has emerged from, and is framed by a feminist positionality. Although abandoning the concept of youth justice for a 'critical youth penalty' (Phoenix, 2016: 125) interrogates the state's 'power to punish' young people, when responding to offending girls, it can also be argued that there is a need to centralise feminism within such alternative responses in order to address the underlying structural issues which determine girls' experiences in the YJS.

3.9 Forsaken Girls and Restorative Justice

The historical dominance of welfare and justice, followed more recently by the emergence of managerialism, risk management, responsibilisation and restoration, reveal the extent to which youth justice, throughout the twentieth and twenty-first century, has been perplexed by interchanging discourses concerning the responses to and management of young people who offend. However, despite such drifting trends in youth justice policy and practice, since the beginning of the twenty-first century, RJ has remained a consistent approach within central government's aim to prevent young peoples' offending behaviour and (more recently) divert them

away from the CJS. Whilst critical themes have developed, which problematise the use of RJ interventions with young people and despite the contemporary popularity of RJ within England and Wales, research focused upon young female offenders' experiences of RJ interventions remains unsubstantial. Predominantly, the existing policy, research and associated critical literature concerning the use of RJ with young offenders fails to consider gender as a category of analysis or consideration, which is relevant to RJ practice.

This neglect of girls, within official RJ discourse and academic literature, raises three prominent concerns. Firstly, it becomes evident that the needs and experiences of girls who encounter the YJS are once again being relegated to the peripheries of youth justice discourse. Secondly, the extent to which RJ practices, operating within the YJS, are suitable and appropriate to be used with young female offenders remains empirically unexplored and officially unacknowledged. Thirdly, the established consensus that gender-specific provision, which takes cognisance of girls' differential needs and experiences, should be incorporated into programmes and interventions used with young female offenders is being disregarded when it comes to contemporary RJ practice.

Following a review of the treatment and experiences of vulnerable women in the CJS, 'the need for a distinct radically different, visibly-led, strategic, proportionate, holistic, woman-centred, integrated approach' to the treatment of women throughout the whole CJS was identified (Corston, 2007: 26). The review contended that women 'had been marginalised within a system largely designed for men by men' which failed to properly recognise and respond to the needs of female offenders (*ibid.*: 2). The report made 43 recommendations for improving services and interventions for female offenders. Whilst progress has been made in the development of provision for adult women in response to the recommendations (Women in Prison, 2017), 'the national

attention given to the treatment and response of women offenders' has not been replicated for young female offenders (Criminal Justice Joint Inspection, 2014: 13). It is argued that the 'recognition of the particular status of girls and young women – a group that requires attention because of their age and their gender – remains limited . . . [and] seriously underdeveloped' (Bateman and Hazel, 2014: 20).

Feminist research has established the significant role 'physical, sexual and emotional victimisation' plays in shaping the lives of girls who come into contact with the YJS (Batchelor and Burman, 2004: 276). In light of such research it becomes evident that girls are subject to 'particular risks and vulnerabilities' which determine the need for a 'distinctive gender-sensitive approach' to be incorporated into the YJS's response to offending girls (Clinks, 2016: 9). However, due to the low numbers of girls entering the YJS, it has been suggested that youth justice policy and practice has been predominantly concerned with targeting the needs of young male offenders, as such 'girls have been overlooked within a juvenile criminal justice system primarily designed to deal with offending boys' (Criminal Justice Joint Inspection, 2014: 7). Whilst existing literature on female offending is 'principally focused on adult women . . . the literature on juvenile or youth offending is principally focused on boys' (Youth Justice Board, 2009: 17). As a result, there has been 'little definitive information on girls' and only a 'small amount written on gender-specific or planned intervention with girls' (*ibid.*: 17). Therefore, girls have consistently been subject to gender-blind or gender-neutral interventions used with young male offenders (Batchelor and Burman, 2004; Worrall, 2001). Whilst the youth offending service has a duty, specified by the Gender Equality Duty, contained within the Gender Equality Act (2006), to provide gender-specific services for girls, there has been no 'centralised mechanism' for assessing the standard of such provision (Shepherd, 2015: 112). In addition, the responsibility of the youth justice service to provide

gender-specific intervention for girls falls to local authority YOTs, as part of the decentralisation agenda introduced by the Coalition government (*ibid.*). This is also problematic as there is no 'standardised scrutiny', undertaken by the Youth Justice Board, to assess whether or not YOTs are fulfilling this duty (*ibid.*: 112).

Although consideration has been given to the use of RJ as a means of responding to women's and girls' experiences of (predominantly violent) victimisation (Daly and Stubbs, 2006, 2007), little attention has been afforded to the use of RJ with girls who offend and the extent to which such practices take cognisance of girls' gender-specific needs is seriously neglected. The 'actual power of young female offenders to effect change is limited by oppressive structures' relating to social divisions such as 'age, gender, class and race' (Batchelor and Burman, 2004: 278). Thus, it is acknowledged that efforts to respond effectively to girls' offending behaviour need to understand the 'social, material and gendered contexts' of their lives (Batchelor, 2005: 370), and at the same time recognise their agency in order for their 'age and gender-specific needs to be properly acknowledged and meaningfully addressed within the programmes and services available' (Burman and Batchelor, 2009: 281).

Due to the informality of RJ, it could be suggested that girls may be more suitable participants for such interventions (Sharpe and Gelsthorpe, 2009). For example, Worrall (2000: 156-157) discusses how the perception of girls as 'articulate and emotional' contributes to the assumption that 'they can more readily be persuaded to talk about their feelings and can be more influenced by the articulacy and emotion of adults'. However, what this account fails to recognise is the ways in which girls' troublesome behaviour is actually exacerbated by 'physically, sexually or emotionally abusive . . . [experiences of] informal control' (*ibid.*: 157). Furthermore, there is pronounced potential that girls' previous negative experiences

of informal social control will be an excluded narrative within RJ interventions whilst 'attitudes about appropriate female adolescent behaviour may become reinforced rather than challenged' (*ibid.*: 157).

It has been discussed within both the current and the previous chapter how the regulation of girls' behaviour has been reflective of attempts to ensure their adherence to gender appropriate behaviour (Sharpe, 2012). Furthermore, the informal means of social control, which girls have been subject to, has meant that the community contributes to the regulation of girls' behaviour (Alder, 2003). Drawing upon feminist insights, which position the community as a central agent of social control, Alder argues that community understandings of gender appropriate behaviour may have implications for the processing of girls through RJ interventions (*ibid.*). Furthermore, Baines (1996: cited in Alder, 2003: 119) argues that caution should be taken with regards to responding to girls through informal interventions, such as RJ, as it cannot be presumed that the tendency to judge their offending behaviour in relation to acceptable notions of femininity will not occur.

Community understandings and reactions to girls' offending behaviour represent further problems for girls placed on community orders (Alder, 2003). This is because they may experience difficulty complying with their orders due to experiencing negative reactions from the community (*ibid.*). For example, in order to examine women's subjective experiences of probation supervision, Malloch and McIvor (2011: 328) analysed data from interviews undertaken with women subject to varied forms of community supervision and 'agency workers' in Scotland. The research found that female participants experienced a sense of stigma for their involvement in the CJS and 'disliked' the public nature of the community-based orders they were subject to (*ibid.*: 332). It was also argued that the challenges faced by female

offenders, in completing community orders, were often determined by 'wider circumstances' to which the CJS is not necessarily able to respond (*ibid.*: 341). Despite the limited research available concerning young female offenders' experiences of community-based orders, the research undertaken arguably highlights the potential problems for community based restorative interventions used with girls (*ibid.*). Therefore, it is necessary to carefully consider the expectations placed upon young female offenders within the community, as there is the potential for negative attitudes towards them to act as a barrier to reintegration (Alder, 2003).

Notwithstanding a small number of exceptions (see for example, Alder, 2003; Daly, 2008; Toor, 2009; Miles, 2013; Masson and Österman, 2017; Österman and Masson, 2016), the extent to which the politics of gender are implicated within RJ practices used with young offenders has remained elusive to criminological enquiry. Much of the existing research assumes a 'generic rather than gendered youth population', reflecting a reluctance to account for gender as a social dynamic present in RJ practices (Alder, 2003: 117). Thus, the potential for implications to arise when the offender is female have been neglected (Cunneen and Goldson, 2015). The few studies that have examined girls' participation in RJ interventions have identified gendered differences in their experiences. For example, Maxwell *et al.* (2004) found that girls were less positive about the conferencing process than males due to issues surrounding shame and unfair treatment. Whilst Daly (2008), drawing upon observation data generated from 89 RJ conferences, as part of the South Australian Juvenile Justice project in 1998 and 1999, identified that girls participating in RJ conferencing showed the least remorse for their offending, contested their status as an offender and often identified as victims. Within a UK context, findings from Miles (2013), who undertook interviews with RJ practitioners in England and Österman and Masson (2016) who interviewed RJ practitioners and female offenders who participated in RJ

conferencing, have suggested that female offenders would potentially experience amplified experiences of shame and guilt during a RJ conference, resulting in a detrimental impact on their mental health.

Additionally the findings presented by Österman and Masson (2016: 11) revealed that the majority of female offenders who participated in their research found their experience of RJ conferencing to be 'highly emotional' and 'highly stressful' (*ibid.*: 11). Evoking shame within young female offenders has also been identified as problematic. Alder (2003) states that there is a tendency for girls to experience self-blame, guilt and shame as a consequence of negative reactions for their transgressions of appropriate behaviour, which presents difficulties for them to engage in RJ. Furthermore, Sandor (cited in Baines, 1996: 45) has contended that 'in a culture where shame has been a powerful tool of domestic control over women, this assumed pathway to reintegration has to be questioned'. This is because 'the gendered nature of shame acts to socially control and stigmatise the activities of girls in ways which it does not do for boys' (Toor, 2009: 246).

As evidenced within this chapter, the use of RJ with young people has been subject to extensive critique. However, these critiques, arguably, have not shown the full picture when it comes to providing critical reflections concerning the contemporary manifestations of RJ in the YJS. This is because little attention has been given to the social construction of gender within RJ discourse, policy and practice. As a result, it becomes apparent that girls' experiences of RJ are being marginalised. Drawing upon such insights, the task for the youth justice service is concerned with how to take these issues forward and a develop meaningful response, which considers the potential for differential experiences of RJ interventions, resulting from the social construction of gender, and the ways in which such differences might be responded too.

3.10 The Current Shape of Youth Justice

The operations and functions of the YJS have gathered substantial critique since the emergence of the new youth justice established by The CDA 1998. This chapter has highlighted how the system, over the past two decades, has subjected young people to rigorous processes of risk management, prevention and identification, which have had a deleterious impact on young people and their families. This, as discussed, resulted in significant increases in the number of young people entering the remit of the YJS, many of which were BAME, accompanied alongside a dramatic increase in the number of girls entering the system. Despite the fact that over the last ten years youth justice in England and Wales has witnessed a ''system shrink' with fewer young people coming into the youth justice system . . . the basic criticisms of youth justice in practice have remained the same' (Phoenix, 2018: 16).

However, recent years have arguably been a somewhat 'uncertain period for youth justice' (Bateman, 2017b: 3). In 2015, it was announced that a review of the YJS was to be undertaken. The review, to be undertaken by Charlie Taylor, was highly anticipated due to its perceived 'potential to herald significant change in arrangements for dealing with children in conflict with the law' (*ibid*.: 3). Whilst the review included some 'wide-ranging and . . . radical' recommendations to the structure and operation of the YJS, these recommendations were largely dismissed by central government (Bateman, 2017: 3). The expectations followed by the reality of the Taylor review illustrate the uncertainty, impediments and ambiguity of the current state of youth justice in England and Wales. Nevertheless, the downward trend in the number of young people subject to formal youth justice intervention has persisted and the number of female first time entrants into the

YJS has decreased by 91% in the last ten years (Youth Justice Board and Ministry of Justice, 2018).

The lack of developments since the publication of the Taylor review has meant that 'youth justice remains largely unchanged' and diversion away from formal youth justice intervention remains the dominant response to young people in conflict with the law (Bateman, 2017: 59). Whilst this overwhelmingly represents a positive change in the response to youth offending, since the introduction of The CDA 1998, there remains a number of institutional injustices inherent within the current youth justice trajectory (Phoenix, 2018).

Whilst statistics reflect an 85% overall reduction in the number of young people entering the YJS in the last decade, BAME boys are significantly over-represented and continue to endure lengthier sentences than their white counterparts (Bateman, 2017; Janes, 2018; Youth Justice Board, 2018). For example, the use of custodial sentences for this group of young people has increased by 27% since 2007 and they currently account for 45% of the youth custodial population, despite only representing 18% of the general population (Ministry of Justice, 2018). Due to the consistent over-representation of BAME young people in the YJS it is argued by Bateman (2017: 59) that 'the discriminatory use of informal response to youth crime cannot be ruled out'. Further concerns associated with the current state of youth justice in England and Wales, include the treatment and conditions of young people held in custody (CRAE, 2017), the continued 'adherence to a risk based model of assessment and intervention' (*ibid*.: 60) and the 'anomalous' age of criminal responsibility (McAra, 2018: 7). Therefore the core criticisms of the YJS are that 'it "lacks sympathetic understanding" of children and young people, does not ensure their well-being or welfare or deal with the circumstances that surround their less than law-abiding behaviour' (Phoenix, 2018: 16). Drawing

upon such critiques it is contended that the YJS in England 'continues to infringe children's rights' (CRAE, 2017: 6).

Amidst these concerns, alternative paradigms of youth justice have been put forward. For example, there have been calls for a 'rights-based' or 'child-friendly' model of youth justice centred upon the recognition that children 'ought not be subjected to adult-style criminal justice' and the protection of their welfare should be the paramount concern of any state intervention (Phoenix, 2018: 16). In addition, the model of Positive Youth Justice (PJY) has also emerged. This model challenges the trajectory of youth justice and advocates for interventions and assessments, which build upon assets of 'learning/doing and attaching/belonging' across various life domains, in order to nurture these components and enhance young people's desistance from offending (Case and Haines, 2018: 213). Notwithstanding the welfare orientated, progressive nature of such emergent paradigms, reflecting on the current state of youth justice highlights that despite a sharp decline in the number of young people entering the YJS; those who remain within it continue to be subject to 'dehumanizing' and punitive processes, which violate their human rights (McAra, 2017: 938).

There also remains a series of salient questions which have yet to be addressed in the current literature and theorising surrounding the contemporary state of youth justice. These questions, unsurprisingly, given the systematic neglect of girls within youth justice policy and practice discourse, are concerned with determining the place of girls within the current youth justice sphere. What their future looks like within it? And what actions need to be taken to address the institutional injustices girls currently face?

The system-wide neglect of girls is clearly illustrated in the publication of, and the response to, the most recent review of the YJS by Charlie Taylor (2016). The review, despite

recommendations, did not address the specific needs of girls separately from boys, whilst the government's response to the review made 'no reference to the treatment of girls . . . other than in police custody' (Clinks, 2017: 13). Such negligence of girls' needs is more broadly symbolic of the forsaken position of girls throughout the youth justice landscape. Furthermore, it is indicative of the gender-blindness, which endures within RJ discourse. Therefore, responses to these questions posed at the end of this chapter can only be speculation since the inherent neglect of girls within youth justice policy and practice continues to persist.

It is possible that a new theoretical framework, which abandons youth governance for youth penalty, would address the theoretical, policy and academic neglect of girls who offend. On the other hand, it may be the case that the adoption of a 'more expansive feminist research agenda', one which requires a 'reconceptualisation of "justice'' for young women' could broaden policy debates and practice into an arena in which gender-specific provision is prominent (Sharpe, 2015: 10). Alternatively, a child friendly youth justice may be successful in addressing the experiences of girls subject to youth justice intervention. The possibilities are numerous, but the harms inflicted upon girls through the current system endure, and thus they need addressing in a context that places the rights and protection of girls at the forefront of youth justice policy, practice and academic discourse.

3.11 Conclusion

This chapter has conceptualised the implementation of RJ into the YJS in England and Wales and has provided an account of the critical themes and analysis, which have accompanied its implementation. Such critique has been represented within a body of literature, which challenges the use of RJ with young people. It has, however, been identified that girls' experiences

of RJ interventions have, predominantly, remained absent from such critiques.

The socially constructed concepts of masculinity, femininity and the unequal relations of power and control, which underpin these concepts, evidence the importance of gender within women's and girls' lives. Feminist criminology has demonstrated how 'gender matters, not only in terms of one's trajectory into crime but also in terms of how the criminal justice system responds to offenders under its authority' (Chesney-Lind and Pasko, 2013: 3). The previous chapter has illustrated the extent to which girls are subject to state sanctioned and informal modes of social control, by virtue of being female. Thus highlighting the application of gendered forms of social control, which do not operate within the lives of young males (Carlen, 2008; Lorber, 1994; West and Zimmerman, 1987, 2009). It has been identified that girls are judged against their adherence to acceptable standards of femininity (Carrington, 1993; Carrington and Death, 2014; Carlen, 2008; Carlen and Worrall, 1987; Chesney-Lind, 1989; Heidensohn, 1996; Hudson, 1989; Smart, 1976; Smart and Smart; 1978). Furthermore, the formally legitimised forms of regulation operating within the YJS can be seen to amplify the existing modes of social control for girls who engage in offending behaviour (Chesney-Lind and Irwin, 2005; Chesney-Lind and Pasko, 2013; Sharpe and Gelsthorpe, 2009; Sharpe, 2012).

It has also been established that girls who come into the remit of the YJS experience higher levels of social exclusion, marginalisation and victimisation (Bateman, 2014; Batchelor and Burman, 2004). These experiences shape the lives of girls and to situate them within a feminist analysis, it would be impossible to suggest that they would *not* be implicated within the ways in which they experience, internalise, engage or participate in RJ conferencing. Such reasoning forms the basis in which to contextualise the key arguments to be

addressed in subsequent chapters. The following chapter will present the methodology used to inform the empirical study of this thesis.

Chapter 4

Chapter 4: Researching Girls' Experiences of Restorative Justice

4.1 Introduction

> Young female offenders are an invisible minority whose offending pathways and distinctive needs have gone largely undocumented and unaddressed (Burman and Batchelor, 2009: 270).

The decision to undertake empirical research with girls who offend is established upon the concern that their narratives and experiences are being systematically excluded within a YJS which is statistically dominated by young males who offend. Notwithstanding the fact that empirically investigating girls' experiences of RJ conferencing is a difficult task, given that girls who offend are a hard to reach group within criminological research (Deacon and Spencer, 2011), the previous chapter has asserted the importance of undertaking such research to ensure their experiences are documented and addressed. The empirical study underpinning this research is, therefore, of crucial significance and contemporary concern.

As discussed in Chapter three, the use of RJ within the youth justice sphere has expanded significantly, prompting a notable increase in academic literature which both scrutinises and advocates the use of RJ with young people who offend (see for example, Crawford and Newburn, 2002: 2003; Daly, 2016; Gelsthorpe and Morris, 2000: 2002; Goldson, 2000; Sherman and Strang, 2007). Despite the vast array of literature, the particular significance of the social construction of gender and the role it may play in relation to young female offenders' experiences of RJ conferencing is empirically and theoretically unexplored. Within the UK, research which explicitly investigates young female offenders' experiences of RJ conferencing, informed via the voices of girls themselves,

is sparse. By utilising qualitative, semi-structured interviews, influenced by feminist informed research methods, the empirical research underpinning this study, comprises an attempt to address this gap in knowledge by undertaking a critical exploration of girls' experiences of participating in RJ conferencing, through a gendered lens.

The following chapter introduces the research questions, aims and objectives, which inform this research study and provides an insight into its design, planning and execution. In addition, it will provide an account of the research methods and epistemological framework utilised and the process of data analysis undertaken. The methodological and ethical dilemmas encountered when undertaking this research and the original contribution to knowledge the empirical research provides, will also be discussed alongside a reflective account of the empirical journey undertaken.

4.2 Producing Knowledge through Critical Research

The work of Wright Mills (1959) is recognised as one of the key contributions to the development of a radical discourse within criminology (Scraton, 2002). His work pioneered the argument for a framework in which to critically explore 'the personal troubles of the milieu' and 'the public issues of social structure' (Wright Mills, 1959: 8). In addition, labelling theory and its contestation of 'how deviance is defined, processed and reproduced by control agencies . . .', the question of 'whose side are we on?', posed by Becker, followed by the formation of the 'radical' National Deviancy Conference in 1968 are regarded as key influential components, contributing to the development of critical criminology (McLaughlin, 2010: 153). Such contributions represented a 'theoretical innovation' in which critical themes began to develop, which not only problematised the

'mystifying, algorithmic quantification of positivist criminology . . . but also implicitly confronted the conjoined, cosy and intertwined relationship which many in the discipline had developed with the micro and macro structures of power and domination, including the state . . .' (Coleman *et al.*, 2009: 1).

Whilst the logic of labelling theory gave way to the development of such critical discourse, the role of the state in the production of social inequality remained absent from its analysis. Thus, critical criminologists drew upon a 'Marxist based interpretation of power and . . . the processes of criminalisation and control emanating from the state and its institutions' (Coleman *et al.*, 2009: 1). Although, as it origins demonstrate, there has been a variety of empirical and theoretical contributions to critical criminology, the commonalities these contributions share centre upon an 'opposition to the kind of criminology that takes so much of the status quo for granted' (Carrington and Hogg, 2002: 2). Thus, emphasising the need for critical analysis on 'how the effects of social power and the inequalities of the social order underscore the commission of crime . . . victimisation and the politics of criminalisation' (*ibid.*: 3).

Recognising the ways in which 'structural determinants such as race, class, gender, sexuality, age and [dis]ability' shape constructions of crime and deviance is central to the development of critical research (Barton *et al.*, 2010: 29). By focusing upon structural forms of oppression such as, 'capitalism, patriarch and neo-colonialism' (Sim, Scraton and Gordon, 1987: 5) and 'problematizing the role and power of the state', critical criminological research produces knowledge which centralises individual experiences and realities by locating them within the broader social and structural contexts of crime and deviance (Barton *et al.*, 2010: 29). Thus, in turn producing critical discourse focused upon state responses to offending behaviour and the ways in which such responses maintain the structural divisions of race, class and gender,

through various mechanisms of social control (Barton *et al.*, 2010).

When considering the role of feminism within critical criminology it is recognised that feminist criminological perspectives are contested as a tenant of critical criminology, 'since not all critical criminologists place gender at the centre of theory, and not all feminist criminologists see their work as part of the broader struggle for social justice' (Chesney-Lind and Morash, 2013: 288). However, there is 'an affinity and crossover' between the central themes of feminist criminology and critical inquiry (Daly, 2010: 225). Most importantly, both perspectives view crime as a social construction and challenge the relations of power, which frame this construction (*ibid.*).

The research is situated within a critical framework, and is concerned with the recognition that women's realities cannot be separated from gendered power relations, as the state plays a decisive role in the oppression of women, in order to 'enable the preservation of the hetropatriarchal social order' (Ballinger, 2009: 33). Critical criminological enquiry therefore requires engagement with the social division of gender as it is a central organiser of the discourse, ideologies and structures which operate within the social world, as well as being a determining variable upon which individual identity is constructed, maintained and resisted (Daly and Maher, 1998; Jarviluoma, Moisala and Vilkko, 2003). Thus, critically investigating the ways in which the social construction of gender and the broader structural contexts in which gender operates are implicated within young female offenders' experiences of RJ conferencing was a central concern when developing the questions, aims and objectives of this research.

4.3 Research Aims and Objectives

The empirical research for this study was established upon the contention that girls' voices continue to be marginalised in the context of RJ research, due to a failure to recognise gender as a variable present in RJ practice. Therefore, the epistemological assumptions underpinning this research began from the starting point that the production of knowledge should be established from the standpoint of those who are marginalised within society (Harding, 1992). It is suggested that such a methodological approach generates critical questions, which challenge the existence of privileged knowledge and in turn provides insight into subjugated knowledge (*ibid.*). Such epistemological assumptions provide the basis for the development of the aims and objectives of the research as follows:

- To investigate the role gender plays in the relationship between RJ and young female offenders.
- To question the need for gender sensitive approaches to RJ practices used within the YJS.
- To critically examine the role shame plays within young female offenders' experiences of RJ.

Research Questions

The empirical research undertaken aims to address the following research questions:

- Does the social construction of gender impact upon girls' experiences of RJ?
- What implications does the RJ principle of expressing shame have for young female offenders?
- Is there a need for gender sensitive approaches, within or as an alternative, to the use of RJ with young female offenders?

The aim of addressing these research questions is to bring to the forefront of academic enquiry girls' marginalised subjectivities, in order to construct knowledge that is, empirically and theoretically, produced from the standpoint of girls themselves. It is the foundational concerns of these research questions which determine the feminist influenced, research methodology underpinning this study.

4.4 Feminist Engagement in Restorative Justice: An Original Contribution to Knowledge

Within the UK the production of knowledge concerning young female offenders' experiences of RJ remains predominantly absent from youth justice discourse. Existing literature on girls' experiences of RJ is dominated by research projects within Australia and New Zealand and thus, can only be understood in the context of youth justice within these countries. Utilising feminist research methods to undertake a gendered analysis of RJ conferencing, therefore, enables original data to be generated, providing a unique insight into girls' experiences of RJ. As such, this research study broadens the scope of RJ research, mediated by gender, to the UK.

4.4.1 Feminist Methodology

Feminist Research Methods

Feminist enquiry is shaped by diversity and there is no individual methodology or theoretical perspective which is unequivocally accepted as a single feminist methodology (Harding, 1987; Henwood and Pidgeon, 1995). It is suggested by Mason and Stubbs (2012) that feminist research is more specifically characterised by methodological and ethical concerns, theories of knowledge, the construction of the social world and political engagement, as opposed to a commitment

to a particular research method. This is because it is essential for research methods to suit the research questions in order to construct knowledge which recognises how social structures and experiences impact upon individual subjectivities (Ackerly and True, 2010; May, 2011).

In keeping with other social science research methodologies, feminist methodologies are distinguished as being constructed within conflicting and diverse epistemologies (Code, 2014). The epistemological positions of feminist standpoint theory, feminist empiricism and feminist post-modernism capture the principal distinctions of feminist epistemology (Harding, 1987). The feminist methodology utilised to inform this research is not explicitly characterised by one single methodological or epistemological approach and instead a general feminist methodological approach is adopted.

Daly and Chesney-Lind (1988) list five principles that identify criminological research as being distinctly feminist. These principles rest on the recognition that 'gender is socially constructed, gender impacts on social life and institutions, gender relations are constructed upon patriarchal discourse, the production of knowledge is gendered, reflecting male superiority and finally, women should be at the centre of intellectual inquiry' (*ibid*.: 504). The principles listed by Daly and Chesney-Lind are regarded as a framework to inform the feminist methodological framework of this research (*ibid*.). The research follows these principles by centralising the marginalised voices of girls and outlining the extent to which the social construction of gender has the potential to shape their experiences of RJ conferencing. Although no single feminist approach has been utilised, this research intends to be established as a body of critical criminological research, which distinguishes individual experiences as being shaped by gender. It is the social construction of gender that binds the methodological and theoretical perspectives together.

Feminist Epistemology and Ontology

The ontological stance this research adopts is a constructivist approach to research design. Such an ontological position is concerned with subjective interpretations of individual experiences, formed through social interaction, in order to construct knowledge based upon the views of participants themselves (Creswell, 2014). The goal of such research is to construct theory and meaning inductively (*ibid.*). Such an ontological perspective lends itself to qualitative research as it allows participants to share their own views and enables the researcher to gather an insight into the diverse interpretations and meaning participants use to help them understand the social world (Creswall, 2014; Bryman, 2016). Drawing upon this framework, the research aimed to investigate how participants formed their own subjectivities, in relation to their experiences of RJ conferencing, and the meanings they apply to these experiences, using qualitative inquiry.

This research therefore assumed a feminist influenced, interpretivist, epistemological position, due to its concern with studying girls' lived realities and the ways in which gender influences their conceptions of knowledge. Interpretivism is an epistemological position which is concerned with looking for individual interpretations of the social world in order to produce 'knowledge of the meanings that constitute the social world' (Blaikie and Priest, 2017: 45). Feminist epistemology, according to Ballinger (2016: 3), 'has had a massive impact on research methods as a result of its challenge to the stereotypical "scientific expert!" of value-neutrality and objectivity, claiming protection from political interests'. This is because it acknowledges that there are multiple ways in which knowledge can be constructed and 'multiple perceptions of what is ''true''' (Beckman, 2014 165).

Feminist epistemology recognises that the social world does not operate within a fixed reality and is dependent upon how each individual constructs the world in their own view (Hesse-Biber and Piatelli, 2012), thus providing unique opportunities for producing knowledge and raising new questions rooted within issues of social justice (*ibid.*). Such a standpoint derives from a 'conviction that the diverse circumstances of human lives from which subjectivities are constituted are such as to contest the reductivism from which universal human sameness—and epistemic interchangeability—are presupposed' (Code, 2013: 354). Therefore, the aim of feminist research is to challenge 'contemplative spectator research' by adopting a positionality which is 'openly political, connected and involved in liberatory actions' (Gringeri *et al.* 2010: 393).

As such, the empirical research project underpinning this study sought to extract and evaluate meaning from girls' experiences in order to develop new forms of knowledge which challenge the dominance of existing constructs of knowledge within the social world (Harding and Norberg, 2005). These new forms of knowledge developed from such an epistemological position do not claim, as Ballinger (2016: 4) states, to arrive 'at an immutable "truth" . . . since the potential for excavating new knowledge always exists . . .' but aims to provide a space in which alternative narratives to dominant discourse can emerge.

Making a Case for a Feminist Production of Knowledge

Feminist criminological research is grounded in 'the examination of the meaning and nature of gender relations and the understanding of gender inequality within criminal justice' (Miller and Mullins, 2006: 218). It is suggested that feminist research is distinguished by a desire to challenge existing constructs of knowledge and question the idea that what is true for the powerful, non-oppressed groups, in society

is not necessarily true for those in society who are marginalised (Montoya, 2016). Therefore, by centralising the voices of girls and women, feminist research enables 'alternative and richer knowledge to be uncovered' (Beckman, 2014: 167).

Drawing upon such insights, determining the need to undertake this research was subject to three reasons: girls' voices have remained unheard in the context of RJ discourse, girls' subjective experiences are distinct from their male counterparts and lastly girls represent a minority, within a male dominated YJS. These concerns therefore require attention to the power of girls' knowledge, their experiences of differential power relationships, and the ways in which their shared group and subjective experiences can be understood in meaningful ways (Ackerly and True, 2010; Fonow and Cook, 1991; Harding, 1987; 1992; Hesse-Biber, 2014; Stanley and Wise, 1993). This research is concerned not only with the role the social construction of gender plays in producing inequality through 'gendered institutions', such as the YJS (Miller and Mullins, 2006: 219), it is also centrally concerned with gaining insight into girls' narratives concerning RJ conferencing and the role gender plays in the construction of these narratives. Therefore, what distinctively identifies this research as being situated within a feminist methodological framework is its focus and grounding in girls' experiences, its focus on power relations within the research process and its commitment to building women centred knowledge through qualitative research. All of which intends to reveal the reality of women's experiences and situates these experiences in the broader context of female subjectivity (Gelsthorpe, 1990; Miers, 1993; Wylie: 2012).

Fonow and Cook (1991: 2) identify four themes characteristic of feminist research methodology, these are: 'reflexivity, action orientation, attention to the affective components of the research and the use of situation at hand'. Reflexivity requires

the researcher to critically examine, explore and reflect upon the research process (Stanley, 2012). Conscious raising encapsulates the ways in which reflexivity operates within the research process and conceptualises the relationship that exists between the researcher, the participants and the social and political structure of the research (*ibid.*). An action orientated approach to feminist research is identified within the researchers choice of topic, theoretical framework and a desire to empower women, whilst revealing political and policy implications impacting on the structures of patriarchy within society (Fonow and Cook, 1991; Lykes and Hershberg, 2012). Attention to the 'affective components of research' is a feature of feminist inquiry which embraces the emotional element and impacts of feminist research, creating a relational process in which the researcher places themselves at the centre of the complexities of the participants' social world (Fonow and Cook, 1991: 9). The 'use of situation at hand' refers to determining and discovering research opportunities in social settings as a means of producing new knowledge and theoretical advances in feminist epistemology, which can serve to broaden understandings of gender relations (Fonow and Cook, 1991: 11).

The empirical research sustained these themes identified by Fonow and Cook (1991). As a researcher, I maintained a reflective role throughout this research by recognising my role within the research process and the considerations this role presented in terms of power relations. Such considerations are revealed, in detail, later in this chapter. Understanding my own positionality as a researcher enabled me to engage in knowledge building that was relational between myself and the participants. This allowed me to identify with the girls I interviewed and become unified with their own positionality and subjugated knowledge, which enhanced my emotional engagement with the research. The action orientated approach to this research is identified by my decision to undertake critical research on RJ practices used with young

female offenders and the selection of the research questions which aimed to challenge existing constructs of knowledge concerning RJ discourse, informed by those who have been marginalised within society. In addition, by researching girls' experiences of RJ conferencing, this research presents a unique opportunity to broaden understandings of the ways in which girls' subjective experiences remain fundamentally different to their male counterparts (*ibid.*), thus producing new knowledge through the 'use of situation at hand' (*ibid.*: 2).

4.5 Reflexivity, Positionality and Personal Insights

Stanley and Wise (1993) note that feminist epistemology identifies key concerns with regards to research methodologies which require integration into the research process. These concerns include recognising emotion as an aspect of the research process, which impacts upon the ways in which conclusions are reached, the management of conflicting realities between the researcher and the researched and the existence of power relations within research. These concerns, noted by Stanley and Wise (1993), are underpinned by the idea of reflexivity. Feminist research requires a commitment to reflexivity, therefore acknowledging the impact of reflexivity is integral when utilising feminist methodologies (Ackerly and True, 2010; Skinner *et al.*, 2005). Reflexivity refers to the ability of the researcher to critically examine, explore and reflect upon their research by recognising 'personal accountability . . . an awareness of the complex role of power in research practice' as well as how personal attitudes, behaviours and positionality shape the research experience (Leavy and Harris, 2018: 104). Being reflexive is beneficial to undertaking qualitative research as it allows the researcher to identify how their own subjectivity and social and cultural positions transfer into the research process, thus enabling research to negotiate changes in their positionality (Hesse-Biber and Piatelli, 2012). By understanding, (re)negotiating and acknowledging their own

positionality, the researcher is able to engage in knowledge building that is relational between the researcher and the participant (Harding, 1987).

As a researcher, I was aware of my own personal standpoints and subjectivities and what role they may have played in the interview process and the nature of the relationships I developed with the girls I interviewed. I was also aware of the considerations this positionality represented in terms of my role as a researcher and the dynamics of the power relations in operation during the interview process. Due to my own personal and research standpoints I acknowledge that I occupied a role as both an insider and an outsider. My gender dictated to me my position as an insider, allowing me a personal understanding and ability to relate to the shared group experiences of girls and women (Hesse-Biber, 2012). I also recognised my role as an outsider, as a researcher with a research agenda (*ibid.*). Occupying this dual status, as an insider and an outsider, 'requires building genuine and reciprocal relationships' (Leavy and Harris, 2018: 163).

My reflections, with regards to interviewing the girls, relate to concerns regarding my role as an outsider and the extent to which this inhibited girls' willingness and ability to share with me experiences, which truly reflected their lived realities. These concerns were predominantly because, for all but two of the girls, I was unable to establish a relationship or rapport prior to their interviews. Developing a relationship and establishing rapport is an essential part of the research process, as this enables the interviewee to be comfortable in sharing their personal experiences (DiCicco-Bloom and Crabtree, 2006). Furthermore, establishing a rapport is integral in order to be able to understand and convey girls' subjective realties of the social world (*ibid*).

Oakley (1981) promotes a participatory model of feminist research which emphasises the importance of the researcher

sharing their identity with the participants. Despite the lack of pre-existing relationship with the girls I interviewed, I was able to establish a meaningful rapport based upon my willingness, throughout the interview process, to engage in a relational dialogue, which gave the girls an insight into my own identity. Furthermore, as I began to undertake more interviews, I came to understand that my own gender identity, age and ethnicity had a positive influence on the relationships I formed with the girls I interviewed.

Additionally, the effects and the dynamics of power relations present throughout the research process were also a fundamental point of deliberation. This initially began with regards to how I would manage and negotiate my identity as a researcher when interviewing girls who are structurally marginalised and whose voices have been institutionally and epistemologically neglected in relation to RJ discourse. As a feminist researcher, I was cognisant of my role in the hierarchies of power and control that my position represented, the impact this may have had upon the girls I interviewed and the knowledge generated from the interviews (Hesse-Biber and Piatelli, 2012; Ackerly and True, 2010). Utilising a feminist research ethic allowed me to address these points of contention by ensuring the power or girls' knowledge was prioritised by providing them with the opportunity to share their own subjectivities during the interview process. Such a research ethic also enabled me to reflect upon my own positionality as a researcher and the ways in which this could influence the construction of knowledge formed from the interpretation of the data I collected (Harding, 1987; Miers, 1993).

Furthermore, the power relations present between the practitioners and myself had clear distinctions and these distinctions need addressing reflexively. My reflections when interviewing practitioners did not reflect the same concerns I had with regards to the girls' interviews. I feel practitioners

were able to be open with me, which is evidenced in the data generated from their interviews. However, prior to undertaking any interviews, as key focus of my consideration was placed upon achieving, to the best of my ability, equal power relations for the participants, I failed to recognise the potential for unequal power relations in which I was in a subjugated position as a researcher. Certain practitioners indicated that my questions were 'hard to answer' and I distinctively recall a number of practitioners becoming defensive when asked certain questions. Predominantly, a defensive stance was adopted when practitioners were asked about girls' differential experiences within the youth justice service and the possibility for gender-specific implications arising for girls who participate in RJ conferencing.

Given that the practitioners I was interviewing had extensive professional experience of working in the YJS this, in a sense, created an unequal power dynamic. I felt that certain practitioners, with their wealth of experience, tended to reorganise the structure of the interview to focus on what they believe to be key considerations in RJ practice. However, this did not necessarily incorporate any element of gendered analysis. Furthermore, certain practitioners placed a significant focus on formulating their responses in a manner, which failed to acknowledge young female offenders' experiences as a shared group and instead situated them as 'individualised' experiences, resulting in gender as a category of analysis being disregarded. This however, was not the case for all the practitioners I interviewed.

4.6 The Research Context: Methods, Sample and Analysis

The epistemological position adopted by qualitative research assumes a 'naturalistic or interpretative paradigm', which holds a commitment to 'description, representation and reality' of meaning and experience in the social world, informed from

participants own subjectivities (Henwood and Pidgeon, 1992: 98-99). A quantitative approach to social research adopts a 'realist ontology' which assumes reality to consist of 'objectively defined facts' (*ibid*.: 98). Quantitative methods, therefore, place an emphasis on 'cause and effect' and adopt a 'hypothetic-deductive method' to facilitate the testing of '*prior'* theory (*ibid*.: 98). Qualitative methodologies, however, accommodate ways to gather data, which are not confined to testing theory and instead provide an opportunity to theorise concepts which emerge from data, via methodologies such as participant observation or interviews (Henwood and Pidgeon, 1995). Such methods are particularly suited to criminological research as they highlight the importance of agency and meaning in the social world and the 'plurality of norms and values relating to "normal" and "deviant"' behaviour (Wincup, 2017: 8). Qualitative methods, therefore, facilitate the elicitation of rich, descriptive data, which reveals 'much about the social processes that women experience' and the meaning they attribute to their experiences (Fonow and Cook, 1991: 107).

Feminist research focuses on bringing women's and girls' experiences to the forefront of academic and social enquiry, by producing knowledge which recognises gender as an issue which structures 'personal experience and belief' (Hammersley, 1992: 187). Furthermore, it is suggested by Smart (2009: 297) that qualitative research requires those undertaking research to 'connect with the lives of people who contribute to research processes while finding ways of presenting complex layers of social and cultural life in sentient ways'. The research methods utilised to inform this study have, therefore, been selected based upon the objective to produce new forms of original knowledge, which provide an insight into the ways in which RJ conferencing is accomplished for young female offenders.

As such, a qualitative approach to the empirical study was judged as necessary in order to gain such understanding. I undertook semi-structured interviews with 15 girls who have participated in RJ conferencing, in an offender capacity, and 13 youth justice practitioners (see tables 1 and 2). Semi-structured interviews are deemed an effective method of collecting data that informs an understanding of participants' perceptions and the meanings they attribute to their realities (Berg, 2001). Using open-ended questions when conducting semi-structured interviews in qualitative research ensures more flexibility for the interviewer to respond to the 'situation at hand' and to achieve an accurate representation of the respondent's views (Fonow and Cook, 1991: 2). I considered this method to be an appropriate approach, as it allowed each participant their own voice in the research process and the opportunity to construct their own narratives (Ackerly and True, 2010).

4.6.1 Interview Schedules

Two different interview schedules were developed, one to be used when interviewing girls and the other to be used when interviewing practitioners. Both schedules consisted of predetermined open-ended questions, which focused on girls' experiences of RJ conferencing (see appendix A). The interview schedule for young people specifically addressed the participants' experiences in the YJS, the reactions they received following their offence, their perceptions of the RJ conference they participated in, their experiences during the RJ conference and the types of emotions evoked during their participation. Identifying initial areas of enquiry allowed me to separate the key issues for discussion, which I considered most relevant to my research questions. The interview questions were then developed based upon these areas of enquiry (Hesse-Biber and Piatelli, 2012). Developing the interview schedules to be used with the young people was a challenging process in comparison to developing the interview

schedules for practitioners. Before the final version was complete, the schedules were amended and refined in order to ensure the language used was accessible for the sample of participants I was interviewing.

A more direct approach was adopted when constructing the interview schedules to be used with practitioners and seven areas of inquiry were identified. These areas included: the participant's job role and their link or involvement to RJ in that role; their experience of working with girls in the YJS; their perspectives on RJ; their perspectives concerning gender and RJ, their perspectives on young female offenders' experiences of participating in RJ conferencing; their perspectives on girls' experiences of shame during a RJ conference; and their perspectives on young female offenders' experiences of stigma. Once these initial topics of inquiry were identified, developing the interview schedule for practitioners was straightforward and the questions were easily structured around these topics.

All participants consented to their interviews being audio recorded. This allowed me to focus on conducting the interviews and listening to participants' responses. In addition, the use of an audio recorder assisted with the transcriptions and analysis of the interview data, whilst also ensuring that my presentation of the interview precisely reflected the participant's response, thus, promoting the integrity and reliability of the interview material (Bryman, 2016).

4.6.2 Gaining Research Access

In summary a total of twenty-eight interviews were conducted with participants from seven youth offending services and one police service. Tables 1 and 2 (page: 153) below identify the number of young people and practitioners interviewed within each service. The process of achieving this sample size was not straightforward and there were a number of challenges I

faced with regards to identifying potential participants to interview for the research.

Prior to undertaking the empirical research for this study, I was volunteering as a referral order panel member for a youth offending service (YOS) in the North West of England. At this point in time I had been volunteering for the YOS for almost four years and I had developed good professional relationships with a number of employees across various locations. In February 2014, I informally approached a team manager to discuss the possibility of undertaking interviews with a sample young people and practitioners within the YOS. This particular team manager directed me to the RJ service coordinator who suggested we meet in person to discuss the research. I received a positive response concerning the research project and upon receiving ethical approval to undertake the empirical research, in September 2014, I submitted a formal request for access to the RJ and volunteer team manager for YOS 1 and access was finalised by October 2014 (see appendix B).

Following the formal request for access, I was then asked to attend a girls' forum held by the YOS in which I volunteered, to discuss the central focus of the research and how I planned to undertake it. During the forum it became apparent that identifying potential participants was going to be problematic. Practitioners at the girls' forum expressed that the number of girls coming into the remit of the YOS was significantly low and therefore the number of RJ conferences being facilitated with girls' was even lower. This was a problem I had already considered prior to beginning the empirical element of the research.

During my attendance at the girls' forum practitioners identified a total of three young people I could potentially interview. At this juncture I was aware that I would need to contact further youth offending services, within the North West

of England, in order to achieve a sufficient sample size of participants for the research to go ahead. I initially contacted, via email, nineteen YOTs within the North West, for the purposes of introducing myself and explaining the research aims, objectives, methods and proposed participants (see appendix C). I received a total of five replies from the emails I sent. I received one reply from a YOT manager who agreed to act as a gatekeeper and provided me with the contact details of the lead RJ practitioner within the YOT. This, in turn, resulted in the successful completion of two interviews. However, the other four replies I received, from these initial emails, proved unsuccessful in terms of identifying gatekeepers.

Following this attempt to identify further gatekeepers, I arranged another meeting with the gatekeeper for YOS 1 to discuss my progress with the research project. Having explained the problems I was encountering, with regard to the low response rate to my initial emails to various YOT managers, I was advised by the gatekeeper to contact RJ practitioners directly. The gatekeeper provided me with a list of email addresses for RJ practitioners working across twenty YOTs in the North West. Upon receiving these details, I sent a total of forty emails to RJ practitioners working within these various YOTs (see appendix C). Attached to each of these emails was a gatekeeper information sheet (see appendix D). From these emails I received replies from three youth offending services declining my request for access. I received no reply for twenty-one of the emails I sent to practitioners. I received sixteen replies from practitioners who stated they would be willing to act as a gatekeeper for me to access the YOT they worked within. However, three of these replies stated that they were unable to identify any girls who had participated in a RJ conference. Four of the emails I received from practitioners did identify potential participants, however, not all of the YOTs who originally identified potential

participants for me to interview proceeded to participate in the research.

Table 1: Number of interviews conducted with girls within each participating youth offending service

Youth offending service/police network	Total number of girls interviewed with this service
Youth offending service 1	5
Youth offending service 2	3
Youth offending service 3	1
Youth offending service 4	2
Youth offending service 5	3
Police national network	1

Table 2: Number of interviews conducted with practitioners within each participating youth offending service

Youth offending service	Total Number of practitioners interviewed with this service
Youth offending service 1	4
Youth offending service 2	0
Youth offending service 3	1
Youth offending service 4	2
Youth offending service 5	2
Youth offending service 6	1
Youth offending service 7	2
Youth offending service 8	1

4.6.3 Identifying Girls to be Interviewed

Given this research was underpinned by a feminist methodology, grounded within the experiences of girls, the primary requirement for young peoples' inclusion in the study was that they were female, aged between ten and seventeen

years old and had participated in a RJ conference within an offender capacity. Given the difficulty encountered with regard to identifying girls to participate in the research, it was decided that there would be no requirement for the young person to have been formally processed through the YJS. Therefore interviews were undertaken with fifteen girls who were subject to various youth justice interventions.

In total, there were nine practitioners, within eight different YOTs and one police service, who acted as gatekeepers for the research project. Each of these practitioners were provided with gatekeeper consent and information sheets. It was the role of these gatekeepers which secured the sample of girls I interviewed for the research. A youth justice practitioner with whom they were currently or previously working with initially contacted each of the girls I interviewed. Each of these practitioners working with the young person agreed to contact them on my behalf to explain the research project and enquire if they would consent for me to contact them in order to discuss their feelings towards participating in the research. The contact details for those young people who consented to speaking with me were then provided by the YOT worker, in order for me to then make contact with them myself. This was the process I adhered to for all but four interviews. For these four interviews, I was invited to the young person's direct work session. Prior to attending the direct work session, the relevant YOT worker agreed to ascertain the young person's willingness to speak with me. Once verbal consent was obtained, I initially spoke to these girls in the presence of the YOT worker facilitating the session. This process of identifying potential participants, via gatekeepers, took place over eight months. In total, the gatekeepers identified nineteen girls, aged twelve to seventeen, who had participated in a victim-offender RJ conference and fifteen of these girls agreed to participate in the research.

4.6.4 The Sample of Girls

The table below illustrates the interviews undertaken with female participants subject to various youth justice supervision and intervention for similar and disparate offences. As the table shows, a degree of diversity was achieved within the sample, despite this not being a primary concern.

Table 3: Age of respondents by order and youth justice supervision/intervention to which they were subject:

Age in years	Referral order	Diversionary Intervention	Youth restorative disposal	Total
12	-	1	-	1
13	2	4	-	6
14	-	2	1	3
15	-	1	-	1
16	1	-	-	1
17	1	1	1	3

Four of the girls interviewed were subject to a referral order, nine were subject to a diversionary intervention and two received a youth restorative disposal. The average age of all fifteen of the girls interviewed for the study was fifteen and all were White British. Twelve of the girls lived with either one or both of their birth parents. For the three girls who did not live with their parents, one was looked after by her paternal grandparents, another was living in a mother and baby unit and one was a looked after child living with foster parents. All but two of the girls interviewed for the study were of compulsory school age. Eight of these girls were in full time, mainstream education, although one was on a reduced timetable. Four girls attended alternative education provision and one girl aged fourteen was excluded from school and in

receipt of no educational provision. Two of the girls had previously come into the remit of the YJS.

4.7 Selecting Practitioners to be interviewed

The primary inclusion criteria for selecting practitioners to be interviewed was that they had experience of observing, facilitating or supporting RJ conferencing with girls who are, or have been, subject to youth justice intervention. Generating practitioner involvement proved relatively straight forward as I had previously been in contact with all practitioners interviewed for the study when attempting to identify girls to be interviewed. Therefore, practitioners were familiar with the study and a total of thirteen out of fifteen scheduled interviews took place.

The Sample of Practitioners

Table 4 illustrates the sample of practitioners interviewed for this study. The thirteen practitioners interviewed were employed within eight different YOTs. A degree of diversity was achieved in terms of their job role and practitioners' experience of working within the YJS ranged from six months to fourteen years.

Table 4: Job role and gender of youth justice practitioners interviewed for this study:

Job role	Male	Female
Substance Misuse Worker *Previously Restorative Justice Worker	1	
Senior RJ Practitioner	1	-
Prevention and Restorative Justice Co-ordinator	1	
Victim Liaison Officer	-	2
Youth Offending and Family Intervention Worker	-	1
Restorative Justice Co-ordinator	-	1
Youth Offending Team Senior Officer	-	1
Restorative Justice and Volunteers Team Manager	1	-
Restorative Justice Victim Worker	1	2
Restorative Justice Officer	1	-
Total	6	7

4.8 Undertaking the Interviews with Girls

Despite my initial concern with regards to achieving an adequate sample size of girls to interview for the research, in July 2016 I was fortunate enough to have had interviewed fifteen girls who had participated in a RJ conference. At this point, it was decided that this sample size was sufficient to move forward with the transcription and analysis of the data. All the girls I interviewed were given a choice with regards to where they would like the interview to take place. Seven of the interviews took place in the girls' homes, three took place in the girls' school, two took place in different family centres, two took place on YOT premises and one interview took place within a private room at a mother and baby unit.

For the interviews undertaken at the young person's home, privacy proved to be a cause of concern. The majority of these interviews were interrupted at some point for various reasons due family members coming in and out of the room where the interview was taking place, telephones ringing or the young person pausing the interview to answer the door. In order to ensure the confidentiality of the interview process, my reaction to these interruptions was to pause the voice recorder until myself and the young person could continue with the interview in private. Prior to undertaking a home interview, the relevant YOT practitioners would brief me about any necessary safeguarding information, concerning the young person and their family that I should be aware of. In accordance with the youth offending service policy and the study's research protocols, approved by the LJMU Research Ethics Committee, I also adhered to the relevant lone working procedures.

All but four of the interviews were undertaken in private, between myself and the young person. However, an appropriate adult was always in the vicinity of the interview location. For the interviews undertaken in the girls' homes, a

parent or guardian was always present. For those interviews completed away from the girls' homes, the appropriate adult was either a YOT worker or a family support worker. For the four interviews which were not undertaken in private, this was purposively arranged at the girls' request. One of these young people requested their adolescent support worker to be present. Two young people requested that their mother was present during the interview and one young person requested her female friend be present during the interview. I do not feel that the presence of family members, support workers or friends impacted upon the quality or the integrity of the interview process. For two of the girls, I believe the presence of their mothers provided them with practical and emotional support, thus having a positive impact on the interview process.

Each of the girls' interviews varied with regards to the length of time it took to complete. The longest interview lasted one hour, whereas most of the interviews lasted about twenty minutes. I found that only one of the girls I interviewed was extremely shy, which I believe made the interview shorter than the others. There was also a number of distractions, which affected the length of time the interview lasted for. For example, during one of the interviews, undertaken in school, an altercation between a teacher and a pupil, taking place in the hallway outside of the interview room, disturbed the girl's concentration on the interview process. During another interview, completed in school, the young person's taxi, to take her home, arrived earlier than expected. She was alerted to this by another pupil through the window and she became quickly distracted by her desire to finish the school day. However, despite one last minute cancellation by a young person, which was quickly rearranged, I am grateful to state that all fifteen of the interviews I arranged were completed.

4.9 Undertaking the Interviews with Practitioners

I initially began interviewing practitioners for this study in July 2016. In November 2016, I had undertaken interviews with thirteen youth justice practitioners. There were however, a number of practical dilemmas experienced with regards to selecting practitioners to be interviewed. These difficulties can be contextualised in relation to the low numbers of girls who come into the remit of the youth justice service. Three practitioners I approached to be interviewed stated that they had no experience of facilitating or observing RJ conferences with young female offenders, thus preventing them from being able to participate in the research. I received one cancellation of a scheduled interview and one practitioner failed to attend a scheduled meeting.

All the interviews undertaken with practitioners took place at the YOT offices where the practitioner was based. Privacy was not an issue for these interviews as all the interviews were undertaken in either the practitioner's office or a separate interview room. On two occasions, the practitioner and I were asked to move locations due to the interview rooms being previously booked by other members of staff. In these circumstances, I simply paused the voice recorder and did not continue with the interview until another suitable space had been found.

The length of time each practitioner interview took to complete also varied from forty minutes to two hours. However, on average the length of practitioner interviews usually lasted around one hour. One of the problems encountered during the interview process with practitioners was that some of them would spend more time answering the questions at the beginning of the interview schedule and, as a result, would have to rush their responses to the questions at the end of the interview schedule. This was a difficult problem to overcome, as I did not want to rush participants' responses in any way. I

did, however, explain to practitioners at the beginning of the interview how long the interview would be likely to last so they could ensure they answered the questions in the time they had available to them. Overall, practitioners were very generous with the amount of time they dedicated to answering the interview questions.

4.10 Ethical considerations when undertaking the Research

As discussed, girls who offend are identified as a vulnerable group, by virtue of age and their prevalent experiences of neglect, trauma and victimisation (Sharpe, 2011; Batchelor, 2005). Therefore, the ethical dilemmas and considerations I faced when undertaking this research were primarily associated with researching vulnerable and marginalised young people. Issues relating to informed consent, anonymity, confidentiality and potential harm to participants underpinned these considerations (Sarantakos, 2005). The research was, therefore, undertaken in accordance with the guidelines provided by the British Society of Criminology, statement of ethics (2015). The statement asserts that 'special attention' be given to ethical considerations when participation in research 'is sought from children and young people' in order to ensure their rights are protected, 'freely informed consent' is gained and they are given adequate information concerning the research process and dissemination (ibid.: 6-8).

4.10.1 Informed Consent

Ensuring that the young people were able to freely consent to participate in the research was a pertinent issue for consideration when applying for ethical approval to undertake the research. All participants were required to give informed consent prior to any interviews taking place. For practitioners this consisted of them signing either a practitioners consent

form or a gatekeepers consent form (see appendices E and F). The girls who participated in this research were required to sign a child friendly consent form (see appendix G). The child friendly consent form explained, in meaningful terms, to the young person the purpose of the research, why they were asked to participate and explicitly stated that they were able to withdraw their consent at any point during the research process. In order to ensure that all participants were provided with the full information regarding the research, including why it was being undertaken and how it was being disseminated, each participant was also provided with an information sheet which can be found in appendices H, I, J and K.

A decision was made in the early stages of this research to not obtain parental consent for the young people who participated. The decision not to seek parental consent was based on the condition that participants were assessed by a youth offending practitioner as Gillick competent. In England, the capacity for a minor to give informed consent is judged on Gillick competency. Gillick competency is based on the assumption that a child has sufficient understanding of what is involved and can thus provide consent to opt in or opt out of research (Heath *et al.*, 2007). In circumstances where a child is classed to have Gillick competency, a parent does not have the right to override their child's wishes. In the UK, common law suggests that researchers should not be liable to legal proceedings for involving a consenting child in social research, thus it is technically lawful to allow children to choose for themselves to participate in research without first seeking parental consent (*ibid.*). A Gillick competency checklist was devised and used to assess each young person's ability to give informed consent to participate in the research (Appendix L). The checklist assessed concerns in relation to mental health and substance misuse, which would impede their ability to provide informed consent. For the young people who were not assessed as Gillick competent, parental consent was sought (Appendix M). However, it is

important to note that since the completion of the empirical study, the Association for Research Ethics has provided guidance which recommends that in addition to ensuring Gillick competence, parental consent should still be sought for children to participate in social research if they are aged between eight to twelve years old (NSPCC, 2015).

As a researcher, I felt it was important to allow young people to give consent for themselves, as this enabled the research to empower young people as active agents and decision makers in their own lives, rather than them being viewed as objects of research (Heath *et al.*, 2009). Furthermore, the research is underpinned by the voices of girls and is concerned with providing insight into their own experiences of RJ. Therefore, ensuring that the girls were actively able to participate in research concerning matters that affect them was a matter of importance. This decision is also in keeping with the United Nations Convention on the Rights of the Child 1989. Articles 12 & 13 depicts that children who are capable of forming their own views should be granted the right to express their views freely in all matters effecting them and their views be given due weight in accordance with their age and maturity (UNCRC).

4.10.2 Confidentiality and Anonymity

Given that the nature of some of the interview questions had the potential to result in participants disclosing information of a personal nature, several steps were taken to ensure confidentiality and anonymity. Firstly, as part of the informed consent process, participants were made aware that their identity and responses were to be anonymised and be kept confidential in line with the procedures outlined in all participant information sheets (Maxfield and Babbie, 2011).

All of the girls I interviewed were informed that what they said during the interview would remain confidential unless any

information they disclosed gave me reason to believe either themselves or someone else was suffering either physical, emotional or sexual harm, or either themselves or someone else was at an immediate risk of harm. Young people were informed that if any such disclosures were made I would not be able to keep this information private and I would have to inform the relevant authorities, although I confirmed that this would be discussed with the young person first (see appendix I). This issue was discussed with all gatekeepers prior to undertaking interviews and it was decided that should any such disclosures be made then the first person I would contact, in a non-emergency situation, would be the relevant YOT manager. In an emergency, it was decided that the initial action to be taken would be to contact the emergency services, followed by the relevant YOT manager.

Practitioners were also informed that the information they provided during the interview would remain confidential unless they disclosed a professional breach of conduct. In such circumstances, they were informed that this information would be shared with a senior practitioner (See appendix E and H). All participants were asked to choose a pseudonym in order to ensure anonymity. All pseudonyms have remained identifiable only to myself and the participants to which they refer. Furthermore, all interview recordings were kept in a locked cabinet, in which only I had access, and were erased following transcription of the interview (Denscombe, 2010). Given that the original copies of the participants' consent forms contained sensitive information, which could reveal their identity, these were also stored securely in a locked cabinet (Berg, 2001). All personal data I hold on participants is due to be destroyed in five years in accordance with The Data Protection Act 1998.

4.10.3 Potential Harm to Participants

All of the interviews were undertaken during office hours, therefore if any safeguarding problems did arise I was able to quickly access help or advice from the relevant professional. As the interview questions were centred upon girls' experiences of engaging in RJ, I recognised the possibility that remembering such experiences could evoke certain memories that they could find emotional or uncomfortable. Due to this concern, it was necessary to ensure that useful contact details were provided within the participant information sheet for young people to use, if they felt in need of help or support to manage such feelings, following their interview. I also provided my own email contact details on the girls' participant information sheet to ensure they would be able to contact me if they felt the need to do so.

On two occasions, I was able to support participants who became emotional during their interviews. These emotions were evoked as a result of talking about the impact of their offending behaviour on others. On each of these occasions, I was able to use my own experience as a practitioner, working with young people and managing sensitive issues, to provide support for each of these young people. In these circumstances, we took a short break from the interview and, with their consent, I also informed an appropriate adult. For one of the girls this was her teacher at school and for another this was her allocated worker at the family centre, where the interview took place. Furthermore, all participants were debriefed at the end of their interview. Special attention was paid to debriefing the two girls who became upset during their interview and I talked to them about any aspects of the research they could potentially be worried about, in order to ease any ongoing discomfort or distress (Denscombe, 2010). Although I acknowledge that stress and discomfort is a subjective experience, both of these girls verbally articulated their keenness to complete the interview and displayed no

further signs of discomfort or stress once the interviews had reconvened.

4.11 Data Analysis

Braun and Clarke (2006) identify six phases of data analysis for qualitative research. These involve: 'familiarising yourself with the data', 'generating initial codes', 'searching for themes', 'reviewing themes', 'defining and naming themes' and 'producing the report' (*ibid.*: 87). Although data analysis was not undertaken within a linear process, the phases identified by Braun and Clark provided a flexible guide for the process (*ibid.*). Interview data was analysed using an inductive approach and guided by the specific research objectives, allowing findings to emerge from the themes inherent in the data (Wincup, 2017). This analysis of interview data was undertaken using thematic analysis and memos. NVivo data coding software was utilised to facilitate this analysis (Bazeley, 2007; Boyatzis, 1998; Maxwell, 2013; Strauss, 1987).

Thematic analysis is a widely utilised method within qualitative research, used to identify themes or patterns inherent within a data set (Braun and Clark, 2006; Guest, Macqueen and Namey, 2012). The process involves 'analysing data according to commonalities, relationships and differences', across a set of data, with the aim of identifying a combination of themes within the data (Gibson and Brown, 2009: 127). There are various ways in which thematic analysis can be applied, depending upon the methodological framework being utilised, and it can be used in conjunction with a number of theoretical and epistemological approaches (Braun and Clark, 2006). Such 'theoretical freedom', according to Braun and Clark (2006: 78), ensures a flexible approach to data analysis, which provides rich, detailed and complex accounts of data. Following the completion of all interviews, the first process of analysis was the transcription of data, thus allowing me to

become familiar with the interview material (Maykut and Morehouse, 1994). The incorporation of memos as part of data analysis was utilised during the transcription of the interview material to record my own reflections and interpretations of the data, any thoughts or issues I felt needed further investigation and to identify analytical ideas arising at the time of transcription.

The use of memos for qualitative data analysis allow analytic thinking and insight to be captured (Maxwell, 2013; Saldaña, 2016). They allow the researcher to engage in depth with the data and articulate subjective perspectives with regard to the meaning the data holds. Furthermore, it enables the researcher to retain their ideas in a way that is not confined by pre-determined codes, allowing the researcher to assume a reflective position, integral to the nature of qualitative research (Birks and Chapman, 2008; Glaser, 1978). Writing memos as I was transcribing the interview material enhanced my familiarity with the data and proved helpful with regard to the development of analytical codes and themes during the later stage of the analysis process.

NVivo software was used to assist undertaking the thematic analysis of interview data. The use of such software ensures rigour in the process of data analysis and supports a range of methodological processes (Bazeley, 2007; Bazeley and Jackson, 2013). NVivo software supports the analysis of qualitative data in five principle ways: to 'manage data', to manage theoretical and conceptual ideas developed from the data, to query the data, to 'graphically model' ideas generated from the data and to 'report from the data' (Bazeley, 2007: 2-3).

Two NVivo projects were created, one for the purpose of coding and analysing the interview data provided by the young people I interviewed and another for coding and analysing practitioners' interview data. According to Saldaña (2016) the

quality of research is largely dependent on the quality of coding techniques. In the first instance, the process of coding involved categorising participants' responses and discussions in relation to each question posed in the interview schedules into *free nodes* for organisational purposes. In NVivo a 'concept or category or code' is stored as a node (Bazeley, 2007: 73). This initial coding facilitated the identification of detailed codes inherent within each data set. These codes were saved as further nodes and used to store emerging and divergent themes and issues identified through the analysis of free nodes. The detailed nodes were then explored across the data set as a whole and these nodes were then coded into theoretical themes to be discussed within data chapters five and six.

A theme captures something important within the data, which is significant to the research questions (Braun and Clark, 2006). Therefore, deciding what counts as a theme is an integral question to consider when analysing qualitative data. Given the flexibility of thematic analysis, determining themes is not confined to providing quantifiable measures of prevalence, inherent within the data, as the significance of a theme is also dependent upon its overall relevance to the research questions (*ibid.*). The construction of themes was driven by responses, which were determined as significant to the research questions and the objective to provide an accurate thematic reflection of the entire data set. For the context of this research, providing a description of the entire data set is salient, given that the empirical study was concerned with investigating an under researched topic and was presenting views from participants, whose experiences have, until now, remained marginalised (*ibid.*).

The thematic organisation of data is an issue of theoretical and conceptual concern and 'coding is a process where there are no rules only guidelines' (Henn, Weinstein and Foard, 2006: 202). NVivo software simply provides a tool that will

assist with data analysis. As a result, there is the potential that the process can become unintentionally subjective and biased (Bazeley, 2007; Boyatzis, 1998). However, given that I adopted an inductive approach to data analysis, focusing on a topic that is significantly under researched, the analysis was not driven by a pre-existing coding frame, meaning that the themes identified were developed from the data itself (Patton, 1990). Furthermore, the use of thematic analysis allows for unanticipated insights and identifications of patterns across the data set, limiting analytic preconceptions, as the process of analysis is 'data driven' (Braun and Clark, 2006: 83). Value is, therefore, ascribed to the participants' subjective understandings and interpretations of the social world (Brabeck and Brabeck, 2009).

The themes identified from the analysis of empirical data were: *shame, stigma* and *social control*. These themes were determined by the emergence of different codes during the analysis process. For example, the prevalence of negative emotions evoked within girls, during their participation in the RJ conference, was inherent within girls' interview narratives. These responses were then attributed to various codes such as shame, guilt, remorse and anger. A decision was then made with regards to which theme these codes would be further analysed within. For the girls who explicitly referred to shame during their interview, such responses were automatically coded into the theme of shame. Various different codes emerged during this process. Further examples of these codes included: gendered discourses of appropriate behaviour, nervous laughter, power and control and conflicting perspectives of RJ in practice. The different codes, which emerged during this process, were then thematically analysed and explored in relation to the themes of shame, stigma and social control. Chapters 5 and 6 illustrate the presentation of empirical data and the content of this data is presented in relation to themes that have emerged during the coding process. These themes will be discussed

and analysed in relation to the chosen theoretical framework, which aims to address the research aims and objectives outlined in this chapter.

4.12 Validity

Denscombe (2010: 143) asserts that 'claims to validity involve a demonstration that the researcher's data and his or her analysis are firmly rooted in the realms of things that are relevant'. Thus, the need for validity within social research is heavily emphasised (*ibid.*). According to Mason (2002: 39), to ensure the validity of research, the researcher needs to demonstrate that they are 'observing, identifying and measuring' what they say they are. The merits of feminist qualitative research methods, being utilised within the research, are centred upon the benefits and values of studying the lived realities of girls' experiences, and the importance of allowing them to identify matters, which are personally significant, rather than compiling statistics. This abandons the goal of generalisability as a reflection of good research in exchange for the production of rich data and an emphasis on in-depth investigation (Bryman and Burgess, 1994; Bridges and Horsfall, 2011). Securing the desired sample size of girls to participate in the research, and allowing them to share their subjectivities in relation to their experiences within the YJS, alongside adhering to a sensitive and reflexive approach to undertaking the empirical work, achieves the goal of bringing girls' experiences of RJ conferencing to the forefront of criminological enquiry, arguably providing a measurement of validity to the research findings (Sarantakos, 2005).

4.13 Conclusion

The methodological and ethical considerations central to conducting research with girls who come into the remit of the YJS have been discussed in this chapter. These

considerations have been identified and discussed in order to provide a rationale for the research methods utilised to undertake the empirical component of this research.

The discussions within each section of this chapter have been provided in order to demonstrate the empirical journey undertaken to complete this research. Personal insights and reflections have been offered in order to provide a reflexive account of the research process and document the approach taken to produce knowledge and raise new questions, rooted in issues of social justice, for girls who participate in RJ conferencing. In contrast, chapters five and six focus on the individual narratives and personal insights provided by the participants during their interviews. Drawing upon the empirical data, generated from the qualitative interviews undertaken, the following two chapters provide a critical discussion concerning the use of RJ conferencing with girls who offend.

Chapter 5

Chapter 5: Alternative Narratives to Dominant Discourses: Restorative Justice with Girls Who Offend

5.1 Introduction

''Hysterical', 'manipulative', 'dishonest' and 'untrusting'' are common descriptions, which characterise practitioners' perspectives of working with young female offenders (Alder, 2003: 121). According to existing research, girls who offend are perceived to be 'wilful', 'uncooperative' and 'lacking the required subservience or contrition' (Alder, 2003: 121, see also, Gaarder *et al.*, 2004; Gelsthorpe, 1989; Kersten, 1990; Sharpe, 2012), resulting in the understanding amongst practitioners that they 'are more difficult to work with' (Baines and Alder, 1996: 474). Yet when it comes to RJ, the 'informal strategies of mediation, family conferencing, and programmes informed by the underlying principles of shame and re-integration have been put forward as viable alternatives' to working with young female offenders (Batchelor and Burman, 2004: 281). The validity of such claims, however, remain undetermined.

Notwithstanding the establishment of an international evidence base, which supports the use of RJ interventions, it has been proposed that RJ does in fact have 'different effects on different kinds of people especially when it is delivered in different kinds of offences by different kinds of staff' (Strang and Sherman, 2015: 11). Additionally, feminist contributions to RJ literature have also challenged the use of RJ as an alternative intervention for offending girls because '. . . scant attention has been paid to gender-based variation' within RJ practice (Daly, 2008: 109).

Such lack of attention, paid to gender and RJ, is perplexing as it is now firmly established that girls who come into the remit

of the YJS experience higher levels of social exclusion, physical and sexual victimisation, poverty and mental health problems, whilst they are also subject to higher levels of social control and stigmatisation due to dominant discourses of femininity (Bateman, 2014; Masson and Osterman, 2018; Sharpe and Gelsthorpe, 2015). As such, it is now recognised that offending girls have different needs to those of boys and in order to achieve outcomes that are equal for female offenders, 'gender-informed approache[s]' are required (Ministry of Justice, 2018: 26). Despite progression in terms of gender-specific provision for girls, 'the currently expanding field of RJ has remained firmly outside of these advancements' (Masson and Osterman, 2018: 5). As a result, girls' experiences of RJ interventions have been systematically excluded from RJ discourse. Therefore, a substantial lacuna in knowledge concerning gender and RJ continues to exist.

In order to begin to bridge this gap, and generate unique discourse surrounding RJ, the following chapter presents the empirical data underpinning this research study. Concerned with providing original insight into the ways in which offending girls internalise, experience and engage in RJ conferencing, this chapter draws upon the narratives of fifteen girls and thirteen youth justice practitioners in order to construct a juxtaposing, critical, analysis of practitioners' perspectives of RJ conferencing used within the YJS and girls' subjective experiences of participating in them.

Focusing specifically on the operations, dynamics and outcomes of RJ conferencing with young female offenders, the data and analysis introduced within this chapter will be discussed in relation to the following themes: conflicting perspectives of RJ in practice, issues of power and control, the victim-offender paradox and the silencing of girls' subjectivities. The findings presented draw attention to how the girls demonstrated resistance and acted with autonomy in

relation to the formation of their own subjectivities. This analysis forms the basis in which to consider how the key findings, produced from the empirical data collection, provide alternative narratives to dominant discourses, concerning the application of RJ policy and practice to offending girls.

5.2 Rhetoric versus Reality: Juxtaposing Girls' and Practitioners' Perspectives and Experiences of Restorative Justice Conferencing

> I live and breathe restorative justice, so the positive elements are fantastic to me . . . I see victims healed and young people making amends. (Lynn, Restorative Justice Victim Worker)

> It was negative. The whole thing was negative. We were constantly reminded what we done and how wrong it was and fair enough that's what the point of the meeting was but it was the way they said it, it was horrible. Just the way they spoke to us and the way they looked at us, it was pathetic. (Sarah, 17).

The quotes above articulate one of the key themes inherent within the empirical data collected during the course of this research study. These quotes conceptualise the contention between girls' experiences and practitioners' perspectives of RJ conferencing in practice. The stark contrast concerning perceptions of RJ, reflected in these quotes, not only mirror the divergent discourses encompassing RJ policy and practices, effectuated within the youth justice service in England and Wales, but they also provide an original insight into the ways in which the ideals and reality of RJ fundamentally conflict.

Since the introduction of RJ within England and Wales, a significant amount of empirical research and corresponding literature, critiquing and advocating the contemporary manifestations of RJ policy and practice within the YJS, has been established (see Chapter three). For example, within criminological research, the use of RJ practices with young

offenders has been rigorously debated in relation to issues of net-widening, responsibilisation, risk governance and the impact of early interventionism (Ashworth, 2013; Crawford, 2003: 2009: 2015; Gray, 2005; Johnstone, 2011; Kemshall, 2002: 2008; Levrant *et al.*, 1999; O'Malley, 2009; Polk, 1994).

On the other hand, a body of knowledge and an evidence base, emerging from empirical research, which supports the use of RJ with those who offend has also been established. The construction of RJ as an alternative paradigm of justice, which restricts punitive state intervention and enhances restitution, has contributed to the widespread support RJ has gained in recent decades. Notions of 'inclusivity, reparation, resolution and, ultimately, healing and satisfactory closure' have become attached to RJ policy and practice (Cunneen and Goldson, 2015: 139). Such concepts and ideas now frequently appear in governmental and third sector discourse relating to RJ practices. Whilst claims of procedural justice, victim satisfaction and recidivism are now routinely drawn upon to illustrate the effectiveness of RJ and its potential for transforming the delivery of criminal justice (*ibid.*).

Reflecting such conflicting discourse, the empirical data collected during the interviews with both the girls and practitioners was often distinguished between predominantly positive attitudes towards RJ conferencing, on behalf of practitioners, and comparatively antipathetic attitudes expressed by the girls. All practitioners interviewed supported the use of RJ conferencing as a youth justice intervention for young people who offend. By contrast, the girls' subjectivities, relating to their experiences of participating in a RJ conference, did not support the enthusiasm for RJ expressed by practitioners. Five key themes were identified within the empirical data, genderated from the girls interviews, which contextualise and support this distinction:

1. A number of the girls internalised the RJ conference as a negative experience.

2. They were not given the opportunity to share their own narrative with regards to the offence.
3. They did not understand the process.
4. They felt victimised by the process.
5. They were unable or unwilling to make amends with the victim.

Drawing upon these themes, this chapter will now focus on providing a comparative analysis between practitioners' perspectives of RJ conferencing used with young female offenders and the subjective experiences of girls who have participated in the conferencing process. The aim, as discussed, is to juxtapose the two contrasting viewpoints in order to provide an alternative view of RJ conferencing, informed by the voices of girls whose narratives have remained marginalised within the context of RJ discourse.

5.3 Restorative Justice Conferencing in Practice: Antithetical Narratives and Alternative Discourse

As revealed at the beginning of this chapter, a salient finding, which illustrates the fundamental distinction between practitioners' perspectives and girls' experiences of RJ conferencing, is the contradictory viewpoints concerning the nature of RJ conferencing used within the youth justice service. The findings, from the interviews undertaken with the girls, indicated that they did not value RJ conferencing to the same extent as the practitioners interviewed. In fact, a number of the girls implied that their participation in the conference was a negative experience, which they associated with negative emotions.

> [*Interviewer: Did you find it a positive or a negative experience?*] Really, really negative. She [facilitator] brought my whole history up with the police and I felt really ashamed because that was private. (Sam, 14)

> It wasn't a positive meeting but I would rather go to a meeting like that and feel like I have had all my human rights broken than go to court . . .

> Basically she got free flowers and free chocolates and she got to say what she wanted to say and then it was over . . . it wasn't a positive meeting . . . I didn't find it helpful but it was definitely eye-opening . . . The way that they arranged it. It was just a circle, there was no table in the middle of us or anything there was just a circle and chairs . . . A table breaks the heat really because I could have said something she didn't like and she flies across the room. At least there would be a table to like block it and give me space to like protect myself. (Jenny, 14)

> I don't know . . . a bit [negative] because it made me feel uncomfortable . . . Just talking about it . . . going over it again . . . it just made me feel sad . . . it was just like them against me.

All practitioners interviewed were advocates of RJ and displayed enthusiasm towards RJ interventions used with young people in the youth justice service and their local YOT.

> I don't think it can ever have a negative effect. (Debbie, Victim Liaison Officer)

> I think it's good . . . I think it works . . . I haven't come across any negatives currently . . . I have never known it to become negative. (Scott, Substance Misuse Worker *Previously Restorative Justice Worker)

> I love RJ, the positives for me are that it really helps young people and it helps victims. (Shelly, Victim Liaison Officer)

Such positive regard for RJ practice contributes to a wider consensus inherent within RJ discourse which presents it as an 'unequivocally positive [and] progressive mechanism for facilitating inclusivity, reparation [and] resolution' (Cunneen and Goldson, 2015: 139), which is suitable to be used with young people at any stage of the YJS (Haines and Case, 2015). However, a consistent theme, which also emerged within the empirical data, was that practitioner's colleagues, who were not responsible for delivering RJ interventions, did not share such avid commitment to RJ practice held by the practitioners interviewed. Practitioners revealed that YOT

case managers were often reluctant for the young people they were working with to participate in RJ conferencing.

> It's a difficulty getting our people that work with young people to come on board because they will say things like 'he's not ready yet, this has happened or his mums thrown him out'. (Debbie, Victim Liaison Officer)

> I think case managers tend to try and protect young people from restorative practice. . . (Marie, Senior Practitioner)

> The case manager's shutters come down and they say this girl is too complex or too vulnerable or too damaged to get involved in RJ. . . Female case managers I think have a tendency to want to protect their client from the RJ process and to work with them in more of a vacuum really. (Stan, Youth Offending Team Senior Officer)

Practitioners' conceptualised this reluctance as a lack of understanding of RJ and the potential benefits it can have for young people who participate. Whilst the antithetical relationship between girls' negative experiences, and practitioners' positive perspectives, of RJ conferencing represent the dominant viewpoint with regards to the empirical findings, practitioners also discussed certain negative elements of contemporary RJ practices used with young people who offend.

> It is very variable delivery across the 156 youth offending teams, very variable in relation to resources. I think some services have bureaucratised their restorative interventions . . . there are too few managers other than recognising the term, that fully understand it. (Jim, Prevention and Restorative Justice Co-ordinator)

Discontent was expressed by one practitioner who suggested that the RJC fails to adequately consider risk factors within restorative practice. This was because the RJC's training and guidance only refers to high risk cases, such as domestic violence and sex offences, as complex cases. Thus, it was perceived that the risk posed by an offender was not

adequately considered within cases deemed by the RJC as 'complex'. It was felt that RJ practices delivered within the context of such training and guidance, outside of a multiagency organisation, in which practitioners do not have access to police intelligence, could lead to implications for both the victim and facilitator.

> RJ is just one tool in the box. I get quite frustrated with the restorative justice council and some of the training they are putting out there because they refer to things like complex cases, whereas we might refer to them as high-risk cases but risk seems to be left standing at the door with RJ. (Stan, Youth Offending Team Senior Officer)

Additionally, some of the girls interviewed, stated that they felt certain components of the conference were positive.

> Positive . . . because i could forget about it really and not have it play on my mind. [*Interviewer: Did it stop playing on your mind?*] No . . . it stopped after like a few weeks on end. (Jade,14)

The findings presented thus far reveal that the majority viewpoint, from the sample of practitioners, situate RJ interventions as beneficial for all stakeholders. Such findings support the existing discourse, which advocates the use of RJ with young people who offend on the basis that such interventions enhance victim satisfaction and reduce re-offending (Strang and Sherman, 2015). The findings generated from the girls' interviews however, do not provide support for the existing literature whilst also providing insubstantial support for practitioners' advocacy of RJ.

5.4 Silencing Subjectivities: Examining Girls' Experiences of Restorative Justice

As discussed, at the beginning of this chapter, all practitioners expressed positive attitudes towards RJ practices used within their YOT. Practitioners identified RJ conferencing as the most effective restorative intervention to use with young

people and regarded it as a powerful intervention, which delivers successful outcomes for both victims and offenders. Such successful outcomes were conceptualised by practitioners as enabling young people to be held accountable for their offending, in a neutral environment, which allows victims closure and young people an opportunity to repair the relationships with those harmed as a consequence of their offence.

> I think it is vital to use restorative justice. I am a big believer in restorative justice. . . It gives the young person the opportunity to be forgiven and not persecuted . . . It's a fresh start, it's an opportunity. (Lynn, Restorative Justice Victim Worker)

However, practitioners' positive conceptualisation of RJ conferencing was not exclusively shared by the girls interviewed. For example, the majority of the girls interviewed perceived their participation in the RJ conference as a punishment.

> I dunno (*sic)* really it wasn't a punishment but at the same time it was because they like made us feel guilty but like the guilty that we deserved, if you get what I mean? (Jenny, 14)

> [*Interviewer: So seeing her [victim] was a punishment?*] Yeah . . . Because I nearly killed her, so I don't really want to see her . . . what we did was wrong wasn't it? But I don't know, it was a punishment like they treated us like we wanted to do it, but that wasn't the outcome for that to happen. (Sarah, 17)

> [*Interviewer: Why did you see it as a punishment?*] Because we had done something bad, which we shouldn't have done. (Amy, 12)

> [*Interviewer: Why did you see it as a punishment?*] Because like you had to face the person that you did it to. (Jade, 14)

The girls' subjective insights concerning narratives of punishment were not reflected in the interview data

provided by practitioners. This is because practitioners did not regard RJ conferencing as a model of punitive restitution and instead regarded it as a victim-led process, which repairs the harm caused by offending behaviour, a perspective that resonates with the proponent literature on RJ (see for example, Braithwaite, 1989; Barnett, 1977; Galaway and Hudson, 1996; Zehr, 1990).

> It [restorative justice] gives you that option to feel good . . . to put things right . . . To repair what you have done so it isn't hanging over you for the rest of your life. (Debbie, Victim Liaison Officer)

> It is always for the benefit of the victim, we always do it like that, so not for the benefit of the offender it's always for the benefit of the victim. That is what all the RJ emphasis is on, for the benefit of the victim. (David, Restorative Justice Officer)

Upon analysis of data, it becomes apparent that the positive regard for RJ, shared amongst practitioners, is partly attributed to the opportunity RJ conferencing provides to victims and offenders to share their own subjective accounts of offending behaviour and victimisation.

> It [restorative justice] gives you the opportunity to say 'yeah I did it and I am really sorry' . . . (Debbie, Victim Liaison Officer)

> I have had victims who have come out of there feeling like they have had a voice and it has made a massive impact on them. (Gary, Restorative Justice Victim Worker)

The importance of participation amongst all parties in RJ conferencing is emhasised throughout existing literature (O'Mahoney and Doak, 2017). It is argued that RJ processess should 'seek to maximise a sense of agency through the active participation and involvement of offenders in the decision making process' (*ibid.*: 93). All practitioners contextualised RJ conferencing as a conflict resolution

practice in which victims and offenders are afforded a participatory role. However, this opportunity to share their own narratives was not provided for a number of the girls interviewed.

> I found it absolutely useless because we didn't get our point across, we were targeted all the way through it . . . If I probably had to do one again, I wouldn't. I would choose court because you get your point across in court, it is fairer in court . . . You actually get listened to . . . It's funny because they didn't listen to me. They didn't listen to what I had to say. . . we were there to say sorry and explain our side of the story. . . she [victim] didn't even listen to our events, she just went straight in there and every single one of them had a go at us. (Sarah, 17)
>
> They was all pointing the finger at me. Like they were saying you shouldn't have hit her and all that . . . but she is the one who touched me first and I don't like getting touched. . . I found it bad because they was all pointing it at me. . . I didn't really get my point across though because I couldn't look at her. (Becky, 14)
>
> I just switched off. I never even said anything I just had to agree with everything they said. (Naomi, 13)

These responses do not depict RJ conferencing as an arena in which girls can share their narratives with regard to their offending behaviour but rather as an experience, which silences their subjectivities. As such, the quotes above reject practitioners' conceptualisation of RJ conferencing as a process that provides all participants with the opportunity to share their own subjectivities and instead articulates alternative narratives, which illustrates the marginalisation of girls' experiences.

5.5 Restorative Justice with Girls: Practitioners' Perspectives on Suitability and Outcomes

It was unanimously, felt by practitioners, that RJ conferencing is a suitable intervention for use with young female offenders. Practitioners' felt that as long as the relevant assessments were undertaken, then there would be no barriers to their participation.

> Again, it's about the young people that are coming through, in the main an adversarial system, which has developed a legal construct to their offence, which we are trying to break down, that it is not about the legal construct, it is about human stories and the effect on victims. So I don't think that should be tampered with in any way when it comes to gender. (Stan, Youth Offending Team Senior Officer)

Practitioners did however identify gendered differences between boys' and girls' experiences of RJ conferencing. Practitioners' perceived girls to have a heightened emotional response to RJ conferencing which they felt attributed to their differential experiences in comparison to boys. It was felt that girls are more empathetic than boys are and are better able to articulate and express their emotions.

> I think girls have been more kind of fearful, a bit more fearful and apprehensive. So kind of emotional, very tearful, more so with girls than it would be with the lads. So more emotions, whereas the lads might kind of clam up and it is more taken for, you know, they might just think they are cocky and don't care really but with the females they show more emotions. So more tearful and things like that. They kind of find it more upsetting in that aspect you know. (David, Restorative Justice Officer)

> I think generally there is more emotion and there is more preparation for girls. They go on a bigger journey I think. (Lynn, Restorative Justice Victim Worker)

> On the whole they are more emotional so you will get tears whereas boys not so much. In terms of expressing guilt and remorse you will get more emotions. (Shelly, Victim Liaison Officer)

> I think girls probably see it differently. I think girls have a better understanding of empathy, they are

much more emotionally in tuned with themselves, definitely. So they are much more empathetic in conferences. (Gary, Restorative Justice Victim Worker)

Practitioners felt that the gendered differences in terms of the emotional responses evoked within girls, during the conferencing process, resulted in better outcomes for girls.

If we tell a young woman perpetrator that the victim of her offence doesn't go out the house any more, they have stopped going to school, is drug taking, has lost a lot of confidence, is scared for her life, you know mentally or physically, you do get female offenders feel regret for that. They wanted to take part in the attack, they were angry, they were happy about the violence at the time they just didn't want to leave lasting damage. Then they might put all these different things in about 'she had been sleeping with my fella' or whatever, you know. If you tell them that by coming to this conference we are hoping to get this girl to start going out the house again and going into town, they readily, I find, engage in that more so than boys. They want to help achieve that outcome. (Stan, Youth Offending Team Senior Officer)

I think girls have different outcomes because they are showing more emotion than lads. When I have done conferencing with a boy they have had reparation as an outcome, whereas girls have sort of had an emotional outcome. It has been more of a 'I am saying sorry' kind of thing not 'I am going to pay back for what I have done', so I think so, yeah. (Rebecca: Restorative Justice Victim Worker)

The data arguably reveals how practitioners consistently conceptualised girls' moral reasoning as being situated within a feminine 'ethic of care' (Gilligan, 1981: 74). Practitioners suggested that such differences in girls' moral reasoning positioned them as more responsive within RJ conferencing due to having heightened emotional and social capacities and increased levels of empathy compared to boys.

I think that girls generally understand and get it and value it, they embrace the emotional side of it. (Lynn, Restorative Justice Victim Worker)

Generally, I think young women are probably more ready to right a wrong using a restorative approach than males are because, even aligned to the peculiarities of the individual, generally speaking, they are more conciliatory. Whereas boys are confrontational, girls have a better understanding and more maturity generally for their age. (Jim, Prevention and Restorative Justice Co-ordinator)

Maybe the more physical emotions side may lead the victims to think they are more remorseful, than perhaps what a male would be. There is an old saying that if you go into a RJ conference and the offender starts getting upset and crying its job done. So on the female aspect of them getting more emotional and them seeing that kind of display of emotions may make the conference run a lot more smoothly because we have already had an admission of 'I'm sorry, I feel guilty, I feel awful'. You know they are sitting there crying, that may be kind of an aspect of it. (David, Restorative Justice Officer)

I think girls see it differently, I think girls have got a better understanding of empathy. (Rebecca: Restorative Justice Victim Worker)

I think they [girls] are more emotionally in tuned with themselves definitely, so therefore that would make them more empathetic in a conference I think yeah. (Gary, Restorative Justice Victim Worker)

The responses by practitioners, which situate young female offenders as more receptive to RJ conferencing reveals a tendency for deterministic thinking, with regards to female pathology, informed by the social construction of femininity (Carlen and Worrall, 1987). What these responses neglect to consider is how girls' own subjectivity may challenge these constructions and how such autonomy may be demonstrated in relation to their subjective accounts concerning their participation in the RJ conference. However, due to the marginalisation of girls' experiences from RJ discourse, practitioners' perspectives, which appear to be shaped by

discourses of femininity and stereotypical assumptions concerning male and female dichotomies of moral reasoning, have not been empirically challenged. The data provided by the girls interviewed for this study, therefore, presents original, alternative narratives, which arguably oppose the conception of them as receptive and empathetic participants of RJ conferencing.

Firstly, a number of the girls expressed a position of antipathy as opposed to empathy towards the victim, whilst four of the girls were not remorseful for their behaviour due to them having conflicting accounts of the circumstances surrounding the offence.

> [*Interviewer: How did it make you feel seeing the bruise the teacher showed you?*] Nothing I was trying to keep me from laughing . . . because I couldn't stand her. I hated her. [*Interviewer: How did it feel saying sorry to someone you didn't like?*] Annoying. (Becky, 14)

> [*Interviewer: Did you say sorry?*] No . . . Because she was speaking about my little cousin's grave . . . I don't like her.

> I just put my head down and everyone sat there waiting for me to say sorry . . . she [facilitator] just kept saying 'when you are hungry you eat' . . . She said it 6, 7, 8, times . . . It took like ten minutes and I just said sorry and they made me say sorry to everyone. She hit me first, she shouldn't have got involved in that fight, but I had to say sorry to her and everyone else, even though I didn't even start it, she did. (Chloe, 14)

> No it was like she was just there for like 'oh poor me' she wasn't bothered about saying sorry or whatever just like 'oh poor me'. I hope she chokes on the chocolates. (Jenny, 14)

> In the middle that was when they said they were threatening [*sic*] for their lives and that's when I got dead angry. I was then, I was like fuming and I was about to like stand up and proper fume. That's what I felt like doing but I didn't I just held it back and then yeah. (Jade, 14)

In addition, a number of the girls stated that they felt their participation in the conference was necessary in order to avoid receiving a formal court order.

> Basically the restorative justice meeting was so we didn't end up going to court and getting it on our record. That was supposed to be the other way. (Sarah, 17)

> He [police officer] just said if I didn't do it [RJ conference] it could lead to more serious things. (Jemma, 14)

> [*Interviewer: Did you feel like you had any choice to go?*] No because they said if we didn't go to this meeting then we would be sent to court. (Jenny, 14)

A number of the girls interviewed, however, did state that the reason for their participation in the RJ conference was to apologise to the victim(s) of their offence and they contextualised their apologies as necessary to change negative opinions of them. They *did not*, however, contextualise their participation in the conference, exclusively or predominantly, as a means to repair harm caused to the victim. Instead, they viewed their participation as an opportunity to share their own accounts of the offence and manage the negative perceptions associated with their identity. Such responses dispel the assumptions made by practitioners, which suggest girls may be more receptive to RJ. This is further highlighted by the continuing existence of inter-personal tensions between victims and offenders, which were not reconciled during the RJ conference.

Comparing such findings with the views of victims, who participated in the national evaluation of referral orders and youth offending panels (YOPs), also highlights a clear distinction between the motivating factors for participating in restorative interventions. The evaluation found that most victims who attended a YOP and met with the perpetrator were motivated to do so 'to ensure the penalty was

appropriate for the offence . . . that they would be repaid for the loss/harm that they had experienced [and because] they felt they should attend' (Crawford and Newburn, 2003: 200). The findings presented above generate important policy implications for RJ, specifically in relation to 'awareness and understanding' of RJ practices used within the CJS and the delivery of 'good quality' RJ practice (Ministry of Justice, 2017: 3). All of which constitute the key areas of focus within the government's current action plan (*ibid.*)

5.6 Restorative Justice: Distinguishing Between Gender-Specific and Genderless Outcomes

Despite explicitly identifying gender-specific differences with regards to their experiences of facilitating, observing or supporting girls who participate in RJ conferences, practitioners were reluctant to identify any gender-specific outcomes in RJ conferencing. The majority of practitioners maintained that girls' experiences of participating in RJ conferencing would largely remain the same as their male counterparts. However, it was acknowledged that any gendered differences are difficult to assess due to the small number of girls who participate in comparison to boys.

> No, I think they both go well really, I wouldn't say the female one goes any particularly better than male ones really. Even though obviously we have had so many more male than female ones. (David, Restorative Justice Officer)

> I don't think it should be but it is difficult to know for sure. I think the process actually leads to similar outcomes for either so. (Marie, Senior Practitioner)

Certain practitioners explicitly stated that gender plays no role in a restorative process. Practitioners often defended their position by referring to RJ conferencing as a process that is dependent on 'individual' outcomes and experiences. Practitioners generally expressed that each young person

who participates in the conferencing process is regarded as an individual, and to differentiate between genders, would not be effective in determining individual experiences.

> No I don't, it's the same process. They go through the same things and it's the same process. Some boys are willing, some boys are scared. Some girls are willing, some girls are scared . . . I would say we need to be very good at meeting the needs of each individual person no matter what their gender . . . Personally I think we do because we treat each person as an individual and that probably doesn't happen in the wider world . . . (Debbie, Victim Liaison Officer)

> I don't think gender has a place really when it comes to it. The outcomes are not really gender related, you know it's not really a focus on gender. Restorative justice I would say, is quite genderless, in terms of that. I have had boys cry at conferences and I have had girls cry at conferences. (Scott, Substance Misuse Worker)

> I don't think they do no because it is quite a specific process . . . and we treat everyone the same. (Rebecca: Restorative Justice Victim Worker)

> My immediate response would be no I don't think there would be any difference in how they experience conferences . . . I think that's going to be more individualistic than gender-specific to be honest. (Graham, Restorative Justice and Volunteers Team Manager)

> I judge every individual on its merit basically. (Stan, Youth Offending Team Senior Officer)

> I think as a practitioner, for every RJ conference, it is down to the individual as to what they take away from it, so I don't think it is gender based. (Shelly, Victim Liaison Officer).

What is important about these responses is what they fail to acknowledge. Practitioners fail to identify or place any emphasis in terms of proportionality with regards to the formative experiences and distinctive backgrounds, which characterise girls' involvement in the YJS. For example, it is established that girls who come into the remit of the YJS experience higher levels of victimisation, poverty and neglect

compared to male counterparts. All of which are regarded as contributory factors, which differentiate their formative experiences from young males (Chesney-Lind, 1997; Sharpe, 2011; Sharpe and Gelsthorpe, 2015). Drawing upon such insights it is, therefore, apparent that there needs to be acknowledgment of the ways in which such experiences exacerbate the gendered mechanisms of social control girls are already subject to, by virtue of being female, whilst also representing barriers to responding effectively to girls who offend, through RJ interventions.

5.7 Justifying the Need for Gender Sensitive Approaches to Restorative Justice

As discussed, at the beginning of this chapter, practitioners did acknowledge that girls' offending pathways and the context of their offending differ to their male counterparts. Despite such recognition, a number of practitioners continued to emphasise the neutrality of RJ conferencing due to its focus on offending behaviour alone. Practitioners, however, did identify that the YOTs they worked within held an all-round awareness of girls' individual needs and delivered gender-specific interventions to address these needs. Such gender-specific provision for girls included female only intervention groups and same-sex worker allocation protocol.

However, there appeared to be a consensus amongst practitioners that the need to incorporate gender-specific provision into the delivery of RJ interventions was not prioritised in the same way. The omission of gender-specific guidance with regards to facilitating RJ conferencing, for girls participating within an offender capacity, was acknowledged by practitioners and it was revealed they were instead using their own best practice initiatives in order to meet the individual, as opposed to gender-specific, needs of each young person participating.

Practitioners felt that alongside the neutrality of RJ conferencing the gender-specific needs of girls would be determined by the assessments undertaken prior to the conference and addressed during the planning and preparation stage for the conference. It was also felt that the assessments used by practitioners in preparation for conferences, which identified complex and high-risk cases, were sufficient in determining if a young person is suitable to participate in a RJ conference regardless of their gender.

> As I said the preparation is key and you know we do use assessments which are based around sensitive and complex assessment of appropriate bits of restorative justice. So we use a number of different assessment tools in order to gain the attitude and the willingness and the appropriateness of these people coming together. We don't want to re-victimise any victims, we don't want to traumatise any young people. (Graham, Restorative Justice and Volunteers Team Manager)

It was felt that equality and diversity training alongside best practice guidelines for supervising complex, high risk cases addressed the gender-sensitive needs of both young males and females. Furthermore, it was discussed how RJ practitioners are trained by RJ service providers, such as the International Institute for Restorative Practices (IIRP), and all practitioners have undertaken AIM training which is an assessment procedure designed to be used with young people who display sexually harmful behaviour. It was suggested that such training provides practitioners with the skills to undertake risk assessments for RJ conferencing and identify any relevant, gender-specific, issues which raise concerns.

> The training and guidance that they (RJC) provide it is genderless. Therefore, it is important that we access any training about sensitive and complex assessments that we can, and some of our staff have, used AIM training to, you know, look at how

any comparisons between doing assessments for particularly sexually harmful behaviour and domestic abuse cross over into preparation for restorative justice conferences. So you know making sure that we treat the majority of our restorative justice conferences as sensitive and complex as opposed to not. (Graham, Restorative Justice and Volunteers Team Manager)

Despite there being no gender-specific guidance for practitioners delivering RJ interventions to girls, alongside the empirical data stating that gender is considered only in the context of managing complex or high risk cases, five practitioners stated that they felt gender was not an issue which has been neglected in RJ policy and practice.

> With regards to the restorative justice council, I think their defence would be. . . that all staff are trained properly. You have a choice of a male or female facilitator and if the facilitator uses the script properly, then it should all go well . . . I think it is not about gender in isolation, it needs to look at diversity as a whole and we need to accept that sometimes restorative justice just isn't the answer. (Stan, Youth Offending Team Senior Officer)

> No I don't think it is neglected because it is a fair process. So no, I don't think so. (Gary, Restorative Justice Victim Worker)

Six practitioners stated that they felt gender was an issue which has been neglected in RJ policy and practice, and two practitioners refrained from giving a direct answer to the question.

> Yeah I think perhaps, maybe, because when you are looking at offenders you probably think working with males, that is just the way it is. . . So I suppose the focus on getting RJ out there may be more leaning towards focusing RJ to male offenders rather than female offenders. (David, Restorative Justice Officer)

> There is a gap there that needs to be addressed, I think, because as a practitioner if they did do that I would feel more confident in delivering what I do, instead of just using my own initiative because some practitioners will, some wont and pretty much some practitioners will just tick the boxes

> but if those boxes aren't there, then they are not going to get ticked. (Shelly, Victim Liaison Officer)

> I wonder whether it could, yes, because by definition offender case holders get far more experience of males than they do of females, that's because of the numbers. Are they cognisance enough or skilled enough in gender issues? Probably not. Suppose I would have to say that probably, gender has not been looked at properly either but I think it is probably one of a whole range of things that has not been properly looked at. (Jim, Prevention and Restorative Justice Co-ordinator)

Ten practitioners out of thirteen identified that there is a need for gender sensitive approaches to RJ practices used with girls who offend. Although not all ten of these practitioners felt gender was an issue, which has been neglected in RJ policy and practice. Practitioners contended that due to there being a need for gender sensitive approaches in other youth justice interventions, RJ should be no different.

> Yes I do because I think there is a need for gender sensitive approaches across all our interventions, so therefore I am not going to say no for restorative justice. (Graham, Restorative Justice Co-ordinator)

> I think there is a need for gender sensitive approaches in all facets of the criminal justice system and the YJB have told us that. They have told us to do that. (Stan, Youth Offending Team Senior Officer)

> Clearly there are because I think of the possible victimisation issues that might be there. . . We know from the adult prison populations actually that most girls who enter the criminal justice system, there are other predisposing factors other than just taking risks. (Jim, Prevention and Restorative Justice Co-ordinator)

Three practitioners stated that they did not feel there is a need for gender sensitive approaches to RJ practices, used within the youth justice service.

> No not really no. . . . I don't think they need to start adjusting or doing anything like that. . . (David, Restorative Justice Officer)

> Personally I think we treat each person as an individual. . . I would like to think we treat girls like girls and boys like boys and that's appropriate. (Debbie, Victim Liaison Officer)

> No I don't, I think generally it is like I say, it is kind of a genderless issue really. (Scott, Substance Misuse Worker)

All practitioners stated that there are gender-specific differences in terms of girls' offending behaviour. Furthermore, practitioners clearly expressed an acknowledgement that girls, prior to their offending, often experience higher levels of trauma and victimisation and their offending behaviour is subject to scrutiny and regulation due to gendered discourses of appropriate behaviour, which identify their offending behaviour as incompatible with 'acceptable' forms of femininity. However, these observations did not appear to be integral to practitioners' perspectives concerning the need for gender sensitive approaches to RJ conferencing. The social construction of gender is implicated within the shared experiences of girls. A reluctance to acknowledge how these constructions may be implicated within RJ conferencing, represents a reluctance to acknowledge gender as a complex, social and cultural product, which detrimentally shapes the experiences of girls and in turn subjects them to gender-blind or gender-neutral restorative interventions, which assume the processes and outcomes will be the same for both males and females. This reluctance to acknowledge the presence of gender in RJ conferencing is further illustrated by practitioners' perceptions concerning the potential for girls to experience unequal power and control dynamics during the conferencing process.

5.8 Issues of 'Power' and 'Control'

> There are a whole range of issues to consider for girls aren't there? The gender of the victim, the gender of the facilitator and co-facilitator. If you

> don't consider those things then there is a risk of it being unbalanced and disadvantaging the female who has offended. I think definitely and if particularly they have had negative and or abusive experiences of male power and they find themselves in a room full of males that is not helpful. Is this taken consideration of generally and widely enough? I suspect not actually. If there are gender issues, gender imbalance, previous experience, that has to be considered, otherwise whilst it might still work it won't work as well as it could have done, I think is the truth. (Jim, Prevention and Restorative Justice Co-ordinator)

The ways in which power functions as a mechanism of social control and shapes gender subjectivity is integral to understanding girls' experiences of power and control dynamics operating within RJ conferences. It was acknowledged by certain practitioners that professionals delivering RJ interventions should take cognisance of issues surrounding vulnerability, self-esteem and emotional difficulties, with regards to the impact such issues may have in relation to girls' experiences of power and control dynamics, within a RJ conference. Practitioners suggested that attention should also be given to the gender of the victim, the gender of the facilitator and girls' previous experiences in order to ensure they are not disadvantaged during the RJ conferencing process.

Predominantly, however, practitioners expressed that the potential for unequal power and control dynamics to be present during the conference was minimal as RJ conferencing follows a specific script, which secures the neutrality of the conferencing process by ensuring the focus is solely on the young person's offending behaviour.

> I stress all the time, I say we are not there to discuss the person we are there to discuss that behaviour that day and the harm that is caused and who has been affected. If you stick to that you can't go far wrong. (Joanne, Restorative Justice Victim Worker)

Practitioners regarded the opportunity for unequal power and control dynamics to be present, during a RJ conference, would only arise if the conference facilitator deviated from the script or failed to undertake the appropriate assessments of the victim and the offender prior to the conference.

Practitioners continually referred to the neutrality of RJ conferencing to elucidate the extent to which gender, as a variable, does not need to be considered within the dynamics of the conferencing process.

> If the facilitator uses the script properly, then it should all go well. (Stan, Youth Offending Team Senior Officer)

> One party shouldn't have more control than the other, there should absolutely be a balance because I mean we use the . . . restorative practices script in the conferences that we do. (Graham, Restorative Justice and Volunteers Team Manager)

> The script gives everybody an equal chance to have their say. (Gary, Restorative Justice Victim Worker)

> The process still goes exactly the same as it would with a male or female regardless. (David, Restorative Justice Officer)

> The script alleviates that power struggle. (Scott, Substance Misuse Worker)

> Girls may experience power and control differently but in the way that women and girls control situations in different ways. Girls can be more manipulative in how they control these situations than boys. (Marie, Senior Practitioner)

Predominantly the claims by practitioners, which conceptualise RJ conferencing as a neutral process, fail to acknowledge the extent to which girls' identities and subjectivities are formed through social norms and interactions, confined by gendered scripts. However, the girls' narratives provide insights into their own experiences of power and control, which challenges practitioners' accounts

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specifically, in relation to the neutrality of RJ secured through the adherence to a specific script.

> I felt proper frustrated because I wanted to say something but it wasn't my turn to say something and I wasn't allowed to butt in and other people were butting in but if I had done that, I would have just been told to shut up so . . . We had to sit there and explain our side of the story as well as getting looks off all of her family and it was intimidating because the way they sat the seats, it was me and Sarah were here, her family were there and the rest of them were there, and the life guard and the rest of them were there, so we were physically facing each other. [*Interviewer: If you had more control . . . do you think you would have got more of a chance to say what you wanted to say?*] Yeah I reckon I would have participated a bit more, do you know. Took more notice of what was going on and like I said, I don't know because if they had given me that like chance . . . I could have went 'excuse my nervous laugh, I don't mean it' but it was the fact I was never allowed . . . Tim [facilitator] knew that I had a nervous laugh but he told me that I wasn't allowed to laugh or smile but he could have easily went in and explained it for me, so I didn't feel more on edge when I had to put my head down and my thumb in my mouth to stop me from laughing. (Jenny, 14)

> It was like funny in a way because we were there to say sorry and to explain our side of the story and to actually get across what we did wasn't our intention to do but it was funny for the simple fact they was speaking down to us and we were the ones there saying sorry, do you get what I mean? And she didn't even listen to our events first, she just went straight in there and every single one of them had a go at us. They targeted us basically, like all of them sat back and let it happen and every time we tried to explain our version of events she was allowed to butt in but when she was speaking we was not allowed to butt in . . . I reckon her and her family, in the whole of that room, her and her family had the most power. . . Basically if we were back in Tudor times we would be poor and they would be first class . . . Yeah they were first class, we were the poor, we were third class, they were first. (Sarah, 17)

Furthermore, a number of the girls stated that their offence was not the only focus of the RJ conference.

It felt like they were attacking me personally, not only for what I had done but personally they were attacking me. (Jenny, 14)

It was boring, they were going on about stuff in my past and all that. That wasn't the point to do that. They were meant to be talking about me and Faye and they were talking about all this other stuff. It made me angry. (Kim, 14)

She [facilitator] brought my whole history up with the police . . . she told the school I was in a cell overnight. I didn't want anybody knowing about it. I didn't really want the staff to know about it. . . (Becky, 14)

The reason why I hate the police, all my child life until I was 7, my dad was in prison ok and like he was in and out, in and out, and every time somebody asked me like 'has your dad been in prison?' I was like 'no he's been good' and she told everyone about that. I wouldn't mind but like it affected my confidence and it was really private and it really affected me, like my dad's been in jail and all that. My dad got sent down near enough over 10 years and he was running for ages and then in the end he got caught and in the end he just got put in jail . . . I didn't want anybody knowing about it. I didn't really want the staff to know about it and I just said 'there is no need to say that, it happened when I was younger'. (Kim, 14)

As identified above, practitioners felt that the power and control dynamics between victims, offenders, supporters and facilitators are neutralised during a RJ conference as the script ensures the conference focuses solely on the young person's offence. The quotes provided by the girls above further exemplify the conflicting perspectives provided by practitioners. These responses reveal the girls' subjective experiences of power and control dynamics operating within the RJ conferencing arena. They considerably contradict and oppose practitioners' accounts of RJ being a neutral process and the data reveals that the girls quoted above have not internalised it as a neutral process.

5.9 The Victim-Offender Paradox

As discussed in Chapter three, recurring themes in existing research concerning girls who come into the remit of the YJS have highlighted the gendered contexts of their offending behaviour, prevalent experiences of trauma, victimisation and unstable family relationships. The data provided by practitioners supports the extant literature within this area.

> A lot of young female offenders . . . come from very chaotic dysfunctional families. (Shelly, Victim Liaison Officer)
>
> . . . they have been left to fend for themselves. (Joanne, Restorative Justice Victim Worker)
>
> Sexual exploitation that is a big one for our girls. (Elaine, Youth Offending and Family Intervention Worker)
>
> A lot of it with girls is alcohol related. (David, Restorative Justice Officer)
>
> Assaults . . . generally anti-social behaviour for drink. (Rebecca, Restorative Justice Victim Worker)

When describing their experiences of working with girls in the YJS, practitioners discussed how young female offenders were subject to differential treatment for various reasons.

> I think there is an element of special treatment given to them by some staff . . . they are kind of seen as weaker (Gary, Restorative Justice Victim Worker)
> We try to separate girls if they are doing community reparation . . . we generally use gardening and graffiti removal for the males and for the girls we look at a community centre working with the elderly. (Lynn, Restorative Justice Victim Worker)
>
> The courts will quite often give out a heftier sentence for a girl . . . For me I think it is because girls are not supposed to offend. (Marie, Senior Practitioner)

Additionally, practitioners tended to conceptualise the gendered contexts of girls' offending, as an implication of complex emotional and social needs.

> I think a lot of the girls that come in, I would say, have complex needs. (Joanne, Restorative Justice Victim Worker)

> Most I can recall have been needy girls . . . I think they tend to offend for emotional reasons. (Debbie, Victim Liaison Officer)

What these findings reveal is that practitioners are aware of the gendered differences in relation to responses to girls' offending behaviour and their differential experiences within the YJS. Furthermore, they have identified distinctions between girls' formative experiences and their pathways to offending behaviour. The data here supports the existing literature, discussed in Chapter three, concerning the gendered contexts of girls' offending and their differential experiences within the YJS, whilst also revealing the extent to which practitioners' perceptions of girls' offending is implicated by stereotypical assumptions concerning femininity, inherent within the social construction of gender. The quotes provided by practitioners reveal how their understanding of girls' offending continues to be influenced by essentialist discourses of femininity, which neglect the role of girls' agency within the context of their offending behaviour.

However, drawing upon the findings generated from the interviews with practitioners it was suggested that the girls do not generally identify as victims.

> Male offenders quickly step into 'well I have been a victim, this has happened to me' and that is probably true but I think girls are much less liable to do that. So they may well be victims. Do they view themselves as victims? Possibly not, what's the result of that? Well it is a double-edged sword because on one hand it inclines the rest of the world to see you as an offender, rather than a victim but on the other hand giving yourself a victim status is not a particularly good thing to do.

(Jim, Prevention and Restorative Justice Co-ordinator)

Some practitioners identified that in certain cases, girls do identify as victims. However, this is in relation to the circumstances surrounding their offending behaviour, as a means to neutralise their responsibility, for their offence. Both sets of data provide an interesting comparison in relation to the girls' narratives of victimisation and practitioners' perspectives. The empirical data from the girls highlights distinct contextual viewpoints concerning the girls' interpretation of their own victimisation, which conflicts with practitioners' perspectives.

> You know some girls that we get coming through, we can say was you pressurised into doing this? Was you pressurised into doing that? And they don't really play the victim role. They don't really come across saying you know 'oh god I am a female, I am younger, they made me do it'. They don't really come across like that. Some of them can be really hard faced and be like, 'I just done it because I wanted to do it' or 'I was just out and I was pissed'. (David, Restorative Justice Officer)

The practitioner above refers to the distinction of girls who do not present as victims as 'hard faced'. This description can be seen as being constructed through dominant discourses of femininity associated with stereotypical perceptions of female victims and female offenders. The narratives of the girls, however, do not reflect such assertions.

It is argued that RJ discourse has constructed the concept of victims and offenders as 'abstracted and essentialised constructs devoid of particularised socio-economic circumstances and stripped of individualised identities and unique biographies' (Cunneen and Goldson, 2015: 143). It is suggested that the prepared narratives of victim and offender, that RJ constructs, are 'deeply problematic' (*ibid.*: 143). Many young people in the YJS do not solely occupy an offender status as many have also been subject to some form of

victimisation (*ibid.*) For offending girls it is argued that the two are often 'intertwined' when considered within the 'broader context of their victimisation and harassment . . . or their social and economic disadvantage' (Daly, 2008: 133). Researching girls' experiences of RJ conferencing in Australia, Daly highlights the complexity of assigning victim and offender statuses to girls involved in violent offences (*ibid.*). In Daly's study all of the girls believed the victims 'provoked' their behaviour, there was a 'history of conflict with the between the girls [making] it difficult to discern the balance of offending and victimisation' (ibid.:133). Daly suggests that in such cases, where the facts of the offence 'diverge' or are 'contested', attention must be given to those who are 'hurt and harmed' and cautions the use of RJ in such examples (*ibid.*: 133).

The empirical data provided by the girls shows their reluctance to be viewed solely as an offender and highlights their desire to make known their experiences, in a context, which resists the victim-offender binary they are subject to. Nine of the girls interviewed stated that they felt they had been subject to victimisation. The findings are similar to those presented by Daly (2008). A number of the girls contested the circumstances surrounding the offence and contextualised their feelings of victimisation as resulting from being assaulted first or being provoked. Additionally, two of the girls conceptualised their experiences of participating in the RJ conference as leading to feelings of victimisation. Whilst a number of girls indicated that the negative effects of stigma were subjectively interpreted as a form of victimisation.

> Yeah because they were all sticking up for her and they didn't see why I actually done it . . . She was speaking about my little cousin's grave. (Jemma, 14

> Yeah when I was in school they was walking past me, like, making me feel low . . . I felt like everyone was watching me and talking about me. (Jade, 14)

> Yeah because they were putting news articles on Facebook and that and tagging us in them and stuff . . . My mates that I was with, when we done it, they all turned on us and that, saying we deserved to be killed and we deserve the same thing happening to us and we should have went to prison. . . Through the whole meeting, I was victimised through the whole meeting and during the custody suite, the whole meeting, just the whole time, the start of the incident, well just after the incident to when it all ended. (Sarah, 17)

> [*Interviewer: Who did you feel victimised by?*] Family, papers, police, friends, people who didn't even know us, there was loads of stuff on Facebook. No one even met us and that and they (newspapers) were writing pure stuff about us . . . but they didn't have a clue because they lied about it as well . . . they lied in the papers, they said that we videoed it but we never.

> It was like even though she was the victim there, it was like we were made to be the victims it was like she was targeting us, like proper bad, like fair enough we could have killed her and all that and I know this is like nasty but like even though we wasn't the victim there and she was, she was proper like laying into us. (Jenny, 14)

> When the police came there was all of them on me and they was like, they had the cuffs on me wrists and they was twisting me arm about and was like ramming it up me back, twisting it about, it hurt. I had bruises on my wrist because of it. (Charlene, 17)

Such findings are significant in providing an alternative account of RJ conferencing, as RJ discourse typically delineates a stereotypical view of victims and offenders, which conceptualise both identities as 'homogenous categories of self: universal classifications that appear to subsume all other identities' (Cunneen and Goldson, 2015: 143). The dominant representations of victims and offenders within RJ discourse provides no space for relational subjectivity whereby girls can be seen as both victims and offenders. Instead, RJ discourse considers this 'victim-offender binary' (*ibid*.: 143) as independent components, which are not mutually exclusive. In turn they only offer a polarised construct of girls' offending behaviour and function to contest girls' subjectivities.

5.10 Conclusion

This chapter has provided an integrated and reflective account of the key findings inherent within the empirical data generated from the interviews undertaken with fifteen girls and thirteen youth justice practitioners. Informed from a juxtaposition of girls' narratives and practitioners' perspectives the discussion and analysis developed within this chapter has focused upon these findings in relation to the themes of power and control, the victim-offender paradox, conflicting perspectives of RJ in practice and the silencing of girls' subjectivities. The subjective accounts provided by the girls interviewed has allowed an insight, from a unique point of view, with regards to how RJ conferencing is subjectively experienced by young female offenders.

By providing a comparative account of practitioners' perspectives and girls' narratives of participating in RJ conferencing this chapter has drawn attention to the disconnect between RJ rhetoric and reality. The presentation of data has revealed the extent to which girls have presented themselves as active subjects with agency to define their own narratives, as well as allowing insight into how their subjectivities precede the narratives prepared by RJ discourse.

The analysis of data, provided by practitioners, presents their perspectives concerning the need for gender-sensitive approaches within, or as an alternative to, the use of RJ conferencing with girls who offend. What the data has overwhelmingly revealed is the conceptualisation of RJ by practitioners as a gender-neutral intervention. Reflecting upon this finding, it has become apparent that the social construction of gender, operating as a variable within RJ practice, is subject to a process of reductionism whereby the complexity and hybridity of one's gender identity has been

neutralised and replaced with individualistic considerations, despite the fact it detrimentally determines girls' experiences within the social world. The analysis of data presented in the current chapter provides a contextual framework in order for the subsequent discussion chapter to provide an informed, reflective and integrated critical evaluation of girls' experiences of participating in RJ conferencing, through a gendered lens.

Chapter 6

Chapter 6: Compounding Structural Inequalities in Relation to Gender: Restorative Justice, Shame and Stigma

6.1 Introduction

Shame can be internalised as a 'self-reflective emotion of negative global assessment [involving] a painful, sudden awareness of the self as less good than hopes for and expected, precipitated by the identification of others' (Manion, 2003: 21). Previous chapters of this thesis have situated shame as a consequence of women's oppression within patriarchal society. The recognition of women as 'Other' and men as 'normal' (Laws, 1979: 4) can be drawn upon to represent the ways in which shame is manifested differently and 'distributed unevenly among different subjects, privileging some and putting others in a precarious, or even impossible, positions' (Guenther, 2011: 25).

The existing literature and the theoretical insights presented within Chapters two and three have provided a framework in which to contextualise the salient role shame and stigma play in shaping the experiences of girls who are labelled with a deviant identity and subject to RJ intervention. The following chapter presents empirical data from the interviews undertaken with girls and practitioners and seeks to develop the analysis, presented in Chapters one, two and three. Focusing explicitly on the theoretical incursions arising from Goffman's (1963) stigma theory, and the social construction of femininity and deviance, the analysis presented will construct a coherent argument which situates girls' experiences of shame in a RJ conference as a gender-specific experience for those labelled with a deviant female identity.

Drawing on the qualitative interviews undertaken with 13 youth justice practitioners and 15 girls who have participated

in a RJ conference, this chapter will present empirical data in relation to shame and stigma. Given that girls' views have been excluded from youth justice discourse (see for example, Batchelor and Burman, 2004; Sharpe, 2012; Shepherd, 2015), the particular focus on female offenders' experiences of RJ will provide an alternative view of their marginalised knowledge in order to capture their experiences of RJ conferencing. In developing this gendered analysis and understanding of RJ, the discussion will initially draw upon the girls' experiences of stigmatisation, following their offending behaviour, and then move on to considering the implications a stigmatised identity may have for girls' participation in a RJ conference.

6.2 Conceptualising Girls' Deviant Behaviour through the Lens of Gender

The literature presented in Chapters two and three have considered the position of girls' in relation to the broader structural context of social control and regulation. They have revealed a theoretical account of the process whereby girls, who deviate from expectations associated with their gender identity, are subject to deviant labels as a result of certain behaviour being viewed as incompatible with their femininity. Once an individual is labelled as deviant, for transgressing expectations associated with their social identity, it has been suggested that they may be subject to stigma (Becker, 1963; Goffman, 1963). The labelling of deviant behaviour, and the application of stigma to deviant identities, arguably constitutes mechanisms of social control, which enforce norms and expectations inherent within the social construction of femininity (Hutter and Williams, 1981; Schur, 1984).

6.3 Narratives of Stigma

In order to critically interrogate the role of gender within RJ conferencing, the following discussion will focus upon the findings, which indicated that the girls interviewed were subject to stigma following their offending behaviour, as well as practitioners' perspectives concerning the application of stigma to girls who offend. Such findings have highlighted a need to examine how the social processes of stigma operate for girls who offend and how they become exasparated within the RJ process.

> I felt like an outsider, I well and truly did feel like a criminal. Like, I felt like I literally just murdered her when I never and it was like because of the newspapers and that it was getting publicised. Even though my name weren't in it, it wasn't hard to tell it was me because, well, it's like Chinese whispers around here for god sake . . . There was no way we could hide from it. (Jenny, 14)

> My mum said she was disgusted in me . . . She started calling me everything. She was like I am vile and I am disgusting and all that. (Chloe, 13)

> I am not the same girl they thought I was before. . . It made me feel bad. (Hannah, 13)

> They all thought I was violent and horrible. They think you are a bad person because you have done something . . . It's not fair because it doesn't make me a bad person. (Nicole, 16)

> They was sending me nasty messages. It was making me feel guilt for what I had done. (Leanne, 15)

> I couldn't hide from it I was getting called a murderer, it was like I just didn't receive abuse in the meeting I had to again face abuse in my local school. I lost all my mates, before that I was just that kid that was never in trouble or something and then after that everyone was just saying you tried to murder someone and that I meant to do it (Sarah, 17).

The girls also discussed how they felt perceptions of them had changed following the offence:

> Like my Nan pushed me out even further and one of my cousins stopped speaking to me for a while. She said I was a murderer. . . (Sarah, 17)

> Yeah like in school at one point, even though like I had pure mates and that, I was getting called a murderer and told I should have been sent to juvi . . . I ended up saying things I didn't mean. I was like 'listen if you want me to go to juvi that much I will be killing you and then I will be sent off' . . . I just had murder with everyone basically. (Jenny, 15)

> The teacher was like 'now we know what you're really like'. (Becky, 14)

> People think that when I walk past them I am just going to hit them . . . Some people say that I am scary and like don't mess with her because she will just hit you . . . Like I wouldn't hit them because I am not like that . . . They make me feel like a bad person. (Jade, 14)

Offending behaviour violates social norms and thus those who offend may be subject to a deviant label and subsequently stigmatised (Clinard and Mier, 2016). The quotes above describe the ways in which the girls believed perceptions of them changed negatively following their offending behaviour. All of the girls felt they were treated differently either at home, in school or within the community, since the offence took place. Furthermore, the quotes articulate powerful accounts of the ways in which family and friends expressed disapproval of their behaviours. These accounts indicate the stigma applied to the girls' identity. It can also be suggested that they exemplify the negative implications of stigma girls experienced, following their offence, and their acknowledgement of the stigma applied to their identity for their transgressions of social norms. The girls' responses, presented above, arguably demonstrate their understanding of the impact their offending had upon how they were perceived negatively by others which, for some of the girls, transferred into a negative self-perception. This chapter will now move on to analysing the significance of girls'

experiences of stigma in relation to the social construction of gender and dominant discourses of femininity.

6.4 Gendered Constructs of Appropriate Behaviour

It is argued that girls' experiences of stigma cannot be solely understood in relation to their conflict with the law. As discussed in Chapter three, there are a plethora of expectations, inherent within the social construction of femininity, which function as gendered structures of oppression, discrimination and subordination (Batchelor and Burman, 2004; Gelsthorpe and Worrall, 2009; Hudson, 1989). These structures constitute mechanisms of social control, which serve to regulate girls' behaviour in line with discourses of appropriate femininity. Such discourses increase the opportunity for girls to be labelled as deviant and subsequently stigmatised when they fail to conform to the extensive range of gender norms and expectations associated with the ideals of femininity (Cox, 2003; Hutter and Williams, 1981; Sharpe and Gelsthorpe, 2015). It is therefore argued that girls who engage in offending behaviour are more susceptible to being stigmatised as their offending is viewed as a transgression of the gender norms ascribed to their identity (Chadwick and Little, 1987; Heidensohn, 2000; Schur, 1984; Shacklady Smith, 1987; Smart, 1976).

This differences in the way girls' offending is perceived are the result of structural inequalities between men and women, which are embedded within social life, institutions and policy, in order to ensure female behaviour is governed accordingly (Carlen, 2008; Schur, 1984; Smart and Smart, 1978). Gendered structural inequality is reinforced through a 'pervasive network of interrelated norms and sanctions through which female behaviour is evaluated and controlled' (Schur, 1984: 11). During their interviews, the girls revealed an understanding of gendered constructs of appropriate

female behaviour and how these constructs had implications for others' perception of their offence. For example:

> It's different for boys. Girls get treated different. With a lad he would have used a knife and it would still be different even though I only hit her . . . It's not lady like don't you think? I hit someone and people think that's not right when really it shouldn't be no different for me . . . They [teachers] all changed. Like their attitudes towards me changed because of what I did . . . like he [boyfriend] would have been forgiven and all of his mates would have still been by his side but because I am a girl, I get really treated differently and that's not even right. They think girls are violent. They think girls are just for fun but they aren't just for fun. It's not right . . . just to treat girls differently anymore and I am putting it from my point of view. Sometimes we all wish we were lads so we can go out and just do what we want for a bit. Like because we are girls we are told what to do. Like it's not easy for us. . . Like sometimes all girls just wish they were like boys . . . Because we get treated differently all the time. Like in shops, the shopkeeper clicks on to one of the lads but they won't acknowledge girls as a person. (Sam, 14)

> Teenage lads now days, everybody's opinion of them is 'thugs' they commit crimes and all that stuff but they don't think that about girls . . . They think girls are sluts. (Nicole, 16)

> It's not every day girls are in the custody suite and restorative justice meetings, do you know what I mean? So it was like I must have been this horrible, horrible girl. That's what they treated me as do you know what I mean? [*Interviewer: So you think they don't expect that from girls then?*] No because girls are supposed to be prim and proper aren't they? Like, when it happens with a lad it's like 'oh yeah' when it's a girl it's like 'what? Really? No?' Do you know what I mean? It's like they take it more as a shock. (Sarah, 17)

> It's not proper girls going round smashing windows is it? (Naomi, 13)

> Boys always go out fighting. That's what boys do. People think it is horrible girls fighting. . . It's not decent that girls go out fighting. (Chloe, 14)

> They was just like, I am a pretty girl I don't need all the violence. (Leanne, 15)

> It was like they wouldn't expect this from girls it is more boys definitely, definitely, definitely. (Jenny, 14)

The data provided by the girls can be analysed in relation to how their experiences of stigma are compounded by their gender identity. Furthermore, the girls' narratives can be identified in relation to the four states of stigmatisation identified by Link and Phelan (2001).

Link and Phelan (2001: 367) argue that most 'human differences are ignored and are therefore socially irrelevant'. However some differences, such as race, ethnicity, sexuality or 'gender are highly salient' (*ibid.*: 367). Firstly, gender is socially relevant in terms of distinguishing difference and young female offenders are distinguished from the majority of the offending population due to their low representation within the CJS. Furthermore, girls who offend do not conform to societal norms and expectations associated with appropriate female behaviour and thus they may be distinguished from their peers and labelled as different:

> They always think of lads doing stuff to do with crime and not girls. (Nicole, 16)

Link and Phelan (2001: 367) assert that the significance of this initial stage is the process of 'social selection' society engages in when determining which differences are considered important and 'matter socially'. They suggest that the ramifications of determining human differences are often disregarded as 'once differences are identified and labelled, they are typically taken for granted as being just the way things are' (*ibid.*: 367).

'The second component of stigma occurs when labelled differences are linked to stereotypes' (Link and Phelan, 2001: 368). Central to this stage of stigmatisation is the application of a label and stereotype. Being ascribed a female gender identity can be understood as a negative attribute manifesting

from differences which have determined gender inequality within society. The social construction of femininity has been afforded many negative attributes which disadvantage women and girls within the social world. Furthermore, it is suggested that those labelled as different are subject to scrutiny and judgement when they do not conform to stereotypical assumptions associated with their label (Link and Phelan, 2001). Therefore, they are arguably subject to further negative attributes as a result of their transgression of the stereotypes associated with their label (*ibid.*). For girls this can involve transgressing expectations associated with femininity.

> It was like I must have been this horrible, horrible girl . . . The papers they called us yobs. (Jenny, 17)
>
> They just thought I am a bully. (Jade, 14)
>
> She was like I am vile and I am disgusting. (Chloe, 14)

Being labelled with a deviant female identity results in rejection, from those within society who conform to social norms, as the deviant label distinguishes the female as a transgressor. The deviant label therefore 'becomes the rationale for believing that negatively labelled persons are fundamentally different from those who don't share the label, thus creating a distinction between ''us and them''' (Link and Phelan, 2001: 370).

The separation of 'us' from 'them' through the application of 'social labels' is the third feature of the stigma process described by Link and Phelan (2001: 370). The connection between labels, determining difference and the association of the label with negative attributes 'become the rationale for believing that negatively labelled persons are fundamentally different from those who do not share the label' (*ibid.*: 370). As such when a label determines someone as 'distinctly different' stereotypes can be readily used to attach negative attributes to 'them' (*ibid.*: 370).

> I felt like an outsider, I well and truly did feel like a criminal. (Jenny, 17)

> Now we know what you're really like. (Becky, 14)

> I am not the same girl they thought I was before. (Hannah, 13)

> They called me a molly head and everything. (Kelly, 17)

With regards to the final stage of the stigma process: the labelling of those identified as different and associated with negative attributes experience 'status loss and discrimination' (Link and Phelan, 2001: 372). The individual is therefore 'disadvantaged' and their 'life chances' are reduced (*ibid*.: 371). In terms of this fourth component of stigmatisation, the girls deviant label and the 'undesirable' attributes associated with their identity, has arguably resulted in negative implications for their status as their identity is devalued in the eyes of others, leading to discriminatory behaviours (*ibid*.: 372).

> My mates. . . they all turned on us . . . They just assumed we were bad people . . . I lost all my mates. (Sarah, 17)

> The fact that they all changed. Like all their attitudes changed towards me. They started being a bit snappy, favouring other girls in here . . . Some of the girls started taking a disliking to me and started bullying me a lot. (Becky, 14)

> They [friends] just don't want to speak to you. (Jade, 14)

> I was getting called a murderer. (Jenny, 17)

Stigma is a negative attribute which 'constitutes a special discrepancy between virtual and actual social identity' (Goffman, 1963: 12-13). In addition, stigma induces negative implications for the individual, such as: 'rejection, exclusion and discrimination' (Link and Phelan, 2001: 367). Responses from the girls describing their thoughts and feelings following

the offence resonate with Goffman's (1963: 3) analysis of stigma as a 'discrediting' attribute, in which its effects can be transferred into a devaluation upon an individual's identity. For example:

> I felt bad because we had done something, which we shouldn't have done, . . . I had never done something like this before, not this bad anyway . . . I was there and I watched it and it was just bad . . . Just bad and horrible on myself . . . Like Patricia and her mum and her friend's mum, they saw me as a bad person . . . Like I said again bad, it made me feel bad . . . Ashamed, bad and sly. (Amy, 12)

> They made me feel like a bad person. (Jade, 14)

> I just felt like a horrible person. (Jenny, 14)

> I was disgusted in myself. (Charlene, 17)

These quotes suggest that the girls may have internalised the negative perceptions of their offending behaviour as a negative self-perception of their own identity, illustrating the implications stigmatisation and a tainted identity has for the ways in which individuals view themselves. However, the ways in which girls are ascribed a devalued positon and identity within society and, as a result, are subject to stigma have been also considered (Laws, 1979; Goffman, 1977). Therefore, it is suggested that the stigma they experience, following their offending behaviour, may serve to exacerbate the negative effects of stigma on their identity. In addition, the opportunity to manage their stigma and construct a new, positive, identity is also compromised for girls due to their status as females within society. This chapter will now focus on providing an insight into practitioners' perspectives concerning societal responses to girls' offending behaviour.

6.5 Offending Girls and Stigma: Practitioners' Perspectives

The data provided by practitioners supported the argument that girls' offending behaviour is responded to differently in comparison to boys. It was revealed that welfare concerns, vulnerability, the type of offence committed, community reactions to girls' offending and professional integrity, shape the ways in which young female offenders are responded to within society.

> [*Interviewer: Do you think girls are reacted to differently in terms of their offending behaviour?*] Yes I certainly do, there are expectations, which actually start fairly early, don't they, you know sex role socialisation . . . They would be dealt with very differently and there is different expectations so it starts really early on I think and there is an inevitability to that and these ideas are so deeply rooted in our cultures in different ways. (Jim, Prevention and Restorative Justice Co-ordinator)
>
> You have to look at exploitation and things like that. So in that sense the offence isn't really looked at it is more the welfare of the girl that is looked at. (David, Restorative Justice Officer)
>
> Yes, definitely, they are much harsher sentences. I mean the girl who committed the robbery, it was her first offence and she got a custodial sentence and we've had boys who have committed many, many, many robberies before they get a custodial sentence. I think pffft [*sic*] that wouldn't have happened if it were a boy. So yeah I would say most of the time definitely, 90% more than that even. (Debbie, Victim Liaison Officer)
>
> I think possibly the community see girls quite differently. A few victims within the local area, the shopping centres, are quite disgusted by their behaviour and maybe there would be an expectation that the lads would do something like that and you wouldn't expect it from a girl. (Lynn, Restorative Justice Victim Worker)

Furthermore, all practitioners acknowledged during their interviews that girls who offend are subject to a gender-specific stigma, as their offending behaviour is perceived by

society as a transgression of gendered norms and expectations associated with appropriate female behaviour.

> In a sense that media and you know, I mean it is a sexist society, there is still portrayals in the media of girls binge drinking and you know it's more severe for a girl to be stumbling down the street or collapsing in the street as a result of taking too much alcohol than it is for a lad . . . You know there is probably still that element of you are offending against your gender, as well as offending. (Graham, Restorative Justice and Volunteers Team Manager)

> Yes I think it's frowned upon in our culture anyway and I think in a lot of cultures it is frowned upon anyway when girls offend. (Rebecca, Restorative Justice Victim Worker)

> Yeah definitely, going back to the dirty divas right that's stigma. I mean even the bloody title you give them 'dirty divas', it's very female and it's got very derogative female connotations coming out of that as well. So yeah, definitely, from the media, the community, the magistrates. (Shelly, Victim Liaison Officer)

> I have supervised reparation for years and on a Saturday morning the lads will be like 'what are you doing here' especially if they recognise them from their community. So it is harder for girls, there is a bigger stigma for them being in the criminal justice system. (Stan, Youth Offending Team Senior Officer)

Thus far, the data presented from the girls' interviews reveals the stigma applied to their identity prior to their participation in the RJ conference. Furthermore, the findings provide an insight into the girls' understanding of the ways in which their offending transgressed gendered discourses of appropriate female behaviour. Practitioners' perspectives concerning girls' experiences of stigma have also demonstrated that girls who offend are subject to a gender-specific stigma as their behaviour is viewed as incompatible with their femininity, resulting in differential responses, representations and attitudes towards young female offenders compared to their male counterparts. The data, which supports this analysis, is significant because it becomes apparent that narratives of

stigma were present during the girls' participation in the RJ conference. Therefore, consideration needs to be given with regards to the impact such a stigmatised identity could have for girls' experiences of the RJ conference, specifically in relation to shame, power and control, and how they internalise their experience. It is suggested that such considerations are salient to understanding RJ conferencing through a gendered lens and will be explored further throughout the remainder of this chapter and the discussion and conclusions presented in the subsequent chapters.

6.6 Examining Experiences during the Conference: Girls and Practitioners' Perspectives

Drawing upon theoretical perspectives concerning the application of stigma to deviant identities and the social construction of gender and deviance (Goffman, 1963; Hutter and Williams, 1981; Renzetti, 2018), the analysis of data presented, thus far, has provided a coherent argument, which examines the process of stigmatisation girls may be subject to as a result of engaging in offending behaviour. This chapter will now focus on the ways in which the girls' narratives of stigma continued to operate during their participation in the RJ conference and practitioners' perspectives concerning the role stigma plays for girls' experiences of the RJ conference.

Thirteen of the girls interviewed felt that those attending the conference held negative opinions about them, suggesting that they carried their stigmatised identity into the RJ conference.

> [*Interviewer: So you think the people at the meeting had negative opinions of you then?*] Yeah definitely . . . I could tell the minute I walked in there, the way they were looking at me because I hit someone, because I am violent. (Kim, 13)
>
> They just thought I am a bully, something bad about me, at the time they probably thought I was

a bully because I was with Jade. Yeah a bully, yeah. (Amy, 12)

They wasn't bad opinions, they was true opinions. (Hannah, 13)

I did used to be quite violent. I would always want to fight and stuff and they were just saying like I'm better than them. Like I'm better than the girls that want violence and like because I had a job as well. (Leanne, 15)

Yeah he probably did, he didn't say it but he probably did. (Kelly, 17)

Everyone that was there because they didn't know us before the meeting. They didn't know us before the incident because obviously if you hear something about someone their first opinion of them is like 'wow, they're this'. But they had never met us before the meeting, so they didn't know what we was like before any of this even happened. So they just assumed we were bad people because we done this one bad mistake but, basically, I'm not. (Sarah, 17)

Yeah I think they genuinely thought we done it to intentionally hurt her but we actually never [*sic*]. We done it just to make someone fall off their bike and get a chase off them. We totally didn't mean to like make her come off. (Jenny, 14)

According to Goffman (1963), stigma is imputed on individuals in order to attach negative characteristics to their identity. To others this stigma is regarded as 'evidence' that the individual to which it is attached holds 'an attribute that makes him different from others in the category of persons available for him to be, and of a less desirable kind – in the extreme, a person who is quite thoroughly bad, or dangerous, or weak' (*ibid*.: 12). The quotes above arguably reveal an insight into the girls' perspectives concerning the ramifications that their deviant label and stigmatised identity may have had for others perception of them during the conference.

Practitioners acknowledged that there is a likelihood that girls would enter a RJ conference with a stigmatised identity:

> [*Interviewer: In your experience do you think those taking part are already stigmatised then?*] Well I suppose going by my previous answer I would have to say yes . . . I mean you can't remove from the participants the same sort of attitudes that prevail and that's the same for sexism, racism or classism. (Graham, Restorative Justice and Volunteers Team Manager)

> Yes there is a stigma there related to their offence. (David, Restorative Justice Officer)

> Ah well I think probably yes because society does stigmatise them. (Jim, Prevention and Restorative Justice Co-ordinator)

> It does depend on the time of entry into the system and the restorative conference time and whether it is a catalogue of the same offence. (Joanne, Restorative Justice Victim Worker)

> I think they will go in with that stigma because they are females. . . I mean my role is not to judge but I do think it happens, especially with the victims who attend. (Rebecca, Restorative Justice Victim Worker)

Practitioners also discussed what the potential effects and implications are for girls entering a RJ conference with a stigmatised identity:

> I suppose it could impact on their own self-esteem couldn't it? So I think it's about how they view themselves. We have a big thing at the youth offending service about labelling kids. You won't hear me use the word offender, I say the words young people. Offender is how society would see people isn't it? Hooligans and hoodies and all that kind of stuff but realistically they are just young people aren't they? That have done something stupid. (Debbie, Victim Liaison Officer)

> Yeah I do think if they have got a reputation it will go before them, more so probably with girls and I can stick my neck out with that one and think more so with girls. What's coming to me now is that you kind of like know the lad with a reputation and yet that fades into the background but yet if it is a girl coming through and it's like 'oh it's such a body'

and it sticks in your mind. (Joanne, Restorative Justice Victim Worker)

Yeah I do because again it depends on other people's perceptions of how girls should act. That is another thing isn't it? Say if you have got a RJ and the victim is a seventy eight year old male then his way of looking at females would be totally different then if you have someone who was in their thirties because it is a generational thing with females isn't it? (Elaine, Youth Offending and Family Intervention Worker)

One of the things you get from the victim is that 'you know you are a young girl, you will have children yourself one day and you can't be behaving like this' and so on. . . If it's a more serious offence then I think stigma would definitely play a role in the conference. If it is a female committing a burglary over a male then I think it is definitely going to be there . . . it depends on the seriousness of the offence. (David, Restorative Justice Officer)

I think the victims feel that girls should know better. 'You would expect that from lads maybe but you wouldn't expect that from you' . . . I think the victims probably struggle more with girls because they think they should know better. I do think I have experienced it. Girls should know better [*Interviewer: How do you think that impacts on girls?*] Well I suppose it is that vision of shame, the body language. It is not always about what they are saying it is about how they are presenting as well and then I suppose they look at themselves and think 'yeah I should know better'. (Lynn, Restorative Justice Victim Worker)

Once an individual has been stigmatised, Goffman (1963: 19) contends that 'those who have dealings with him fail to accord him the respect and regard which the un-contaminated aspects of his social identity have led them to anticipate extending'. The response of the stigmatised person to this situation, according to Goffman, can be to 'arrange life' to avoid a 'social situation' (*ibid.*: 23). However, when a stigmatised person does enter a social situation with a non-stigmatised individual they feel uncertainty with regards to how they will be identified and received upon entering the situation. This uncertainty results in either 'defensive

cowering' or 'hostile bravado' (*ibid*.: 29). The data generated from practitioners' interviews identified that stigmatised girls who participate in a RJ conference could display such types of behaviour.

Certain practitioners felt that experiencing stigma could influence the ways in which girls present themselves in a RJ conference and their participation would allow them to challenge and manage the stigma applied to their identity:

> I just think if they are being labelled for something then there is a bit of a front that comes with that so I would say that does influence how they behave. . . I would say it is a façade really. Putting up a front, but that in itself is a barrier, so I would say they are putting up a barrier to protect themselves. (Marie, Senior Practitioner)

> They want to portray a different side, a more positive side. (Stan, Youth Offending Team Senior Officer)

> It probably does, people's perceptions and judgments and it gives that offender the chance to challenge that as well. So when you are meeting people and having those conversations your judgments are changing because you are going in with a judgment but it is changing and the young person is changing those judgements themselves. (Lynn, Restorative Justice Victim Worker)

> If you have got, for example, the group that was causing mayhem, the gang, they weren't a gang they were just a group. They were in a clique, they buzzed off egging each other on, and half of them only did half of what they did because of the expectations of them to conform to that label, so it was like a self-fulfilling prophecy to begin with. So once they have gone through that system to begin with and have had that stigma attached to them they get to a point where they feel like they have got to live up to it because they are young people at the end of the day. So in terms of answering that last question just to make sure I have done, if they are in that stage where I have just given you those examples, are they going to respond differently to me as a facilitator in a room? Yes I think so. (Shelly, Victim Liaison Officer)

Drawing upon the data provided by the girls, attempts to manage the stigma attached to their identity can be identified by their reluctance to accept full responsibility for their offence. The girls often placed blame upon others as well as themselves, which can be seen as a means to minimise responsibility for their role in the offence. Attempts to minimise responsibility can be theoretically explained by suggesting that the girls are engaging in techniques of neutralisation, in order to justify their offending behaviour (Sykes and Matza, 1957).

Sykes and Matza (1957: 666) suggest that those who engage in deviant or 'delinquent' behaviour defend their behaviour 'in the form of justifications for deviance [or] rationalizations'. These justifications are utilised to protect the individual from 'self-blame and the blame of others for the act' (*ibid*.: 666). Such techniques of neutralisation are divided into five categories: 'denial of injury', 'denial of the victim', 'appeal to higher loyalties', 'condemnation of the condemners' and 'denial of responsibility' (*ibid*.: 667-669). The data generated from the interviews with the girls arguably reflects certain techniques of neutralisation described by Sykes and Matza.

'The denial of responsibility' involves diverting blame 'attached to violations of social norms' thus enabling the individual to reduce feelings of self-blame for their offending behaviour (Skyes and Matza, 1957: 667-668):

> Other people were to blame. (Amy, 12)

> Because all my mates come over to me and they were like 'you best go and hit her, you best go and hit her, she has just hit your sister'. So then that's when I went over to her and she pushed me and I pushed her back and she hit me so I hit her and we started fighting. (Jade, 14)

> I flung a chair and he put me in a restraint and he held me down and it really hurt, so I was like get off me and then he went no, so he started struggling and then me hair went in me face so I

> flicked me head forward. I honestly didn't know his face was behind me and flicked me head back and I have head butted him and he has took me down to the floor and he has hurt my ribs and that. (Sam, 14)

'Denial of the victim' can be used to rationalise behaviour despite the offenders acceptance of responsibility for their actions (Skyes and Matza, 1957: 668). Sykes and Matza suggest that 'the moral indignation of self and others may be neutralised . . . it may be claimed it is not really an injury rather it is a form of rightful retaliation or punishment' (*ibid.*: 668).

> If she hadn't of hit me first I wouldn't have hit her (Chloe, 14)

'Condemnation of the condemners' is described as a 'rejection of the rejecters' as the individual focuses upon behaviour of those who have condemned their actions (Skyes and Matza, 1957: 668). The quote below illustrates Sarah's condemnation of the victim of her offence for not taking measures to ensure her own safety.

> Well it would have helped if she had a helmet on though . . . if she had a light on the front of her bike but that's not like, I don't know, it is more my fault but there would have been less injuries if she had been wearing a helmet but I would say it was my fault but if she had a helmet and a bike light on it could have been avoided but at the same time if we never tied the rope it could have been avoided. So we are more to blame but she had a part to play. (Sarah, 17)

It is suggested that the girls have attempted to engage in techniques of neutralisation in order to manage their stigmatised identity (Sykes and Matza, 1957). Furthermore, nine of the girls stated they experienced nervous laughter or smiling during the RJ conference. These girls discussed how the victim could perceive their nervous laughter and smiling, negatively and thus they made attempts to conceal it. Goffman's (1971) ideas, regarding techniques of impression management, may be utilised to understand the girls' nervous laughter and smiling. It may be viewed as a technique used

by the girls to protect themselves from, or manage, negative emotions evoked during the conference. Such reactions were typically evoked as a reaction to unease or awkwardness to the circumstances the girls were in and may be viewed as an example where the girls 'back region' performance transgresses into the 'front region' performance (*ibid*.: 98). It could therefore be argued that nervous laughter and smiling plays an important role in the ways in which girls regulate their emotions, as it effectively places a barrier between themselves and others at the conference.

> Everyone started crying, I didn't know what to do and everyone was waiting for me to say sorry and I didn't know what to do, so I was just smiling because I didn't know what to do. (Chloe, 14)

> Just like everyone was looking at me so I weren't going to cry. I just smiled like. (Naomi, 13)

> I couldn't stop laughing all the way through the meeting. I tried not to laugh but it was like a nervous laugh. (Sarah, 17)

Sykes and Matza suggest that 'techniques of neutralisation are critical in lessening the effectiveness of social controls and that they lie behind a large share of delinquent behaviour' (*ibid*.: 669). However it is also noted that such techniques do not always protect the individual from internalising negative reactions to their behaviour and despite various attempts to justify their behaviour they still readily 'suffer from feelings of guilt and shame when called into account for their deviant behaviour' (*ibid*.: 669).

The findings from the empirical data presented within this chapter, thus far, suggest that the girls interviewed were subject to stigmatisation following their offending behaviour. The girls' narratives have provided an insight into how their experiences of stigma adversely impacted upon their lives. Such findings suggest that the girls have participated in a RJ conference with a stigmatised identity. In addition, the girls

have revealed their subjective accounts of how they felt others attending the conference perceived them negatively. With regards to practitioners' perspectives, they have acknowledged the potential for girls to be entering a RJ conference with a stigmatised identity as a result of their offending behaviour being viewed as a transgression of acceptable femininity. Furthermore, practitioners have described the potential implications a stigmatised identity may have for the way girls are responded to during a RJ conference as well as the behavioural and emotional changes that may be evoked for girls participating in RJ.

Based upon both sets of data it is evident that girls' offending behaviour does not conform to gendered discourses of femininity. These discourses play an integral role in the labelling of girls' deviant behaviour and their subsequent stigmatisation (Hutter and Williams, 1981; Laws, 1979; Schur, 1984). It is therefore important to consider how the social construction of gender affects girls' experiences of stigmatisation, how they internalise their experience of RJ conferencing, the context of the emotions experienced by the girls during the conference and the reasons why they are experiencing these emotions. This chapter will now begin to provide an informed, integrated and reflective, critical examination of the role shame plays in relation to girls' experiences of RJ conferencing.

6.7 Girls' Narratives of Shame

As discussed in Chapter two, the use of RJ conferencing in the contemporary YJS is theoretically underpinned by Braithwaite's theory of reintegrative shaming (Braithwaite, 1989; Johnstone, 2011; Marshall, 1999; Young and Goold, 1999; Zernova, 2007). For Braithwaite (1989: 100), shaming accounts for 'all social processes of expressing disapproval which have the intention or effect of invoking remorse in the person being shamed'. It is suggested that shaming offenders,

undertaken by 'individuals within interdependent communities of concern', should play a central role in crime deterrence (*ibid*.: 101). The process is concerned with the reintegration of the offender into their community 'through words or gestures of forgiveness' which provide a platform for the offender to remove their deviant label (*ibid*.: 101). It is suggested that evoking shame within an offender is sufficient to deter them from reoffending whilst also facilitating their reintegration into the community. Within the context of RJ conferencing the process of reintegrative shaming involves evoking shameful feelings and emotions within offenders by making them aware of the harm caused by their offence (Wallis, 2014).

Eleven of the girls interviewed referred to experiencing feelings of shame during their participation in the RJ conference. The emotions they discussed were evoked during various stages of the conference, which the girls identified as significant to their experience:

> I felt ashamed. I felt ashamed of myself . . . When she said she didn't want to go out the house no more and when she said there was loads of us and she got hit, she got attacked basically. (Amy, 12)

> I was feeling guilty and ashamed, at some points I was getting a bit nervous. (Leanne, 15)

> [*Interviewer: What did you think you was expected to do at that meeting*?] Like I don't know, like show it to her. Like talk to her properly . . . To show her that I felt bad yeah [Interviewer: What did you say?] Like I felt ashamed because I am not letting me down, I am letting everyone else down . . . I don't know just ashamed, upset and annoyed at myself, it were a mad feeling. The feeling were mad. (Charlene, 17)

> [*Interviewer: How did you feel in the meeting if you thought they all had bad opinions of you?*] Just dead angry and sad . . . Because they think I am a bad person when I am not. (Jade, 14)

Although not all of the girls referred directly to feelings of shame during their interviews, the narratives they provided

may be understood in relation to feelings of shame. This is because shame can be manifested and expressed in different ways. For example, Lewis (1971: 426) contends that 'there are many variants of shame phenomena. Mortification, humiliation, embarrassment, feeling ridiculous, chagrin, shyness, and modesty are all different psychological states [of shame]'. Reactions to experiencing shame often include a lack of eye contact, withdrawal, self-consciousness and physical changes in body language, such as lowering one's head (Tompkins, 1987). The ways in which some of the girls described their behaviour and feelings during the conference indicate such variants of shame.

> Well yeah I explained the story and I was like 'I genuinely didn't mean to do it'. I admitted to it, I said I only done it expecting someone to come off their bike and give us a chase. I said I was not expecting you [victim] to come off your bike and not get back up, like I am truly ashamed of what I have done . . . At the end of the day I was like, what, only 13 at the time. I can't even remember however old I was and I was like, 'I'm only 13 and I have took you off a bike with a rope like I am a child', I was like 'I am absolutely disgraced in myself'. I was like 'I am really sorry I didn't mean to do it, will you forgive me?' (Jenny, 14)

> [*Interviewer: How do you feel about being called a young yob?*] I don't know I was ashamed and embarrassed really because I didn't really know what a young yob was. [*Interviewer: Do you understand now?*] Like a naughty child but I am not naughty. It's the fact though like say if yob actually did have a meaning and, erm, say if I went to her 'yob' or something, like that would have been put in the newspaper and used against me but the fact that they are allowed to call us through the newspaper but we can't say nothing about her. . . It is like the newspaper didn't even know what was going on. They didn't have our sides of the story. At the end of the day we were just two teenagers. [*Interviewer: So it was difficult for you to see her [victim]?*] Yeah well obviously because what we did was wrong wasn't it? But I don't know it was a punishment but to bring her family there that was like, it was like they were trying to bring shame upon us as well, do you get what I mean? Like even though we were just kids ourselves, like they treated us like we wanted to do it but that

> wasn't the outcome for that to happen . . . They treated us like we wanted to do it. Like we personally wanted to do it. Like they wanted to bring shame upon us and that, like they kept like putting it in the newspapers. We hit front page three different times yeah and then two days later after the meeting it was on the third page in the Standard and they said in the meeting they weren't going to go to the papers no more. The woman said in the meeting that she didn't even want to speak to the newspaper people and she won't be planning on speaking to them again and she done a video online and everything and basically called us yobs or thugs, like yobs tried to kill me. (Sarah, 17)

> Yeah well I did feel ashamed once because I had been arrested before. It was when I was 13 and I had a joint on me and they put me in a cell overnight and found drugs on me and like my mum told me not to tell anybody that they put me in a cell when I was 13 but that got shared at the meeting and I hated that. [*Interviewer: So you found the meeting really negative because the police told the staff about your history which you wanted to be kept private?*] Yeah. She (police facilitator) told the school that I was in a cell overnight when I was 13 and I felt really ashamed because that was private and the fact they said my dad had been in prison. I wouldn't mind but like it affected my confidence and it was really private and it really affected me like my dad's been in jail and all that. I didn't want anybody knowing about it. I didn't really want the staff to know about it and I just said there is no need to say that, it happened when I was younger . . . I just feel like some people are ashamed of me sometimes and they don't want to know me and that. (Sam, 14)

These quotes arguably reveal girls' narratives of shame. According to Braithwaite (1989) these experiences of shame function as an important element of RIST by facilitating 'rituals of reintegration into the community' (Braithwaite *et al*., 2009: 397). Braithwaite (1989: 55) however, acknowledges that 'shaming runs the risk of counterproductivity when it shades into stigmatisation' and distinguishes between shaming that is reintegrative and shaming that is disintegrative (stigmatisation). As discussed reintegrative shaming involves the community's expression of 'disapproval' followed by 'reacceptance into the community' (*ibid*.: 55). Disintegrative

shaming refers to 'shaming where the wrongdoer is treated disrespectfully' and is not reintegrated into the community (Braithwaite, 2009: 397). Although these quotes suggest that girls are experiencing shame during the RJ conference it cannot be determined that these feelings of shame functioned in a reintegrative manner. This is because the presence of stigma, for their transgressions of femininity, have the potential to exacerbate feelings of shame associated with such transgressions, thus increasing the potential for 'stigmatic shaming' (Braithwaite, 1989: 105). Drawing upon empirical data provided by girls and practitioners, the remainder of this chapter will now focus on discussing the empirical data regarding girls' experiences of shame, specifically in relation to the findings which suggest practitioners attempted to neutralise the role of gender in relation to the girls' experiences of shame. The potential negative implications shame may have for girls and the ways in which these implications can be overcome will also be discussed.

6.8 Neutralising Girls' Experiences of Restorative Justice: Perspectives from Practitioners

Practitioners identified crying as the most common emotion evoked within girls during their participation in a RJ conference. In addition to crying, practitioners also identified shame as one of the most common emotions evoked during girls' participation in RJ conferences, followed by anger and embarrassment.

> Just shame, embarrassment. I would say shame and embarrassment more. Obviously then it leads on to more, the physical emotions . . . crying and things like that. Their head down and things like that and finding it a little bit more, perhaps, difficult . . . because they are showing their emotions, whereas a lot of males won't sit there and start crying openly in a RJ conference. (David, Restorative Justice Officer)

> Girls get very emotional and very tearful and quite upset . . . Boys tend to be more blasé about it. It might have the same effects inside but they are like 'I don't care about that' . . . (Debbie, Victim Liaison Officer)

With regards to their perspectives concerning experiences of shame, practitioners regarded shame as a naturally occurring part of the RJ process. Certain practitioners felt that shame is a positive experience for all young people who participate in a RJ conference as it enables them to reflect upon the harm caused, as a result of their offending behaviour.

> The meetings are designed to bring about shame . . . It is a natural part of the process that people will feel shame and it would be worrying if they didn't. (Stan, Youth Offending Team Senior Officer)

> Shame should always come out and be experienced as part of the process and the reason for that is because that is the emotion that brings about behavioural change. (Marie, Senior Practitioner)

> For me it (shame) is a positive thing but there is that bit about informing people that it is not an easy process and they might actually feel worse at the end of the day for a little while and the young people are likely to feel worse for a while because they are hearing about the impact of what they did on other people. (Lynn, Restorative Justice Victim Worker)

> I think being put on the spot in that way is part of the deal isn't it? And the hope that being put on the spot in that way would mean that you wouldn't want to be put on the spot in that way again in the future. (Graham, Restorative Justice and Volunteers Team Manager)

Five practitioners did feel that shame evoked during a conference would be a gender-specific experience for girls. They also believed that girls would internalise shame differently to boys.

> It is more specific in that it brings out different types of emotions in the different genders . . . you know females are obviously very emotional during

it, whereas males may kind of sit with their head down, clam up, look perhaps somewhat that they are not shameful of what's happened but that's just an expression of how they are dealing with it . . . whereas females have the emotion of letting it out so that's more specific. (David, Restorative Justice Officer)

I think girls readily evoke shame even before the restorative justice conference, 'oh I couldn't, I feel ashamed' you hear girls say that all the time, 'I feel ashamed'. (Stan, Youth Offending Team Senior Officer)

Right issues of shaming, feeling ashamed, even if it is re-integrative shaming they are more likely for females than males. Possibly because I think there is more . . . readiness to accept responsibility. So actually there is probably a little more inclination to feel ashamed for what they have done. (Jim, Prevention and Restorative Justice Co-ordinator)

I think you probably see it [shame] more in girls than boys. Boys are quite focused on moving forward and getting it done. Girls are more ashamed and embarrassed. (Lynn, Restorative Justice Victim Worker)

I think it is all about the emotions again though. Shame comes through people in different ways. I think young lads are more likely to withdraw and they are more likely to attack rather than girls and I think girls are more likely to withdraw, but not fully, and I think girls can sort of, I think girls sort of take it out on themselves and I think that they, I haven't seen any blaming sort of thing, it is more self-blame rather than blaming the victim. It is not attacking the other person, it is attacking themselves. (Scott, Substance Misuse Worker)

The conferencing that I have done, there has been quite a clear difference where the girls have sort of been self-blame and the lads have been blaming others but as we go through the process they are all quite similar outcomes. (Rebecca: Restorative Justice Victim Worker)

It is different for a girl and it is different for a guy because it depends on what it is in terms of what they are ashamed of . . . you have got to look at the background. (Sam, Restorative Justice Victim Worker)

What these responses predominantly indicate is that practitioners regarded girls' differential experiences of shame as resulting from increased emotional responses to their participation in the conference. Although a number of practitioners did identify shame as a gender-specific experience for girls, none of the practitioners connected girls' experiences of shame during a RJ conference to their experience of stigma for transgressing gender norms and expectations in relation to appropriate female behaviour. This was predominantly because they felt RJ conferencing to be a neutral process, which focuses solely on the young person's offending behaviour and to distinguish experiences between genders would be counterproductive to the process.

For those that felt shame would not be a gender-specific experience, their responses reflected attempts to neutralise the role of gender in RJ interventions.

> Boys will experience that [shame] as well depending on where they are in their life. We have got some very vulnerable boys as well that come through haven't we? . . . I don't think it is gender-specific at all. (Gary, Restorative Justice Victim Worker)

> I have had boys cry at conferences and I have had girls cry at conferences they are both feeling the same thing. (Debbie, Victim Liaison Officer)

> It is going to be individualistic rather than gender-specific to be honest. (Graham, Restorative Justice and Volunteers Team Manager)

> I think it would be the same for males. I think shame as a concept is the same for anybody really regardless of gender. (Shelly, Victim Liaison Officer)

Such quotes are significant as they reveal certain practitioners' reluctance to acknowledge the social construction of gender as a variable present during RJ interventions.

6.9 Practitioners' Perspectives on the Negative Implications of Experiencing Shame

This chapter will now move on to considering some of the negative implications experiencing shame may have for girls who participate in RJ conferencing. To begin there is a body of existing literature, which links girls' experiences of shame to physical and sexual abuse, substance abuse and harmful behaviour (Gold, *et al.*, 2011; Lewis, 1992; Miligan and Andrews, 2005; Tangney and Dearing, 2002). Research further suggests that girls who come into the remit of the YJS experience much higher levels of abuse in their formative years compared to their male counterparts (Sharpe, 2012; Bateman and Hazel, 2014; Robinson, 2005; Social Exclusion Unit: 2003). Such existing research provides a knowledge base with regards to understanding and contextualising girls' experiences of shame in relation to their gender.

Shame has been linked to 'a perceived failure to meet standards' as well as 'adjustment following trauma' (Gold *et al.,* 2011: 2). It is suggested that if an individual holds a degree of self-blame, following a traumatic experience, negative feelings of shame are likely to be manifested into 'depressive or aggressive symptoms' (*ibid.*: 2). Furthermore, anxiety, low self-esteem, substance abuse, depression and post-traumatic stress disorder have been linked to individual attempts to manage experiences of shame (Elison, Lennon and Pulos, 2006; Nathanson, 1992; Tangney and Dearing, 2002).

Examining the experience of shame and guilt for children and adolescents in America, Tangney and Dearing (2002) report that feelings of shame are predictive of suicide attempts and substance abuse in adolescents. They discuss how in the face of negative events young people internalise self-blame for these events, increasing their vulnerability to feelings of shame for their transgressions, and producing negative implications for their self-esteem (*ibid.*). Furthermore, research undertaken in the UK by Milligan and Andrews

(2005) has linked shame to experiences of physical and sexual abuse, depression, bulimia, self-harming and self-destructive behaviours by females. Such insights highlight the importance of considering the significance of shame to young people's lives, beyond the concept of reintegrative shaming. Existing research highlights the negative impact experiencing shame may have on young people and the findings, generated from this research study, further exemplify the potential for feelings of shame to be manifested in harmful ways for girls. The data suggests that this is particularly the case when they hold a degree of self-blame for their offending in addition to having experienced shame in their past.

As discussed, practitioners regarded shame as a necessary part of the conferencing process which resulted in positive outcomes for young people who participate in RJ conferencing. Furthermore, they acknowledged that experiencing shame could have negative effects for girls:

> I certainly think there could be negative implications but I again would say that that is down to poor facilitation, if that happens, and the skills of the facilitator. (Jim, Restorative Justice Co-ordinator)

> It's not just you know the victim having their say or the young person being able to apologise for their actions it's about being able to repair that relationship, that harm and if you can't get to that point it's going to be a negative experience. For a girl would it be any more? Well if they are already suffering from low self-esteem then yeah it would, it would have a big impact on them. (Shelly, Victim Liaison Officer)

> I mean it's not an exact science is it? Don't get me wrong but again it is about the skill of the workers doing the business, really armed with the assessments, armed with the understanding and their training and their life experiences themselves and you know it's important that we have women staff doing the conferences and working with the girls you know. (Graham, Restorative Justice and Volunteers Team Manager)

Practitioners acknowledged that girls' experiences of shame during a RJ conference could be associated with previous negative experiences such as abuse and victimisation in their formative years. It was agreed that such negative effects would be as a result of reinforcing girls' negative feelings they may hold about themselves for their offending behaviour. It was also agreed that girls could connect their expression of shame within the RJ conference with negative experiences of guilt and shame in their formative years, which may induce negative implications for their emotional and physical wellbeing.

> I think if you have had some degree of difficulty in your life going through a process like that it will bring that back for you and evoke similar emotions to that period. (Marie, Senior Practitioner)

> Yes definitely and I think it is the same for boys as well. Its transference isn't it? And it's the same for victims isn't it? And again in your assessment you have to be aware of that. (Joanne, Restorative Justice Victim Worker)

> Yeah more than likely because that's what you do isn't it? When something happens to you, if you are upset, you tend to reflect or if you are empathetic it reminds you of something that has happened to you so, yeah, definitely. (Scott, Substance Misuse Worker)

It is further suggested that the association of shame with previous negative experiences could in turn instigate strategies to cope with such feelings, such as self-harming and self-destructive behaviours. Practitioners suggested that such behaviours could be used as a means to manage the emotional pain associated with feelings of shame.

> [*Interviewer: What effect do you think this expression of shame has on girls?*] It could make them go out and self-harm and feel really bad about themselves . . . I would hope not but that could be true for boys because we have boys who self-harm so I think it depends a lot on where they are from and what kind of experiences they have already gone through. (Debbie, Victim Liaison Officer)

> Self-harm, self-abuse might be there, well it is probably there, but don't forget in the conference process it is not our job to be therapeutic. So if those issues are there, and those issues are most likely there, that's not the facilitator's role to explore that or go into that. That is the issue for the case manager working with that young woman. That is when it will get dangerous as those issues will undoubtedly be there. Shame manifests itself through self-harm, drug abuse or whatever but it is not the facilitator's role to get into that . . . Yes I think a lot of young women could internalise self-harm and express the shame that way more so than young men. (Stan, Youth Offending Team Senior Officer)

This is a key finding and an integral argument to this research as it highlights important contextual arguments with regards to the suitability of a form of justice which establishes itself on the expression and demonstration of shame.

6.10 Reducing the Negative Implications of Shame

Despite their acknowledgments, concerning the potential for negative implications to arise from the expression of shame, all practitioners felt RJ conferencing was a suitable intervention to be used with girls who offend. Practitioners, however, stated it would only be suitable on the condition that the appropriate preparation is undertaken and the required assessments are completed.

> Making sure that the ground work is done appropriately and there is enough preparation before, during and then you have got the after stuff they should be alright. (Elaine, Youth Offending and Family Intervention Worker)

> I think if they didn't do the restorative justice process and preparation I think they would probably hang onto that shame for too long, very long, forever and that's what brings your self-esteem and your confidence and everything down. I think by being able to look at it and see it as ok and doing something about it is a healthy way to manage it . . . Yeah I think if shame isn't dealt with then they will hang on to it. If it is not dealt with like any negative feeling it will just bring

you down and affect your judgements and your choices. (Lynn, Restorative Justice Victim Worker)

As I said the preparation is key and you know we do use assessments which are based around sensitive and complex assessment of appropriate bits of restorative justice. So we use a number of different assessment tools in order to gain the attitude and the willingness and the appropriateness of these people coming together. We don't want to re-victimise any victims, we don't want to traumatise any young people. (Graham, Restorative Justice and Volunteers Team Manager)

The risks are higher, just as the risks for the way a female victim may see herself are higher for re-victimisation or fear of re-victimisation. So I think there are gender-specific issues there but I don't think that's anything that couldn't be addressed through a properly administered restorative process. (Jim, Restorative Justice Co-ordinator)

It was generally felt amongst practitioners that the potential for negative implications associated with shame would be addressed during the planning and preparation they engage the young person in prior to their participation in the RJ conference. Practitioners felt assured that the assessments and preparation they undertake would provide them with all the necessary information concerning the young person in order to make an informed decision with regards to their suitability to participate.

You would be picking all of this up when you are doing your assessments for whether or not an RJ is suitable. When you have got a young person coming through the YOT you have many people doing assessments, vulnerability assessments, risk assessments, you will be getting in touch with all the services the young person has been involved in. So when I come to doing my own assessments I have got all that information ready. So whether they disclose that to me, or not, I have already got that information. (Shelly, Victim Liaison Officer)

The use of Asset as an initial assessment tool, used to formulate individualised action plans to meet the needs of girls, was criticised by one practitioner as being inadequate.

> If the Asset is the basis for the individualised action plan . . . if actually the initial assessment is flawed, the needs aren't going to be satisfied . . . I think simply most services probably don't have, or lack both, the experience and the resources to properly deal with the issues that present with young women who get into the system . . . and if a service tries to deal with girls in exactly the same way as it did with boys actually, it is just another example of the system discriminating on the grounds of gender in this case. (Jim, Restorative Justice Co-ordinator)

Predominantly practitioners asserted that any information, relating to a young female offender, which would be relevant to their assessment of whether it would be suitable for them to participate in a RJ conference, would be shared with them by colleagues and other professionals working within a multi-agency information sharing framework. Practitioners, however, did not acknowledge the potential for significant information to remain undisclosed from themselves or other professionals working with the young person.

Drawing upon the insights provided by the girls it was, however, revealed that the planning and preparation they engaged in prior to their participation in the conference was minimal. Eight of the girls interviewed said that that they did not undertake any preparation prior to the conference.

> There was no preparation for it at all. We just got told the date and time and place basically and we had to be there and if we wasn't there we would have to go to court . . . The way she walked in there she looked like she was prepared, she had her whole family around her, me and Sarah didn't even know what we were walking into for god sake. We just got told that we had to get a card and chocolates and flowers and we had to go in and face her. That's all we got told, well I got told he would be out later in the week to come and

explain what would go on and he didn't so it was like hmmm' . . . She looked like she had all the preparance *[sic]* in the world. (Jenny, 14)

Nobody told me what was going to happen, I wouldn't have gone. I just knew I was there because I hit Faye, I didn't know what was going to happen. (Kim, 13)

[*Interviewer: How did you feel walking into that room?*] Like I was confident and I was prepared to take what was coming towards me . . . Like I thought they were going to arrest me or just put me in YOT or something like that. They didn't tell me what was going to happen. They told me it was because I head butted a member of staff, which was recorded as a crime she said. She was just bitchy and snappy and narky I guess. [*Interviewer: So you didn't know what was going to happen?*] Not really, I just knew I was in trouble. (Becky, 14)

They just said you need to answer questions . . . speak the truth, everything had to come out. [*Interviewer: So did you have an idea about what was going to happen then?*] No . . . I have never had to do anything like that. (Amy, 12)

One [practitioner] came out to us before we went into the room . . . and was like telling us what to do. (Chloe, 14)

For the girls who stated that they did engage in preparation for the conference, this involved preparing apologies for victims.

Erm, I just wrote out a little scrap piece of paper just writing down what I was going to say and did it. (Hannah, 13)

I did a worksheet with her [facilitator] to plan what I was gonna [*sic]* say. (Charlene, 17)

Not a lot I just had to think things through with Carol [YOT worker]. (Nicole, 16)

I had to write a letter to her [victim] or something like that. (Nicole, 16)

These quotes provided by the girls interviewed, predominantly reveal that they were not adequately prepared for their participation in the conference. Situating this finding in relation

to the important emphasis practitioners placed upon engaging girls in planning and preparation highlights the potentially harmful consequences the girls were subject to.

An additional finding, which exacerbates this concern, is exemplified by the girls' lack of understanding with regards to what RJ is and the purpose of the conference they participated in.

> [*Interviewer: So what do you think restorative justice is?*] I don't know, it was this woman that told me and I couldn't understand her . . . she was just saying all these weird words and I just didn't understand. (Chloe, 14)
>
> Nothing I don't understand any of it. (Sarah, 17)

This finding is significant because it suggests that girls do not fully understand the purpose or the process they are engaging in. If the girls do not fully understand the process and were not adequately prepared for it, it is evident that there is an increased potential for negative consequences to arise from the conferencing process. This raises serious concerns regarding the operational practices of RJ conferencing and supports existing, critical, literature regarding RJ interventions used in the YJS and the potential they hold for inflicting harm upon young people (Cunneen and Goldson, 2015)

Despite their perspectives suggesting that RJ conferencing is a suitable intervention to be used with young female offenders, practitioners' interviews also reflected concerns with regards to girls' understanding of the conferencing process.

> I mean they don't have the maturity that's why I say 'is the impact on a 14 year old or is the impact going to happen later?' I think sometimes the emotional maturity is difficult so they might not get what they have done but I certainly think they should still do it. (Debbie, Victim Liaison Officer)

> . . . In terms of their ability to articulate, I think our young people and especially the girls, you have got issues there already . . . you have got the shyness to overcome and you have got the confidence. Self-esteem when it comes to girls is pretty low. You have got some that are displaying a nervous laugh and you have got to get that across to the victims because that is a slap in the face right? But they are young people and their ability to articulate, they struggle, and that nervous laugh is for different reasons. It is because they are uncomfortable. (Shelly, Victim Liaison Officer)

In addition to the lack of preparation for the RJ conference and the girls' lack of understanding, the potential for negative implications, arising from their experience of shame, is further exacerbated by the finding that a number of the girls did not make amends with the victim of their offence during the RJ conference.

Practitioners stated that as the conference progresses the young person becomes assured that they have repaired the harm caused by their offending behaviour, which in turn resolves any negative feelings of guilt or shame. However the empirical data from the girls suggests that they were not able to make amends with the victim.

> [*Interviewer: Do you think you were able to make it up to the victim?*] No, I wouldn't want to either. (Chloe, 14)

> . . . She didn't accept my apology but she was thankful for it. I said to her I am genuinely sorry for what I have done . . . I went through a lot of effort to say I was sorry and she didn't even accept it. (Jenny, 14)

> I couldn't see her, I couldn't even see her face to face, even now, I couldn't do it because obviously I don't really want to see someone I have done that to . . . [*Interviewer: But do you think by going to the meeting you were able to make it up to her?*] If she had listened to me and actually listened to my point and what I had to say then maybe but she didn't, so no. (Sarah, 17)

> I still can't stand her. I hate her. (Becky, 14)

> They were all just there to have a go at me. After
> it all I wasn't even bothered it made no difference
> to anything. (Kim, 13)

These findings raise multiple concerns. Firstly, comparing
such findings in relation to practitioners' perspectives, any
negative feelings of shame and guilt evoked within these girls
would remain unresolved. Secondly, the findings do not
suggest that reintegration was achieved for these girls. The
girls' narratives, however, arguably describe a process of
'stigmatic shaming' (Braithwaite, 1989: 105) due to either their
reluctance to make amends for their offence, or their
unsuccessful attempt to make amends. Further, evidence
supporting this claim is the extent to which the girls' narratives
contradict practitioners' perspectives with regards to the
remedial capabilities of RJ conferencing.

6.11 Conclusion

This chapter has presented an analysis of the empirical data,
generated from this research study, in relation to the themes
of stigma and shame. Drawing upon the data provided by
practitioners a coherent argument has been formed which
identifies the potential implications a gender-specific stigma
may have for girls who offend, due to their offending being
viewed by others as a transgression of gender norms and
expectations inherent within the social construction of gender.
This finding has provided a basis from which to critically
interrogate the potential for girls' experiences of stigma to
have implications for their experiences of shame during the
RJ conference. The data and analysis presented within this
chapter is significant because it contributes to the construction
of an alternative, original, account of how RJ conferencing is
used as a youth justice intervention. This alternative account
details the extent to which girls' narratives function as a form
of resistance to existing RJ discourse and the contradictions
evident within the contrasting sets of data demonstrate the

need to critically engage with alternative narratives of RJ discourse, which challenge dominant ways of thinking about girls, gender and justice.

Chapter 7

Chapter 7

Deconstructing Dominant Discourse: Conceptualising Restorative Justice through a Gendered Lens

7.1 Introduction

Evans, Gruba and Zobel (2014: 12) assert that in order to effectively synthesise and distinguish the main contributions to knowledge research makes, it is essential to critically examine the research findings 'in light of the previous state of the subject . . . and make judgments as to what has been learnt' from the work undertaken. Prior to undertaking this research, girls' experiences of RJ conferencing, within the context of youth justice practice within England and Wales, received little attention within criminological inquiry. On a whole, their experiences within the YJS have remained at the margins of academic and policy discourse. Undertaking this study has contributed to bridging this gap in knowledge by bringing to the forefront of criminological research, the narratives and subjectivities of girls subject to RJ policy and practice. This chapter will reflect upon the overarching themes inherent within the research findings. The intention is to draw together each of the themes presented in order to consider the contribution to knowledge this study has provided.

7.2 Restorative Justice with Offending Girls: Alternative Narratives to Existing Discourse

The findings arising from this research study establish a number of significant themes concerning girls' experiences of participating in RJ conferencing. One of the most consistent and reoccurring themes, which emerged during the process of data analysis, was the extent to which the girls' subjective accounts of RJ conferencing did not support practitioners'

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perspectives that conceptualised the process as an inherently positive experience for those who engage with it. Practitioners suggest that girls' participation in RJ conferencing is beneficial for them as it enables them to make amends with the victim of their offence, and resolve any negative feelings associated with it, whilst also holding them accountable for their offending, which would likely result in reducing their risk of reoffending.

Although RJ discourse and evaluative research acknowledges the benefits for offenders who participate, specifically in terms of reintegration and recidivism, the development of RJ is primarily established as a 'victim's movement' (Haines and Case, 2015: 55). The practitioners interviewed supported such a perspective. This conceptualisation of RJ as a victim-led intervention has resulted in RJ interventions, used with young people, being criticised as 'wholly unjustified' on the basis that they cannot meet the needs of young people when they are saturated with concerns relating to victims' needs (*ibid.*: 55). Thus concerns are riased regarding the extent to which RJ practices reproduce and exacerbate manifestations of unequal power relations that work to the detriment of children and young people who are subjected to them. Young people who encounter the youth justice service are characterised by their position of relative powerlessness in society (Case, 2018). For girls who offend, their position is further characterised by inequalities in relation to their gender (Sharpe, 2012). Therefore, the potential that the victim-centric ethos of RJ will further exacerbate the marginalisation of girls within RJ policy and practice requires consideration.

Alongside their conceptualisation of RJ as a victim-led intervention, the findings revealed a consensus amongst practitioners that girls are more responsive to RJ conferencing. This was because practitioners perceived girls to have heightened emotional and social capacities,

compared to boys, and increased levels of empathy. Thus enhancing their suitability for conferencing, due to its distinct focus on the emotional interactions and dynamics between victims and offenders (Wallis, 2014). This emotive dynamic present within RJ conferencing is supported by its association with re-integrative shaming ceremonies, which are characterised by inducing within individual's shame, remorse and empathy for offending behaviour (Braithwaite, 1989; Wallis, 2014). It has, however, been acknowledged that the social construction of femininity accounts for the stereotypical characterisation of females as fragile, passive and emotional subjects (Sharpe and Gelsthorpe, 2015). Furthermore, practitioners have acknowledged that girls' offending is judged in line with discourses of femininity and they have demonstrated an awareness of the ways in which the social construction of gender is implicated within the stereotypical conceptualisation of girls as feminine subjects.

Emotional norms shape an individual's self-presentation (Goffman, 1971). According to Schur (1984: 54), 'there are patterned expectations regarding the emotions women and men are supposed to display, and even to feel'. Therefore, it is recognised that the 'gender system incorporates assumptions as to the emotional qualities that are natural to the two sexes' (*ibid*.: 54). It is suggested that the emotional norms associated with females constructs them as inherently emotional. Therefore, if girls do not 'openly demonstrate stereotypical feminine qualities – warmth, nurturance, supportiveness, and so on – [they are] . . . likely to be defined as ''cold'', ''calculating'', ''manipulative'', and ''masculine''' (*ibid*.: 54). By identifying girls as more 'emotional' and 'empathetic' than boys, it appears that such gendered discourses could have also influenced practitioners' own subjectivities. In turn it may be argued that their perceptions of young female offenders are constructed in accordance with longstanding ideologies of femininity.

However, the narratives provided by the girls failed to support the perspectives offered by practitioners. Instead, they provided an account of RJ conferencing that contests practitioners' construction of girls as feminine subjects that adhere to normative standards of morality and respectability. The girls' narratives presented a much more complex picture of RJ conferencing. The girls discussed how they were reluctant or unwilling to apologise for their offending, how they contested their status as an offender and refuted the positive and beneficial nature of RJ conferencing, constructed by practitioners. Such subjectivities have arguably revealed the extent to which they rejected the aims of the conferencing process, thus challenging the conceptualisation of girls as more suitable for RJ.

The dichotomy between women's moral reasoning as being guided by an 'ethic of care' and men's moral reasoning being guided by an 'ethic of justice', developed by Gilligan (1982: 74), can be drawn upon to understand practitioners' conceptualisation of girls as suitable participants for RJ conferencing. A feminine 'ethic of care' is distinguished as being specifically concerned with communication, responsibility and interpersonal relationships (*ibid.*: 74). The 'ethics of justice' concept is considered to be defined by a focus on rules and rights and is constructed based on a hierarchy of values and power, which resolve conflict through objective means (*ibid.*: 74). Gilligan argued that the male centred 'ethics of justice' is perceived to be superior to the moral reasoning associated with females, resulting in women's voices being marginalised (*ibid.*: 74). The core values of the 'ethic of care' principle, identified by Gilligan (*ibid.*: 74) have, according to Daly (2003: 202), contributed to the development of a 'gender-linked association' which distinguishes the core values of RJ, as an informal model of justice associated with feminine values. It is within this context that such responses by practitioners can be understood. This is because the association of RJ with the 'ethics of care'

(Gilligan, 1982: 74), characteristic of feminine morals and values, can be seen to situate RJ conferencing as model of justice, which is more suitable for females.

Daly (1989) challenges the association of male and female voices within the care/justice dichotomy, on the basis that incorporating an ethic of care principle, which is ideologically associated with the voices of women, reproduces and maintains discourses of femininity which construct women and girls as subjects who are devoid of autonomy and rationality. Daly questions the extent to which the distinctions between male and female moral reasoning, used as a means to contextualise and appropriate dichotomies of retributive justice and RJ, construct normative assumptions about justice principles within a gender-specific discourse, which excludes one position over another (*ibid.*).

It is suggested that the responses by practitioners, which situate girls as more receptive to RJ, arguably highlight a tendency of deterministic thinking regarding girls' experiences of RJ. This represents a continuity of disregard for girls' agency and ability to act intentionally. As a result, it is argued that their experiences are recurrently being subjugated by discourses of femininity, which neglect the context of agency, power and subjectivity in girls' lives. It is therefore contended that girls' subjectivities are being marginalised through the production of such perspectives. Thus highlighting a need for enhanced feminist engagement with RJ principles and practices, which can challenge existing constructs of knowledge that exclude or neglect to consider girls' agency.

7.3 Marginalising Subjectivities

The rationale underpinning this research study has centred upon bridging the gap in knowledge concerning young female offenders' experiences of RJ conferencing, informed by girls, whose voices have remained excluded from existing RJ

discourse. By building upon and contributing to the existing body of knowledge, concerning gender and RJ, the empirical findings of this research have challenged the construction of RJ conferencing as an arena in which all participants are afforded a participatory role. The interviews with girls revealed that an opportunity to share their narratives was not always afforded to them. Instead they constructed RJ conferencing as an intervention, which marginalised their subjectivities. Such findings highlight another context in which girls' subjective experiences have contradicted the existing literature and practitioners' perspectives that construct RJ conferencing in positive manner.

It is established within feminist criminology that girls' and women's accounts of offending have been marginalised in comparison to males. Therefore, allowing and listening to girls' subjective accounts of their own offending is integral to feminist inquiry (Carrington, 2002). Within the context of Marshall's (1996: 3) definition of RJ, as a process that enables those who participate with the opportunity to 'collectively resolve how to deal with the aftermath of the offence', it is suggested that victims and offenders are given a participatory role in restorative processes (Zernova, 2007). Furthermore, advocates of RJ contextualise it as a comprehensive solution to conflict, which is meaningful to all parties (Johnstone, 2011). It is therefore suggested that RJ is an opportunity for both victims and offenders in manage their conflict, whilst facilitating an arena in which subjective accounts of offending behaviour and victimisation can be shared (Christie, 1982). However, this commitment made by RJ to allow victims, as well as offenders, to share their own narratives was impeded for a number of the girls who participated in the research.

The responses provided by the girls during their interviews demonstrated how their narratives, concerning the context of their offending behaviour, were silenced during their participation in the conference, suggesting that their

experiences became subjugated knowledge. It is therefore suggested that the presence of power relations, between young people and adults, and the potential for them to be exacaberated by RJ conferencing requires further consideration.

Drawing upon such findings, it can be argued that RJ conferencing, as enacted within the context of this research, is not constructed as arena in which girls' subjugated knowledge is disclosed but is presented as an experience, which disqualifies or silences their subjectivities. The girls have therefore provided alternative accounts, which challenge the dominant discourse surrounding RJ, by revealing the ways in which RJ conferencing has served to supress their subjectivities. Such an argument reveals the ways in which RJ practices operating within the YJS contribute to the continued neglect of young female offenders' experiences.

7.4 Restorative Justice and the Neutralisation Agenda

A perplexing finding, which emerged from the empirical data, was practitioners' reluctance to acknowledge the social division of gender as a variable present within RJ conferencing. Despite an established body of knowledge that reveals how girls' behaviour is regulated through modes of social control, which serve to oppress and ascribe them to a subordinate position within society on the basis of their gender, practitioners predominantly presented RJ conferencing as gender-neutral intervention. They were hesitant to acknowledge, and in some cases declined to accept, that existing hetropatriarchal power relations would permeate the dynamics of RJ conferences.

The assumption that the process of RJ conferencing is resistant to unequal power dynamics, emanating from established social divisions, is challenged on the grounds that

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'power is a process that characterises virtually all social relationships, between both individuals and between larger social units' (Radtke and Stam, 1994: 6). Within relationships, individuals are 'positioned as female and male as well as being positioned within some power relations' (*ibid*.: 13). It can therefore be argued that 'gender and power emerge as ubiquitous aspects of social relationships' (*ibid*.: 13). Furthermore, 'it is suggested that the social position of women in relation to men is sufficiently unique to require special consideration in any account of power' (*ibid*.: 7).

The findings represent attempts by practitioners to neutralise the role of gender in RJ and the potential for it to affect girls' experiences of conferences. Practitioners referred to the 'genderless' nature, and the neutral dynamics, of RJ and were confident that any experiences or outcomes would only be determined on an 'individualistic' level. It is established that girls' choices are constrained by patriarchal structures operating within society (Hudson, 1989). These structures have implications for girls because 'gender as constructed under existing social arrangements serves to maintain female powerlessness and hence maintain existing gender relations' (Radtke and Stam, 1994: 8). This is a particularly salient concern with regards to girls' participation in RJ conferencing, as it allows for recognition of gender relations and the role they may occupy in relation to girls' offending behaviour to be acknowledged. Therefore, the 'gender-neutral' or 'genderless' operations of RJ become a concern. This is because such practices fail to understand issues around agency and structure, when comprehending the context of girls' offending behaviour, or how their choices are constrained by social relationships, which are often defined by patriarchal structures dependent on the social construction of gender (Batchelor, 2005; Sjoberg, 2008).

Despite an increase in the development of gender-specific provision for girls in the YJS, and the acknowledgment that

youth justice interventions need to accommodate the different needs of girls who offend (Batchelor, 2005; Bateman and Hazel, 2014; Sharpe, 2015), official discourse concerning the use of RJ with young offenders remains silent on issues of gender. The absence of gender within official policy and discourse has arguably served to neutralise the social division of gender, as well as the unequal power relations and structural inequalities emanating from it, to the extent that those delivering and facilitating RJ interventions do not take cognisance of gender subjectivities within RJ practice. It is contended that the gender-neutral construction of RJ (re)produces and exacerbates manifestations of unequal power relations and inequality for girls who are already marginalised, within a male-dominated YJS, and characterised by their position of relative powerlessness within society.

It is suggested that state institutions do not maintain the gender order in a 'simplistic or conspiratorial way' (Ballinger, 2009: 29). Although the state is recognised at 'patriarchal and the law androcentric' its role in the social control and oppression of women and girls is 'subtle to the point where it appears to be gender-neutral' (Ballinger, 2007: 474). Furthermore, 'through the process of re-definition and gender neutralisation the state is able to present itself as *more* inclusive' (Ballinger, 2009: 30). It can, therefore, be argued that the development of gender-neutral polices legitimises the state's role in the oppression of women and ensures the existing social order remains the same (McIntosh, 1978). This is because the more '*objective*' the state and its agencies are 'the more effectively patriarchal' it can be (Connell, 1994: 145). The development of 'ambivalent policies', organised around the interests of men, occurs because patriarchal power is rooted within the function of the state (*ibid*.: 143). Therefore, gender-neutral policies which 'equate equality with sameness' become an apparatus in the state's attempts to neutralise gender within official discourse. In doing this, the

state is embedding, maintaining and legitimising gender inequality (Ballinger, 2009: 30).

The presence of gender, as a variable within RJ practice, is suggested to be subject to a process of reductionism, in which its complexity and hybridity is excluded and replaced with 'individualistic' considerations, despite the fact that individual identity is negotiated and embodied on the basis of one's gender (Butler, 1990; McNay, 2000). RJ is constructed as immune to the established consensus that youth justice interventions should be distinguished by gender-sensitive delivery. This gender-neutral approach to the delivery of RJ, has the potential to subject girls to a process of 'vengeful equity' whereby they are treated in the same way as boys 'in the name of equal justice' (Chesney-Lind, 2006: 18). This is because they are being held accountable for their offending behaviour through interventions, which take no cognisance of the context in which structural inequalities, in relation to gender, shapes their formative experiences or their offending behaviour. Therefore, to regard RJ conferencing as a 'neutral' 'genderless' process, operating within a YJS which is characterised and statistically dominated by young male offenders, neglects to consider how the social structures present within gender relations operate within restorative processes. Furthermore, girls' subjectivities are being systematically excluded and their experiences marginalised by a reluctance to acknowledge the presence of gender within RJ practices. It, therefore, becomes evident that RJ theory and practice needs reconceptualising through a framework which focuses on developing new structures of knowledge that challenge the ways in which RJ is operating within a 'genderless' framework functioning to the detriment of girls who participate.

The discussions throughout this thesis imply that gender shapes individual subjectivities, social relationships and the functions of institutions, policy and practice (Wharton, 2012).

The social construction of gender 'guide[s] our interactions, the composition of our social groups and the structures and practices of institutions that surround us in daily life' (*ibid.*: 20). Thus, gender 'must be understood as the product of a more complex set of social forces' which are salient to the functioning of the social world and the production of gender inequality (*ibid.*: 20). The way in which RJ policy and practice has developed within a gender-neutral or gender-blind framework excludes and undermines alternative discourse, thus girls' subjectivities are invalidated. This failure to acknowledge gender enables RJ discourse to be contested and a space to be created for RJ theory, policy and practice to acknowledge the complexity of gender and the impact it has on shaping the experiences of girls. Therefore, by acknowledging and considering gender subjectivity alternative discourse, which situates girls as producers of knowledge, is able to emerge.

7.5 Practitioners' Perspectives on Power Relations: Continuing the Neutralisation Agenda

Not only were practitioners disinclined to recognise the presence or role of gender within the social processes of RJ conferencing, they were also resistant to accept the possibility that unequal power and control dynamics were present during a RJ conference. Such findings provide the opportunity to contextualise the functions of RJ in relation to wider issues of power, patriarchy and social control. Drawing upon the previous arguments, concerning girls' relative position of powerlessness within society, practitioners' reliance on the conference script to ensure neutral dynamics and equal power relations are present during the conference requires further critical discussion.

It is suggested that the issue of power, who holds it, how it is exercised, how it is manifested within social relationships and the ways in which it is structurally maintained are significant

when examining the use of RJ conferencing with girls. This is because it has been acknowledged how girls have been subject to regulation and control by both formal and informal mechanisms of social control (see for example, Cox, 2003; Hudson, 1989; Sharpe, 2012). Furthermore, the CJS has been identified as a patriarchal structure within society that contributes to the social control of girls through supervision and intervention, which shape girls' subjectivities (Montoya, 2016). Therefore, an account of how power functions within such supervision and intervention is integral to understanding the ways in which girls are subject to various modalities of social control.

Power can be regarded as an integral concept when attempting to understand how the social construction of gender functions as a form patriarchal power and an organising principle of social life. The implementation of RJ within a CJS, which 'coercively and authoritatively constitutes the social order in the interests of men' (MacKinnon, 1989: 62), determines the need to examine the ways in which power relations function within the context of RJ conferencing, operating as part of an inherently 'gendered institution' (Montoya, 2016: 368).

Claims by practitioners that RJ conferencing does not facilitate unequal power and control dynamics, fails to acknowledge the extent to which girls' identity, subjectivity and narratives are formed through social norms and interactions, regulated by discourses of femininity. Therefore, practitioners can be criticised for upholding a masculine perspective on RJ practice by neglecting to acknowledge that 'gender relations are power relations' (Radtke and Stam, 1994: 13). Such perspectives can be regarded as upholding 'sovereign agency' due to such perspectives on 'neutrality' which assume girls are fully rational subjects, whose subjectivities will not be implicated by relations of power and masculine ideologies (McNay, 2016: 54).

Power is key to understanding how gendered mechanisms of social control institutionally operate (Ballinger, 2009). Practitioners have, however, failed to understand how the gender-defined contexts of power relations are transferred into the RJ arena and intertwined within girls' subjectivities, through subtle mechanisms of social control, inherent within the social function of stigma and shame. A feminist account of how power functions as a modality of social control and shapes gender subjectivities is integral to understanding young female offenders' experiences of power and control, within RJ conferences. Within the context of this argument, power is being theorised in relation to the gendered institutional relationship between young female offenders and RJ. Practitioners did not acknowledge this relationship and how girls' experiences of power and control are inexplicitly intertwined within it. Thus leaving relations of power and patriarchy in RJ practices excluded and unexplored.

A reluctance to appreciate the ways in which the social construction of gender may shape girls' experiences of RJ conferencing represents a reluctance to acknowledge gender as a complex, social and cultural product, which shapes girls' subjectivities and in turn subjects them to interventions, which are operating within gendered institutions, dominated by hetreo-patriarchal values (Connell, 2008; Miller and Mullins, 2006). This may be perceived as a failure to deliver a true picture of the reality and representation of girls' subjugated knowledge and the ways in which systems of social stratification are operating in RJ policy and practice. Critically exploring RJ practices, through a gendered lens, challenges male knowledge, which obstructs the reality of girls' experiences and questions the extent to which the operations of RJ have excluded the interests of females.

7.6 Shame, Stigma and the Social Construction of Femininity: Challenging the Suitability of Restorative Justice Conferencing for Offending Girls

It is recognised that race, ethnicity, social class and gender 'shape status hierarchies' and determine individual positions of power within society (Link and Phelan, 2001: 371). Power is an 'entirely contingent' component of stigmatisation and enables the 'construction of stereotypes, the separation of labelled persons into distinct categories, and the full execution of disapproval, rejection, exclusion and discrimination' (*ibid.*: 367). It has been acknowledged that women and girls are not afforded equal status within society, in comparison to men, and having a 'status that is devalued in the wider society can lead to very concrete forms of inequality within the context of social interaction' (*ibid.*: 371).

The power of stigma involves a 'two-way social process in which every individual participates in both roles, at least in some connexions' (Goffman, 1963: 163). Within this context stigma can be regarded as a 'resource', which enables the 'exploitation, management, control or exclusion of others' (Link and Phelan, 2014: 24). Stigma as a resource demonstrates the relationship between stigma and power and the ways in which this relationship functions to produce and sustain unequal power relations 'through stigma processes that are indirect, broadly effective, and hidden in taken-for-granted cultural circumstances' (*ibid.*: 24). Therefore, it is suggested that the presence of stigma during a RJ conference would affect the dynamics of the process. Whilst it may be suggested that the 'neutral' construction of RJ conferencing and the adherence to the conferencing script may prevent unequal gendered power relations from functioning overtly, it cannot be assumed that such power relations do not continue to function in tenuous ways within individual subjectivities.

Although stigma is not exclusively applied to women and girls and is arguably a consequence for all those who transgress social norms (Goffman, 1963; Link and Phelan, 2001), it is important to understand that the social processes in which stigma is applied to girls, for their offending, does not function in the same way as it does for males (Bartky, 1990; Hutter and Williams, 1981). Previous chapters have articulated how dominant discourses of femininity, which determine others' expectations of gender appropriate behaviour, have resulted in girls being more susceptible to stigma due to the extensive norms and expectations associated with them (Hutter and Williams, 1981; Laws, 1979; Schur, 1984). Furthermore, it has been suggested that girls are subject to stigma by virtue of being female (Laws, 1979). Therefore, it has been contended that girls' experiences of stigma are compounded by the social construction of gender to a greater extent than boys. However, what remains unclear is the ways in which stigma functions during girls' participation in a RJ conference.

The empirical data presented in Chapters five and six of this thesis has indicated that the girls who participated in this research study were subject to stigma because of their offending behaviour. This theme is significant because it reveals the presence of a gender-specific stigma for young female offenders participating in a RJ conference. As such, there is no guarantee that the collective norms and expectations associated with the ideals of femininity, identified within existing literature and the empirical data, will not transgress into the RJ arena, resulting in differential outcomes and experiences for girls compared to boys (Cunneen and Goldson, 2015). This argument necessitates the need to empirically and theoretically examine what the implications of being stigmatised with a deviant identity may have for girls participating in RJ conferencing.

7.7 Confronting the Role of Shame and Stigma in Restorative Justice Conferencing

Drawing upon the theoretical arguments underpinning this thesis it has been suggested that stigma is a result of a spoiled identity, determined by others' negative reaction to a specific transgression (Goffman, 1963). Utilising the insights provided by both Cooley (1902) and Goffman (1963) an argument has been presented which suggests that when young female offenders are stigmatised their identity is no longer positively reinforced by others and feelings of shame are experienced (Cooley, 1902). Furthermore, the feminist framework used to inform the discussion and analysis of this research has facilitated the development of a link between shame and gender that is rooted within the social construction of femininity. It has been suggested that shame is an emotion, which arises from failure to conform to social norms, and expectations associated with feminine ideals and thus plays a central role in conformity to gender scripts and expectations (Bartky, 1990; Brown, 2007). It is understood to be a 'self-reflective emotion of negative global assessment [involving] a painful, sudden awareness of the self as less good than hoped for and expected, precipitated by the identification of others' (Manion, 2003: 21). It has therefore been contended that shame is a consequence of women and girls' oppression and structural inequalities resulting from the 'gender order' (Connell, 2002: 72). As such, it is argued that women are more 'prone to shame than men' (Lewis, 1971: 421).

It has also been acknowledged through existing literature, that shame occupies a central place within the RJ processes used with young people in the YJS because of its association with Braithwaite's RIST (Johnstone, 2011; Maruna *et al.,* 2007). Thus, the identification of shame as an emotion which is experienced as a result of transgressing dominant discourses of femininity highlights important considerations concerning the suitability of a youth justice intervention, which establishes

itself on the expression and demonstration of shame. This is because the gendered nature of shame acts to socially control and stigmatise girls in ways, which it fails to do for boys. It is therefore suggested that the core principles of RJ conferencing, developed upon the premise of RIST, represent gender-specific barriers to girls' participation. Thus, it needs to be questioned whether such an intervention is beneficial for girls who take part.

The empirical findings from both girls and practitioners distinguish shame as intrinsic to RJ conferencing. The data suggested feelings of shame, relating to their offending behaviour, were central to the girls' narratives, whilst practitioners identified shame as one of the most common emotions evoked for girls during RJ conferences. Although all practitioners did acknowledge that girls who offend are likely to be stigmatised, as their offending is viewed as a transgression of social norms and expectations associated with appropriate female behaviour, they did not acknowledge that stigma, experienced within this context, would be associated with girls' experiences of shame during a RJ conference. However, the theoretical insights provided by Cooley (1902) and Goffman (1963, 1971) conceptualise shame as a reaction to stigma. This is because they suggest that the construction of an individual's identity is dependent upon the way others perceive them (Cooley, 1902; Goffman, 1971). When an individual is viewed negatively in the eyes of others, it becomes apparent that their attempts of 'impression management' have failed (Goffman, 1971: 207). As a result it have been suggested that they become labelled with a deviant identity and consequently stigmatised. The arguments presented suggest that once a stigma is applied, feelings of shame become exacerbated as the individual's identity has become spoilt in the eyes of others.

It is, therefore, not possible for practitioners to state, unequivocally, that the shame evoked within girls, during a RJ

conference, would be exclusively experienced as a consequence of their offending behaviour. This is because they have also acknowledged that girls are stigmatised for their offending behaviour as it transgresses societal expectations associated with the ideals of femininity. Thus, to contend that girls are experiencing shame solely for their offending behaviour is subject to interrogation. This is because the findings indicate that stigma, for transgressing appropriate female behaviour, was present for girls during their participation in the RJ conference. Stigma carries with it connotations of self-blame, guilt and shame. For girls participating in a RJ conference, if their feelings of shame are a reaction to their stigmatisation, then their expression of shame during the conference can be seen as enforcing the acceptance of an identity which is tainted by the stigma associated with their transgressions of gender norms.

According to Scheff (2000: 97) shame is 'pervasive in virtually all social interaction' and individuals are 'constantly anticipating it'. It is suggested that the need to seek approval in the eyes of others can be understood as a motive to avoid shame and ensure 'social bond[s]' are maintained (*ibid*.: 97). However, in a RJ conference the process is underpinned by the demonstration of shame on behalf of the offender. For girls this demonstration of shame could be interpreted as confirmation of their deviant identity, confirming stigma as a reflection of their identity. It is the reflection of ourselves upon others that shapes our identity (Cooley, 1902) and stigma implies a number of negative consequences (Goffman, 1963; Scheff, 2000: 2005). Within the context of this argument, RJ conferencing can arguably be seen as an apparatus which serves to confirm the spoiled identity of girls through the application of stigma. Stigma has the capacity to reinforce their devalued status within society, making it difficult for them to overcome the impact stigma has on their identity, which in turn produces a negative impact on their self-perception (Goffman, 1963: 1971).

For those who are stigmatised, they are no longer viewed positively in the eyes of others and the presence of stigma impacts upon their experience of social situations, as such feelings of inadequacy, resulting from a spoilt identity, create a 'shameful gap between one's virtual and actual social identity' (Goffman, 1963: 152). This transgression provides the opportunity for others to exercise discrimination against them (*ibid.*). Once an individual is aware that others perceive them negatively, feelings of shame are evoked within the individual (Cooley, 1902). For the girls who participated in this research it has been suggested that their identity was stigmatised and that they were identified as deviant, not only for their offending behaviour, but also for their transgressions of acceptable femininity. By utilising the theoretical insights underpinning this research study, it is possible to provide an account of how the girls' experience of stigma can become implicated within their experience of shame during the RJ conference.

7.8 Reintegrative or Disintegrative Shaming? A Gendered Insight

The theoretical links suggested between shame, stigma and the social construction of gender highlight girls' experiences of shame as part of a RJ conference may not only be experienced in relation to their offending against the law, but also in relation to their offending against expectations of femininity. It is, therefore, argued that efforts to reintegrate an individual, with a spoiled identity, into their community become tarnished due to the existing stigma. As the RJ conference is supposed to focus only on the young person's offending behaviour (Young and Goold, 1991), transgressions of femininity are not addressed during the RJ conference. Thus the opportunity to make amends for such transgression and to remove the stigma attached to their identity is not provided. It can therefore be suggested that their experience of shame during the RJ conferencing could potentially function to

exacerbate their stigmatised identity, resulting in feelings of shame implicated by stigma. This argument challenges the extent to which reintegration can be achieved for girls, as their offending behaviour is inextricably linked to the stigma associated with their transgressions of gender norms and expectations.

'Apology, forgiveness and reconciliation' are required in order for RJ conferencing to successfully 'fulfil the aims of RIST' (Johnstone, 2011: 109). If the conference does not achieve these requirements then the shame the offender is subject to is likely to be 'disintegrative', resulting in a process of stigmatisation rather than reintegration (Braithwaite, 1989: 55). It is suggested that, for girls, participating in a RJ conference with a stigmatised identity would be counter-productive to the process and outcomes of RJ conferencing as the focus of the conference is entirely on the young person's offending behaviour. Therefore, if reintegration does occur, following the expression of shame, then it becomes apparent that girls are still being reintegrated upon the existence of inequality, as no effort has been made to address the existence of stigma for their transgressions of gender norms. As such the process of shaming girls for their offending behaviour is likely to emerge as 'disintegrative' (*ibid.*: 55) as their spoilt identity remains.

The purpose of the girls' participation in the RJ conference is to provide an opportunity for them to make amends for their offending behaviour and repair the harm caused (Marshall, 1999). As discussed, RJ discourse and practitioners' perspectives assert that RJ interventions should focus exclusively on the offence concerned. However, the girls' narratives have raised important concerns regarding the extent to which they are able to understand that it is just one aspect of their behaviour that is being denounced during the RJ conference, as opposed to their entire identity.

According to Becker (1963: 35), once, an individual has been labelled with a deviant identity for violating social norms their deviant status becomes their 'master status'. This deviant 'master status' arguably becomes the defining feature of their identity. The empirical data has indicated that the girls have been subject to stigma for transgressions of social norms determined by the social construction of gender. Drawing upon the theoretical arguments discussed by Goffman (1963) and Becker (1963: 35) it may be argued that these transgressions have resulted in the construction of a deviant 'master status' for the girls, resulting in them being stigmatised.

Wallis (2014) discusses how eliciting shame may become problematic for those who experience it. Furthermore, he discusses how there is the opportunity for practitioners or participants to neglect to acknowledge the distinction between deploring an individual's behaviour rather than their identity (*ibid.*). Given that stigma may already be a feature of the girls' identity, the opportunity for them to differentiate that stigma from their identity in order to understand that it is just one element of their behaviour that is being denounced during the conference, as opposed to their entire identity, is compromised. Therefore, if young female offenders are unable to detach the stigma, for transgressing feminine ideals, from their identity, there is the potential for their experiences of shame to be implicated by the social construction of gender.

7.9 The Gendered Nature of Shame and the Formation of Girls' Subjectivities

It has been suggested that the elicitation of shame as part of a RJ conference could fail to facilitate girls' reintegration and instead has the potential to be transferred into feelings of inadequacy and inferiority for their failure to conform to social norms defined within dominant discourses of femininity. Thus,

the extent to which shame functions as a gendered mechanism of social control for women and girls, raises further important questions concerning the central role shame plays within RJ conferencing.

Johnstone (2011) asserts that any evaluation of RJ requires examination of the broader structures of social control within which it is positioned. Thus far, however, the gendered contexts of social control and the ways in which it functions to shape girls' experiences, remains unevaluated in relation to RJ practice. The literature presented within Chapters two and three have considered girls' experiences within the social world in relation to the broader structural context of social control and regulation. The insights provided within these chapters, which highlight the multifaceted dimensions of social control operating in the lives of girls, necessitate the need to examine the context in which mechanisms of social control function for girls who participate in RJ conferences.

It has been suggested that the context in which an individual experiences shame may be the result of internalising a negative self-reflection based upon the view of others (Cooley, 1902; Goffman, 1963; 1971). Therefore, it is evident that the experience of shame, arising from the implications of stigma, require critical interrogation when considering the relational function of power and control operating within RJ conferences. This is because shame cannot be detached from the structural inequalities, which are determined by the 'complex matrix of gender, ethnicity, and socioeconomic class informing our identities' (Womersley *et al.*, 2011: 878). Therefore, shame as a central emotion, experienced as a result of being viewed negatively in the eyes of others and as a consequence of having a devalued identity, for women can be regarded as an attribute which determines most female experiences. Thus, it may be argued that 'a sense of shame is a central component of normative feminine experience and a measure of the extent to which all women have internalised

patriarchal standards of . . . acceptability' (Oksala, 2016: 478). Shame, however, is not just an emotion that women and girls are susceptible to, there is also a body of literature which suggests that shame for females is experienced and internalised in different ways and functions as a mechanism of social control for girls (Bartky, 1990; Brown, 2007; Fischer, 2018; Manion, 2003; Mann, 2018). Thus highlighting the gendered power of shame and its potential to operate within RJ conferences for girls.

As discussed, the empirical findings suggest that girls are participating in a RJ conference with a stigmatised identity. The construction of this stigmatised identity is suggested to be inherently linked to their transgressions of gendered discourses of appropriate female behaviour. It has also been established that these discourses function as a mechanism of social control. Thus, for girls, it is argued that the connection between their stigmatisation and feelings of shame, expressed for their offending behaviour, during the RJ conference, represent another context in which discourses of femininity continue to function as a gendered form of social control.

It is argued by Bartky (1990) that feelings of shame consist of the general understanding that deviations from any norms stigmatises someone as a person of 'lesser worth' and enhances their belief that their 'standing' in the social world has been changed (*ibid.*: 93). Therefore, there is the potential that girls who experience feelings of shame accept their failure to adhere to standards of social norms. If this experience of shame is internalised as a failure to live up to normative expectations, associated with feminine ideals, then what is actually being exercised from this process of shaming is a very subtle form of social control, which is shaping the behaviour of girls to conform to constructs of appropriate female behaviour. Expectations associated with gender appropriate behaviour may, however, not be explicitly intelligible to the

individual who holds such expectations, as such impartiality may by very subtle in one's consciousness or the interpretation of their meanings may be understood benevolently or disguised in some way (*ibid.*). Furthermore, what is being communicated to girls may not be explicitly interpreted as a failure to conform to feminine ideals, the messages received from such shaming practices may be interpreted as ambiguous but none the less it is likely the feelings of shame will constitute a tainted self-perception and a desire to change their self accordingly (*ibid.*).

Within this context, girls' narratives of shame and stigma are significant as the contribution to knowledge they provide offers a unique and original insight into their own subjectivities and arguably demonstrates the discursive contexts in which commanding discourses of femininity operate within the social world. As such, a space is provided in which the gendered social order and the inequalities resulting from it can be seen to permeate the social processes, which operate within RJ conferences. Arguably illustrating further ways in which the social division of gender disproportionately shapes girls' subjectivities through mechanisms of social control. These findings are significant as not only do they refute claims made by certain practitioners that RJ is a 'neutral', 'individualistic' process, which operates outside of the gendered order of society, it also challenges the failure of RJ policy to consider gender as a variable operating within RJ practice.

7.10 Realising and Responding to the Gendered Nature of Shame

It has been established that shame is an emotion, which could potentially play a central role in girls' conformance to gender norms and expectations. It is recognised as being articulated within women and girls' oppression and can be identified as an apparatus and informal sanction of the social control of girls (Bartky, 1990; Brown, 2007; Fischer, 2018; Mann, 2018).

Furthermore, existing research contends that experiencing shame will often evoke memories associated with previous experiences of shame, which draws individuals into a process of recollection, triggering specific coping mechanisms, such as 'withdrawal', 'avoidance', blaming others as well as the internalisation of shame through self-blame and self-directed anger (Nathanson, 1992: 312).

It is recognised that many girls who encounter the YJS often do so with complex problems and prevalent experiences of victimisation and disadvantage which are often compounded by structural inequalities in relation to gender (Batchelor, 2005; Sharpe, 2015; Social Exclusion Unit, 2002). There is also a propensity for girls to hold a degree of self-blame for their offending and the negative reactions their offending receives from others (Alder, 2003). Therefore, feelings of shame may become associated with self-blame for offending behaviour, resulting in self-harming behaviour as an expression of such feelings (*ibid*.).

Self-harming behaviours have been identified as a response to feelings of shame associated with traumatic events (Gold, Sullivan and Lewis, 2011; Lewis, 1992; Milligan and Andrews, 2005; Tangney and Dearing, 2002). Considering this knowledge base, the role shame plays within RJ conferences can be conceptualised in relation to the potentially harmful impact it may have upon those girls who experience it. Thus rather than focusing on the connection between shame and desistance, as suggested by Braithwaite (1989), it is argued that the connection between shame and self-harm requires greater consideration in order to ensure that there is no detrimental impact for girls who participate (Alder, 2003; Toor, 2009).

The empirical data reveals that practitioners have an understanding of the connection between shame and self-harming behaviours and they demonstrated an awareness of

the association between feelings of shame and experiences of trauma and victimisation. It was acknowledged that shame, experienced during a RJ conference, would evoke memories associated with previous experiences of shame. Furthermore, practitioners acknowledged that if the young person experiencing shame was subject to previous negative experiences of shame in their past, the potential for them to engage in self-harming behaviours would be exacerbated. Practitioners also suggested that girls hold a greater degree of self-blame for their offending and they would internalise shame differently to boys.

Despite acknowledgments, which suggested that evoking shame within girls could have serious negative implications for their emotional and physical well-being, practitioners predominantly felt that the potential for shame to have a negative impact upon girls was minimal and RJ conferences are a suitable intervention to be used with both young female and male offenders. This was because the planning and preparation young people are engaged in prior to the conference, alongside the mandatory assessments undertaken by YOTs, would determine if it was appropriate for a young person to participate or not. The two main reasons practitioners gave for this claim, however, are disputed within the girls' narratives. A number of girls identified that they did not take part in any preparation for the conference, whilst others identified that they participated in minimal preparation. For these girls it can be suggested that identifying the potential for any negative implications to arise from their participation in the RJ conference would have been compromised.

Furthermore, there are also problems with relying on youth justice service assessments to determine if it is appropriate for girls to participate in a RJ conference. It may be suggested that the Asset Plus assessment has the potential to inform practitioners' decision concerning girls' suitability to participate in a conference because it 'encourages case

managers to look for evidence of trauma . . . and capture issues specifically relating to the young person's risk of serious harm' (HM Inspectorate of Probation, 2017: 17-27). However, it cannot be guaranteed that all relevant information would be contained within that assessment. The gendered contexts of girls' offending and discourses of gender appropriate behaviour, which are implicated within girls' experiences within the YJS, further complicate the assessments undertaken with girls (Bateman, 2017). Asset as an initial assessment tool, used to 'determine the intensity of contact' for girls who are subject to both statutory and diversionary community based interventions, 'tends to systematically overpredict risk of recidivism' due to increased levels of vulnerability being accounted for in the Asset score (*ibid.*: 301). With regards to Asset Plus, there continues to be limited contributions to literature concerning its suitability as an assessment tool used with girls who offend. However, weaknesses have been identified in terms of its limited capacity to identify trauma as well as 'measuring different forms and levels of trauma', despite knowledge of such experiences being 'crucial in providing individualised support to girls' (Fitzpatrick, 2017: 139). Critiques have also arisen concerning the ability of Asset Plus to accommodate 'for the equitable participation of young people' as well as the potential for 'social factors and artefactual risk factors' to become privileged explanations for the causes of youth crime, as opposed to 'systemic influences', due to its 'over-emphasis' on information provided with regard to social, family and personal factors (Case, 2018: 259).

Despite not focusing explicitly on Asset Plus, a report produced by Criminal Justice Joint Inspection (2014: 8), focusing on the effectiveness of youth justice services at reducing girls' offending, vulnerability and risk, found that assessments used within YOTs, to analyse the reasons for girls' offending, did not take into account 'issues connected to gender'. The inspection also identified that 'vulnerability

assessments' (*ibid.*: 31) failed to recognise the impact of emotional and mental health problems on girls' offending, resulting in interventions which were not 'out-come focused or based closely enough on identified need' (*ibid.*: 8).

Additionally, the possibility that any negative experiences in girls' formative years could remain undisclosed within practitioners' assessments was not considered. However it is acknowledged, within existing literature, that girls are not always forthcoming in sharing their personal experiences with professionals as 'managing their own life history' is understood to be a significant component for girls in establishing their privacy and 'independence' (Alder, 2003: 120). This is especially the case for girls involved in the YJS as there is a tendency for professionals working with them to pathologise their offending and attribute it to experiences of abuse and victimisation. As such, girls may become reluctant to share their stories with practitioners who enquire into their personal lives (*ibid.*).

Considering the potential negative implications shame can have for girls, specifically in relation to self-harming behaviours and the association of shame with experiences of trauma and victimisation, important concerns are raised relating to the appropriateness of subjecting girls to RJ conferencing. These concerns are further exacerbated when considered in conjunction with the empirical findings, which have revealed that many of the girls who took part in this research study were not engaged in sufficient preparation prior to their participation in the RJ conference.

7.11 Reformulating Gender Subjectivities: Agency and Resistance

It has been acknowledged that gender ideologies are embedded within social life and situations (Miller and Mullins, 2006). It is through the enactment of gender that inequality is

produced in line with the 'gender order' (Connell, 2002: 73). Existing literature also indicates that girls are subject to a devalued status on the grounds of being female (Laws, 1979). For the girls who participated in this research study it has been suggested that they experienced stigma on the grounds that their offending behaviour was viewed by others as a transgression of gender norms and they were thus considered to be 'outsider[s]' (Goffman, 1971: 184). Such insights highlight the relationship between gendered power relations and 'traditional discourses which have controlled women' (Faith, 1994: 58). However, 'those who are labelled as an outsider may have a different view of the matter' (Becker, 1963: 1). This is because individuals do not have to 'accept the rule by which [they are] being judged and may not regard those who judge [them] as either competent or legitimately entitled to do so' (*ibid.*: 1). Furthermore it is also:

> . . . possible for an individual to fail to live up to what we effectively demand of him and yet be relatively untouched by his failure . . . he feels he is a fully fledged human being and that we are the ones who are not quite human. He bears a stigma but does not seem to be impressed or repentant about doing so (Goffman, 1963: 17).

Such rejection of deviant labels and stigmatised identities, (See Becker, 1963 and Goffman,1963), reveal individual resistance to the 'specific strategies by which power relations are patterned' (Faith, 1994: 58).

By drawing upon feminist insights, on the social construction of gender and gendered discourses of social control and applying them to Goffman's (1963) conceptualisation of stigma, an extended analysis of shame beyond its role of reintegration has been considered. Within the context of this research, shame has been identified as an emotion, which is central to girls' experiences of stigma. The connection identified between shame, stigma, the social construction of gender and girls' conformity to the ideals of femininity has

provided the opportunity to consider the relational role of shame and stigma and their power to shape gender subjectivities.

Drawing upon this argument the girls' narratives regarding shame and stigma can be considered within two contextual viewpoints. First is the function of power relations to (re)enforce the gender order, which permit structures of inequality and restrain girls' ability to resist hegemonic forces (Bartky, 1990). Second is the potential for the presence of such power relations to shape girls' subjectivities.

The first context provides an important insight into the ways in which shame and stigma can contribute to the production of gender subjectivity as it has been argued that both are relational powers, which maintain constructions of inequality. However the power relationship, which links both shame and stigma, is arguably subject to reconstruction and change based upon individual subjectivity. Power relations are integral with regards to informing gender subjectivities and the affiliation of an individual to a particular gender identity (Butler, 1993). Reflecting on the theoretical arguments presented throughout this research study, shame can be regarded as playing a central role in the production of identity and thus can be identified as shaping gender subjectivities. It can be suggested that shame is an emotion that is manifested in terms of gender and cultural expectations (Harris and Maruna, 2006) and plays a role in conformity and transgressions of social norms (Brown, 2007; Tangney and Dearing, 2002). Shame, therefore, becomes an apparatus and informal sanction of the social control of girls, highlighting its capabilities to shape gender subjectivity.

The power dynamics emanating from the social construction of gender are commonly understood in relation to women's oppression and inequality (Radtke and Stam, 1994). However, 'power is both the source of oppression in its abuse

and the source of emancipation in its use' (*ibid.*: 1). Thus the existence of power within social relationships provides space for resistance, as it is not owned by any group or discourse and it is present everywhere, in all relationships (Cooper, 1995). Gender discourses, which inform individual identity, are structured in relation to cultural and other institutions, which are responsible for subjectivity. These subjectivities shape how individuals perform their gender and intertwined within these gender performances are power relations. However, resistance can contest 'patriarchal power/knowledges and challenge institutionalized silencing of alternative discourses' (Faith, 1994: 61). The power relations present within RJ conferencing, which arguably serve to shape gender subjectivity, also provide a platform in which girls can reformulate their own subjectivities. The data suggests that the girls did resist constructions of femininity and the ways in which such constructions shape their subjectivity.

Power is submerged in human subjectivity and integral to self-subjugation and control, creating productivity within disciplinary power (Sanger, 2008). This allows subjects to be capable of exercising power over themselves also (*ibid.*). Gender subjectivities are arguably constituted through power relations (Radtke and Stam, 1994). However, the notion that power is relational in all social interactions, allowing the subjects of power relations and the contexts in which power is exercised to be reversed, reveals the productive dynamic of power relations in existence within gender relations.

RJ conferencing may be seen as a process, which intends to shape the subjectivity of girls by assigning them as subjects in youth justice interventions, ideologically shaped and dominated by strategic hegemonic narratives. Feminists theorising about subjectivities, challenge the extent to which males are established as the ordinary subject and females accepted as the abject other, whose subjectivity is structurally

subordinated by patriarchal ideology (Smith, 2016). Although it is recognised that subjectivity is established and shaped by social structures, feminists have highlighted that subjectivity is also formulated outside the narrow confines of femininity, exercised through agency. It is contended that the girls' narratives demonstrate this (*ibid.*).

This power has allowed girls to question the subjectivities that have come to define their identity, in order to resist them or reconstruct them. By providing the girls with a voice to share their own narratives they have chosen to act in a way which challenges dominant discourse. The girls' narratives highlight that they are able to resist the narrow confines of the power brought to bear on them. By resisting RJ discourse, through the expression of alternative narratives, the girls have effectively challenged the dynamics of power inherent within the process and are reformulating their own subjectivities.

The empirical data reveals how the relationship between the girls and the structured processes of RJ is more complex than dominant discourse would acknowledge. It can be suggested that although social structures function to shape the narratives of the girls, their subjectivity is mediated by their own resistance to the pre-constructed narratives associated with RJ conferencing. It is suggested that their narratives and subjectivities are formed in the context of resisting these constructions.

Practitioners' perceptions that girls would naturally adhere to a subjugated and subordinated position and then construct a narrative, which defines them as a 'passive subject' is a perplexing perspective. Instead, these girls have presented themselves as active subjects with agency, which they can utilise to empower them to define their own narratives, within the confined structures they are subject to. It is contended that 'gender is a primary feature of the constitution of self and the basic choices are either to accommodate the culturally

specific and historically situated assignments for members of one's sex or to resist' (Faith, 1994: 61). For the girls who participated in this study, their narratives can be conceptualised as the embodiment of their capability to act and shape their own experiences, thus limiting the negative implications of the social functions of stigma and shame.

Within RJ conferencing, it is contended that two subjects are created: the abject offender and the victim. The offender is a subject who is 'deeply ashamed' about their behaviour and wants to make amends for the harm they have caused. The victim is a subject, which facilitates the offenders' reintegration into the community, by allowing them to make amends. However, a feminist theoretical perspective which regards gender subjectivities as 'fractured, historically shifting, constantly unstable and potentially multiple' reveal how such dichotomies can be open to 'contestation' (Kerfoot and Knights, 1994: 71). Thus highlighting how power relations function within hybrid paradigms, revealing the relationships between the subjects and structures are not simply dictated by polarised perspectives that have been conceived in RJ conferencing. Based upon such a feminist theoretical framework, it is demonstrated that despite attempts to shape the girls' subjectivities they are in fact formed by complex expressions and motivations, which precede the scripted narratives prepared by RJ and presented by the empirical data, provided by practitioners.

7.12 Envisioning an (En)gendered Restorative Justice

The empirical data and critical discussion of existing literature and evidence on RJ, presented within this thesis, has emphasised the problematic, and potentially harmful, nature of the genderless silo within which RJ practices used with young people have developed. Whilst the potential harms, and injustices, genderless RJ practices may inflict upon girls,

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specifically in relation to shame and stigma, have been debated, the exact reason why RJ has been allowed to develop in this way cannot be explicitly determined.

Chapter three has connected the development of RJ in England and Wales to the changes in penal policy and the socio-political contexts within which neo-liberal governance has emerged. The focus on risk management, identification and 'criminogenic need' emanating from such changes has arguably resulted in a process whereby structural inequalities, perpetuated by the social construction and division of gender, were individualised (Hannah-Moffat, 2005: 37). As a result the 'systemic problems' of gender inequality were reframed, not in terms of structural disadvantage and powerlessness, but as 'individual problems or . . . individual inadequacies' (*ibid*.: 43). The emergence of RJ in relation to such neo-liberal ideals offers somewhat of an explanation for the genderless construction of RJ, as it may be suggested that its direct association with such ideals dismiss the relevance of gender in responding to women and girls who offend.

Whilst the state has the power to oppose patriarchy it can be argued that instead of doing so it contributes to the oppression of women in ways which are indirect or 'subtle' (Ballinger, 2007: 474). As discussed within this chapter, the state may appear to challenge patriarchy through its promotion of gender-neutral policy and practice, which implies gender equality. However, equality does not constitute equity. Thus, gender-neutral penal policy is argued to be an attempt to obscure the extent to which society continues to function within a 'heteropatriarchal' order (*ibid*. 22). The gender-neutral development of RJ may be also be explained within the context of this argument.

In addition to providing an original contribution to the existing literature surrounding girls, youth justice and RJ, the findings generated from the qualitative research study are being drawn

upon in order to rationalise and advocate for an engendered version of RJ. Addressing the question of what an engendered version of RJ would look like in practice is, however, not solely concerned with making changes to the operational components of RJ assessments such as training, preparation and assessments.

Throughout this thesis, attention has been drawn to the ways in which the heteropatriarchal order of society and the social construction of gender and femininity detrimentally shape girls' experiences in the social world. In this context, a 'gender-neutral' or 'genderless' version of RJ, as advocated by certain practitioners who participated in this research, is inherently flawed. The contexts in which patriarchy functions are vast (Connell, 2008) and feminist contributions, within and beyond criminology, assert that gender matters in all areas of social life and institutions (Renzetti, 2018). Furthermore, critical criminology stresses the importance of recognising the problematic role of the state and its actors in the production and enforcement of inequality in terms of gender, race and class, whilst emphasising the need to challenge and resist the oppressive power and injustices it is responsible for (Carrington and Hogg, 2002). An engendered vision of RJ, as advocated by this research study, must therefore endeavour to respond to, and engage with, the struggles for social justice that girls who enter the YJS are faced with. This means accounting for power, resistance and subjectivity, whilst recognising how each of these issues intersect and transgress from wider patriarchal society, into the RJ arena.

Phoenix (2016: 135) contends that given the social, economic, 'material and cultural' inequalities, which feature prominently in the lives of those who form part of social divisions based upon gender, race, class and disability, 'the ideals of justice are not capable of being realised'. Young people are already subject to 'structural inequalities' by virtue of age and these inequalities are often compounded by experiences of

'victimisation and criminalisation' (*ibid*.: 135). Drawing upon this argument, Phoenix suggests that contemporary responses to young people's offending behaviour have the potential to be 'fundamentally unjust because they target the lawbreaking behaviour of young people already marginalised by class, gender and cultural inequalities while simultaneously practising a form of radical non-interventionism regarding the crimes . . . committed against them' (*ibid*.: 135).

As previously mentioned, Phoenix advocates for a 'critical youth penalty' which moves beyond the dominant 'political, institutional, organisational and social configurations of youth justice . . .' and recognises the structural injustices that shape youth justice in England and Wales (Phoenix, 2016: 135). Of further relevance to this argument is the acknowledgment that research concerned with girls and youth justice has become increasingly limited to 'governance in the penal sphere' (Sharpe, 2015: 11).

Sharpe (2015: 9) suggests that those researching girls and justice have, despite uncovering 'micro and macro level injustices' experienced by girls, continued to neglect the ''meso-level'' interactions with state education and welfare institutions and similarities and differences in their experiences of governance and control'. As such, Sharpe supports the case for a 'more expansive feminist research agenda, one which requires a 'reconceptualization of ''justice''' that enhances knowledge surrounding governance and control across institutional boundaries (*ibid*.: 12). As well as examining the 'practices' and 'consequences' of intervening in girls' lives, in addition to the ways in which they are 'defined, assessed . . . managed . . . ignored and neglected' within and beyond the YJS (*ibid*.: 12).

It is suggested that such visions for youth justice, which recognise and respond to the structural inequalities, inherent within the lives of those it intervenes in, could address the

gender-specific needs of girls participating in RJ conferences. Restoration, however, is one of the principal goals of RJ intervention and if restoration is recognised as a core principle of RJ practices used within the YJS then a key question which needs to be asked is: 'what is being restored, by whom and to whom?' (O'Mahony and Doak, 2017: 23). Within RJ, it is only the conflict between key stakeholders, which is responded to (Nocella, 2011). Restoration in this context does not address pre-existing inequalities experienced by the victim, offender or other key stakeholders and thus may only serve to restore existing conditions of powerlessness and inequality (Walker, 2016).

Within the context of this research, it is argued that the central challenge to RJ is to ensure the oppression, marginalisation and disadvantage girls are subject to is recognised and responded to in an ethical manner. However, given the limitations of RJ interventions, as discussed within this thesis, it needs to be considered whether engendering gender-sensitivity within RJ is sufficient, whilst also questioning whether the theoretical and conceptual frameworks of justice, upon which it operates, have the capacity to achieve justice for girls? It is therefore important to consider alternatives to RJ, in order to ensure the lack of attention to the salient role gender plays in determining girls' experiences, within RJ practice, does not obscure the harm girls endure or inflict further harm upon them.

It can be suggested that an alternative concept of justice, which may serve to address these limitations of RJ, is transformative justice. Whilst existing writing on transformative justice has focused, predominantly, on its potential to deliver justice in post-conflict societies, feminist contributions to transformative justice research have begun to recognise its capacity to respond to gendered violence and inequality (Fileborn and Vera-Gray, 2017: 208). This is

because it 'seeks to disrupt the underlying structural and cultural causes of violence and inequality' (*ibid.*: 207).

Transformative justice goes beyond RJ, not only in the sense that it seeks to address structural inequalities, but also because it rejects the polarised notion of victimhood envisioned by RJ discourse and recognises that 'those who perpetuate harms may also be the victims of social harms themselves' (Bell and Scott, 2017: 142). Transformative justice, therefore, has the potential to go beyond the narrow confines of the victim-offender binary to which RJ is subject.

Despite such optimism, it is important to recognise the problematic nature of previous attempts to incorporate gender-specific provision into justice interventions for girls. The growth in gender-specific provision, throughout the past decade, has raised concerns regarding the extent to which such initiatives are beneficial for those subject to them (Goodkind, 2005; Hannah-Moffat, 2005; Sharpe, 2015). For example, Sharpe (2015: 2) contends that 'the translation of feminist pathways research into gender-specific youth justice policy and practice is based on flawed assumptions about girls' pathways into and out of crime' and has the potential to result in 'iatrogenic consequences' for those subject to them. Within an international context, Goodkind (2005: 61) has highlighted how attempts to implement gender-specific provision in the United States have failed to address 'institutional or structural change' and have instead focused on imputing individual responsibility on girls and their families. A crucial point to emphasise here is the need to ensure that regardless of the transformative, restorative or other conceptualisation of justice being integrated into policy and practice, the lessons learnt from failed attempts to integrate gender-responsive policy and practice into an essentially punitive context need to be taken into account to ensure social justice is achieved for girls.

A further point for deliberation is the role shame would occupy within an engendered approach to RJ. It is argued that shame is a 'ubiquitous feature of feminine subject formation . . . [and] remains a central structuring feature of the lifeworld in which the becoming of women is undertaken and undergone' (Mann, 2018: 403). It has been suggested that the politics of shame are gendered and it is experienced differently by males and females (Bartky, 1990; Brown, 2006; Manion, 2003; Mann, 2018). This is because in a patriarchal society, shame is manifested in a way, which involves control and subordination through various patriarchal structures (Mann, 2018).

Shame, however, is not just a gendered emotion. It also manifests differently and intersects with other social divisions such as 'class, race, ethnicity, sexuality [and] nationality' (Fischer, 2018: 371). Whilst the sample of white, working class girls, with whom this research was conducted, does not allow for an intersectional analysis of shame in relation to race and ethnicity, the problematic and (potentially) harmful nature of shame has remained the principal concern and central focus of the critical analysis, presented theoretically and empirically within this thesis. Such analysis has contended that there is a relationship that persists between shame, gender and power.

Shame can be described as a 'notoriously painful emotion' and undertaking scholarship on shame is challenging, not only due to difficulties with regards to the 'inexact science' of 'identifying, defining and analysing' the emotion but also because of the 'affective toll' it may have upon those researching it (Fischer, 2018: 371-372). Although there have been a number of salient contributions to feminist scholarship demonstrating 'strong linkages' between gender and shame (*ibid.*: 372), it is contended that such linkages have not been developed sufficiently, particularly in relation to RJ conferencing and the impact shame may have for young female offenders who participate. However, shame is

arguably a 'key component of the structure that maintains male supremacy' (Mann, 2018: 403) and the arguments presented in this research study make a salient case towards contextualising the need to ensure the dynamics of shame, within the context of RJ conferencing, are deliberated and adequately addressed.

Bartky (1990) suggests that shame is ever-present within the lives of women and girls and functions, pervasively, to shape their experiences and interactions in the social world. The pervasive nature of shame, Bartky discusses, implies that it is a relentless and unwavering 'affective attunement' interconnecting between female subjectivity and the social world (*ibid.*: 85). Mann (2018: 409), however, distinguishes between two types of shame, 'ubiquitous' shame and 'unbounded shame'. The first is a 'shame-*status* that attaches to the very fact of existing as a girl or woman, or of having a female body' whereas 'unbounded shame . . . is a thick, relentless, engulfing shame—often catalysed by a shame-event—that snuffs out any hope for redemption' (*ibid.*: 403). Mann contends that both are structurally situated as deep-seated features of patriarchy and social control which 'continue to mark gendered existence in our world' (*ibid*: 403). However 'ubiquitous shame is not relentless' and there is the potential for 'redemption' (*ibid.*: 413). This is because the 'abject' position females recognise themselves to be in, evokes within them an 'aspiration to power that makes liveable . . . ubiquitous shame' (*ibid.*: 413). However, redemption, within a heteropatriarchal society, is dependent upon male power, privilege and 'desire' and it is against these conditions that girls must struggle to achieve 'self-worth' (*ibid.*: 414).

The concept of redemption in relation to gendered shame is undoubtedly complex. The arguments made by Mann (2018) have been drawn upon as they contextualise an integral argument concerning the place of shame within an

engendered approach to RJ. Given the prevailing, deep-rooted, systemic inequalities, emanating from the social construction of gender, inherent within a patriarchal society which privileges men over women, it becomes clear that there is no place for shame within an engendered approach to RJ. This is because for shame to function in an integrative manner, for girls, then the place it occupies within the politics of gender, control, powerlessness and oppression must be eradicated. In the current context of society, it is therefore argued that no encounter with shame can be experienced in a context isolated from gender and the harmful nature of shame will not be resolved until a holistic strategy for achieving social justice for women and girls is successful. In order to combat the regulatory and oppressive functions of shame, it is urgently necessary to 'create the conditions for affective investments in other kinds of self-justification . . . so that self-worth and social recognition are not negotiated so intensely . . . through gendered practices of risk, extortion, extraction and depletion' (*ibid.* 415).

7.13 Conclusion

Utilising the theoretical perspectives and existing literature underpinning this thesis, this chapter has provided a discussion of the key themes identified within the empirical data. By integrating such theoretical insights and empirical data, an informed, reflective, critical exploration of RJ conferencing used with young female offenders has been developed.

The arguments underpinning the discussion have indicated that the relationship between the social constructions of gender, stigma, shame and social control have potential implications for girls who participate in RJ conferencing and places them at a structural disadvantage within the process. However, this chapter has also identified the ways in which the girls have exercised agency in order to challenge the

process and outcomes of RJ conferencing and in doing so have demonstrated the various ways in which they have challenged the contemporary popularity upon which RJ is constructed. The girls demonstration of agency has provided a space in which to critically explore and engage with alternative narratives to dominant discourses concerning RJ conferencing, which reflect girls as active agents with the capacity to act with autonomy and exercise resistance to youth justice, power and the state. By providing an insight into girls' subjective experiences of RJ conferencing and developing a theoretical discussion, which conceptualises the significance of these findings in relation to the construction of alternatives narratives of RJ discourse this chapter has provided an insight into the contribution to knowledge this research has made. The following chapter will present the concluding remarks of this thesis and provide a reflection on the research questions posed in Chapter four.

Chapter 8

Chapter 8: Conclusion

8.1 Introduction

The marginalisation of girls' experiences from RJ discourse has been addressed throughout this research project. Whilst the popularity of RJ continues to expand and the commitment to provide 'victim-focused' RJ interventions, throughout all stages of the CJS, have been established (House of Commons, 2016: 5), the way in which RJ discourse has emerged arguably undermines alternative narratives, resulting in girls' subjectivities being invalidated. This marginalisation of girls' experiences, when considered in relation to the contemporary popularity of RJ as a response to youth offending, presented the opportunity to undertake empirical research with girls subject to RJ interventions in order to begin to bridge this gap in knowledge.

Chapter two has discussed the ways in which girls are subject to increased mechanisms of social control, alongside the extent to which their behaviour is judged in line with dominant discourses of femininity. The theoretical arguments articulated have suggested that girls who offend are labelled as deviant and stigmatised as their offending does not conform to the ideals of femininity. Chapter three has demonstrated the ways in which discourses of femininity and expectations associated with gender appropriate behaviour influence the perception of girls who offend and impact upon criminal justice responses to them. The extent to which girls have remained neglected within youth justice discourse and the need to work with them in gender-specific ways has also been identified. Attention has been drawn to the fact that the development of RJ policy discourse has neglected to acknowledge this need for tailored interventions for girls who offend. As such, it has been contended that RJ practice has developed in somewhat of a silo, whereby the acknowledgment of the gender-specific needs and experiences of young female offenders, which are

now recognised by existing youth justice discourse, have continued to remain absent from contemporary RJ practices used within the youth justice service. The research study undertaken, therefore, embarked upon an investigation to examine girls' experiences of RJ and uncover the ways in which the social construction of gender may impact upon these experiences.

The challenges of researching the experiences of girls who have participated in RJ conferences are addressed in Chapter four. The completion of the interviews informing this research study have produced a great deal of rich and meaningful data from which conclusions and recommendations can be drawn. Drawing upon the findings presented within Chapters five and six, the first section of this chapter will address each of the key themes emerging from the empirical data in relation to the initial research questions:

- Is gender implicated within girls' experiences of RJ?

- What implications does the RJ principle of expressing shame have for young female offenders?

- Is there a need for gender-sensitive approaches, within or as an alternative, to the use of RJ with young female offenders?

Focusing upon the key findings of this research study, this chapter will then offer a number of recommendations for facilitating RJ conferencing with young female offenders. Finally, the chapter will offer recommendations and directions for future research and conclude with reflections concerning the contribution to knowledge this research study has made.

Is Gender Implicated within Girls' Experiences of Restorative Justice?

Whilst literature, which explores how the social construction of gender impacts on RJ conferencing is limited, the literature, which does exist, suggests that it has the potential to result in 'unintended additional pains of punishment and negative consequences for female offenders' (Masson, and Osterman, 2017: 13). The consideration of stigma within the context of this research has utilised the contributions made by Goffman (1963) in order to construct a theoretical link between the social function of stigma and shame in order to conceptualise the ways in which the politics of gender operates within the lives of girls who offend. In doing this, the relationship between stigma, social control and the construction of femininity, as an integral form of power that has the capability to shape gender subjectivities, has been distinguished. The arguments presented have located RJ as a process which operates and contributes to the broader structural inequalities that govern the social division of gender.

Whilst practitioners demonstrated an awareness of how discourses of femininity shape societal responses to girls and increase their susceptibility to stigma, the findings revealed a consensus amongst practitioners that gender would not play a role in girls' experiences of RJ conferencing due to the neutrality of the conferencing process. However, the empirical data has indicated that girls who offend are stigmatised for their transgressions of gender norms. Therefore, it becomes evident that for girls, who participate in a RJ conference within an offender capacity, the potential for them to be stigmatised for not adhering to dominant discourses of femininity is increased. This is a salient issue to consider when attempting to determine whether the social construction of gender is implicated within girls' experiences of RJ conferencing.

It has been argued that gender is embodied within all social relationships, it operates in distinct and subtle ways, provides meaning and context to experiences and situations and shapes individual identity and behaviours (Wharton, 2012). The arguments presented throughout this research study, therefore, challenge the gender-neutral construction of RJ practice and assert that gender would play a role in the social dynamics of RJ conferencing. The extent to which this would disproportionality affect girls' experiences of a conference cannot be unequivocally determined. However, the extent to which the politics of gender and the gender order disproportionately disadvantage women and girls (Wharton, 2012), highlights the importance of recognising the potential for the social construction of gender to have a negative impact on girls' experiences of RJ conferencing.

What Implications does the RJ principle of expressing shame have for young female offenders?

Chapter one has contextualised the salient role of shame in RJ conferencing as resulting from the development of RIST (Braithwaite, 1989). Although RIST has been subject to extensive evaluation as part of the reintegrative shaming experiments undertaken in Australia (O'Mahoney and Doak, 2013), the consideration of gender has remained absent from the dissemination of these findings (Daly and Stubbs, 2006). Furthermore, within England and Wales, the role of shame within RJ practice and its significance to the social construction of gender remains empirically unexamined.

Existing literature has however suggested that shame is linked to 'conflicting and competing expectations' associated with gender identity and feelings of 'powerlessness and isolation' (Brown, 2006: 46). It has also been linked to gendered experiences of social control, self-harming

behaviour, low self-esteem and depression (Gold, Sullivan and Lewis, 2011; Lewis, 1992; Lewis, 1971; Miles, 2013; Milligan and Andrews, 2005; Tangney and Dearing, 2002). Drawing upon the central role shame plays in the theoretical underpinnings of RJ conferencing, alongside existing literature which identifies the gendered nature of shame and the negative implications experiences of shame can have upon emotional, physical and mental health and well-being, this research sought to explore the experience of shame for girls who have participated in RJ conferencing.

The current research identified that practitioners contextualised shame as a central emotion evoked within girls during RJ conferencing. It was revealed that practitioners perceived girls as more 'emotional' during the conferencing process and this increased their susceptibility to shame. Five of the girls interviewed referred explicitly to experiencing feelings of shame during the RJ conference and a further six indicated that they experienced shame. The theoretical discussions and the empirical findings of this research study have been utilised to construct the argument that girls' experiences of stigma, following their offending behaviour, have the potential to impact on their experiences of shame during a RJ conference. Practitioners did not acknowledge that stigma might disproportionately impact upon girls' experiences of shame.

However, the findings indicate that girls are participating in a RJ conference with a stigmatised deviant identity. It has been argued that such a stigmatised identity would be likely to have implications for girls' experiences of shame, for their offending behaviour. Furthermore, during the RJ conference, a stigmatised identity could serve to exacerbate the negative affects shame has on their self-perception. The analysis presented has arguably revealed the ways in which the social construction of gender, the application of stigma to girls for their offending behaviour and their feelings of shame are

bound together by discourses of femininity. It has been argued that narratives of shame and stigma are central to girls' experiences of RJ conferences and both constitute negative implications for girls as they function to socially control and regulate their behaviour in line with feminine ideals.

The data generated from the interviews with both girls and practitioners have established that RJ conferencing is a process, which evokes intense emotions. Furthermore, the potential negative effects of shame have been discussed by practitioners and explored within existing literature. Drawing upon these findings it has been argued that the lack of standardised planning, preparation and assessments increases the likelihood of subjecting girls to negative feelings of shame.

The findings have revealed that reconciliation was not achieved for a number of the girls interviewed and this finding raised further concerns regarding the potential negative implications of experiencing shame, during a conference, could have for girls who participate. For those girls who did not make amends with the victim of their offence, it has been argued that the feelings of shame they experienced during the conference would not provide the basis for their reintegration as reconciliation and forgiveness were not achieved. As such, their susceptibility to the negative experiences of shame, described by practitioners, would be increased.

For those girls who stated they did achieve reconciliation with the victim of their offence, the arguments presented have challenged the extent to which their feelings of shame would function in a reintegrative manner as delineated by RIST (Braithwaite, 1989). These findings, in relation to shame and stigma, have been utilised in order to challenge such theoretical foundations, upon which RJ conferencing has developed, on the basis that girls are not afforded equal opportunity for reintegration. This is because the presence of

gender-specific stigma, for transgressing gender norms, during a RJ conference would be regarded as counter-productive to the process of re-integrative shaming as such a stigma would not be addressed during the RJ conference.

Offending behaviour is suggested to be the only point of focus with regards to the re-integrative elements of RJ conferencing (Johnstone, 2011). However, the research findings have articulated that the girls' experiences of stigma, following their offending behaviour, are potentially due to their offending behaviour being viewed as a transgression of social norms relating to the ideals of femininity. It has been suggested that the girls' experiences of stigma are connected to their offending behaviour. Therefore, any expression of shame for offending behaviour may also be implicated by remorse for transgressions of feminine ideals, as for girls, both are bound together by their stigmatised identity. However, only one of these transgressions would be addressed in the RJ conference.

In this context the 'gestures of reacceptance', Braithwaite (1989: 55) discusses, are offered only in relation to their status as an offender and not in relation to offending against the codes of femininity. Thus girls are still marked as deviant for their transgressions. In society there are a number of expectations regarding behavioural norms, however, these norms are applied inconsistently in relation to members of social divisions. Therefore, it has been argued that there is no guarantee that the structural inequalities, evidenced by existing social divisions, operating within the CJS will function to a lesser degree when it comes to RJ practices established upon the theoretical arguments of reintegrative shaming. Thus, the use of RJ conferencing, developed upon the foundations of RIST, fails to recognise the conflicting social interests represented within society and how unequal social relationships, such as those inherent within the social

construction of gender affect the process of re-integrative shaming.

The identification of the connections between shame, self-blame and previous negative experiences is a key finding of this research study and provides justification to ask the questions; what are the girls who participate in RJ conferences experiencing shame for? Are these girls experiencing shame and self-blame for their offending behaviour or do such emotions become intertwined with other emotions and experiences related to gendered structural and cultural inequalities? The discussions surrounding these questions have been discussed within two contexts; girls' experiences of shame being linked to experiences of stigma and labelling and girls' experience of shame associated with previous negative experiences. As such, it is contended that it is necessary to consider how both contexts are impacted by each other, exacerbating shame as a gender-specific experience for girls who participate in RJ conferences.

Is there a need for gender-sensitive approaches, within or as an alternative, to the use of RJ with young female offenders?

Despite the variance of empirical and theoretical focus within critical criminological research, the consistency of critical research is in 'opposition to the kind of criminology that takes so much of the status quo for granted' (Carrington and Hogg, 2002: 2). In doing so critical criminology scrutinises 'agents, systems and institutions of social control' and the role they play in the (re)production of inequalities emanating from the existing social order (*ibid.*: 2). Influenced by feminist methodologies and perspectives, this research project has aimed to broaden the scope of critical research concerning RJ by incorporating the social construction of gender as the subject of analysis. Therefore, the role of gender in RJ

conferencing has been scrutinised and questions have been raised concerning the need for restorative practices to incorporate gender-responsive strategies to ensure that structural inequalities, inherent within the social division of gender, do not continue to disproportionately disadvantage girls.

Whilst practitioners were reluctant to acknowledge gender as variable factor, operating within RJ conferencing, almost all practitioners still supported the need for gender-sensitive approaches to be incorporated into the delivery of RJ practices used within the youth justice service. Furthermore, practitioners acknowledgment of the negative effects experiencing shame can have for girls, in addition to their recognition that girls are stigmatised when they fail to conform to feminine ideals, necessitates the need to explore how gender-responsive and gender-sensitive practices can be incorporated into the delivery of RJ conferencing in order to ensure that girls receive equitable treatment.

The extent to which RJ discourse and practitioners' perspectives have neglected to acknowledge the division of gender within RJ practice has been identified. Whilst the consideration of gender within official RJ discourse has remained absent in relation to young female offenders it has been argued that the absence of gender within official discourse, and practitioners' reluctance to accept the salience of gender to girls' experiences of RJ, has effectively resulted in the neutralisation of gender within RJ practice. This process of gender-neutralisation has been challenged on the grounds that it disadvantages girls who participate in RJ conferencing. It has been argued that the gender-neutral construction of RJ fails to acknowledge or address how gendered power relations and mechanisms of social control shape girls' experiences and the potential for such factors to impact on the dynamics of RJ conferences. It is therefore argued that the

very construction of RJ as 'gender-neutral' supports the need to incorporate gender-sensitive approaches to RJ.

The findings from the girls have revealed that RJ conferencing is not internalised as an inherently positive process or experience. The findings conflict with practitioners' perspectives and have drawn attention to the reality of RJ conferencing for girls. It was found that the girls' narratives refuted many of the positive components, which practitioners drew upon to comprehend their support for RJ. This distinction between practitioners' perspectives and the girls' subjectivities provide a unique insight into the dynamics of RJ conferencing and the ways in which the ideals of RJ do not always support the reality of it. It may be suggested that such distinctions and contradictions, inherent within the data, further support the need for gender-responsive approaches to be incorporated into the delivery of RJ conferencing for girls.

Such key findings, evidenced in the empirical data, which support the need for gender-sensitive approaches within or as an alternative to the use of RJ are deemed to be an integral contribution to knowledge concerning gender and RJ and are thus explicitly relevant to practitioners and professionals working with girls in the YJS. This is because they provide a salient expansion of the existing knowledge base concerning gender and RJ, highlighting the extent to which the social construction of gender, stigmatisation and experiences of shame have the potential to negatively impact upon the conferencing process, resulting in differential experiences and outcomes for girls who participate.

However, due to the extent to which the structural inequalities in relation to social divisions of gender, race, class, ethnicity, disability and sexuality continue to shape the social world and individual experiences within it, the practical transference of gender sensitive approaches into RJ policy and practice is not straight forward. This is because the current arrangement of

society, established upon a hetro-patriarchal order creates a number of challenges and contradictions relating to the structural and material conditions affecting girls' lives that gender sensitive approaches are restricted in their ability to resolve. The crucial problem being that the principles upon which gender-specific provision for girls are based, specifically 'healthy relationships', 'self-esteem' and 'empowerment', (Sharpe, 2015: 6), do not address the structural conditions which perpetuate girls' marginalisation and oppression within society.

It is therefore crucially important to recognise the problematic nature of incorporating changes to process and practice, without being aware of, and endeavouring to respond to, the broader structures of unequal power relations, operating within society. Restructuring power and instigating institutional and structural change is, therefore, first and foremost required in order to provoke change within the micro and macro levels of social life. Thus, it is contended that in order to transform the current treatment of, and responses to, girls who offend, 'it is first necessary to critique patriarchal structures, redistribution and reconceptualisations of power' (Malloch, 2017: 155).

8.2 Recommendations for Practice

With regard to the use of RJ conferencing with young female offenders, Daly (2008: 134) argues that 'the ethical practice of restorative justice for these cases may require a good deal more preparation and groundwork than many have assumed'. The findings generated from this study have highlighted the importance of recognising the relevance of gender in relation to RJ conferencing. In doing so they have raised important considerations concerning ethical practice in RJ and have contributed to the development of a number of core recommendations concerning the delivery and facilitation of

RJ conferencing for cases involving young female offenders as participants. It is these recommendations, which this chapter will now address.

Gender-specific provision and gender-sensitive responses to girls' offending have now been established within the YJS within England and Wales 'on the grounds young women's developmental pathways, including their routes into offending, are different from those of boys' (Sharpe and Gelsthorpe, 2015). Given the extent to which such gender awareness is now integrated into youth justice practice, it is contended that such awareness should also be consolidated into RJ practices used within the YJS. It is recognised that 'equal treatment of men and women does not result in equal outcomes' (Corston, 2007: 16). In order to achieve equal outcomes it is suggested that 'any effort by the system to respond appropriately to the offending behaviour of young women needs to take account of their gendered experiences' (Batchelor and Burman, 2004: 277). RJ is no exception to such arguments and thus it has been concluded that there is a need for gender-sensitive approaches to the use of RJ conferencing with young female offenders.

Practitioners have identified gender-specific risk factors that contribute to girls' criminalisation and their entry into the YJS. They have also identified gendered differences in girls' offending behaviour alongside recognition that girls' formative experiences are characterised by victimisation, neglect and poverty. It is therefore suggested that special consideration be given to these factors and how they may impact upon girls' experiences of RJ conferencing. It is recommended that RJ facilitators be provided with training to develop their understanding of how such factors may affect the conferencing process. Such training should provide practitioners with a knowledge base in terms of recognising the significance of shame in relation to formative experiences, which often characterises the lives of young female offenders.

Drawing upon the findings, which indicate young female offenders are subject to stigma for transgressing expectations of gender appropriate behaviour, it is recommended that training should incorporate a focus on identifying and challenging stereotypical assumptions concerning female offending. Such training would equip practitioners with the relevant knowledge and insight in order to recognise when such assumptions may be influencing victims and other participants' subjectivities.

Practitioners highlighted that engaging girls in preparation was a crucial measure in order to ensure a young person's suitability to participate in a conference. However, the findings generated from the girls' interviews revealed that they were not always provided with the opportunity to engage in preparation for the conference. It is therefore proposed that engaging all young people in planning and preparation, prior to their participation in a conference, become a compulsory measure for all RJ practitioners to complete. Planning and preparation should not only require practitioners to engage in direct work with the young person prior to the conference but should also incorporate appropriate assessments to ensure a young persons suitability to participate.

The research revealed that practitioners are using existing assessments tools to determine if a young person is suitable to participate in a RJ conference. Chapter seven has highlighted the limitations of existing risk assessments, used within the youth justice service, to adequately identify girls' needs and respond to their offending behaviour. Therefore, it is suggested that specific assessment tools be developed to aid practitioners in determining the appropriateness of engaging young people in RJ interventions. It is proposed that such assessment tools should incorporate the consideration of gender-specific factors relating to the context of the offence,

formative experiences, stigmatisation, shame and power dynamics, in cases involving young female offenders.

Echoing the recommendations presented by Masson and Osterman (2017: 14), it is proposed that risk-assessments, training, planning and preparation be implemented as 'standardised' procedures within YOTs nationally. In addition to planning and preparation, the development of gender-appropriate assessments and the delivery of training for practitioners to understand the complexity of girls' gender-specific needs and experiences, it is also advised that standardised debriefs and follow-ups with young people, which draw upon holistic and, if necessary, trauma informed approaches, be incorporated into professional practice (Petrillo, 2016). It is recommended that such debriefs and follow up sessions support young people and equip them with the ability to engage in effective shame management.

8.3 Future Research

Recognition of the complexities surrounding girls' offending behaviour and the need for interventions, which respond exclusively to those girls who enter the YJS, have established that one size fits all approaches to working with offending girls are not effective. The gender-neutral construction of RJ practice, combined with a lack of existing research concerning young female offenders' experiences of participating in RJ interventions, of any kind, means that a space remains in which to continue to undertake critical criminological research within the areas of gender, youth justice and RJ.

Whilst a number of recommendations have been made with regards to refining the process of RJ conferencing for girls, the completion of this research has also opened a theoretical space for the development and innovation of Goffman's contribution to stigma research. Therefore, it is suggested that a future direction for further research would be to continue to

utilise the concept of stigma by incorporating it with critical feminist perspectives that explicate the function of stigma in contemporary society and the role it plays in shaping the experiences of girls in the YJS within and beyond RJ conferencing.

8.4 Contribution to Knowledge

The intention of undertaking this research has been to investigate girls' experiences of participating in RJ conferencing, within the YJS, in England and Wales. The association of RJ conferencing with Braithwaite's RIST has determined the need to examine experiences of shame, during RJ conferencing, through the narratives and perspectives of girls and youth justice practitioners. It has been recognised, over the course of this research, that dominant discourses of femininity, which function as a form of social control for women and girls, are often implicated within the manifestation of shame. This argument has been utilised in order to demonstrate the need for gender-sensitive approaches to be incorporated into the development and delivery of RJ interventions used with young female offenders. At present, the lack of statutory guidance concerning the delivery of RJ conferencing, alongside the absence of standardised assessments, to determine the appropriateness of engaging young people in RJ conferencing, raises serious ethical concerns with regards to subjecting girls to a potential risk of harm.

What has become clear upon completion of this research study is that the experiences and needs of girls are overlooked within RJ discourse, to a greater extent than they are within other areas of youth justice policy and practice. Whilst the recognition that girls offend for different reasons and respond differently to youth justice intervention has resulted in the development of gender-specific provision, it appears that such

research based evidence is not recognised or applied when it comes to the delivery and development of RJ. The findings from this research study have indicated that the reason for this is because RJ conferencing has been constructed as a gender-neutral intervention. The theoretical and empirical arguments which have been presented, however, contend that the social construction of gender, discourses of femininity and the gender order, shape the social world and result in concrete forms of inequality between males and females. For girls, such inequality is manifested in terms of enhanced experiences of social control, stigmatisation, victimisation, as well as social, political and economic marginalisation. It has been argued that experiences associated with structural inequalities, in relation to gender, shape girls' lives. Drawing upon a feminist perspective, it would not be possible to suggest that these experiences would not be implicated within the ways in which girls experience, internalise or engage in RJ conferencing.

The process and dynamics of RJ conferencing, from the beginning to the end, have been criticised for a lack cognisance of the gender-specific needs and experiences of girls in the justice system. The ways in which RJ interventions have been developed within a gender-neutral framework have raised particular concerns with regards to the extent to which they serve to further marginalise the subjectivities of girls, in a way which has subtle implications for their experience of social control and the internalisation of discourses of femininity. The arguments presented within this research study have, therefore, been highly critical of the development of RJ policy and practice, based upon gender-blind and gender-neutral frameworks, which continue to neglect the experiences of girls who are subject to multiple, cross-cutting forms of inequality, social control and marginalisation on the basis of their gender. The lives of girls will continue to be shaped by the social division of gender, and the construction of femininity will always form part of their narratives and

subjectivities. For RJ conferencing to be compatible and flexible enough to effectively respond to the complex realities of girls' lived experiences the significance of gender in shaping individual experiences requires recognition.

A number of complexities relating to the use of RJ conferencing with girls who offend have emerged based on the findings of this research study. These complexities concern the ways in which some of the girls who participated conformed to narratives of shaming and remorse and others did not. Such complexities are illustrated by the ways in which some of the girls expressed guilt and referred to feelings of shame for their offence and its impact on the victim whilst others remained unremorseful for their offending behaviour and held negative attitudes towards the victim of their offence. In addition to these distinctions, a number of the girls demonstrated reluctance to accept responsibility for their offending and the harm caused to the victim.

Such divergent narratives and differential experiences demonstrate the complexities that can be induced in the RJ conferencing arena and therefore require acknowledgment within this thesis. These distinctions can be identified in the narratives of almost all of the girls interviewed for this research study. The insight into such alternative narratives, provided by the girls, has arguably served to unveil a multitude of complexities which are relevant to the conflicting discourse surrounding the critical and advocacy literature on RJ. This is because of the extent to which the girls' narratives contradicted claims of inclusivity, closure and reparation, inherent within existing advocacy literature on RJ, and instead demonstrated narratives relating to resistance and agency. In addition to acknowledging such complexities it is also fundamental to recognise the implications which arise from them, particularly in relation to the theoretical approach concerning shame and stigma utilised in this research study,

as well as the implications which may arise for victims' experiences.

Drawing upon the theoretical arguments presented within this research study it has been contended that the social construction of gender and ideals of femininity have the potential to impact upon girls' experiences of shame during a RJ conference. The connection between shame and expectations of ideal femininity, its function as a subtle mechanism of social control, formative negative experiences and self-harming and destructive behaviours have been drawn upon to contextualise integral concerns regarding the suitability of RJ conferencing which evokes shame within girls. Whilst the girls described narratives of shame the issue concerning girls' reluctance or refusal to express remorse, in addition to their unwillingness to accept responsibility demonstrate the alternative processes of resistance and agency inherent within the girls' subjectivities. What these findings articulate is a complex combination of subjectivities that do not always follow the theoretical arguments presented within this research study. What the theoretical arguments do highlight, however, is the arrant potential for girls' experiences of RJ conferencing to be negatively impacted by the social construction of gender and the possibility for their experience of shame to have a harmful impact on their mental health and physical well-being.

Whilst this research study has adopted a critical positionality towards RJ conferencing and its suitability to be used with young female offenders, it is also important to recognise that the complexities surrounding RJ conferencing, revealed within this research, also have implications for the victims of the offences committed by the girls interviewed, many of whom were women or girls too. For some of these women and girls, who participated in a RJ conference, in a victim capacity, the potential negative impact of not resolving the conflict surrounding the offence, or making amends with the

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perpetrator of the offence, also need to be acknowledged. For these victims, the process of RJ conferencing has failed and the intended benefits of RJ conferencing, articulated by practitioners and advocacy literature on RJ have not been achieved. Although it is not possible to determine the impact this may have on the victims in question it is important to acknowledge that the implications of this have the potential to result in harmful consequences.

Whilst generalising the findings from this research to the wider population of young female offenders participating in RJ conferences is problematic, the findings presented have drawn attention to the significance of gender within restorative practice. They have contributed to a body of knowledge, which recognises and examines the complex and discursive ways in which gender, as a social construct, functions within the lives of girls. Furthermore, they have provided an important and original contribution to the development of existing critical RJ research within the UK.

The findings which have emerged from the research undertaken, not only draw attention to the disconnect between RJ rhetoric and reality, when examining practitioners' perspectives in comparison to girls' narratives, but also to the ways in which girls have presented themselves as individuals who have the capacity to resist hegemonic narratives contained within RJ discourse. In doing so, they have provided a space in which alternative narratives can emerge. These narratives have highlighted the importance of expanding critical perspectives to encompass girls' subjectivities and RJ practice.

8.5 Final Conclusions

I believe that one of the central challenges of those researching RJ practices used within the YJS is to produce effective research findings, which contribute to debates concerning gender and RJ. Such debates should demand the

need for effective and ethical practice, which recognises the unique experiences and needs of girls and which also endeavours to respond to these needs in a way that diminishes the opportunity for negative outcomes to arise.

Drawing upon a gendered conceptualisation of Goffman's (1963) work on stigma and feminist perspectives concerning the social construction of gender, the ways in which young female offenders' gender identity can shape their experiences of RJ conferencing have been explored. In doing so, this research has provided a unique insight into the application of RJ policy and practice through a gendered lens and has provided a salient contribution to understanding young female offenders' subjective accounts of participating in RJ conferences. This research study has engaged with the theoretical and empirical perspectives of gender and female offending and has challenged the patriarchal power relations responsible for the social constructio of gender. Drawing upon critical and feminist scholarship, the arguments presented have articulated the salience of gender in shaping the social order, girls' experiences in the social world, societal perceptions and criminal justice responses to girls who offend. These arguments have been utilised in order to construct an alternative discourse that centres on encapsulating the experiences of girls, subject to RJ intervention, and critically analysing these experiences through a gendered framework. As such, this research study has provided a platform in which the voices of girls have been brought to the forefront of academic inquiry concerning RJ practices used within youth justice.

The discussion and arguments presented throughout this research study have gone some way towards identifying the specific ways in which systems of gender inequality may operate within the RJ arena and the potential implications this may have for girls who participate, particularly in relation to shame, stigma and social control. These implications and

affects are not gender-neutral or 'genderless'. They are gender-specific and represent real consequences for girls in terms of the formation of their subjectivities, their experiences in the social world, and importantly their emotional and physical well-being. It is therefore important to state that the overall goal of the research undertaken has been, first and foremost, concerned with achieving social justice for girls. The findings which have been articulated within this thesis speak to those who hold a position of power within society to resist and challenge the ideological discourses emanating from the social construction of gender, which function to the detriment of girls within society.

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Appendicies

Appendix A: Outline of Interview Schedules

Interview questions for young people:

Preliminary questions:

1 How old are you?

2 Who do you usually live with?

3 Do you go to school?

4 What's your favourite subject in school?

5 Do you have any hobbies?

6 Where do you see yourself in the future?

Restorative Justice:

1 What is your understanding of restorative justice? (What do you think it is? What do you know about it?)

2 How did you come to be involved in restorative justice? (How do you feel about being involved in the criminal justice system? What offence/circumstances led to your involvement?)

3 Why did you decide to take part in the restorative justice panel? (Why did you decide to say yes to the panel/meet with the victim? Did you have a choice?)

PLANNING PREPARATION

4 What sort of planning and preparation was involved in the panel? (Did you do any preparation with your worker? What was this? Did you have any ideas about what was going to happen? Did anyone talk to you about it before you went?)

5 What was your understanding of the purpose of the panel you attended? (Prompts: what was the panel trying to do? What were you expected to do? What did you think you had

to do? What do you understand was happening during the panel?)

6 Did you see the restorative justice panel as a punishment for your offence? Why?

WHAT HAPPENED AT THE PANEL

7 What happened at the panel? Who was there? Was the victim there? Did you know them from before? Did any of your family go with you? What did they think? What did they think about you taking part and meeting with the victim?

8 What did you say when you was there? What did you say to the victim?

9 What did the victim say to you? How did it make you feel? Forgive you?

10 Did you find your experience of restorative justice positive or negative? (Did you find it helpful? Did you find it unhelpful? Did you find it scary? Would you do it again?)

11 What do you remember most about the panel? (What was said? How they acted to you? How you felt? The main thing you can remember from the panel? What sticks in your mind the most? Is there anything you particularly liked about taking part in the panel? What did you like the most? Did you like anything about the panel?)

12 What did you find the hardest? (What didn't you like about it? Meeting with the victim? Hearing what they had to say? How you felt?)

13 What was the most important part of the panel for you? (Saying sorry? Seeing the victim? Nothing? Turning up? Talking about why you did it? Talking about what happened at the time?)

14 What do you think was the most important part of the panel for the victim? (Why do you think they chose to take part? To hear you say sorry? To ask why you did it?) 15 What do you think was the most important part of the panel for the youth offending worker? (Why do you think they wanted you to take part? Why did they want the victim to take part?)

POWER AND CONTROL

16 Who do you think was in charge of the panel? (Do you think you was in charge? Do you think the youth offending worker was in charge? Do you think the victim was in charge

17 Who do you think had the most power during the panel? Why did you think this? (Who had the most control over what was going on or what happened during the panel?)

STIGMA

18 Do you think committing the offence made people view you differently? In what way did you think they viewed you differently? (Were you treated differently? In what ways were you treated differently? How did this make you feel?)

19 Do you think the people at the panel had negative beliefs or opinions about you? (What do you think they thought about you? How did this make you feel? Do you think these beliefs/opinions effected how you was treated/spoken to at the panel? Why?)

20 Do you think after the panel the people there changed their opinions/beliefs about you? In what way do you think they changed? (How did this make you feel? Did it make you change how you felt about yourself?)

EMOTION/SHAME

21 Before you went to the panel how did you feel about it? What emotions did you feel? (How did these emotions effect you? Did they impact on school or family and friend relationships?)

22 What emotions did you feel during the panel? (How did you feel during the panel? Ashamed? Trapped? Powerless? Sorry? Vulnerable? Criticised? Angry? Sad? - Do you think people expected you to feel this way/these emotions? How did these emotions make you feel? What about other people's reactions – how did they make you feel?)

23 What emotions did you feel after the panel? (How did you feel after the panel? Ashamed? Sad? Sorry? Did you feel better/worse after the panel? Why did you feel better/worse? Do you still feel these emotions?)

24 What emotions did you feel when the victim was talking about the offence and how it impacted on them? (Ashamed? Sad? Sorry? Why did you feel like this?)

25 Overall what was the main emotion you experienced at the meeting? What was your main feeling?

26 Although you committed the offence do you think you were to blame for the offence? (Do you think other people were to blame for the offence? Do you think you were only partly to blame? Did you feel pressured? Do you think the victim was to blame? Were other problems to blame? Were friends or other people to blame?)

27 Although you committed the offence did you ever see yourself as a victim in any way?

OUTCOMES

28 What was the outcome/result of panel? (What was the result of the panel? What do you think was the most important thing at the panel which led to this outcome? Do you think this was a fair outcome? Do you feel you helped/contributed to this outcome?)

29 By going to the panel do you think you was able to make amends with the victim? How do you think you was able to do that?

30 So overall what did you think about your experience? Would you do it again?

GENDER

31 Do you think you were treated differently because you were a girl? (In what ways do you think you were treated differently? Why?)

Do you think if you were a boy you would have been treated differently? (In what way? Why?)

32 Can you think of any issues that you did not want to discuss with the restorative justice worker?

33 Do you think that the reason why you didn't want to discuss these issues had anything to do with whether the restorative justice worker was male or female?

34 Would you prefer a male or female youth offending worker to be at the restorative justice panel? Why?

Interview questions for practitioners:

About your role:

1 What is your current job role?
2 How long have you been in post?
3 What is your link or involvement to restorative justice in this post?

Girls and young women in the youth justice system:

4 As a practitioner what's your experience of working with girls/young women within the YJS? (Have you noticed a difference in offences? Difference in terms of their routes into the YJS?)

5 What about their experiences before they come into contact with the YJS? (Problematic histories? Do you think they experience more abuse or victimisation? Do you think they see themselves as victims?)

6 How do you think their experiences within the YJS differ to boys? (Do you think they have different experiences of being involved in the YJS compared to boys?)

7 Do you think girls are reacted to differently in relation to their offending behaviour?

8 Have you found that girls are less willing to take responsibility for their offence?

General questions on Restorative Justice:

9 What do you think about restorative justice practices used within the YJS? (What do you feel are the most positive elements of RJ practices?)

10 do you think RJ conferences they are suitable to be used with young people? (How effective do you think restorative justice conferences are for young offenders?)11 Who do you think benefits the most from RJ conferences? (Victim or offender? In what ways?)

Gendered experience of RJ:

12 Do you think girls and boys experience restorative justice conferences differently? (How do their experiences differ? Do they have different responses to restorative justice conferences?)

13 Do you think the outcomes of restorative justice conferences are the same for girls compared to boys? (In your experience have you found that outcomes are different for girls?)

14 What do you feel about the suitability of RJ practices used with girls?

15 Do you believe control is equally shared within a restorative justice Conference?

16 Do you think there is unequal power relations with restorative justice conferences between girls and young women, victims and facilitators?

17 Do you feel young female offenders experience issues of power and control in a restorative justice conferences differently to young males?

18 Do you think gender is an issue, which has been neglected in RJ policy and practice? (Do you think there is a need for gender sensitive approaches to the YJS use of restorative justice with young people?)

Emotions evoked by restorative justice conferences:

19 What emotions do you think are often evoked for girls and young women in restorative justice conferences? (What is the most common emotion experience by girls in RJ conferences? Do you think any of the emotions they feel may be linked to any negative experiences in their life? Do you think that girls and young women feel better or worse after taking part in a restorative justice conference?)

20 Do you think girls experience different emotions in restorative justice conferences compared to boys?

21 Do you think the emotions expressed at the conference have a lasting effect on the girls once they have completed the conference?

Experiences of shame/remorse:

22 What do you think about the requirement for a young person to express shame for their offending behaviour within a restorative justice conference? (Do you think it is appropriate that girls are required to express shame in a RJ conference?)

23 What effect do you think this expression of shame has for girls? (Do you think girl's experience shame differently to boys? Do you see it as a gender specific experience?)

24 Do you think experiencing shame in RJ conferences has any negative implications for girls? (Do you think it impacts on their self-esteem/self-worth? How they view themselves? Do you think shame could be linked to any previous negative experiences? Do you think their experiences of shame are a positive or negative experience?)

25 Do you think girls blame themselves for their offending behaviour? (Do you think this makes it easier or harder for them to express shame?)

26 Do you think girl's experience of the RJ conference and/or the expression of shame could reinforce any negative feelings they may have about themselves or their offending behaviour?

Stigma

27 Do you think there is an element of stigma attached to their offending behaviour? (Do you think they are stigmatised for their offending behaviour? How do you think this impacts on their experiences within the YJS?)

28 Do you think girls who take part in conferences are already stigmatised for the offending? (In what ways do you think they are stigmatised?)

29 Do you think stigma plays a role in their experience of the conference? (For example do you think being stigmatised plays a role in how they are responded to by the victim or facilitator? Do you think it plays a role in how the young person reacts or responds to the conference?)

30 In your experience of restorative justice conferences with girls and young women do you feel community understandings of gender appropriate behaviour played any role in the restorative justice conference

Appendix B: Formal Request FOR Access

Hi Jez

As you know I have recently began work on my PhD at Liverpool John Moores University. My research is focused on the use of Restorative Justice with young female offenders and aims to investigate the role gender plays in the relationship between young female's offenders and Restorative Justice.

I am currently in the very early stages of my research and in the process of preparing an ethical application form for the university ethics committee.

I was hoping that at a later date in my research you could help me in recruiting participants for the research? I would like to be able to conduct interviews with young female offenders who have taken part in Restorative Justice and practitioners who have been involved in facilitating it. I would also like to be able to access records which hold the referral order contracts made for young people so I can compare these contracts in relation to their differences for males and females.

What I propose is coming to one of your team meetings to provide you all with the details of the research. I will be able to explain in detail what the research is about and what it aims to explore and investigate with the aim of the practitioners agreeing to participate in the research. I will be able to provide each practitioner with a participant information sheet that I will explain to them there and then the purpose of the research and why it is being undertaken and then give them the opportunity to go away and think about whether or not they would like to participate. I was hoping to then return in **two days** to speak with the practitioners and see if they would like to take part.

With regards to finding young female offenders to participate I was hoping to contact the Restorative Justice officer Rea Baker with your permission to see if she could help me identify any potential participants?

I understand you will have some questions with regards to the research before you allow me to approach practitioners therefore, I will be happy to meet with you at your convenience to answer any questions you may have.

I hope that you are well and look forward to hearing from you.

Regards
Jodie

Appendix C: Email to Practitioners

Dear, _____

I am a PhD researcher at Liverpool John Moores University and I am making contact with you to discuss a research request for access to your service. The research I am undertaking is a gendered analysis of the use of restorative justice with young female offenders which aims to inform an analysis of the need for gender sensitive approaches to the use of restorative justice with young female offenders.

I understand that you are a lead for RJ practices within your service and was hoping you may be able to help me with regards to identifying potential participants for the research?
I would like to be able to interview girls and young women who have taken part in restorative justice conferences as well as practitioners who have involvement with restorative justice practices within their service.

I am currently in the process of interviewing girls and young women who have participated in conferences however, finding potential participants is proving to be difficult given the current number of girls and young women coming into the remit of the youth justice system therefore, I am hoping to gain access to a number of youth offending services within the North West in order to ensure a sufficient sample of participants.

I understand that you will have many questions about the research and how the service would benefit from the completion of this research before you would be able to make a decision with regards to helping me. I would be very happy to speak with yourself or a colleague to discuss this request further. This way I would be able to explain to you the reasons why the research is being undertaken and all other relevant information. I am aware that you must be extremely busy but any time that you could make to consider this request would be greatly appreciated.

I look forward to hearing from you.

Best Wishes,

Jodie Hodgson

Appendix D: Gatekeeper information sheet

GATEKEEPER PARTICIPANT INFORMATION SHEET

1. Title of Project: A Gendered Agenda? A Critical Evaluation of Restorative Justice and Young Female Offenders

Researcher: Jodie Hodgson

You are being invited to take part in a research study. Before you make a decision it is important that you understand why the research is being undertaken and what your involvement will be. Please read the following information carefully. Please ask if there is anything that is not clear to you or if you would like more information. You will not have to decide straight away if you would like to take part.

2. What is the purpose of the study?

The purpose of the research is to critically investigate the role gender plays in the relationship between restorative justice and young female offenders. The research aims to investigate whether there is a need for gender sensitive approaches, within or as an alternative, to the use of restorative justice with young female offenders.

The research is being conducted as part of my PhD degree and will be used to complete my thesis for this degree. The research will be supervised by staff in the School of Humanities and Social Science at Liverpool John Moores University.

3. Do I have to take part?

The research is voluntary therefore it is up to you to decide whether or not to take part. If you do decide to take part you will be given this information sheet and asked to sign a consent form. If you agree to participate in this research and at any time change your mind about being involved and wish to withdraw you are free to do so and any information provided will be destroyed.

4. What does the research involve?

Practitioners and young people who choose participate in the research will be asked to sign an informed consent form agreeing to their participation in the research. Their main role in the research will involve taking part in an interview which will ask questions relating to practitioners views and experiences of working with young females offenders who are or have been involved in restorative justice and young peoples views and experiences of engaging in restorative justice.
It is anticipated interviews will last between one and two hours and will be recorded via a Dictaphone.

All interview responses provided will be coded in a manner that anonymises participants in the research, this will involve changing any details that identifies them as a participant and the inclusion of pseudonyms which will be used to replace their own name.

5. What are the possible disadvantages and risks involved if any?

There is a risk that participants may become emotional or upset when answering questions in their interview due to the sensitive nature of the interview questions. To address this scenario young people as participants will be made aware that they are free to discuss with their youth offending team case manager anything that is upsetting or troubling them. Young people will also be provided with the researchers contact details to discuss any problems they may have and the contact details of other support services available to them.

6. What are the possible benefits of taking part?

The perceived benefits from taking part in this research is that participants will be contributing to a knowledge base which has been neglected due to a lack of research that focuses on the use of Restorative Justice with young female offenders. By participating service users and practitioners will also have the opportunity to have their voice heard in relation to important matter's relating to the use of Restorative Justice with young offenders.

7. Will taking part in the study be kept confidential?

All the information provided during the interviews will be stored safely and only myself (the researcher) and my supervisory team will have access to this information.

The data provided by any participant in this study will only be used for the sole purposes of the research and be destroyed in line with the data protection act (1998).

In order to ensure participants identity remains anonymous they will be allocated a pseudonym. If participants reveal information about another individual in the interview all identifying information about this person will be removed.

Participant's identity will remain anonymous and confidential if they choose to participate in the research however, if in any circumstances they mention any professional breach of conduct then confidentiality will not be maintained. With regards to young people as participants they will be advised that the researcher has an obligation by law to report any disclosures of harm or risks of harm however, this will be discussed with the young person prior to any actions being undertaken.

8. **What will happen to the results of the research study?**

The research is being conducted as part of a PhD degree and the results will be used to complete my thesis for this degree.

9. Who to contact about this study?

Any questions you may have about this research may be directed to:

Jodie Hodgson (Researcher)

E-mail address- J.A.Hodgson@2014.ljmu.ac.uk

Or

Dr Janet Jamieson (Supervisor)

School of Humanities and Social Science, Liverpool John Moores University, 80-90 Mount Pleasant, Liverpool, L3 5UZ

Phone: +44 (0)151 231 5089
E-mail address - j.jamieson@ljmu.ac.uk

Date: 1st September 2014

Appendix E: Consent Form for Practitioners

LIVERPOOL JOHN MOORES UNIVERSITY

PRACTITIONERS CONSENT FORM

Title of Project: A Gendered Agenda? A Critical Evaluation of Youth Offending and Restorative Justice

Researcher: Jodie Hodgson School of Humanities and Social Science

I _____ _____ have agreed to take part in this research study that aims to investigate the role gender plays in young female offenders experience of Restorative Justice.

I am aware that by participating in this research I will be required to take park in an interview designed to inform the completion of a PhD thesis for Liverpool John Moores University.

I understand that my identity will be anonymised through the use of pseudonyms and I understand that the information I share with the researcher will remain confidential unless I disclose a breach of my professional codes of conduct.

I am aware that my participation in this research is voluntary and if at any time I chose to withdraw my participation in this research I am free to do so.

- I confirm that I have read and understand the information provided for the above study. I have had the opportunity to consider the information, ask questions and have had these answered satisfactorily

- I understand that my participation is voluntary and that I am free to withdraw at any time, without giving a reason and that this will not affect my legal rights.

- I understand that any personal information collected during the study will be anonymised and remain confidential

- I agree to take part in the above study and be interviewed

- I understand that the interview will be audio recorded and I am happy to proceed

- I understand that parts of our conversation may be used verbatim in future publications or presentations but that such quotes will be anonymised.

Name of Participant   Date
     Signature

Name of Researcher   Date
     Signature

Appendix F: Gatekeeper consent form

LIVERPOOL JOHN MOORES UNIVERSITY

GATEKEEPER CONSENT FORM

Title of Research: A Gendered Agenda? A Critical Evaluation of Restorative Justice and Young Female Offenders

Researcher: Jodie Hodgson School of Humanities and Social Science

Name of Person taking consent:

 Date:

Signature:

Jodie Hodgson is a student at Liverpool John Moores University and a volunteer referral order panel member for Cheshire Youth Offending Service. She has proposed a project for her PhD research investigating the use of Restorative Justice with young female offenders.

I am aware that her project involves recruiting participants who are both practitioners and female service users from this organisation and conducting interviews with participants based upon their experiences of Restorative Justice. I am also aware she will be accessing records of referral order contracts in order to do a comparison of these contracts. I understand that there is no intention to name any participants in this research.

I understand that all information collected from individuals will be done with duly informed consent from the participating individuals and that potential participants can refuse participation with no negative consequences for said individual.

I support the conduct of this research in this organisation

Yours Faithfully

(Signature)…..

First Name:

Last Name:

Name of Organisation:

Appendix G: Young Persons Consent Form

LIVERPOOL JOHN MOORES UNIVERSITY

YOUNG PERSONS CONSENT FORM

Title of Project: A Gendered Agenda? A Critical Evaluation of Restorative Justice and Young Female Offenders

Researcher: Jodie Hodgson School of Humanities and Social Science

My name is _____ _____ and I am going to answer questions in an interview asking me about restorative justice and what I think of it.

I know that my answers to the questions will be recorded and talked about in a report but my name will not be used so people don't know it is me who answered the questions.

I know that if I say anything that makes Jodie the researcher think me or another person might be hurt they will have to tell someone else about this and they will talk to me about what they will do if this happens.

I know that I can stop at any time I want to and that I can ask the researcher any questions I have.

Child young person to circle all they agree with:

Have you read (or had read to you) information about this

project?   Yes/No

Has somebody else explained this project to you?

                  Yes/No

Do you understand what this project is about?

                  Yes/No

Have you asked all the questions you want?

                  Yes/No

Have you had your questions answered in a way you

understand?   Yes/No

Do you understand it's OK to stop taking part at any time?

                  Yes/No

Are you happy to take part?

Yes/No

If <u>any</u> answers are 'no' or you **don't** want to take part, don't sign your name!

If you **do** want to take part, you can write your name below

Your name _____

Date _____

The researcher who explained this project to you needs to sign too.

Print Name _____

Sign _____

Date _____

<u>Appendix H: Practitioners Participant Information Sheet</u>

PRACTITIONERS PARTICIPANT INFORMATION SHEET

1. Title of Project: A Gendered Agenda? A Critical Evaluation of Restorative Justice and Young Female Offenders

Researcher: Jodie Hodgson

You are being invited to take part in a research study. Before you make a decision it is important that you understand why the research is being undertaken and what your involvement will be. Please read the following information carefully. Please ask if there is anything that is not clear to you or if you would like more information. You will not have to decide straight away if you would like to take part.

2. What is the purpose of the study?

The purpose of the research is to critically investigate the role gender plays in the relationship between restorative justice and young female offenders. The research aims to investigate whether there is a need for gender sensitive approaches, within or as an alternative, to the use of restorative justice with young female offenders.

The research is being conducted as part of my PhD degree and will be used to complete my thesis for this degree. The research will be supervised by staff in the School of Humanities and Social Science at Liverpool John Moores University.

3. Why have I been chosen?

You have been invited to participate in the research as you currently work within a youth offending service and have experience of working with young offenders who have been involved in restorative justice processes.

4. Do I have to take part?

The research is voluntary therefore it is up to you to decide whether or not to take part. If you do decide to take part you will be given this information sheet and asked to sign a consent form. If you agree to participate in this research and at any time change your mind about being involved and wish to withdraw you are free to do so and any information provided will be destroyed.

5. What will happen to me if I take part?

If you decide to take part your involvement in the research will consist of signing the participant consent form and taking part in an interview which will ask you questions relating to your views and experiences of working with young female offenders who are or have been involved in restorative justice. It is anticipated that interviews will last between one and two hours and will be audio recorded. All interview responses provided will be coded in a manner that anonymises yourself as a participant in the research, this will involve changing any details that identifies you as a participant and the inclusion of pseudonyms which will be used to replace you own name. The research is expected to last for around four years.

6. What are the possible disadvantages and risks involved if any?

There are no perceived risks with regards to you taking part in this research.

7. What are the possible benefits of taking part?

The perceived benefits from taking part in this research is that you will be contributing to a knowledge base which has been neglected due to a lack of research that focuses on the use of Restorative Justice with young female offenders. By participating you will also have the opportunity to have your voice heard in relation to important matter's relating to the use of Restorative Justice and young offenders.

8. Will my taking part in the study be kept confidential?

All the information provided during the interviews will be stored safely and only myself (the researcher) and my supervisory team will have access to this information.

The data provided by any participant in this study will only be used for the sole purposes of the research and be destroyed in line with the Data Protection Act (1998).

In order to ensure your identity remains anonymous you will be allocated a pseudonym. If you reveal information about another individual in the interview all identifying information about this person will be removed.

Your identity will remain anonymous and confidential if you choose to participate in the research however, if in any circumstances you mention any professional breach of conduct then confidentiality will not be maintained.

9. What will happen to the results of the research study?

The research is being conducted as part of a PhD degree and the results will be used to complete my thesis for this degree.

10. Who to contact about this study?

Any questions you may have about this research may be directed to:

Jodie Hodgson (Researcher)

School of Humanities and Social Science, Liverpool John Moores University, 80-90 Mount Pleasant, Liverpool, L3 5UZ

E-mail address- J.A.Hodgson@2014.ljmu.ac.uk

Or

Dr Janet Jamieson (Supervisor)

School of Humanities and Social Science, Liverpool John Moores University, 80-90 Mount Pleasant, Liverpool, L3 5UZ

Phone: +44 (0)151 231 5089

E-mail address - j.jamieson@ljmu.ac.uk

Date: 1st September 2014

<u>Appendix I: Young Peoples Participant Information Sheet</u>

YOUNG PERSONS PARTICIPANT INFORMATION SHEET

1. Title of Project: Exploring the use of Restorative Justice with Young Female Offenders

Researcher: Jodie Hodgson

You are being invited to take part in a research study. Before you decide it is important that you understand why the research is being done and what it involves. Please take time to read the following information. Please ask if there is anything that is not clear or if you would like more information. Take time to decide if you want to take part or not.

2. What is the purpose of the study?

The purpose of the research is to investigate how being male or female effects your experience of restorative justice. I would like you to be involved in this research because you are a young female aged 17 or under who has participated in Restorative Justice.

I am doing this research as part of a PhD degree at Liverpool John Moores University.

3. Do I have to take part?

Participation in the research is voluntary, this means that you do not have to take part if you do not want to. If you decide to take part and then during the interview decide that you no longer want to take part in the research that is fine, you can withdraw your consent to take part at any time, and any data that has already been collected will not be included in the research.

4. What will happen to me if I take part?

If you decide to take part in this research you will be asked to sign a consent sheet that says you agree to take part and that you understand what the research is about and what it's for.

The research involves interviews with young people who have taken part in restorative justice.

You will be asked questions about your views and experiences of taking part in restorative justice. You can take as long as you want to answer the questions.

The research is expected to last around four years.

5. Are there any risks / benefits involved?

There is a possibility that some of the interview questions may make you feel uncomfortable therefore there is a risk that you may become emotional or upset as you will be talking about sensitive issues to do with your experience of restorative justice. If this does happen the researcher, with your permission will take steps to ensure that you access appropriate support.

The benefit of taking part in this research is that it will give you the chance to tell your story and have your voice heard about your thoughts on important issues.

6. Will my taking part in the study be kept confidential?

The answers that you give in the interview will not show who you are as you will be allowed to choose a different name for yourself to use so nobody knows it was you that answered the questions.

During the interview I will be recording your responses.

The information I record will be stored safely and only myself will listen to it.

If you do say or say anything during the interview that makes me think you or another person is in danger or trouble this information will not be kept private or secret and another adult will have to be told but, if does happen it will be discussed with you first.

7. Problems and questions

You may find that when you answer questions about your experiences it may be upsetting for you or you may have feelings that you want to talk about. If this does happen you can speak to your key worker at the youth offending service about anything that is upsetting you or troubling you. If you prefer not to speak to them you can ring the Child line on **0800 1111** at any time of the day or night and they will give you free confidential advice and support on anything that is bothering you.

You can also contact the NSPCC 24 hour helpline on **0808 800 5000** and Get Connected which is a confidential helpline for young people aged under 25 on **0808 808 4994**

8. Who to contact about this study?

If you have any more questions about the research or would like any more information you can contact myself, Jodie on **J.A.Hodgson@2014.ljmu.ac.uk**

Or

Dr Janet Jamieson (Supervisor)

School of Humanities and Social Science, Liverpool John Moores University, 80-90 Mount Pleasant, Liverpool, L3 5UZ

Phone: +44 (0)151 231 5089

E-mail address - j.jamieson@ljmu.ac.uk

Date: 1st September 2014

Appendix J: Gatekeeper information sheet

GATEKEEPER PARTICIPANT INFORMATION SHEET

1. Title of Project: A Gendered Agenda? A Critical Evaluation of Restorative Justice and Young Female Offenders

Researcher: Jodie Hodgson

You are being invited to take part in a research study. Before you make a decision it is important that you understand why the research is being undertaken and what your involvement will be. Please read the following information carefully. Please ask if there is anything that is not clear to you or if you would like more information. You will not have to decide straight away if you would like to take part.

2. What is the purpose of the study?

The purpose of the research is to critically investigate the role gender plays in the relationship between restorative justice and young female offenders. The research aims to investigate whether there is a need for gender sensitive approaches, within or as an alternative, to the use of restorative justice with young female offenders.

The research is being conducted as part of my PhD degree and will be used to complete my thesis for this degree. The research will be supervised by staff in the School of Humanities and Social Science at Liverpool John Moores University.

3. Do I have to take part?

The research is voluntary therefore it is up to you to decide whether or not to take part. If you do decide to take part you will be given this information sheet and asked to sign a consent form. If you agree to participate in this research and at any time change your mind about being involved and wish to withdraw you are free to do so and any information provided will be destroyed.

4. What does the research involve?

Practitioners and young people who choose participate in the research will be asked to sign an informed consent form agreeing to their participation in the research. Their main role in the research will involve taking part in an interview which will ask questions relating to practitioners views and experiences of working with young females offenders who are

or have been involved in restorative justice and young peoples views and experiences of engaging in restorative justice.

It is anticipated interviews will last between one and two hours and will be recorded via a Dictaphone.

All interview responses provided will be coded in a manner that anonymises participants in the research, this will involve changing any details that identifies them as a participant and the inclusion of pseudonyms which will be used to replace their own name.

5. What are the possible disadvantages and risks involved if any?

There is a risk that participants may become emotional or upset when answering questions in their interview due to the sensitive nature of the interview questions. To address this scenario young people as participants will be made aware that they are free to discuss with their youth offending team case manager anything that is upsetting or troubling them. Young people will also be provided with the researchers contact details to discuss any problems they may have and the contact details of other support services available to them.

6. What are the possible benefits of taking part?

The perceived benefits from taking part in this research is that participants will be contributing to a knowledge base which has been neglected due to a lack of research that focuses on the use of Restorative Justice with young female offenders. By participating service users and practitioners will also have the opportunity to have their voice heard in relation to important matter's relating to the use of Restorative Justice with young offenders.

7. Will taking part in the study be kept confidential?

All the information provided during the interviews will be stored safely and only myself (the researcher) and my supervisory team will have access to this information.

The data provided by any participant in this study will only be used for the sole purposes of the research and be destroyed in line with the data protection act (1998).

In order to ensure participants identity remains anonymous they will be allocated a pseudonym. If participants reveal information about another individual in the interview all identifying information about this person will be removed.

Participant's identity will remain anonymous and confidential if they choose to participate in the research however, if in any circumstances they mention any professional breach of conduct then confidentiality will not be maintained. With

regards to young people as participants they will be advised that the researcher has an obligation by law to report any disclosures of harm or risks of harm however, this will be discussed with the young person prior to any actions being undertaken.

8. **What will happen to the results of the research study?**

The research is being conducted as part of a PhD degree and the results will be used to complete my thesis for this degree.

9. Who to contact about this study?

Any questions you may have about this research may be directed to:

Jodie Hodgson (Researcher)

E-mail address- J.A.Hodgson@2014.ljmu.ac.uk

Or

Dr Janet Jamieson (Supervisor)

School of Humanities and Social Science, Liverpool John Moores University, 80-90 Mount Pleasant, Liverpool, L3 5UZ

Phone: +44 (0)151 231 5089

E-mail address - j.jamieson@ljmu.ac.uk

Date: 1st September 2014

Appendix K: Carer information sheet

PARENT/CARER PARTICIPANT INFORMATION SHEET

1. Title of Project: A Gendered Agenda? A Critical Evaluation of Restorative Justice and Young Female Offenders

Researcher: Jodie Hodgson

_____ _____ is being invited to take part in a research study. Before you make a decision to give your consent it is important that you understand why the research is being undertaken and what their involvement will be. Please read the following information carefully. Please ask if there is anything that is not clear to you or if you would like more information. If you as their parent or carer agree for the young person to participate in this research you will be asked to sign a consent form giving your permission for the young person to take part.

2. What is the purpose of the study?

The purpose of the research is to critically investigate the role gender plays in the relationship between restorative justice and young female offenders. The research aims to investigate whether there is a need for gender sensitive approaches, within or as an alternative, to the use of restorative justice with young female offenders.

The research is being conducted as part of my PhD degree and will be used to complete my thesis for this degree. The research will be supervised by staff in the School of Humanities and Social Science at Liverpool John Moores University.

3. Why have they been chosen?

The young person has been invited to participate in the research as they are or have been involved in restorative justice within their youth offending service.

4. Do they have to take part?

The research is voluntary therefore it is up to the young person to decide whether or not to take part. If they do decide to take part they will be given this information sheet and asked to sign a consent form. If they agree to participate in this research and at any time change their mind about being involved and wish to withdraw they are free to do so and any information provided will be destroyed.

5. What will happen if they do take part?

If the young person does take part their involvement in the research will consist of signing the participant consent form and taking part in an interview which will ask them questions relating to their views and experiences of engaging in restorative justice. It is anticipated interviews will last between one and two hours and will be audio recorded. All interview responses provided will be coded in a manner that anonymises the young person as a participant in the research, this will involve changing any details that identifies the young person as a participant and the inclusion of pseudonyms to replace their own name. The research is expected to last for around four years.

6. What are the possible disadvantages and risks involved if any?

There is a risk that participants may become emotional or upset when answering questions in their interview due to the sensitive nature of the interview questions.

7. What are the possible benefits of taking part?

The perceived benefits from taking part in this research is that the young person will be contributing to a knowledge base which has been neglected due to a lack of research that focuses on the use of Restorative Justice with young female offenders. By participating the young person will also have the opportunity to have their voice heard in relation to important matter's relating to the use of Restorative Justice and young offenders.

8. Will their taking part in the study be kept confidential?

All the information provided during the interviews will be stored safely and only myself (the researcher) and my supervisory team will have access to this information.

The data provided by any participant in this study will only be used for the sole purposes of the research and be destroyed in line with the Data Protection Act (1998).

The young person's identity will remain anonymous and confidential however, if in any circumstances the young person discloses any information that makes me or another person think they are at risk then this information will be shared with the relevant professionals.

9. What will happen to the results of the research study?

The research is being conducted as part of a PhD degree and the results will be used to complete my thesis for this degree.

10. Who to contact about this study?

Any questions you may have about this research may be directed to:

Jodie Hodgson (Researcher)

School of Humanities and Social Science, Liverpool John Moores University, 80-90 Mount Pleasant, Liverpool, L3 5UZ

E-mail address- mailto:J.A.Hodgson@2014.ljmu.ac.ukJ.A.Hodgson@2014.ljmu.ac.uk

Or

Dr Janet Jamieson (Supervisor)

School of Humanities and Social Science, Liverpool John Moores University, 80-90 Mount Pleasant, Liverpool, L3 5UZ

Phone: +44 (0)151 231 5089

E-mail address - j.jamieson@ljmu.ac.uk

Date: 1st September 2014

Appendix L: Gillick Competency Assessment

Date:	
Interviewer:	
Case Manager:	
Participants Pseudonym:	
Participants age:	

*Please note in order for the young person to be classed as Gillick competent then both the researcher and the young persons youth offending team case manager must answer yes to questions 1-6 and no to questions 1- 8. If as a result of this assessment the young person is assessed as not being Gillick competent then parental consent will be sought.

	YES	NO
1-Can the young person communicate their decision to consent and why?		
2-Are you satisfied that the young person understands their decision to consent?		
3-Is the young person making this decision based on a perception of reality?		
4-Is this a rational decision based on their own value system or religious belief?		
5-Are you confident the young person is making the decision to consent for themselves and not being coerced or influenced by another person?		
6-Is the young person aware and understands that consent is an ongoing process and they can withdraw their consent at any time?		
7-Would the young person's physical or mental health suffer as a result of them taking part in the research?		
8-Do you have any specific concerns in relation to mental health or substance misuse that would impede the young person's ability to consent and take part in the research?		

Researchers signature
…………………………………………
Date……………………………..

Youth offending team case managers
signature…………………………………....
Date……………………………

Appendix M: Carer consent sheet

LIVERPOOL JOHN MOORES UNIVERSITY
ASSENT FORM FOR CHILDREN / OTHER DEPENDENTS
(to be completed by the parent/guardian of the young person)

Title of Project: A Gendered Agenda? A Critical Evaluation of Youth Offending and Restorative Justice
Researcher: Jodie Hodgson School of Humanities and Social Science

Parent or guardian to circle if they agree with:
Have you read (or had read to you) information about this

project?   Yes/No

Has somebody else explained this project to you?

                            Yes/No

Do you understand what this project is about?

                            Yes/No

Have you asked all the questions you want?

                            Yes/No

Have you had your questions answered in a way you

understand?   Yes/No

Do you understand it's OK for your child to stop taking part at

any time?   Yes/No

Are you happy for your child to take part?

                            Yes/No

If any answers are 'no' or you **don't** want to take part, don't

sign your name!

Parent or guardian to sign name if they are happy for their

child to take part in this research project.

Print Name _____

Sign _____

Date _____

The researcher who explained this project to you needs to sign too.

Print Name _____

Sign _____

Date _____