

**Towards constructing restorative justice: A view of crime,  
justice and reconciliation**

**By  
Carmen Uys**

**Student number: 96219417**

**To be submitted in partial fulfilment of the requirements for  
the degree of**

**MASTER OF ARTS IN RESEARCH PSYCHOLOGY**

**in**

**Department of Psychology**

**UNIVERSITY OF PRETORIA**

**SUPERVISOR: Dr Ingrid Lynch**

**TSHWANE**

**August, 2011**



## DECLARATION

I, Carmen Uys, declare that this mini-dissertation (Towards constructing restorative justice: A view of crime, justice and reconciliation) is my own work except as indicated in the references and acknowledgements. It is submitted in partial fulfilment of the requirements of the degree of Masters of Arts in Research Psychology to the University of Pretoria. It has not been submitted before for any other degree or examination in this or any other university.

-----

Ms. Carmen Uys

96219417

On the \_\_\_\_\_ **31** \_\_\_\_\_ day of \_\_\_\_\_ **August** \_\_\_\_\_ **2011**.

## DEDICATION

I dedicate this dissertation to Wezet and Marietjie.

Your love knows no boundaries.

## ACKNOWLEDGEMENTS

A much appreciated thank you to the victims of these violent crimes who have made this dissertation possible and for whom my heart cries. I pray that the God who gave me the strength and courage to write your stories will strengthen you to walk into a life of freedom.

Thank you to my family and friends who were there in my darkest hours when violence touched my life. Violence is soul shattering and it takes a community of people to pick up the pieces.

I acknowledge the communities of people who work tirelessly to mend the lives of those shattered people.

Thank you to my sisters Theresa, Ilse and Heidi for all their support.

Thank you to my mother Gitta and father Darrell for years of dedication.

A special thank you to Marietjie for her endless help, encouragement and belief in me and to Wezet who walked barefoot on broken glass.

## ABSTRACT

This study explores how victims of violent crime construct meaning around crime, justice and reconciliation. It further aims to gain insight into how victims of crime construct expectations of which actions should ensue after the crime and whether their constructions encompass elements of reconciliation and restorative justice. The study is conducted from a social constructionist position and uses a critical discourse analysis framework in analysing the data. In-depth interviews were conducted with nine victims of serious crimes such as armed robbery, hijacking, attempted murder and rape. From the analysis it appears that participants have a need to experience justice and have a high demand for vengeance. This however may itself have grown out of a lack of a more positive experience of justice. Participants' constructions of their experience of being a victim of crime center on notions of power, equality, prejudice and dominance. They draw on socially constructed differences based on race and gender to define both their identity as a victim of crime as well as the identity of their offender. These distinctions, based on categories of identity, serve to create an oppositional construction of "us" against "them" and also serve to dehumanise the offender. The analysis further indicates that participants draw on multiple constructions of restorative justice and despite strong support for punitive beliefs it appears that a discourse of restorative justice is also present in participants' discussions. A key theme running through the data is the loss of personal power as a result of victimization. Instead of returning a sense of power to participants by allowing them to participate in the justice process, the legal system becomes the holder of the power and compounds the injury against the victim. The study has implications for how victims of crime are positioned in the justice system and how notions of restorative justice can be advanced in South African discourses.

Key words: restorative justice, constructionism, construct, critical discourse analysis, CJS, crime, justice, reconciliation, victims, offenders

## ABSTRACT

(Translated in Afrikaans)

Die studie ondersoek hoe slagoffers van geweldsmisdade betekenis konstrueer ten opsigte van die misdaad, geregtigheid en rekonsiliasie. Dit het ten doel om insig te bekom oor hoe misdaadslagoffers verwagtings konstrueer ten opsigte van watter aksies geneem moet word na die misdaad. Dit vra of die aksies elemente van rekonsiliasie en restoratiewe geregtigheid bevat. Die studie is onderneem vanuit 'n sosiaal konstruksionistiese oogpunt en gebruik 'n kritiese diskoers analise raamwerk in die analise van data. In-diepte onderhoude is met nege slagoffers van ernstige misdaad onderneem, misdade soos gewapende roof, "hi-jacking" poging tot moord en verkragting. Die analise bevind dat die respondente 'n behoefte het om geregtigheid te ervaar en hulle het ook hoë verwagtinge vir wraak. Die behoefte om wraak te neem mag dalk gesetel wees in 'n negatiewe ervaring van geregtigheid. Respondente se verwagtinge as slagoffers van misdaad sentreer rondom 'n magsgevoel, gelykheid, vervooroordeeldheid en dominansie. Hulle bou op sosiaal gekonstrueerde verskille oor ras, geslag en die definiëring van hul identiteit as slagoffers van misdaad en die identiteit van hul oortreders. Hierdie onderskeidings is gebaseer op kategorië van identiteit en dien as basis vir die skep van "hulle" teen "ons" en poog om die oortreder te verontmenslik. Die analise dui verder aan dat respondente verskeie idees het ten opsigte van restoratiewe geregtigheid ten spyte van sterk steun vir straf. Slagoffers het wel diskoers oor restoratiewe geregtigheid in hul gesprekke. 'n Sleuteltema wat 'n goue draad deur die data volg is die verlies aan persoonlike mag as gevolg van viktimisasie. In plaas daarvan dat die regsstelsel bydraend is tot die herstel van die respondente se magsposisie, dra dit eerder by tot 'n kompaktering van mag teen die slagoffers. Die studie het implikasies oor hoe slagoffers van misdaad geposisioneer is binne die regstelsel en hoe die gedagte aan restoratiewe geregtigheid bevorder kan word binne Suid-Afrikaanse diskoerse.

## TABLE OF CONTENTS

<b>CHAPTER 1: ORIENTATION.....</b>	<b>1</b>
1.1 INTRODUCTION .....	1
1.2 BACKGROUND INFORMATION/TOPIC INTRODUCTION .....	3
1.3 PROBLEM STATEMENT.....	7
1.4 RESEARCH OBJECTIVES.....	10
1.5 DELINEATIONS AND LIMITATIONS .....	10
1.6 DEFINITION OF TERMS AND CONCEPTS.....	11
1.6.1 Restorative Justice .....	11
1.6.2 Restorative Justice Process .....	12
1.6.3 Victim-offender Conferencing.....	12
1.6.4 Crime.....	13
1.6.5 Justice .....	13
1.6.6 Crime-defining Behaviour.....	13
1.6.7 CJS.....	13
1.7 SIGNIFICANCE OF THE STUDY .....	13
1.8 BRIEF CHAPTER OVERVIEW .....	14
<b>CHAPTER 2: THEORETICAL BACKGROUND AND LITERATURE REVIEW .</b>	<b>15</b>
2.1 INTRODUCTION .....	15
2.2 CRIME STATISTICS AND THE SOUTH AFRICAN CONTEXT.....	17
2.3 BACKGROUND TO SOCIAL CONSTRUCTIONISM .....	23
2.4 CONSTUCTIVISM.....	24
2.5 CONSTRUCTIONISM .....	26
2.6 THE ROLE OF LANGUAGE IN THE PROCESS OF MEANING-MAKING .....	28

<b>2.7 PERCEIVED VICTIMIZATION RISK AND PUNITIVE ATTITUDES.....</b>	<b>29</b>
<b>2.8 CONTROL AND THE CONSTRUCT OF JUSTICE.....</b>	<b>30</b>
<b>2.9 THE MEDIA AS A VEHICLE FOR CONSTRUCTING THE WORLD.....</b>	<b>31</b>
<b>2.10 GENDER DIFFERENCES IN CRIME-DEFINING BEHAVIOUR .....</b>	<b>32</b>
<b>2.11 VICARIOUS CONSTRUCTION OF FEAR OF CRIME.....</b>	<b>34</b>
<b>2.12 DEFINING RESTORATIVE JUSTICE .....</b>	<b>34</b>
<b>2.13 HISTORY OF RESTORATIVE JUSTICE IN SOUTH AFRICA.....</b>	<b>36</b>
<b>2.14 LEGISLATING RESTORATIVE JUSTICE .....</b>	<b>40</b>
<b>2.15 IMPLICATIONS OF RESTORATIVE JUSTICE.....</b>	<b>41</b>
<b>2.16 RECONCILIATION AND RESTORATIVE JUSTICE.....</b>	<b>43</b>
<b>2.17 SUMMARY .....</b>	<b>45</b>
<b>CHAPTER 3: RESEARCH DESIGN AND METHODOLOGY.....</b>	<b>48</b>
<b>3.1 INTRODUCTION .....</b>	<b>48</b>
<b>3.2 QUALITATIVE METHODOLOGY: AN OVERVIEW .....</b>	<b>49</b>
<b>3.3 RESEARCH DESIGN.....</b>	<b>52</b>
<b>3.4 SELECTION OF PARTICIPANTS .....</b>	<b>53</b>
3.4.1 Demographic Profile.....	55
3.4.2 Consent to Participate.....	56
<b>3.5 RECRUITMENT OF PARTICIPANTS.....</b>	<b>56</b>
<b>3.6 PILOT INTERVIEWS.....</b>	<b>57</b>
<b>3.7 INTERVIEWING AS DATA COLLECTION METHOD.....</b>	<b>58</b>
<b>3.8 REFLEXIVE ANALYSIS .....</b>	<b>60</b>
<b>3.9 RELIABILITY AND VALIDITY OF QUALITATIVE RESEARCH.....</b>	<b>63</b>



<b>3.10 CRITICAL DISCOURSE ANALYSIS (CDA)</b> .....	<b>65</b>
<b>3.11 DATA RECORDING AND CAPTURING</b> .....	<b>71</b>
<b>3.12 THE PROCESS OF ANALYSIS</b> .....	<b>71</b>
<b>3.13 ETHICAL PRINCIPLES IN RESEARCH</b> .....	<b>75</b>
3.13.1 Confidentiality and Anonymity.....	75
3.13.2. Emotional Well-being and Follow-up .....	75
3.13.3. Ethics and the Researcher’s Position .....	75
<b>3.14 SUMMARY</b> .....	<b>76</b>
<b>CHAPTER 4: RESULTS ANALYSIS</b> .....	<b>78</b>
<b>4.1 INTRODUCTION</b> .....	<b>78</b>
<b>4.2 POWER AND EQUALITY</b> .....	<b>80</b>
4.2.1 Racial Identity.....	81
4.2.2 Gender Identity.....	86
<b>4.3 THE DISCOURSE OF PREJUDICE AND PARTICIPANTS’ VIEW OF THE CRIMINAL</b> .....	<b>88</b>
4.3.1 Geographic Control as a Function of Prejudice and Power .....	91
<b>4.4 THE DISCOURSE OF DOMINANCE AND PARTICIPANTS’ VIEW OF CRIME</b> .....	<b>95</b>
<b>4.5 THE DISCOURSE OF POWER RELATIONS AND PARTICIPANTS’ VIEW OF CRIME, JUSTICE AND RECONCILIATION</b> .....	<b>101</b>
4.5.1 The Media and Power Relations .....	105
4.5.2 “And what about my rights?” – Power Relations and the Need for Justice .....	108
4.5.3 The Power Relation of Violence.....	116
<b>4.6 RECONCILIATION AND RESTORATIVE JUSTICE</b> .....	<b>118</b>
<b>4.7 CONCLUSION</b> .....	<b>123</b>
<b>CHAPTER 5: CONCLUSION AND RECOMMENDATIONS</b> .....	<b>125</b>
<b>5.1 INTRODUCTION</b> .....	<b>125</b>
<b>5.2 SUMMARY OF RESULTS</b> .....	<b>125</b>



<b>5.3 THE CONSTRUCTION OF CRIME AND THE VICTIM OF CRIME.....</b>	<b>128</b>
<b>5.4 THE NEED FOR A RETRIBUTIVE SYSTEM .....</b>	<b>130</b>
<b>5.5 TOWARDS CONSTRUCTING RESTORATIVE JUSTICE .....</b>	<b>130</b>
<b>5.6 LIMITATIONS OF THE STUDY .....</b>	<b>132</b>
<b>5.7 CONCLUSION AND RECOMMENDATIONS.....</b>	<b>133</b>
<b>REFERENCES .....</b>	<b>135</b>
<b>LEGISLATIONS .....</b>	<b>147</b>
<b>APPENDIX .....</b>	<b>148</b>

## LIST OF TABLES

<b>Table 1.1: Two different views of justice .....</b>	<b>9</b>
<b>Table 2.1: Proportions of crimes in South Africa.....</b>	<b>17</b>
<b>Table 2.3: Percentage of participants who experienced crime in the past two months.....</b>	<b>19</b>
<b>Table 3.1: Difference in methodology between qualitative and quantitative approaches.....</b>	<b>50</b>
<b>Table 3.2: Research design.....</b>	<b>52</b>
<b>Table 3.3: Demographic profiles of participants .....</b>	<b>55</b>
<b>Table 3.4: Sampling frame of purposive and snowball sampling.....</b>	<b>57</b>



## LIST OF FIGURES

<b>Figure 2.1: Confidence levels in police.....</b>	<b>20</b>
<b>Figure 2.2: Police performance.....</b>	<b>23</b>
<b>Figure 3.1: Discourse analysis method .....</b>	<b>73</b>

## LIST OF ABBREVIATIONS

**CJS** – Criminal Justice System

**CSVR** - Centre for the Study of Violence and Reconciliation

**DSD** – Department of Social Development

**FGC** – Family Group Conferencing

**GBH** – Grievous Bodily Harm (aggravated assault with GBH)

**IMC** for young people at risk – Inter-Ministerial Committee for young people at risk

**NICRO** - The National Institute for Crime Prevention and the Reintegration of Offender

**RJC** – Restorative Justice Centre

**RJISA** – Restorative Justice Initiative Southern Africa

**SOM** – Survivor-offender mediation

**TRC** – Truth and Reconciliation Commission

**VOM** – Victim-offender mediation

## CHAPTER 1: ORIENTATION

### 1. 1 INTRODUCTION

There's no way to rule innocent men. The only power any government has is the power to crack down on criminals. Well, when there aren't enough criminals, one makes them. One declares so many things to be a crime that it becomes impossible for men to live without breaking laws. Who wants a nation of law-abiding citizens? What's there in that for anyone? But just pass the kind of laws that can neither be observed nor enforced nor objectively interpreted and you create a nation of law-breakers. (Rand, 2004, p. 385)

What are people's beliefs about crime, justice and reconciliation? Would it remain unchanged if people were to become a victim of crime? Would it be the same if people did not live in South Africa? What about gender - how does this influence beliefs? If one had children, no children? Whether people were ardent media followers or secluded themselves from media influences? How do these beliefs affect people's decisions about their neighbourhood, actions and reactions? Finally, taking all this into account, what would their take be on the possibility of a justice system that brings restoration? This study focuses on how victims of crime construct meaning around crime, justice and reconciliation.

In Chapter 1 the basic concept of people's construction of knowledge and its influence on their beliefs and subjective reality will be introduced as the underpinning theoretical framework of the dissertation, which is social constructionism. In order to understand the research, the reader needs to understand how different constructions of crime influence different actions and punitive beliefs. The researcher introduces contemporary literature with specific

focus on people's perceived risk of victimisation, media influence, gender difference, racial orientation and public opinion with the aim of understanding how beliefs and societal influences construct people's punitive orientations.

Restorative justice has been introduced as a crime prevention strategy which since its establishment in 1992 in South Africa by NICRO (The National Institute for Crime Prevention and the Reintegration of Offender) has gained increasing popularity. Restorative justice is focussed on social integration rather than ostracism and punishment as espoused by the punitive Criminal Justice System (Maepa, 2005).

This study will focus on contact crimes which involve physical contact between perpetrators and the victims. Contact may last anything from a second or two (for example, where a perpetrator grabs the handbag from a victim's hand and runs off with it) to an ordeal that lasts several days (for example, the perpetrator kidnaps the victim during a carjacking and rapes her). For the purpose of this study close relatives of murder victims are also included in the scope.

The focus of the study is specifically on contact crimes derived from violence against the person, irrespective of the nature of such violence. This type of violence includes the following categories of offences (which will be discussed in greater detail in Chapter 2):

- Murder
- Attempted murder
- Assault with grievous bodily harm (GBH)
- Common assault
- Sexual offences
- Aggravated robbery
- Common robbery

## 1.2 BACKGROUND INFORMATION/TOPIC INTRODUCTION

In 1947 Tappan already introduces crime as:

...an intentional action in violation of the criminal law (statutory and case law), committed without defence of excuse, and penalized by the state as a felony or misdemeanour. In studying the offender there can be no presumption that... persons are criminal unless they also be held guilty beyond a reasonable doubt of a particular offense. (Tappan, 1947, p. 100)

Edwin H. Sutherland (1949) (widely regarded as the dean of American criminology) also articulated a legalistic definition around the same time:

The essential characteristic of crime is that it is behaviour which is prohibited by the State as an injury to the State and against which the State may react, at least as a last resort, by punishment. The two abstract criteria generally regarded by legal scholars as necessary element in a definition of crime are legal description of an act as socially harmful and legal provision of a penalty for the act. (Sutherland, 1949, p. 31)

Tappan and Sutherland disagreed on the notion that “an unlawful act is not defined as criminal by the fact that it is punished but by the fact that it is punishable” (Sutherland, 1949, p. 35). There has been a great deal of variation in history and across different jurisdictions as to what has been defined as a crime. Some of the major figures in history have been termed criminals by a State process that was considered legally valid at the time (Morrison, 2006). For instance, Nelson Mandela was convicted for activities against the Apartheid State of South Africa and served 27 years in prison before his release. He subsequently became the first democratically elected President of South Africa.



Are we to call individuals like these “criminals”? Or do we say that it was a mistake to have ever called them that?

Writing in the late nineteenth century, the French sociologist Emile Durkheim — often referred to as the “father figure of sociology”—pointed out that a great deal of social change has occurred as the result of people going against the settled rules and opposing the interests of those in power (Durkheim, 1966). According to Durkheim (1966), a society that had no crime would be pathologically over-controlled.

According to Athenian law, Socrates was a criminal, and his condemnation was no more than just. However, his crime, namely, the independence of his thought, rendered a service not only to humanity but to his country. It served to prepare a new morality and faith which the Athenians needed, since the traditions by which they had lived until then were no longer in harmony with the current conditions of life (Morrison, 2006, p. 71):

Crime is a complex interaction of many processes: from the creation of a concept of ‘crime’, to people identifying some event as a crime; from the responses to the event so called, to the behaviour and formal activities of state agencies that may or may not process the persons responsible as ‘criminals’ and punish them. These interactions all take place against the backdrop of the cultural world inhabited at that time. These are complicated and changing interactions of governmental and discursive power, public concerns, and the different roles of officials who control key decision-making processes as well as the media that highlights certain issues and downplays others. There are complex factors at work that influence how the edifice of public administration — including what the literature refers to as ‘crime’ relates to and processes events that may or may not be termed crimes.

Morrison (2006) identifies at least four frameworks in which to make sense of how crime is defined:

- (a) crime as a social construction;
- (b) crime as a product of religious authority/doctrine;
- (c) crime as a reflection of nation-state legality;
- (d) more recent concepts beyond the nation-state derived from social and political theory.

Social construction theory argues that our concepts and the practical consequences that flow from using them are the products (constructions) of social interaction and only make sense within the communities in which that interaction takes place (Burr, 2003). In other words, “crime” is a construct created in social interaction, but once created it has both a symbolic and practical reality. Language and other symbolic systems codify these meanings and by using language we impose a grid on reality; the law is a particularly strong grid system (Burr, 2003). In this case we create terms of crime and punishment that enable us to identify and distinguish different events. But these terms also impose certain consequences, as in the following statement from a very influential book on criminal justice:

When a crime is committed, justice must be done . . . a failure to punish crime is wrong and a community that does not punish its criminals is derelict in its moral duty. (Gross, 1979, pp. xv,18)

Those who accept social construction theory argue that since language and other symbolic systems are social products, this is a socially constructed grid. It is a social choice to recognize such and such an event as a crime, or such and such a person as a “criminal”. A different term and therefore a different course of action could be used. We can argue that there is no particular “natural” level of use of the concept crime, that it can imprison us in particular techniques of social

ordering, and it may be better to abolish its use. This was stated clearly by the Dutch abolitionist lawyer, Louk Hulsman:

...categories of 'crime' are given by the CJS rather than by victims of society in general. This makes it necessary to abandon the notion of 'crime' as a tool in the conceptual framework of criminology. Crime has no ontological reality. Crime is not the object but the product of criminal policy. Criminalization is one of the many ways of constructing social reality. (Hulsman, 1986, pp. 34-35)

In its abolitionist forms, such as with the Norwegian criminologist Nils Christie (2004), the major challenge for social science is to understand the social processes of the application of the entire processes of criminalization. His central assertion undercuts the common-sense views of crime and disorder:

Crime does not exist. Only acts exist, acts often given different meanings within various social frameworks. Acts and the meanings given to them are our data. Our challenge is to follow the destiny of acts through the universe of meanings. Particularly, what are the social conditions that encourage or prevent giving the acts the meaning of being crime? (Christie, 2004, p. 3)

Therefore there is the notion that crime does not exist. Only acts exist, acts often given different meanings within various social frameworks. One could however ask if this is actually so and even if this was the case, could humans really accept such a radical view?

According to the 2007 Victim Survey conducted in South Africa punitive responses to crime has gained popularity at the expense of social development (preventative) interventions (Pharoah, 2008). Public views towards crime have

hardened significantly since the 2003 Victims Survey particularly with regard to violent crime. Similarly, constructions of justice and punishment also evolve and influence how victims of crime make sense of their experiences.

### **1.3 PROBLEM STATEMENT**

The most succinct definition of restorative justice is offered by Howard Zehr, whom many consider the leading visionary and architect of the restorative justice movement. His seminal book, *Changing Lenses* (1990), provided the conceptual framework for the movement and has influenced policy makers and practitioners throughout the world. According to Zehr:

Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible. Focus shifts from the weaknesses or deficits of offenders and crime victims, as restorative justice attempts to draw upon the strengths of these individuals and their capacity to openly address the need to repair the harm caused (1990, p.37).

Restorative justice offers a different way of understanding and responding to crime. In contrast to the traditional CJS, where the victim, offenders, and the community is placed in passive roles, restorative justice recognizes crime as being directed against individual people. It is grounded in the belief that those most affected by crime should have the opportunity to become actively involved in resolving the conflict (Umbreit, Vos, Coates, & Lightfoot, 2006). Repairing harm, restoring losses, and allowing offenders to take direct responsibility for their actions, stand in sharp contrast to the values and practices of the conventional CJS with its focus on past criminal behavior through ever-increasing levels of punishment. The framework to responding to crime differs as the

offence is seen primarily as a conflict between individuals and the primary victim is the person who was violated, not the state (Zehr, 1990).

The role of the offender is also changed from the passive participant to one required to understand the consequences of their behaviour, and accepting responsibility both for their consequences and for taking action to repair the harm (Umbreit et al., 2006). This takes place within a community context, so that the process involves all the parties with a stake in the offence to come together to resolve collectively how to deal with the offence (Strang, 1999).

The state and its legal justice system also clearly have an interest as a stakeholder but are seen as more removed from direct impact (Umbreit et al., 2006). Thus the needs of those most directly affected by the crime come first. Wherever possible, opportunities for direct engagement in the process of doing justice through various forms of dialogue are central to the practice of restorative justice.

Like many reform movements, in its early years the restorative justice movement focused on contrasting its values and principles with those of the status quo. The phrase “retributive justice” emerged to describe the conventional CJS approach, particularly regarding its emphasis on offenders getting what they deserved (Zehr, 2004). Following more than twenty-five years of practice, research, and continuing analysis, Zehr (2004) has come to a different understanding, stating that such a sharp polarization between retributive and restorative justice is somewhat misleading.

Retributive theory and restorative theory, however, differ significantly in how to “even the score” — how to make things right. Retributive theory holds that the imposition of some form of pain will vindicate, most frequently deprivation of liberty and even loss of life in some cases. Restorative theory argues that “what truly vindicates is acknowledgement of victims’ harms and needs, combined with

an active effort to encourage offenders to take responsibility, make right the wrongs, and address the causes of their behaviour" (Zehr, 2004, p. 59). Even so, Zehr (2004) notes that restorative justice can be contrasted with conventional criminal justice along at least four key variables:

**Table 1.1:** Two Different Views of Justice (Zehr, 2004)

Criminal Justice	Restorative Justice
Crime is a violation of the law and the state	Crime is a violation of people and relationships
Violations create guilt	Violations create obligations
Justice requires the state to determine blame (guilt) and impose pain (punishment)	Justice involves victims, offenders, and community members in an effort to put things right
<b>Central focus:</b> offenders getting what they deserve	<b>Central focus:</b> victim needs and offender responsibility for repairing harm

In terms of the development of restorative justice in South Africa, the current research aims to explore constructions of punitive beliefs that victims of crime draw on as well as to explore how they create meaning around restorative justice, should such constructions be present in participants' accounts. In principle, crime engages people and society in consequent constructions of justice and punitive measures attached to these constructs. The question that the researcher aims to explore is what the constructs of crime, justice and reconciliations of victims of crime are.

## 1.4 RESEARCH OBJECTIVES

The research aims to meet the following objectives:

- To understand how beliefs and societal influences construct people's punitive orientation (such as perceived risk of victimization, media influence, gender difference, racial orientation and public opinion)
- To gain insight into how victims construct certain expectations of which actions should ensue after the crime
- To have an increased understanding of their constructions of justice and if it encompasses elements of reconciliation and restorative justice

The study aims to arrive at an increased understanding of participants' constructions of punitive actions and notions of restorative justice.

## 1.5 DELINEATIONS AND LIMITATIONS

The following delineations are applicable to the study:

- The study is not limited to direct victims of crime but includes vicarious victims such as family and friends of victims of crime
- The study will not include petty crimes such as theft which is excluded from the category of contact crimes unless it included endangering the victim's life
- Even though the study is inclusive of most crimes, it is limited to crimes and contact crimes (as previously discussed) as defined by the South African Police Service in the National Crime Statistics of 2009/2010 (South African Police Service, 2010)
- The study therefore focuses on serious crimes such as house robberies, carjacking, aggravated assault with grievous bodily harm (GBH), common assault, attempted murder and sexual offences; however, only the threat to physical well-being has to be present and not actual physical harm

The proposed snowball sampling technique may be a limitation to the study in terms of selecting the appropriate sample as it would not be possible to pre-establish sample criteria in terms of victims of crime participating in the study. However, the range of victims may be broader and include a wider range of participants which may in turn increase the depth of information and insight gained.

## **1.6 DEFINITION OF TERMS AND CONCEPTS**

This section covers key concepts that are used throughout the research, including:

### **1.6.1 Restorative Justice**

The researcher does not wish to define restorative justice in such a way that the definition itself becomes a reified social construct in the study. However, restorative justice may not be a familiar concept to many and thus the researcher proposes the following definitions for the sake of clarity.

The South African Law Reform Commission issued a discussion paper on restorative justice in 1997 describing restorative justice as a way of dealing with victims and offenders by focusing on the settlement of conflicts arising from crime and resolving the underlying problems which caused it (South African Law Reform Commission, 1997).

The Truth and Reconciliation Commission report (Truth and Reconciliation Committee of South Africa, 2002) defines restorative justice as a process which: a) seeks to redefine crime (from breaking laws to violations against human beings); b) is based on reparation (as it aims at the healing and restoration of all concerned); c) encourages victims, offenders and the community to be directly involved in resolving the conflict; and d) support a CJS that aims at accountability of offenders and the full participation of victims and offenders.



Both the Probation Services Act 116 (1991) as amended and the Child Justice Bill B-49 (2002) have defined restorative justice as “the promotion of reconciliation, restitution and responsibility through the involvement of a child, a child’s parent/s, family member/s, victims and communities”.

### **1.6.2 Restorative Justice Process**

This concept refers to the restorative process which some scholars or practitioners refer to as the “continuum” of restorative justice (Skelton & Batley, 2006). Thus the process can be evaluated to be less or more restorative.

The assessment of the continuum of restorative justice lies in the following questions:

- Does it address harm and cause?
- Is it victim-oriented?
- Are offenders encouraged to take responsibility?
- Are all stakeholder groups involved?
- Is there an opportunity for dialogue and participatory decision-making?
- Is it respectful to all parties?

A programme that addresses only some of the questions may fall lower on the scale of restorative justice while a programme such as victim-offender conferencing will fall at the top end of the scale.

### **1.6.3 Victim-offender Conferencing**

Victim Offender Conferencing is a process which provides victims of crime the opportunity to meet the offender in a structured setting, with the goal of holding the offender directly accountable for their behaviour while providing important assistance and compensation to the victim. With the assistance of a trained facilitator, the victim is able to let the offender know how the crime affected him or her, to receive answers to the questions they may have, and to be directly involved in developing a restitution plan for the offender to be accountable for the losses they incurred. The offender is able to take direct responsibility for their behaviour, to learn the full impact of what they did, and to develop a plan for making amends to the person/s they violated. Some victim offender conferences

are called “victim offender mediation” or “victim offender meetings” (Umbreit, 2001).

#### **1.6.4 Crime**

The researcher refers to crime within the context of the person’s subjective definition of injustice/s toward her/him not necessarily within the boundaries of the traditional definition of crime as an act of law-breaking.

#### **1.6.5 Justice**

The researcher refers to justice within the person’s subjective understanding of any form of justice for a crime as defined by the study and does not necessarily mean justice within the CJS (CJS) but does not exclude the CJS, and/or restorative justice.

#### **1.6.6 Crime-defining Behaviour**

Crime defining-behaviour is the actions or reactions a person engages in as a result of her/his construction of crime (Spector & Kitsuse, 1973).

#### **1.6.7 CJS**

The CJS comprises of police (law enforcement), courts and corrections. Criminal justice is administered by this collection of agencies at a level of local, state and federal (Brown, Esbensen, & Geis, 1991).

### **1.7 SIGNIFICANCE OF THE STUDY**

If restorative justice has to be accepted in broader terms it has to become a socially available and acceptable construct. The study will show whether people have already begun to engage in the social construction of restoration and reconciliation as an alternative to punitive justice, or whether the option is not yet available as a broader construct in participants’ linguistic communities. Since a social constructionist views the world as politically constructed, it is within the power of higher authorities to determine a society that sees reconciliation as the most acceptable means of dealing with crime.

## **1.8 BRIEF CHAPTER OVERVIEW**

The chapter outline is as follows:

Chapter 1: An overview of the background of the study that presents the reason for selecting the particular research problem, the rationale for the study and a clarification of the terms employed in the study.

Chapter 2: A summary of the review of literature and the theoretical stance of the study.

Chapter 3: A discussion of the research design and methodology.

Chapter 4: Presentation and discussion of the data analysis.

Chapter 5: The final chapter in which the main conclusions of the study are summarised, discussed and interpreted and recommendations for future research are proposed.

## **CHAPTER 2: THEORETICAL BACKGROUND AND LITERATURE REVIEW**

### **2.1 INTRODUCTION**

This chapter contains the background to social constructionism – the theoretical position on which the study is based and the framework within which the literature will be interpreted. The literature review indicates the importance of the researcher’s contribution to the production and interpretation of knowledge in a domain (Henning, Van Rensburg, & Smit, 2004). In order to contextualize the literature, it will be interpreted through the lens of social constructionism.

The literature review will cover scholarly work in the area of victim perceptions of crime and reactions to crime, with some reference to victims’ contact with the justice system. It will take into account varying crime perceptions as a result of race and gender. It will further discuss developments in the area of restorative justice both internationally and nationally.

The work portrayed in the review has bearing on the study in that it indicates different constructions of crime, justice and subsequent crime-defining behaviour. There has however been limited literature directly addressing crime-defining behaviour from a constructionist point of view and conclusions will be drawn from the various other scholarly work.

Constructing crime, justice and reconciliation challenges the conventional objective and unbiased observation of these concepts. Social constructionist thought implies that one would question the appearance of these concepts and the categories they have been placed in. Why has an act been placed in the category crime while other behaviours have not? What are the influencing factors in people’s definition of justice and reconciliation?

There are few challenges as direct as the prevailing landscape of crime in South Africa (Chang, 2008). Debates may take place about which sectors or cultures in our society suffer the most; the reality is still that many South Africans live with fear of those around them and is vulnerable to crime and violence. From the poorest of the poor, rural women fear for the safety of their family to the wealthiest business people who can pay massive contributions to private security for their safety.

Social constructionism begins with radical doubt in the taken-for-granted world (Gergen, 1985). It challenges one to suspend ones belief in commonly accepted categories and the objective basis of conventional knowledge. When examining the different ways in which different people understand crime, justice and reconciliation, the possibilities are opened for alternative meanings of these concepts or even altogether abandoning current beliefs. It is also important to consider that meaning is dependent on the context in which terms are used. In the case of crime, justice and reconciliation, the objective criteria for identifying “behaviour”, “belief”, or punitive attitude are shown to be highly circumscribed by culture, history or social context (Gergen, 1985).

South Africa is not a homogenous nation and being the rainbow nation, it is not very helpful to try and synthesize a common understanding of the make-up of people’s definitions and beliefs around crime and reconciliation. It is bound by their culture and history and is also a product of their culture and history (Gergen, 1999). We may therefore find that there are various defining factors, which will be discussed shortly, that have shaped our nation’s constructions of crime, justice and reconciliation, and that even within our nation people from different contexts may construct meaning around the same concepts in different ways.

In the following section the review first focuses on providing an overview of some of the relevant South African crime statistics, in order to provide more information on the context wherein South Africans construct meaning around crime, justice

and reconciliation. This is followed by a discussion of social construction theory and its implications for this study. The chapter concludes with a review of literature concerned with various constructions of crime and justice, including a detailed review of literature focused on restorative justice.

## 2.2 CRIME STATISTICS AND THE SOUTH AFRICAN CONTEXT

South Africa has in the past few years been characterized by an overall decrease in the crime rate and 2006/07 was a particularly dire year with regard to violent crimes. Whilst some crimes such as rape had fallen by 4.2% between 2005/06 and 2006/7, house and business robberies had increased by 7.0% and 29.3% respectively (South African Police Service, 2007).

According to the South African crime statistics of 2009/2010 (South African Police Service, 2010), contact crimes are in the following proportions:

**Table 2.1:** Proportions of crimes in South Africa (South African Police Service, 2010)

Murder	2.5%
Attempted murder	2.6%
Assault GBH	30.3%
Common assault	29.2%
Sexual offences	10.1%
Aggravated robbery	16.8%
Common robbery	8.5%

Research conducted by the Crime Information Analysis Centre (CIAC) - now known as the Crime Research and Statistics component of Crime Intelligence - over the past decade has confirmed that approximately 70% - 80% of murders,

60% of attempted murders, 75% of rapes and 90% of all assaults (whether GBH, common or indecent assault) involve victims and perpetrators known to each other (whether as family members, friends, acquaintances or colleagues). Alcohol and to a lesser extent drug abuse frequently play a role in these crimes. This is why the five crimes (murder, attempted murder, rape and assault) in question are referred to as social contact crimes (South African Police Service, 2010).

In a 2007 National Victims of Crime Survey, households were randomly selected across South Africa on updated 2001 census data published by StatsSA (2007). A national sample of 4,500 was realized from all the 9 provinces (Pharoah, 2008).

The 2007 National Victims of Crime Survey (Pharoah, 2008) indicated that crime decreased to 12% since 1998 and 4% since 2003. Notable decreases (in terms of people's experiences) include the following crime categories: corruption, theft out of a vehicle and stock theft. However, key increases include robbery and car theft (refer to Table 2.3). Housebreaking remains as the most common crime (refer to Table 2.3). With regard to the question of South Africans' perceptions of their own safety, participants were asked for their opinions on how crime levels had changed in their areas over the past four years. Even though victimization levels (the percentage of participants who experienced crime in the past 12 months) had decreased since 2003, most South Africans still thought that crime was on the increase. In fact, more people held this view in 2007 than in 2003 (Pharoah, 2008).

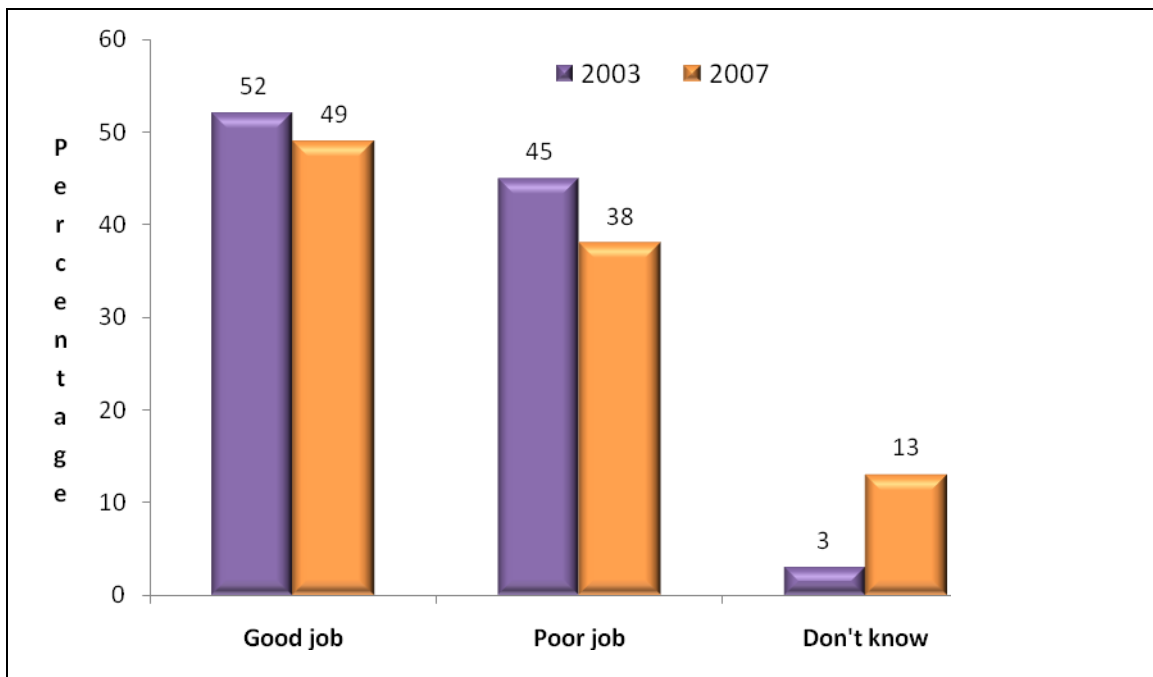


**Table 2.3:** Percentage of participants who experienced crime in the past two months (Pharaoh, 2008)

	1998 %	2003 %	2007 %
Any crime	25.0	23.0	22.0
Housebreaking	7.5	7.5	7.2
Theft of personal property	4.8	4.7	4.9
Robbery	4.2	2	3.6
Corruption	0.0	5.6	2.9
Assault	4.2	2.2	2.2
Theft out of vehicle	2.5	2.5	1.9
Stock theft	4.9	2.5	1.8
Car theft	1.2	1	1.3
Damage to vehicle	1.3	1.3	0.7
Bicycle theft	0.0	1.2	0.5
Sexual assault/rape	0.4	1	0.5
Damage to buildings	1.1	0.9	0.4
Car hijacking	1.4	0.5	0.4
Murder	0.5	0.2	0.4
Fraud	3.0	0.8	0.3
Crop theft	0.0	0.7	0.1
Theft of motorbike	0.0	0.1	0.1



More specifically, when asked about how safe the participants felt about walking alone in their own areas after dark, South Africans felt increasingly unsafe (an increase of 4% from 2003 to 2007 of participants who feel very unsafe), despite declining crime levels (Pharoah, 2008). There was an increase in reporting of robbery and housebreaking (from 29% in 2003 to 49% in 2007 for robbery and 57% in 2003 to 81% in 2007 for housebreaking) and according to the survey these are the crimes that tend to heighten people’s feelings of being unsafe. In addition, despite good access to the police, public feelings of safety and levels of confidence in the police have continued to fall since 2003 (see Figure 2.1) (Pharoah, 2008).



**Figure 2.1:** Confidence levels in police (Pharoah, 2008)

Aggravated robbery consists of trio crimes, namely carjacking, house robbery and business robbery of which particularly house and business robberies had increased significantly over the four years prior to 2009/2010 (South African Police Service, 2010). However, carjacking decreased by 6.8% in 2009/2010, while house robbery and business robbery increased marginally (compared to preceding years) by 1.9% and 4.4% respectively. This represents some

stabilization after four to five years of major increases, particularly in the incidence of house and business robbery. It is significant to note that 80% of the participants have been victims of aggravated robbery either in terms of carjacking or house robbery.

From the above it is evident that crime generally is not increasing, and that the murder rate continues to decline (South African Police Service, 2010), public perception continues to be less positive (Pharoah, 2008). Although the intensity of these views differs among South Africans, the negative impact is potentially as damaging as the crime itself. The achievements of the police and courts will make little difference to ordinary South Africans while feelings of safety continue to decline (Pharoah, 2008). While dealing with increasing negative perceptions ought to be a priority for government, there are few indications that this is the case<sup>1</sup>.

Crime fosters a sense of helplessness and exposure to the vagaries of a justice system that victims of crime do not understand, which only makes victims and their families feel more vulnerable and unsafe (Du Plessis & Louw, 2005). A better understanding of how the system works might help to dispel the notion that offenders have more protection than victims, which is a widespread belief held that “criminals have more rights than victims” and that “perpetrators are released unconditionally” (Burton et al., 2004, p. 437).

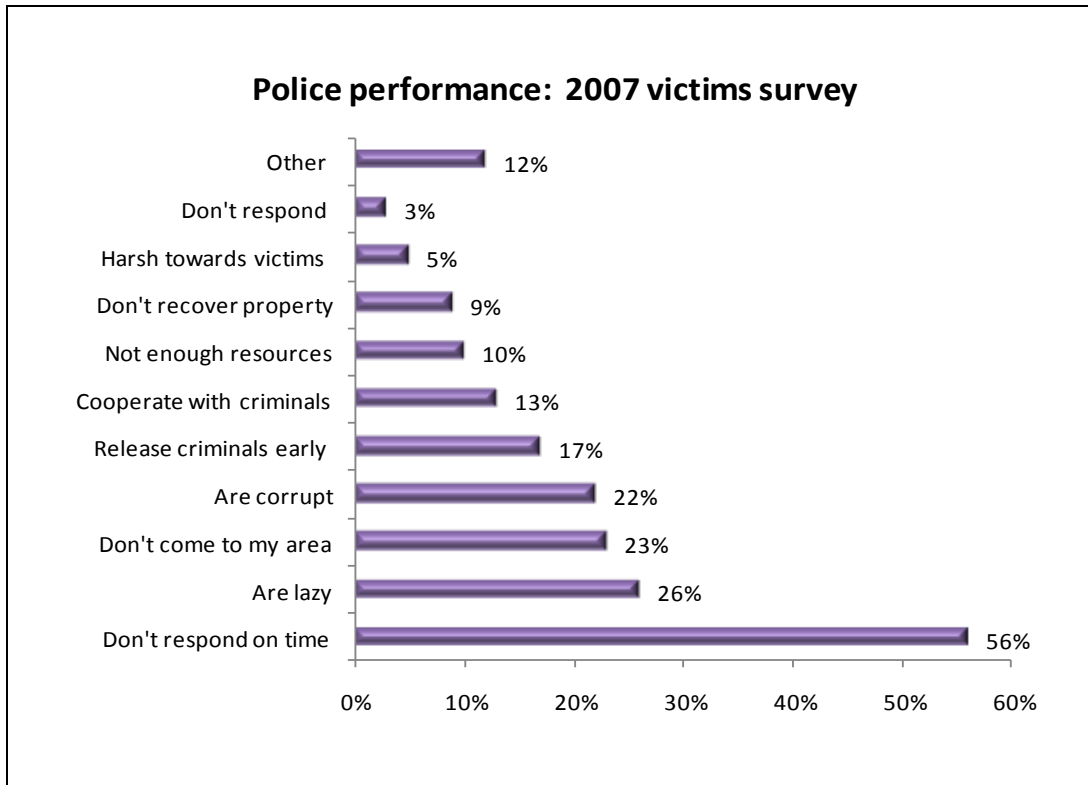
Even though violence is not new to most South Africans, the political context that has once helped in understanding vicious acts such as “necklacing” (the practice of execution carried out by forcing a rubber tire, filled with petrol/gasoline around a victim's chest and arms, and setting it on fire) no longer exist (Sekhonyane & Louw, 2002). Now the nature of many violent crimes, particularly those

---

<sup>1</sup> One exception is the Media campaign run by the National Prosecuting Authority Directorate of Special Operations or the “Scorpions”. In a survey in 2001, among 3830 member of the public in urban areas throughout the country, 84.0% of the participants said the Scorpions were effective (Schönteich, 2003).

committed in the course of robberies, car hijackings and housebreakings, and the brutal nature of violence against children, has produced a punitive society (Du Plessis & Louw, 2005). Vigilantism has become formalized in the form of community groups such as People against Gangsterism and Drugs (Pagad) and Mapogo-a-Mathamaga (Sekhonyane & Louw, 2002). The government has been under pressure to act decisively and quickly to reverse the perception that the Constitution affords more protection to criminals than to law-abiding citizens. Given the punitive nature of public sentiment, it is debatable whether South African citizens can be relied upon to defend human rights in the face of high levels of violent crime (Du Plessis & Louw, 2005).

Another socially constructed reality is the public's perception of corruption in the CJS. The Corruption Act 94 (1992) defines corruption as the abuse of (public) power for illegitimate or illegal gain or profit. Corruption has decreased South African's confidence in the CJS and according to the 2007 National Victims of Crime Survey, one of the key complaints of the public is the belief that officials entrusted with their protection can be persuaded by the highest bidder (Pharoah, 2008). The survey indicated that 22% of the participants felt that the police were also corrupt. Despite declining crime levels and good access to the police, public feelings of safety and levels of confidence in the police continue to fall. South Africans have also become much more punitive in their attitudes towards crime – both in terms of its causes and how government should respond. Reversing this trend will become increasingly difficult (Louw, 2007).



**Figure 2.2:** Police performance (Pharaoh, 2008)

### 2.3 BACKGROUND TO SOCIAL CONSTRUCTIONISM

This section introduces the theoretical framework used for the research. A theoretical framework is important as it positions the research in the discipline or subject in which one is working and enables one to theorise about one's research (Henning et al., 2004). Furthermore, it reflects the stance the researcher adopts in research. Social constructionism is explored in terms of its theoretical framework, identifying key figures and main discourses surrounding the social constructionist approach. The implications of using social construction theory for this study are also discussed - data collection methods most commonly used by social constructionist researchers are indicated, followed by methods of analysis that are consistent with social constructionism.

## 2.4 CONSTRUCTIVISM

Constructivism and constructionism are closely related. It is possible to see social constructivism as a bringing together aspects of the work of Piaget with that of Bruner and Vygotsky during the 1930s and 1940s when constructivism was the leading perspective among public school educators in the United States (Wood, 1998, p. 39). It originated from the learning theory of Piaget. Harel and Papert (1991) however extended on the work of Piaget saying:

Constructionism—the N word as opposed to the V word— shares constructivism’s view of learning as ‘building knowledge structures’ through progressive internalization of actions... It then adds the idea that this happens especially felicitously in a context where the learner is consciously engaged in constructing a public entity, whether it’s a sand castle on the beach or a theory of the universe.  
(p.1)

Because of its greater focus on learning through making rather than overall cognitive potentials, Harel and Papert’s (1991) approach helps us understand how ideas get formed and transformed when expressed through different media, when actualized in particular contexts and when worked out by individual minds. The emphasis shifts from universals to individual learners’ conversation with their own favorite representations, artifacts, or objects-to-think with. As these concepts are closely related, a discussion of constructivism as it precedes constructionism follows.

Constructivism is often regarded as falling under the umbrella of postmodern thinking as it is in many ways informed by postmodernism. Postmodernism is a tendency in contemporary culture characterized by the rejection of objective truth and global cultural narrative (Von Glasersfeld, 2005). It emphasizes the role of language, power relations, and motivations; in particular it attacks the use of sharp classifications such as male versus female, straight versus gay, white

versus black, and imperial versus colonial. According to the constructivist position, it is the observer that gives meaning to that which is observed and through this meaning reality is constructed (Von Glasersfeld, 2005). In this way constructivism is consistent with postmodernism in that there are many possible realities that occur simultaneously, i.e. there is no single reality that is objectively observed (such as the example of white versus black) but all realities are subjectively observed and constructed.

The constructivist holds the position that there is no one “truth” or one “reality”, as each person’s interpretation holds equal validity within its contextual framework (Zimmerman & Dickerson, 1994). According to constructivism, we live in and are constantly constructing our own reality and that reality has equal truth for each of us. Therefore constructivism aims to understand the way in which multiple realities or interpretations are constructed, rather than searching for one universally accepted reality (Simon, Stierlin, & Wynne, 1985). Thus the observer becomes part of the observed and knowledge is no longer value-free. This leads to a process of reflexivity where the researcher becomes conscious of constructions, implying continuous reflexivity.

The root of the word “reflexive” means, “to bend back upon oneself” (Finlay & Gough, 2003, p. ix). Translating this in research terms would be to be thoughtful and self-aware of the analysis process and the dynamics between the researcher and the researched. The researcher is central to the study and reflexivity is then about acknowledging the central position of the researcher in the construction of knowledge. The researcher needs to make explicit how her understanding of the discourses and various constructions was formed. Therefore the subjectivity of the researcher and of those being studied is part of the research process (Uwe, 2006). Within the qualitative domain it is necessary to demonstrate trustworthiness of findings and reflexivity translates into thoughtful, self-aware, analysis of the “intersubjective dynamics between researcher and the researched” (Finlay & Gough, 2003, p. 1).

Reflexivity is not limited to constructivist theory but has become a defining feature of many qualitative approaches to research (Banister, Burman, Parker, Taylor & Tindall, 1994). As the data will be co-constructed by the participants and the researcher the story will unfold within a particular social context. Instead of “subjectivity in the researcher becoming a problem it will be an opportunity” (Finlay & Gough, 2003, p. 5). (For an in-depth discussion on how reflexivity unfolded in this study, refer to Chapter 3.8)

## **2.5 CONSTRUCTIONISM**

Kenneth Gergen (1999), a key figure in framing constructionism in psychology, identified five variants of constructionism and their contextual focus. For the purpose of this study, focus will only be on social constructionism which he identified as an approach which focuses more on the influence of social relationships on the conscious construction of reality. The key aim of this study is to explore participants’ constructions of crime, justice and their punitive orientation. The researcher will use social constructionism as a framework in exploring participants’ constructions of their realities and ultimately how they construct meaning around crime and justice.

Gergen (1985) introduced social constructionism to a wider academic audience within the discipline of psychology. In his seminal article, *The Social Constructionist Movement in Modern Psychology*, Gergen (1985) levelled a major attack on mainstream psychology, calling into question the very possibility of objective knowledge and claims. His critique argues that psychology should refrain from attempting to uncover the laws supposedly governing our experience and behaviour (Gergen, 1985). Gergen (1985) extended earlier constructivist critiques by questioning the very categories employed in psychological research and theorising.

Constructivism assumes that reality and meaning are constructed through an individual's senses, cognitions and perceptions. Constructionism takes this idea further to propose that an individual's reality derives from meaning that develops within a historical, social and community context (Zimmerman & Dickerson, 1994). The ways in which we commonly understand the world, the categories and concepts we use, are historically and culturally specific. The way we view men and women, children, and then also in this context crime and so forth, depends upon where and when in the world one lives. In the past, children for instance were viewed as little adults. Today children are seen as innocent and in need of adult protection. This means that all ways of understanding is historically and culturally relevant and it evolves over time. They are not only specific to a culture but a product of a culture. Our current ways of understanding are not necessarily any better (or nearer) to the truth than other ways (Gergen, 1985).

A key assumption of social constructionist theory is that people construct knowledge between them. It is through the daily interaction between people in the course of social life that our version of knowledge becomes fabricated (Gergen, 1985). Gergen (1985) proposes that psychology can benefit from studying the discursive practices (use of language) by which we construct the world and ourselves. Knowledge and understanding of the world develop through language and social interaction. Traditionally, the process of psychological inquiry focussed on the individual, but social constructionism proposes that social, political and economic considerations are taken into account in understanding the person's experiences of the world (Gergen, 1985), therefore, taking the unit of analysis beyond the individual.

Social constructionism specifically focuses on the normative or larger societal discourses, which both inform and are informed by the meanings people attach to their reality. These discourses often become the yardstick against which people measure themselves, others and society. Social discourses "are supported by the weight of numbers, traditions, and firmly entrenched by power



structures” (Doan, 1997, p. 130). The dominant discourses in society often shape what meanings are constructed by the individual. Social constructionism further assumes that people’s personal realities and stories are subjugated, denied or pathologised by the dominant discourses in society. People begin to think about society, themselves and the ways they relate to each other in society as a result of the dominant discourses. In this way language binds people in place and influences them to think about themselves in certain ways (Oosthuizen, 2002).

In social constructionist thought language is considered key to the process of meaning-making and social relationships are a central point of focus (Burr, 2003). In the following section the role of language, as it pertains to the present study, is discussed in greater detail.

## **2.6 THE ROLE OF LANGUAGE IN THE PROCESS OF MEANING-MAKING**

When people talk to each other, the world gets constructed. Our language can therefore be thought of as a form of action. Traditional psychology has typically regarded language as the passive vehicle for thoughts and emotions (Burr, 2003). From a social constructionist position, language is not viewed as separate from thought and able to affect it, but is rather viewed as inseparable as it provides the basis of thought.

Our ways of understanding do not come from objective reality but from other people, past and present. Concepts and categories are acquired by all people as they develop the use of language and are reproduced every day by everyone who shares a culture and a language. Therefore the way people think is shaped by the language that they use. Language therefore is a necessary pre-condition for thought as we know it (Burr, 2003).

Language provides the system of categories for the dividing of our experience and giving meaning, so our very selves become a product of language (Burr, 2003). For example, people read in the newspaper about a violent crime incident in which the names of the offender or victims cannot be disclosed at the specific time. In discourse with people, they have created images of the offenders and victims dependent on the dominant discourses with which they have engaged. These discourses might consider the race, social class and gender of the offender and victim based on stereotyping, assumptions of power relations and so forth. When information about the offenders and victims are disclosed it may be contrary to people's assumptions.

They however have conceptual categories present in their language which led to their opinions and beliefs. Social constructionism has the underlying aim of disrupting the oppressive and exploitative effects that are associated with institutionalised discourses (Burr, 2003). By challenging the taken-for-granted nature of discourses people draw on, new and potentially less restrictive possibilities for creating meaning are opened up (Burr, 2003).

The following section focuses on literature related to the public's perception of crime. This has bearing on the current study as it indicates the way people construct their realities as it relates to crime, justice and punitive beliefs.

## **2.7 PERCEIVED VICTIMIZATION RISK AND PUNITIVE ATTITUDES**

One focus in the literature has been on whether perceived risk of victimization influences public attitudes (Cavendar & Mulcahy, 1998; Cullen, Link, & Polanzi, 1982; Rebovich & Kane, 2002). Rebovich and Kane (2002) found that perceived risk influences public opinion. Recent studies found that general perceived victimization risk significantly increases punitive attitudes. For example, fear of victimization was a strong predictor of punitive orientations (Costello, Chiricos, Burianek, Gertz, & Maier-Katkin, 2002). This study also demonstrated that

perceived risk of victimization consistently predicted public support for more punitive sanctions.

There appears to be moderately strong consensus among research findings that perceived victimization risk is an important determinant of punitive public attitudes toward crime and criminals. There is clearly some evidence that the influence of perceived victimization risk impacts on punitive attitudes.

## **2.8 CONTROL AND THE CONSTRUCT OF JUSTICE**

What is society's version of reality in terms of the CJS? (Wenzel, Bowler, & Lanoue, 2003), in their examination of public support for the courts, found that participants with prior experience as a criminal defendant reported significantly lower levels of confidence in the courts. Individuals with a role in the outcome of the justice system, who had a stake in the outcome but little control over the outcome (for example, parties involved, such as defendants), were more likely to rate the court performance negatively than were persons with roles where the individual had little stake in the outcome but much more control over the outcome. Respondents who have never had any contact with the CJS felt less negative than those who had some involvement. Respondents with prior involvement with the courts often felt helpless and unable to control the system (Wenzel et al., 2003).

Restorative-based justice and victim-offender conferencing focus on the defendants or victims having control over the outcome. In these approaches the role of justice professionals is defined more as intermediaries between the state and citizens than as authoritarian decision-makers in the criminal justice process (Olson & Dzur, 2004). Evaluation evidence of restorative justice and victim-offender conferencing has suggested that victims and offenders in restorative justice programs are satisfied with this type of court-based program (Latimer, Dowden, & Muise, 2001; Strang, Sherman, Barnes, & Braithwaite, 1999).

Benesh and Howell (2001) suggest that this satisfaction and confidence sprout from peoples' perceptions of control. A dominant discourse in society is one where being in control of one's world, individualism and choice are regarded as important factors. It is suggested that when an individual experiences, witnesses, or even hears of an incident of disrespectful conduct by a governmental authority figure toward a citizen, or when an individual is faced with a very arbitrary, substantively or procedurally unjust outcome, the individual's sense of control over what happens, or could happen to them, comes under attack (Benesh & Howell, 2001). Therefore, individuals construct the perception of their relatively powerless position, which goes against the very construct of society's reality of what is just and unjust.

## **2.9 THE MEDIA AS A VEHICLE FOR CONSTRUCTING THE WORLD**

The popular media is of fundamental importance in the public's construction of the CJS and criminal justice agents. The majority of public knowledge about crime and justice is derived from media consumption (Ericson, Baranek, & Chan, 1987; Graber, 1980; Roberts & Doob, 1990; Surette, 2007). As such, the perception of victims, criminals, and law enforcement officials is largely determined by their portrayal within the media. Media portrayal of policing (such as in news reports and television dramas) is juxtaposed with both positive and negative representations. As a result, a complex relationship exists between media consumption and public perceptions of the police.

Dowler and Zawilski (2007) undertook a study to test the impact that media consumption (with specific reference to consumers of network news and television drama series, that is police dramas and crime-solving series) had on attitudes toward police misconduct and discrimination. The findings indicate that heavy consumers of network news were more likely to believe that police misconduct was a frequent event. The findings also indicate that frequent

viewers of police dramas on television believed that the wealthy received preferential treatment from the police. Conversely, frequent viewers of crime-solving shows believed that the wealthy did not receive preferential treatment (Dowler & Zawilski, 2007).

Furthermore, literature on media portrayals of police emphasises two contradictory observations. Some research indicates that the police are presented favorably, while other research implies that the police are negatively represented (Surette, 2007). Research varies from news media engaged in negative presentations of policing, for example, print and broadcast media where the police is characterized as ineffective and incompetent, to reality police shows and crime-solving dramas presenting the police as heroes who fight evil (Surette, 2007). The media offers little information to evaluate police and the focus of the research by Weitzer and Tuch (2002) was on the impact of frequent exposure of separate incidents of police misconduct on citizen attitudes toward the police. They found that repeated media exposure to police abuse increases participants' beliefs in the frequency of police misconduct.

While the studies reviewed here rely on quantitative methodologies and are not informed by social constructionist theory, they demonstrate that constructions of crime and justice may be influenced by the media's portrayal of the victims, criminals and the CJS. If a society places emphasis on violent crimes with little emphasis on crimes that have been solved, it could lead to a skewed context of crime and a negative construction of justice.

## **2.10 GENDER DIFFERENCES IN CRIME-DEFINING BEHAVIOUR**

Gender, as a socially constructed category of identity, has significant implications for how people are positioned in dominant discourse (Butler, 1990). Gendered positioning impacts on many aspects of people's realities, and also on their constructions of crime and vulnerability to victimisation. Research on the fear of

crime and criminal victimisation had generally found that women express greater levels of fear than men. Schafer, Huebner and Bynum (2003) used survey data in which they contrasted perceptions of safety and the fear of personal and property victimisation among male and female participants. Results indicate gender differences in the influence explanatory variables had on fear. For both gender groups, participants' perceptions of their neighborhood as orderly and satisfactory had the largest effect on perceptions. Gender-based differences in the outcome of the analyses further supported that males and females experienced fear based upon different factors. Males and females therefore construct their perceptions of crime and victimisation differently and would therefore have different crime-defining behaviours (Schafer et al., 2003).

Studies indicate that women express higher rates of fear than men and are thought to reflect a broader concern of sexual harassment and assault, which is sometimes explained as an extension of gender roles, social control, and societal oppression of women (Pain, 2001). Society's construction of gender roles lead to women's heightened fear of crime. Within these roles, women often feel less capable of defending themselves (Riger, Gordon, & Le Bailley, 1978) and are socialized to be highly sensitive of their physical and social vulnerabilities (Goodey, 1997; Madriz, 1997; Scott, 2003; Stanko, 1995). In addition, gendered childcare roles can compel women to feel that they must defend not only themselves, but also their children (Evans & Herbert, 1989; Gilchrist, Bannister, Ditton, & Farrall, 1998). Their heightened fear and/or perceived risk may cause women to modify their behaviour, resulting in reductions in actual victimisation (Sacco, 1990; Valentine, 1989).

Fear can be generated by one's actual or perceived physical or social vulnerabilities, as well as one's "position in social space" (Garofalo, 1981, p. 842). Social vulnerabilities produce fear when residents perceive frequent high crime areas and/or engage in lifestyle behaviours that place them at greater risk of victimisation (Austin, Furr, & Spine, 2002). Physical vulnerabilities affect those

perceiving they are at a physical disadvantage against possible assailants (for example, women and the elderly).

### **2.11 VICARIOUS CONSTRUCTION OF FEAR OF CRIME**

A study conducted by Covington and Taylor (1991), suggests that victimization is stronger when it is vicarious (for example, through the media, family, friends, or neighbours). They further conclude that fear may also be facilitated by vicarious crime knowledge acquired from the media, family, friends, coworkers, and neighbours. Those who are more “in-tune” with crime problems in their community can be more fearful as a result of their increased knowledge (Zhao, Gibson, Lovrich, & Gaffney, 2002). As knowledge is constructed through social processes, fear of crime increases. Media exposure and vicarious exposure to crime may influence respondents’ view of crime as well as their punitive reactions.

### **2.12 DEFINING RESTORATIVE JUSTICE**

There has been national and international debate around the definition of restorative justice seeing that it can be viewed as a movement, a paradigm, a model, an approach, an alternative or a concept (Walgrave, 1988).

According to Zehr (1990), there are two contrasting lenses through which one might sketch justice in terms of the retributive justice system and restorative justice. Retributive Justice can be defined as:

Crime is a violation of the state, defined by lawbreaking and guilt. Justice determines blame and administers pain in a contest between the offender and the state directed by systematic rules, for example a person that commits murder and is reprimanded by the police follows the route where the state enforces a law and the

person may receive a sentence of 15 years in prison. (Zehr, 1990, p. 181)

Restorative justice can be defined as:

Crime that is a violation of people and relationships. It creates obligations to make things right. Justice involves the victim, the offender and the community in a search for solutions which promote repair, reconciliation and reassurance. (Zehr, 1990, p. 181)

Victims feel personally violated, even when the direct harm is only the loss of property such as theft (Zehr, 1990). This loss of property is important to a sense of well-being. Crime however represents a violation of human relationships. It affects not only our sense of trust but results in suspicion, estrangement and sometimes even racism. Crime also represents a broken relationship between the victim and offender. Even if they had no previous relationship the crime in itself creates a hostile relationship. When left unresolved this relationship may affect the well-being of the victim and offender (Zehr, 1990).

Often there is further harm in the “justice” process as the victim may be exposed to secondary victimization where they were not only victimized by the offender but also by the police through interrogation and the court process (Zehr, 1990). This may be illustrated by women who are victims of sexual assault and experience secondary victimization by the defense attorney during the interrogation process in court. Victims need assurance that what happened to them was wrong, unfair and undeserved. Victim’s safety is important to them. They want assurance that this will not happen again – to them or to others. They want to know that steps are taken to this end (Zehr, 1990).



The need to experience justice is the most common thread for most victims (Zehr, 1990). Some victims may experience a demand for vengeance; however this itself may grow out of a lack of a more positive experience of justice. As part of the experience of justice, victims need to know that steps have been taken to rectify the wrong and also that the reoccurrence opportunities are reduced. Justice needs to be experienced as real. Victims are usually not only content and assured that things are taken care of. A level of consultancy with the victim is needed. Victims for instance have a need to know the outcome of a court case and what will be the steps taken against the offender. This may be lacking in the CJS (Zehr, 1990).

Restorative justice holds within its definitions the possibility of the victim being able to find the type of justice that does not diminish the wrongful act and gives the victim a voice within the justice process (Zehr, 1990).

### **2.13 HISTORY OF RESTORATIVE JUSTICE IN SOUTH AFRICA**

The researcher wishes to acknowledge Ann Skelton and Mike Batley (2006) for their insight in the history of restorative justice in the following section.

Restorative justice has been recognised as closely linked to African traditional justice systems. Modern restorative justice practices have their roots in victim offender mediation (VOM) also known as victim offender conferencing. The term “restorative justice” was applied to such practices during the 1980’s and Zehr (1990) first theorised the model in his book *Changing Lenses*.

South Africa’s participation in the modern international movement started in 1992 with NICRO (The National Institute for Crime Prevention and the Reintegration of Offender) commissioned to establish and later evaluate South Africa’s first VOM project. This project was established in Cape Town. The results were published in a report (Muntingh, 1993) which described the restorative model proposed by

Zehr (1990) as the theoretical framework for the project. The project targeted pre-trial and pre-sentence referrals with the following highlights:

- Prosecutors were reluctant to refer serious cases to the project
- The majority of referrals were juvenile offenders as opposed to adults
- There was a concern that the project was only available to first time offenders who were employed thus making the project “elitist”

Thus it was not expected that VOM would gain rapid acceptance in society. However, it was still useful to set up structures to utilize it in criminal and other conflicts.

In 1995, the Centre for the Study of Violence and Reconciliation (CSVr) and Wilgespruit Fellowship Centre convened a Survivor-Offender Mediation (SOM) network with the aim of complimenting the Truth and Reconciliation Committee’s (TRC) purpose of dealing with the process of reconciliation (Skelton & Batley, 2006). They offered a service of mediated interaction between survivors and offenders. The original plan of the SOM network was to establish a referral process from the TRC and expand to each of the four provincial offices; however this did not materialize. It received fewer referrals than hoped for and only lasted for the duration of the TRC and closed down due to a lack of funding (Skelton & Batley, 2006).

In 1995, the Inter-Ministerial Committee (IMC) for Young People at Risk was established and restorative justice was adopted as a “practice principle” for the transformation of child and youth care centers. Schools of industry were the punitive place where children were sent with uncontrollable behaviour. All of these schools will now have to be converted to child and youth care facilities with rehabilitative programmes, moving away from differentiation from children’s homes to a more destigmatised approach. Restorative justice elements in many pieces of legislation, such as the Child Justice Act, 2008 and the Children’s Act, 2005, will promote the use of restorative justice in the handling of matters within and outside the criminal and civil justice systems (Skelton & Batley, 2006).

The Restorative Justice Centre (RJC) was established in Pretoria in 1998. It was the vision of two social workers, Nigel Branken and Michael Batley. During 1997 to 1998, Branken and Batley jointly managed a pilot project of the Inter-Ministerial Committee on Young People at Risk, which tested the idea of Family Group Conferencing (FGC) in South Africa. This experience led to the establishment of the RJC and while Branken left the Centre in 2001 Batley continues to direct the Centre. The Centre has links with other organizations in a network called the Restorative Justice Initiative Southern Africa (RJISA) (Skelton & Batley, 2006).

The Restorative Justice Initiative launched a VOC pilot project in 1999. It had the express aim of developing a restorative justice model more familiar to African customary values. This was done by involving members of the community and the victim's and offender's supporters in the process. Anyone relevant to the offending could participate to the outcome or provide support to any one of the two parties. Mediators were selected from the communities in which the courts were situated. Referrals were mostly from the CJS. However, referrals were also received from the tribal authorities (Skelton & Batley, 2006).

The South African government has displayed openness to restorative justice, at least in theory, and restorative justice has been an attractive concept to policy makers in South Africa. There have been commitments to restorative justice in numerous policy documents with the most distinct of them the inclusion of restorative justice in the Child Justice Bill (Skelton & Batley, 2006).

At an international level, South Africa was one of the state parties that co-sponsored the basic principles of the use of restorative justice at the ninth session of the Commission on Crime Prevention and Criminal Justice in April 2000. There has been a commitment from the South African government to introduce restorative justice practice where appropriate. The South African

government however is yet to develop a common understanding across all departments about how to define and practice restorative justice (Skelton & Batley, 2006).

Currently there are different levels of implementation and integration of restorative justice practice and principles in South Africa, with probation services emerging as the most active sector in this respect. The National Department of Social Development (DSD) has arranged training programmes for probation officers in all provinces during the time period 2004 to 2006. There has been implementation of restorative justice in the Department of Correctional Services, but to a limited extent. Implementation is mostly on an individual level with passionate and convinced individuals in particular prisons or efforts from NPOs. There has also been the concern that restorative justice is too often associated with the Christian religion and therefore perceived as irrelevant by those who do not identify with this religious group (Skelton & Batley, 2006).

In terms of civil society, restorative justice has made some impact, in terms of the following (Skelton & Batley, 2006):

- Pre-trial and pre-sentence work where cases are resolved without the direct involvement of the formal CJS by organizations such as NICRO, Khulisa and the RJC, and so forth
- Attempts have been made by organizations to integrate restorative justice into offender re-integration work
- Victim-support services
- Child-care work, which is centred in KZN. It is used in interpersonal disputes and dealing with behavioural problems in children's homes as well as behaviour that could be drawn to the CJS
- Family law such as Justice and Women and the Family Life Centre in Johannesburg that demonstrates the value of mediation and principles of restorative justice

## 2.14 LEGISLATING RESTORATIVE JUSTICE

From the preceding discussion it can be seen that the South African government is committed to improving the position of the victim in the CJS. The question may be raised about the implications of legislating restorative justice as a means of addressing crime as well as strengthening society. How will this influence government stance on “tough on crime” and zero tolerance?

The principles of restorative justice lie in reparation, offender to victim. A reparation order, such as seen in the UK, allows the courts to order young people to undertake reparation, either directly to their victim or (more commonly) to carry out indirect or symbolic forms of reparation (Williams, 2005). In the UK, in terms of restorative justice this is a major advance as it is the first legislation to be based upon restorative principles. However, this also poses a serious problem in terms of whether it is practicable and ethically acceptable to order people to undertake reparation.

Although few other jurisdictions make reparation compulsory a number of writers have recognised that reparation by offenders is often only partly voluntary (McEvoy & Newburn, 2003). It is clear that only offenders who accept responsibility for their behaviour (to a greater or lesser extent) should be part of the mediation process with the victim and come in contact with their victim. Unrepentant offenders are potentially a form of re-victimization and should be avoided (Williams, 2005). It is therefore important to consider the impact of legislating restorative justice. More significantly, there have been signs that there are problems in relation to the effect of implementing the system on other parties besides the offender. The level of victim involvement is a challenge as many victims perceive the system as offender-led (McEvoy & Newburn, 2003).

Certainly the South African government does not want to be seen as “soft on crime”, and restorative justice is therefore largely peripheral alongside a very

punitive CJS. It may be apparent that the government's commitment to restorative justice is seen as part of a strategy of "responsibilization" (Garland, 2001, p. 124), and within this context it is easier to understand why the idea is endorsed at a rhetorical level and then placed on the peripheral in terms of its practical implementation. As Garland (2001) states: "The primary objective is to spread responsibility for crime control onto agencies, organisations and individuals that operate outside the CJS and persuade them to act appropriately (p. 124 – 125)."

## **2.15 IMPLICATIONS OF RESTORATIVE JUSTICE**

While traditional justice approaches defined crime as an offense against the state, restorative approaches define crime in terms of harm to victims or communities (Cormier, 2002; Zehr & Mika, 1997). Similarly, victims play a limited or passive role in traditional criminal processing, while in restorative approaches they are given a central role and encouraged to actively participate, for instance through in-person meetings with offenders. During these meetings victims are given the opportunity to express their feelings, ask questions to the offender, and articulate the impact of the criminal event. The basic ideas underlying restorative justice processing focus on attempts to promote offender accountability and change and to meet the needs of victims (for example, a need to be heard and have a say in the outcome of their victimization). This is accomplished by bringing together those most affected by a crime to discuss the event and its repercussions and to develop a plan to repair harms (Zehr & Mika, 1997).

Hayes and Daly (2004) found that participants in restorative justice programs were extremely satisfied with restorative processes and outcomes. Furthermore, a meta-analysis of thirty-five studies found significantly higher levels of satisfaction among victim and offender participants of restorative justice programs than other justice system alternatives (Latimer et al., 2001). In addition, a restorative justice program for juveniles found that the majority of victims

participating in restorative justice conferences were willing to forgive offenders for their violation (McGarrell, 2001).

These high levels of satisfaction with restorative justice programs may be attributed to the connectedness experienced by the victim, offender, and community members during the face-to-face meetings. By interacting face-to-face with the offender, the victim may feel less threatened in the community as the offender explains his or her motives for the offense (Hayes & Daly, 2004). Likewise, an offender interacting with the victim may learn not only how the offense harmed the victim but also produce a sense of expected community norms (Hayes & Daly, 2004).

Bazemore (2004) describes restorative justice as a means of strengthening community, community dimensions and community involvement. He further observed that it has received minimal attention in restorative justice research. Some of the most insightful information regarding community member participation in the restorative justice process comes from studies on reparative boards. For example, prior studies report: (1) high community involvement in reparative probation (Karp & Drakulich, 2004); (2) the tension that exists between victim involvement and community involvement (Crawford, 2004); and (3) the difficulty associated with ensuring that board members represent the community at large (Crawford & Newman, 2002). Research shows that the community serves many roles during restorative justice processes, such as victim representative (Clear & Karp, 1999) and offender recipient (Braithwaite, 1989).

Additionally, the community can have a positive influence on offenders such as reducing stigmatization, providing a feeling of value, and creating incentive for reform (Clear & Karp, 1999; Zehr, 2002). Unfortunately, the community can also hinder offender reintegration by labeling and ostracising offenders (Bazemore, 2004; Braithwaite, 1989; Clear & Karp, 1999).

## 2.16 RECONCILIATION AND RESTORATIVE JUSTICE

While crime and violence represent a violation of human relationships (Zehr, 1990), it affects not only our sense of trust but results in suspicion, estrangement and sometimes even racism. Reconciliation perhaps on the other hand is a rather new concept in the field of conflict resolution and as it is with any new concept, there is no standard definition that all scholars and practitioners rely on. However, there is an acknowledgement that it includes at least four critical components identified by John Paul Lederach (2001) - truth, justice, mercy, and peace.

Lederach's (2001) use of the term "mercy" suggests that reconciliation has within its definitions, religious roots. It is a critical theological notion in all the Abrahamic faiths and is particularly important to Evangelical Christians as part of their building a personal relationship with God. For those who ask "what would Jesus do?" reconciliation is often not just an important issue, but also the most critical one in any conflict.

Reconciliation has however become a matter of importance for people who approach conflict resolution from a secular perspective as well. For them, reconciliation grows out of the pragmatic, political realities of any conflict resolution process.

Conflict resolution professionals use several techniques to foster reconciliation. The most famous South African example is the Truth and Reconciliation Commission (TRC) that held hearings into the human rights abuses during the Apartheid era (prior to 1994) and extended the possibility of amnesty to people who showed genuine remorse for their actions. Projects such as the TRC bring people on both sides of a conflict together to explore their mutual fear and anger and, more importantly, to begin building bridges of trust between them.



In applying social constructionism to the truth and reconciliation process, we come to see memories and testimonies as arising from social relatedness and exchange, and mediated through language. According to De la Rey and Owens (1998), one of the most important contributions of social constructionism to psychological theorizing is that it has forced a rethinking of the legacy of a dualistic conceptualization of the individual and the society. Lives are seen as simultaneously individual and social. Another key feature of social constructionism is the emphasis on the social embeddedness of all conceptualizations of what is accepted as knowledge and as truth (McNamee & Gergen, 1992). Textual formulations such as storytelling and testimonies are central to our constructions of us and the world. Our textual accounts are viewed as constituting ourselves, our histories, and our futures (McNamee & Gergen, 1992).

But why does reconciliation matter? The consequences of not reconciling can be enormous. In Hampson's (1996) terms, too many peace agreements are "orphaned." That is, the parties reach an agreement that stops the fighting but does little to take the parties toward peace, which can only occur when the issues that gave rise to the conflict in the first place are addressed to the satisfaction of all.

At the most basic level, reconciliation is about individuals. It cannot be forced on people. They have to decide on their own whether to forgive and reconcile with their one-time adversaries. Nothing shows this better than the remarkable documentary, "Long Night's Journey Into Day" (Reid & Hoffman, 2000), a documentary film written and directed by Frances Reid and Deborah Hoffmann which chronicles four cases considered by the South African Truth and Reconciliation Committee. One of the cases involve a young black man who had been a police officer and helped lure seven activists into a trap in which they were all killed by the authorities. The last scene of the sequence shows a meeting he held with the mothers of the seven boys in which he begs for their

forgiveness. It is clear that, unlike one of his white colleagues who is interviewed earlier, his confession and his remorse are heart-felt. At first the mothers refuse to forgive him. Then, one of them asks if his first name means "prayer" and when he says it does, you can almost watch the mothers draw on their own Christianity and find the mental "space" to forgive the former officer.

By its very nature, reconciliation is a "bottom up" process and thus cannot be imposed by the state or any other institution. However, as the South African example shows, governments can do a lot to promote reconciliation and provide opportunities for people to come to grips with the past.

Even though reconciliation mostly involves people talking to each other, it is not easy to achieve. Rather, it is among the most difficult things people are ever called on to do emotionally. But perhaps the difficulty of reconciling can best be seen in the case of the former police officer and the seven mothers mentioned above. Most of them broke down and had to be escorted out of the room during the hearing at the TRC on the request for amnesty by two of their killers. And, their pain and anger are inescapable at the beginning of their meeting with the officer. It is clear that it is not easy for them to forgive him; but it is also abundantly clear how far doing so relieves them of the pain they have carried inside them for years.

## **2.17 SUMMARY**

Constructing restorative justice needs to keep in mind that society creates different realities through social processes and knowledge sharing and that any definition of restorative justice and subsequent belief will be a subjectively constructed version of currently accepted ways of understanding and the processes people engage in. Crime in South Africa has made members in society vulnerable, fearing for their safety and security. As Sumner (2003) states, crime is a phenomenon that may be viewed as being doubly socially

constructed; firstly in the sense that the social world, by reacting to certain social conditions produces patterns (or constructs) of behaviour that cause harm or injury and offence, and secondly in the sense that the disapproval and condemnation of these patterns constitutes a collective conjunction of feelings, ideologies and values that change over time as people construct knowledge between them.

This chapter outlined and contextualised crime and restorative justice as it covered scholarly work in the area of victim perceptions of crime and reactions to crime. It took into account varying crime perceptions and subsequent crime-defining behaviour. The work portrayed in the review has bearing on the study in that it indicates different constructions of crime and justice.

This study will explore participants' varied constructions of crime, justice and reconciliation. These realities or constructions lead to various ways in which people perceive crime should be dealt with, whether punitive in the form of longer imprisonment or restitution such as the option of restorative justice, community service and victim-offender conferencing. Victim rights, offender treatment, vulnerability towards victimisation and subsequent reactions towards society all form part of the construct of crime. These constructions influence the likelihood of people engaging in restorative justice thinking and processes or even considering the options of such a crime prevention strategy and/or justice system.

The researcher will explore in this study how the intensity of these views differ among South Africans. The review indicated that even though crime rates in South Africa are decreasing, society still feels vulnerable and unsafe and the achievements of the police and courts make little difference to ordinary South Africans while feelings of safety continue to decline. Crime fosters a sense of helplessness and exposure to a justice system that many South Africans do not understand, only makes victims and their families feel more vulnerable and

unsafe. This contributes to society's belief that offenders have more protection than the victim.

In the following chapter the researcher will present an overview of the qualitative methodology that informed this study as well as critical discourse analysis as it pertains to social constructionism and the analysis of the data. The researcher conducted face to face interviews with the respondents and considerations of this research design will be dealt with as it pertains to sampling, recruitment of participants and ethical considerations of data collection.

## CHAPTER 3: RESEARCH DESIGN AND METHODOLOGY

### 3.1 INTRODUCTION

The previous chapter contained the background to social constructionism as well as literature contextualising the study. The literature covered aspects such as victim perceptions of crime and reactions to crime, with some reference to victims' contact with the justice system. Developments in the area of restorative justice both internationally and nationally were discussed.

In this chapter the researcher will bring into account aspects of methodology and discourse analysis as it pertains to the study. In recent years, professionals from a variety of backgrounds have become interested in discourse analysis models and approaches. Historians, business institutions, lawyers and politicians to name but a few have used discourse analysis to investigate social problems relating to their work. Van Dijk (1997, p. xi) prefers to use the term Critical Discourse Studies for the reason that it describe “a new cross-discipline that comprises the analysis of text and talk in virtually all disciplines of the humanities and social science”.

While identifying such specific areas can be contentious it is also widely accepted that many social problems arise from the injudicious use of language and communication (Bloor & Bloor, 2007). The researcher however hopes that this discourse will raise awareness and point to the direction of change.

The researcher will focus the analysis of this study on Critical Discourse Analysis (CDA), as a social constructionist method of analysis, with the aim of trying to understand:

- What is going on in any given event for instance what is currently taking place in the minds of the public concerning justice and crime and how is society reacting (in terms of constructions of justice or punitive responses)
- What maintains the existing social structure

This chapter will also present an overview of the qualitative methodology, present the research design; highlight the method of data collection, analysis and the considerations for reliability and validity within this particular design. Research that pertains to individual face to face interviews will also be discussed. In conclusion, ethical considerations in data collection and the use of data in qualitative studies will be briefly reviewed.

### **3.2 QUALITATIVE METHODOLOGY: AN OVERVIEW**

Qualitative methodology has been proposed as an alternative to the mainstream methods that rests upon quantification but is difficult to define without counterpoising it to those methods. The qualitative researcher focuses on the context and integrity of the material and will therefore not build an account directly from quantitative data. However to assume that the qualitative researcher will refuse to summarise data numerically or disregards material that has been gathered through rigorous sampling techniques and represented statistically is not correct (Banister et al., 1994).

Qualitative research, defined in its simplest form, is an interpretive study of a specified problem or issue whereby the researcher is a fundamental part of the sense that is made by the study or research process (Banister et al., 1994). Quantitative and qualitative research paradigms have different assumptions concerning the nature of reality (Lincoln & Guba, 1985). Qualitative research paradigms assume that different people hold varying perspectives on the world and therefore experience varying realities (Becvar & Becvar, 2000). In this way it complements the theoretical position of social construction theory that informs this study. Silverman (2000) provides a comparison between qualitative and quantitative approaches in the following table (Table 3.1):

**Table 3.1:** Difference in methodology between qualitative and quantitative approaches (Silverman, 2000)

Qualitative approach	Quantitative approach
Soft approach – analysis of words and images rather than numbers	Hard approach – precise measurements
Flexible – less structured	Fixed
Subjective – qualitative researchers may be termed unscientific or only exploratory or full of bias	Objective
Political	Value-free
Case-studies	Survey, experiments
Speculative	Hypothesis testing
Grounding	Abstract

The quantitative research model typically does not take into account the social and political context in which data are created and analytic claims are formulated. According to Stiles (1993), qualitative research recognises the role of language in constructing reality for both the researcher and the participant. Interpretations are focused on empowering the participant and specifically on narrative forms of expression, rather than purely didactic traditional forms of research (Stiles, 1993). This consideration was incorporated in the current study by using individual interviews when collecting data. The use of individual interviews situates participants' voices as primary as each participant can influence the direction of the interview and the content discussed (Willig, 2008). It was also incorporated at the level of data analysis by valuing the interpretations and distinctions made by participants and questioning instances where such interpretations differed from those made by the researcher (Potter & Wetherell, 1987).

Banister et al. (1994, p. 2) further propose that qualitative research attempts to “capture the sense that lies within”. There is however no single definition that can explain the nature of interpretation as there will always be additional things to say that we may not have control over. In the current study employing a qualitative approach allowed for the exploration of unanticipated themes, where participants raised aspects during the interviews that the researcher did not include in the interview guide. Interpretation could therefore be extended to include unanticipated themes introduced by participants. Quantification on the other hand is about prediction and control while qualitative research realizes the gap between the object of study and the way we represent it while interpretation fills the gap (Banister et al., 1994).

Due to the complexity of reality and phenomena, most phenomena cannot be explained in isolation (Uwe, 2006). Qualitative research does justice to the complexity of phenomena, as it focuses on interaction and discourse (Uwe, 2006). When studying a phenomenon such as crime, justice and reconciliation and people’s punitive beliefs, one is faced with complex societal discourses that cannot be viewed in isolation and neither can it be quantified. By its very nature it leans towards a qualitative study in order to make sense of the data and even then the research will still realize that there will always be a gap between what is observed (in terms of people’s perceptions) and the representation and interpretation of the knowledge (Uwe, 2006).

It is therefore important to realize that qualitative research views a study from the subjective and social meanings related to it (Uwe, 2006). It includes the participants’ knowledge and practices such as their crime-defining behaviour as this relates to the study. A questionnaire may provide systematically collected data but it only reports what people say they do and feel. In-depth interviews may bridge the gap between word and deed by viewing the world from the view-point of the participant (Bryman, 1984). The researcher will attempt to bridge the gap between the participants’ words and their actions in terms of their

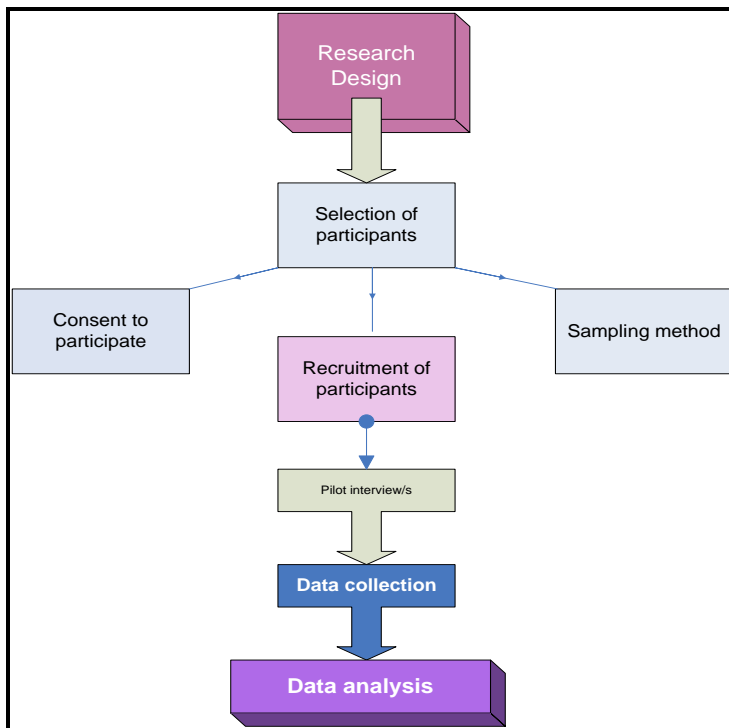


understanding and reactions to crime in South Africa. Becoming part of the participants' world as they experience being victims of crime and the larger societal discourses impacting on their experiences will be an attempt to bridge the gap between what is known and what is unknown (Bryman, 1984).

### 3.3 RESEARCH DESIGN

Research design can be thought of as the structure of research - it is the "glue" that holds all of the elements in a research project together. We would often describe a design using a concise notation that enables us to summarize a complex design structure efficiently. The following diagram (Diagram 3.2) represents the elements included in the the design of the current study and depicts the aspects which will be further discussed in this chapter.

**Table 3.2:** Research design



The research in itself is seen as a social construction which does not only highlight text and discourse but research language itself, recognising both its

power to mediate and ability to shape the research (Punch, 1998). According to Neuman (1997), when following a non-positivist perspective, the researcher mainly focuses on subjective meanings, definitions, metaphors, symbols, and descriptions of specific cases. Thus, the researcher will attempt to capture aspects of the social world.

This leads the research study to a transcendental perspective that fits more closely with the interpretive and critical approaches. Hereby, the research questions originate from the standpoint of the people being studied. In terms of a research path, qualitative research tends to be more non-linear and cyclical (Neuman, 1997). A cyclical research path enables the researcher with each cycle or repetition of an interview to collect new data and gain new insights.

Characteristics of qualitative research include the importance of the context. Qualitative researchers emphasize the importance of the social context for understanding the social world. Therefore a social event, social action, or a conversation cannot be removed from the social context in which it appears as this will lead to the social meaning and significance being distorted (Neuman, 1997). Constant awareness of the context in which the research study is taking place is quite imperative.

### **3.4 SELECTION OF PARTICIPANTS**

Sampling is an important aspect in qualitative research as much as in quantitative research as Punch (1998, p. 193) aptly states: “We cannot study everyone everywhere doing everything”. Decisions must be made not only about which people to interview but also about the settings and processes. However, there is a major difference between sampling in quantitative studies and sampling in qualitative studies (Punch, 1998).

The basic premise in most cases is probability sampling with the aim of obtaining a representative sample and the measurements of variables are taken from the

sample that is believed to be representative of a larger population. Findings can then be inferred back to the population (Punch, 1998).

Qualitative research will very rarely use probability sampling but will rather use some kind of purposive sampling (Punch, 1998). There is some purpose in mind for selecting participants. The basic ideas behind the specific sampling strategies vary considerably and reflect the purpose that guide the research. For instance, a maximum variation sampling plan, would deliberately seek as much variation as possible. A homogenous sampling plan would seek as little as possible variation. In some situations convenience sampling is the most appropriate in order to take advantage of situations, events and so forth that are relevant to the research. There are also cases where sampling focuses on extreme case participants in order to see a specific manifestation of a phenomenon (Punch, 1998).

The researcher made use of purposive sampling at the initial stage of the study, in which an intentional sample of participants was chosen (Esterberg, 2002). Participants were selected based on their personal experience of being victims of serious crimes. Potential participants also had to be above 18 years of age and be able to provide rich descriptions of their experiences in either English or Afrikaans (this is a practical limitation since these are the languages the researcher is proficient in). After identifying initial participants based on these criteria, the researcher used snowball sampling whereby the initial interviewees referred friends or acquaintances that might be appropriate to be interviewed, based on them meeting the inclusion criteria. In this way the sample “snowballs”. The sampling frame also focused on selecting participants that manifested a particular homogenous background. The researcher was therefore not focused on finding the maximum level of variation but rather finding depth of information from the group of participants. A total number of nine participants were interviewed for the study. The sample size did however not only depend solely on the number of participants that could be accessed, but was also informed by the

point at which data / theoretical saturation was reached. That is when new data are not showing new theoretical elements, but rather confirming what has already been found (Punch, 1998).

### 3.4.1 Demographic Profile

The final sample included five women and four men above the age of 18 years who have been victims of serious crimes. Six of the participants were white and three were black. While gender and race have been shown to be socially constructed categories of identity (Burr, 2003), the researcher acknowledges the impact such categories might have in positioning participants in discourse and therefore provides a description of participants along these categories. The table below provides more demographic information pertaining to the nine participants in this study:

**Table 3.3:** Demographic profiles of participants

Participant Number (used for referencing extracts)	Gender	Race	Age	Marital Status	Income	Lives in:
MW01	Male	White	46	Divorced	Middle	Independent house: not boomed
MW02	Male	White	40	Co-habitation	Middle-High	Independent house: not boomed
MW03	Male	White	46	Married	Middle	Independent house: not boomed
MB04	Male	Black	25	Single	Low – Middle	Secure Complex
FW01	Female	White	39	Single	Middle	Secure Complex
FW02	Female	White	44	Married	Middle	Independent house: not boomed
FW05	Female	White	47	Married	Middle – High	Independent house: not boomed
FB03	Female	Black	23	Single	Middle-High	Secure complex
FB04	Female	Black	51	Single	Low	Flat

### **3.4.2 Consent to Participate**

Prospective participants are only able to give informed consent when they are fully informed as to the research issue, purpose of the research, what it involves, how it will be conducted, the time it is likely to take place and most importantly any potential harm they might incur and what will happen to the material collected (Banister et al., 1994). The participants in this study received a consent form which indicated all the above mentioned issues. The consent form also asked the participants' permission to record the interview and clearly indicated what the purpose of the recordings was. They were also informed that all research material will be securely stored for a period of 15 years after which it will be destroyed as part of the University of Pretoria's data storage requirement.

The consent form also clearly indicated that the participants have the right to withdraw from the research at any time. Participants were also informed that they do not need to answer all questions, comment or continue to talk about an issue that becomes uncomfortable to them. They could at any time ask the researcher to halt for a while or terminate the interview.

### **3.5 RECRUITMENT OF PARTICIPANTS**

Considering that purposive sampling was used, research participants were chosen for specific qualities they bring to the study which in the case of this particular study would be people who have been victims of serious crimes such as armed robbery, hi-jacking and attempted murder.

Table 3.3 illustrates the position of each participant in the sampling frame of purposive sampling and snowball sampling and how it took place within this particular study. Potential participants were asked a screening question that was concerned with their personal experience of crime, in order to determine whether they have been a victim of a serious crime, during the recruitment stage of the study.

Once participants were recruited, interviews were scheduled with each participant and the nature of the research was again explained, prior to obtaining informed consent. The interviews were approximately one hour long. The interviews took place at the homes, workplaces or an agreed venue to avoid inconveniencing the participants.

**Table 3.4:** Sampling frame of purposive and snowball sampling

Participant	Position within sampling frame
MW01	Friend of an acquaintance
MW02	Friend of an acquaintance
MW03	Family member of FW02
MB04	Friend of an acquaintance
FW01	Friend of researcher
FW02	Friend member of MW03
FW05	Friend of an acquaintance
FB03	Friend of FW05
FB04	Employee of researcher

### 3.6 PILOT INTERVIEWS

Two pilot interviews were conducted with participants from the same pool of participants recruited for the study prior to the actual study; however their results were not recorded or transcribed. The purpose of the pilot interviews was to refine the interview schedule and conduct preliminary analyses on the appropriateness of questions as well as additional questions that may be needed. The pilot interviews assisted the researcher in eliminating unnecessary questions and changing questions to promote open discussion.

Changes that were made to the interview schedule and questions after the pilot interviews included (refer to Interview Schedule – Appendix B):

- The inclusion of open-ended questions
- The elimination of closed ended questions
- Changing question wording to allow for more open discussion and eliminate the need for respondents to answer in short form
- The elimination of unnecessary questions that did not directly impact the research question or aims of the research.

### **3.7 INTERVIEWING AS DATA COLLECTION METHOD**

The most frequently used approach in getting rich data for social constructionist research is interviews (TerreBlanche & Durrheim, 1999). Social constructionist research views the interview as a showground within which particular linguistic patterns, such as typical phrases, metaphors, arguments and stories, can come to the forefront. However, according to a social constructionist viewpoint, it is doubtful that the interviewer can play a purely facilitative role in an attempt to allow the interviewee to express his or her feelings and experiences. Instead, the interviewer is mindful that whatever meanings are created during the interview is considered to be co-constructions between the interviewer and the interviewee. These meanings are also products of larger social systems (such as legal, racialised, gendered or media discourses) from which these individuals operate and not merely constructed by the two people involved in the interview (TerreBlanche & Durrheim, 1999).

Burman (1994) gives four main reasons for conducting interviews:

- The interview is concerned with subjective meanings or the meanings that participants ascribe to the research topic rather than standardised responses that can be compared with other groups or individuals
- Interviews explore issues that may be too complex to investigate quantitatively. For example, views and perceptions of participants cannot

- be elicited and be well represented by means of questions on a rating scale, while in-depth interviewing will explore contradictions, difficulties, gaps, and so forth that quantitative research cannot achieve
- Doing interviews is a valuable lesson in research involvement and practice. As previously mentioned, an interviewer is forced to confront their own participation in the research (and the construction of meaning in the analysis of the data). Conducting interviews demands reflexivity (which will be discussed) in order to understand one's role and one's reflections on the process including transforming the data into written research

Associated with the process of the construction of the researcher's own material, the question of power relations arises. Research is conducted within power relationships and critical discourse analysis has as one of its main concerns the power relationships in society. The focus of the research is a shift from doing the research "on" people as opposed to doing the research "with" people (Burman & Parker, 1993).

Punch (1998) states that interviewing is a good way of assessing people's perceptions, meanings and definitions of situations. In this study, interviewing was used to explore people's views on crime, justice and reconciliation, and the various nuances that interplay in the interview such as difficulties participants experienced and their emotional connotation to the subject matter, which cannot be captured by means of quantification.

The researcher used a semi-structured interviewing approach to explore precisely the areas that cannot be quantified such as perceptions, views and constructions. One of the advantages of this approach is that the researcher can tailor the questions to the position and comments of the interviewee and is not bound by standardisation and replicability (Banister et al., 1994). A structured interview has a strict set of questions that has to be worked through regardless of



the appropriateness of the interviewee's individual responses or experiences. The semi-structured interviewing process is more open and flexible and can document perspectives not usually represented or even sometimes envisaged by the researcher. According to Burman (1993), this approach can empower the disadvantaged groups by validating and publicising their views.

### **3.8 REFLEXIVE ANALYSIS**

In reflexive analysis or reflexivity, the aim is to turn the researcher's attention to her/his own process of constructing the world, with the aim of saying something new about the world, or increasing awareness of negotiated meaning construction. The words "deconstruction" and "critical" describe what the researcher is attempting to do (Finlay & Gough, 2003, p. 21).

The researcher's communication with the field and its members is seen as an explicit part of knowledge production instead of excluding it as far as possible as an intervening variable (Uwe, 2006). It is an attempt to clarify the process by which the material and analysis are produced (Banister et al., 1994). The researcher is central to the study and reflexivity is about acknowledging the central position of the researcher in the construction of knowledge. The researcher needs to make clear how his/her understandings were formed. Therefore, the subjectivity of the researcher and of those being studied is part of the research process (Uwe, 2006).

The researcher's reflections on his/her actions and observations in the field become data in its own right (Uwe, 2006). The readers can also reanalyse the material to develop alternative interpretations and explanations.

The researcher engaged in personal reflexivity which is about acknowledging who one is, one's own individuality as researcher and how one's personal interests and values shape the process of research from an initial idea to

outcome (Banister et al., 1994). It makes explicit the level of personal involvement and engagement. It centralises the influence of the researcher's life experience on the research and the construction of knowledge. It is a process of being critically subjective, empathising with participants while at the same time being aware of your own experience and in that way achieving a resonance between subjectivity and objectivity. This critical awareness enhances the validity of the study, as the findings will be grounded in people's accounts and not just a reflection of the researchers' subconsciousness.

Burman (1993) describes some points which provide context for the research and this 'context' is what accompanies and constructs the text. The researcher will give a brief reflexive analysis of her own construction of the text based on these points.

- Record what is lost

During the process of analysis, the researcher realised that there was an incompleteness or partiality of interpretation. The researcher reproduced extracts from the interviews using transcription notation, but during the process of transcribing the interviews some nuances may have been lost. A more systematic transcription process may have represented greater detail of the spoken language and non-verbal speech that occurred during the interviews. The researcher attempted to address this limitation by listening to the recordings during the analysis and noting pauses and other non-verbal utterances, in addition to analysing the transcribed interviews.

- Over interpretation/misinterpretation

A common reaction to analysis is that material is misinterpreted, manipulated or even over interpreted to produce meaning that was not originally intended. The researcher recognised that the reading of the transcribed text was her own alone and not that of others and therefore its credibility could be undermined. In an attempt to continue the co-creation of meaning, also during the process of analysis, the researcher invited participants' reactions to the interpretation of the

texts. The researcher shared her interpretation with interested participants and received positive comments. However, issues related to racial bias were not well accepted by some of the participants but may be interpreted as sensitive and “not spoken about” topics.

- Partial interpretation

The researcher needs to accept the uncertainty of an unfinished analysis in the limits imposed by writing it up. In principle, the research process could continue almost indefinitely as there was a vast amount of information received from the participants. The researcher had to make a decision to limit the interpretation to the scope of the research and thereby discard a large part of the data. This was a difficult sifting process and may have disturbed the context of the extracts.

- Selection of material

A reflexive analysis includes an examination of the researcher’s own motives in the choice of research material. The researcher’s chosen topic stemmed mostly from the interest in victims of crime and their experiences because the researcher has also been a victim of a serious crime and could empathise with the victims. How this background influenced the researcher’s analysis may be scrutinised. The researcher does not stand completely neutral to restorative justice and believes in its principals and aims of restoration. This may have had an influence on the researcher’s interpretation of the transcriptions. The researcher often felt during the course of the research the need to promote restorative justice. However, the awareness of this made the researcher more sensitive to remain neutral in the talk with participants prior to the research interview as to avoid imposing constructions that influence views and experiences.

- Privileged access

The researcher has privileged knowledge of both the participants and of the experience of conducting the interviews. Extra knowledge that is brought to bear on the material is also the researcher’s acquaintance with the interviewees. Furthermore, the researcher has access to the full transcripts from which the

extracts were selected. This may have affected the researcher's interpretation of the data.

- Exploitation

A legitimate question that the researcher needed to ask was whether participants have been exploited in some way or another and whether their psychological or material condition worsened through involvement in the research. The subject matter of this research was sensitive and may have opened wounds that have been closed for several months. This goes beyond "informed consent" and the researcher enquired about the well-being of the participants on several occasions after the interview and offered referrals to support services where needed. The emotional content of the research was a concern and raised the researcher's awareness to the seriousness of the research topic and the effect it has on the lives of the participants.

- Effects of prior relationships

Interviewing family, friends and acquaintances facilitated greater disclosure of the research topic. This does not mean that one has to interview friends, but the researcher wanted to highlight that prior relationships entered into the structure and content of the research encounter and may have facilitated richer and more open discussion during the interviews.

- Interpretative stance/countertransference issues

Given the brief analysis above, it is clear that the researcher brought to the analysis a range of different identification and responses. The researcher was anxious about making sense of the material. The researcher also felt that personal reactions or investments may have played an important part and was used as a resource rather than "interference" with the analysis.

### **3.9 RELIABILITY AND VALIDITY OF QUALITATIVE RESEARCH**

Establishing reliability and validity in qualitative research studies is not done in the same way as it is for quantitative research studies. Instead, terms such as credibility, transferability, dependability and conformability are used as parallels

to establish rigour and quality in qualitative research studies. Forthcoming from this is the issue of trustworthiness of the research. The following quote offers a modest viewpoint in terms of the trustworthiness of the research:

All research must respond to canons that stand as criteria against which the trustworthiness of the project can be evaluated.  
(Marshall & Rossman, 1995, p. 143)

Burr (2003) states that reliability and validity are terms well-known to social scientists and researchers working within the positivist, empiricist paradigm and are the foundation of justifiable research in that paradigm. Reliability is the requirement that the research findings are repeatable and validity is the requirement that the scientist's description of the world matches what is really there, independent of our ideas and talk about it (Burr, 2003). However, social constructionism is not about identifying objective facts or making truth claims. This is not a final description of the world, and reality may be inaccessible or inseparable from our discourse about it (Burr, 2003).

In the 1980's, Lincoln and Guba (1985) substituted reliability and validity with the parallel concept of "trustworthiness" containing four aspects:

- **Credibility** (internal validity): Indicates how truthful particular findings are
- **Transferability** (external validity): Indicates how applicable the research findings are to other settings or groups
- **Dependability** (reliability): Indicates whether the results are consistent and reproducible
- **Conformability** (objectivity): Determines how neutral the findings are in terms of whether they are reflective of the informants and the inquiry, and not a product of the researcher's biases and prejudices

Thus, over the past two decades, reliability and validity have been subtly replaced by criteria and standards for evaluation of the overall significance,

relevance, impact and utility of completed research. Strategies to ensure rigour in the research process were carefully considered to these new criteria to the extent that, while they continue to be used, they are less likely to be valued or recognised as indices of rigour. Without the centrality of reliability and validity in qualitative methods, there is the belief by default that qualitative research must be unreliable and invalid, lacking rigour and scientific inappropriateness (Morse, Barrett, Mayan, Olsen, & Spiers, 2002).

Wetherell, Taylor, and Yates (2001) suggest some criteria to enhance general coherence and rigour of research, that may show that the analysis has been carried out systematically and that the interpretation has been soundly argued, such as coding of textual material (refer to analysis of data). Wood and Kroger (2000) discuss a number of criteria that contribute toward the overall 'trustworthiness' and 'soundness' of the analysis such as providing an audit trail whereby the analytic process from original text to final analysis could be tracked. The completion of this thesis acts as such an audit trail, where every step in the research processes is documented and extracts of the interviews are presented to allow for reader evaluation of the quality of the research. Soundness can also be demonstrated by explicitly showing the logic of the argument. Mills (1997) suggests that the researcher's position is identical with that of the participant. The researcher paid close attention to the participant's use of language, the use of categories and interaction and recorded and documented this throughout the analysis process.

### **3.10 CRITICAL DISCOURSE ANALYSIS (CDA)**

There are many forms of social constructionist analysis, but they share the aim of revealing the cultural material from which particular discourse, texts and events have been constructed. One of the most popular approaches is "discourse analysis" (TerreBlanche & Durrheim, 1999, p. 154). According to Oosthuizen (2002), the word "discourse" can be conceptualised as a shared understanding,

belief and knowledge about something within a group of people (a community or society). According to TerreBlanche and Durrheim (1999, p. 156), discourses are “broad patterns of talk – systems of statements – that are taken up in particular speeches and conversations, and not the speeches or conversations themselves”.

Discourse analysis does not refer to one way of thinking, but rather to several different views, each with a different method of analysis and a different philosophical underpinning (Burman & Parker, 1993). Discourse analysis has many ways of examining language and discourses. According to TerreBlanche and Durrheim (1999, p. 164), there are two broad camps in discourse analysis, namely, “one that contextualises the text in a micro-context of conversation and debate...and another that contextualises text in a macro-context of institutions and ideologies”.

The first category represents the analyst who places emphasis on micro-level, moment-to-moment interchanges within a context of conversation. The second category is the focus of the present study and is influenced by the work of Foucault (1972) and other post-structuralist theorists. Burman and Parker (1993) follow in this vein, and focus on experience on a macro-level. In this category the focus is on the broader context of politics (surrounding crime, justice and reconciliation), power relations (such as gender and race inequalities) and ideologies (such as a just world) within a society that informs participants’ discourses.

Foucault (1972) paid attention to the relationship between social institutions, the notion of subjectivity and the notion of power. He was interested in how the experience of self is constructed through the use of language. The present study will focus on how power processes in a society (such as the media, gender inequalities, and the police/courts/justice system) combined with social systems (such as family, friends, and neighbourhoods) and language creates selves and

the experiences that concur with the current social order. The CJS (which includes the police, courts and correctional services/rehabilitation centres) would be an example of a “discursive field” (Oosthuizen, 2002, p. 25), which contains many explicit and implicit discourses that compete with each other for dominance. Each discourse in this field will, according to (Foucault, 1972), exercise power in different ways to influence the meaning, process and organization of the CJS. Each discourse will also exercise power to influence the personal experience and sense of self of participants as they come in contact with and are influenced by this discourse.

Foucault (1972) further explored how particular constructions of self and personal experience (such as identifying self as a victim of crime) were encouraged at different times in history. Foucault’s (1972) writing charts a shift from sovereign forms of power and how it dominated discourses of the self. This is a power that refers to a top-down form of social control which was most common in the eras when society was regulated by monarchs and aristocrats. An external authority ensured that one complied with the social norms. However, in our societies today this regulatory power may not be in the form of monarchs and aristocrats, but we are regulated by laws and governmental regulations (Foucault, 1972). We have White Papers on Child Justice, correctional services, freedom of speech to name but a few that regulate society. Most evident is the CJS where society is regulated by police and courts and people are positioned in a power relationship with these regulatory agents. How this power is assumed will influence the individual’s sense of control over her/his life. When people experience inconsistencies in this power relationship or a double bind situation, where they experience that this relationship is no longer protecting them, a sense of powerlessness operates to maintain the prevailing hierarchical relationship (Foucault, 1972).

It is possible that participants in this study might be influenced not only by a lack of protection from regulatory authorities but were also in a double bind situation



where the authority that needs to protect them is experienced as offenders themselves. It may also be possible that participants experienced a lack of action taken, corruption within the CJS or a blatant disregard for the victims of crime. This may in turn lead to a sense of powerlessness which maintained a hierarchical relationship between the CJS and the victims of crime.

Foucault's work shifted focus to disciplinary power, which refers to a process whereby the individual internalises regulatory discourses and begins to survey and police her or his own behaviour (Oosthuizen, 2002). The discourse of disciplinary power positioned people as "reasonable agents" of their own lives. This absolved society of the responsibility for people's actions and states of mind. Criminals for instance were considered responsible for their own "deviant" position in society. In this research disciplinary power is assumed to be a sense of personal agency and control the individual has over his or her own life.

This second type of discourse analysis can be seen as political. According to Levett, Kottler, Burman, and Parker (1997), discourse analysis aims to expose the macro belief systems that are operating on the micro level of everyday conversations. People adopt particular positions in relations to each other and through this, take on particular beliefs about themselves and the world. Through the use of language, these beliefs and experiences are constructed. This type of discourse analysis is also often referred to as Critical Discourse Analysis (CDA) and focuses mainly on themes such as power, control, and asymmetrical relations in different institutions (Levett et al., 1997). The main intention of the analysis is to identify how discourse structures enact, confirm, reproduce or challenge relationships of power and dominance in society.

Social constructionism has one general idea in the transformation of knowledge. Theories, knowledge and facts in psychology are socially constructed and being so, are constituted via the discourse of the people, by social processes, conventions and milieu (Hibberd, 2005). The general idea is underpinned by two

aspects of discourse that most social constructionists agree on, namely, that the traditional categories of cognition (including perception), motivation and social behaviour are not properties in each individual's mind but are grounded in discourse, and that discourse is central to the constitution of at least social reality (Gergen, 1994; Potter, 1996; Shotter, 1993). All aspects are cultural artefacts that are discursively constituted and can be replaced in order to transform social life. According to Potter (1992), objective truth and validity are to be replaced by social processes and practical reasoning. The study will analyse results using the premises of critical discourse analysis in its attempt to find meaning in the talk and text of the participants.

Language then, as a way of constructing realities, creates or maintains dominant positions of groups of people in society. Dominant discourse spreads certain beliefs through institutional structures such as the media, school or government. Certain positions of power and certain kinds of thinking by people about themselves and each other are maintained through these discourses (Wetherell & Potter, 1992). This was illustrated in the present study where racist language was used by some of the participants, where such language maintains a discourse of a dominant group versus a "minority" group. Language such as "whitey" and "darkey", indicate a certain kind of racialistic thinking in South Africa. Social relations of dominance and oppression are reproduced by these types of discourses. Of course critical discourse analysts hold the view that just as oppressive discourses are regarded as socially constructed, by implication there is the possibility of constructing alternative non-oppressive discourses (Oosthuizen, 2002).

When a discourse is drawn on, a choice is made between ranges of available linguistic resources. These resources are used to create a particular version of reality (Oosthuizen, 2002). Society takes for granted this generative and constructive use of language, whereas discourse analysis aims to focus on this function of language. An example that demonstrates the constructive nature of

discourse was found in an informal interview with a social worker from Child Welfare Tshwane. A thirteen year old girl took part in a Child Protection Week wherein the police discussed issues surrounding child sexual abuse as well as the nature of abuse. This girl came forward and said that something like this happened to her. On further enquiry it became evident that she had been sexually abused for the previous eight years. The abuse started before she had the linguistic resources to create the reality of the abuse. When the police “created the construct” of abuse she could conceptualise the abuse for the first time. Even though her reality included some wrongful act being done to her she had no understanding or “discourse” particular to abuse before the Child Protection Week.

Van Dijk (1998) emphasises that critical discourse analysts take an explicit position that expose and resist social inequality. He also makes the point that CDA is critical:

Indeed, the last thing a critical discourse analysis scholar should do is uncritically adopt philosophy or sociological ideas about language and discourse that is obviously uninformed by the advances in contemporary linguistics and discourse analysis. (Van Dijk, 1998, p. 2)

Furthermore, Van Dijk (1998) proposes that there are certain requirements that need to be observed if CDA is to fulfil its aim. The requirements can be summarised as follows:

- CDA must be better than other research in order to be accepted
- CDA has to address social problems and political issues
- Empirically adequate critical analysis of social problems should be multi-disciplinary
- Besides describing discourse structure, CDA should explain them in terms of social structures

- The main intention is to reveal power relationships and dominance in society

The researcher will examine participant discourses on crime as people involved in a relation as to which outcome is crime and is an unequal relation. As human subjects we are violated and oppressed. Crime is therefore an expression of the ability of one agent to restrict and prevent another person from utilizing the capacity to maintain or express his or her humanity. Crime means exercising the power to deny others the opportunity to make a difference. The crime victim is therefore transformed into a non-person. The researcher will explore various power relationships and the position of the victim and how these relationships may serve to further dehumanizes the victim.

Finally, it is remarked from the above discussion that the main tenets of CDA is the goal of uncovering power relationships. To do so, CDA regards text, context and society as central to its interpretation and explanation of these power relations. CDA also argues that power is exercised through consent rather than coercion (Lahlali, 2007). Powerful people are capable of getting powerless people to interpret the world from their point of view.

### **3.11 DATA RECORDING AND CAPTURING**

Data was recorded by means of a digital recording device and transcribed verbatim. Copies of the verbatim transcripts are available on request and are not included in the dissertation. Due to the extensive amount of data received during the interviewing process, only a limited number of extracts from the transcripts will be used for illustrative purposes in Chapter 4 as part of the data analysis.

### **3.12 THE PROCESS OF ANALYSIS**

The analysis of data in discourse analysis is both similar and different from content analysis (Henning et al., 2004). In both processes the data is searched

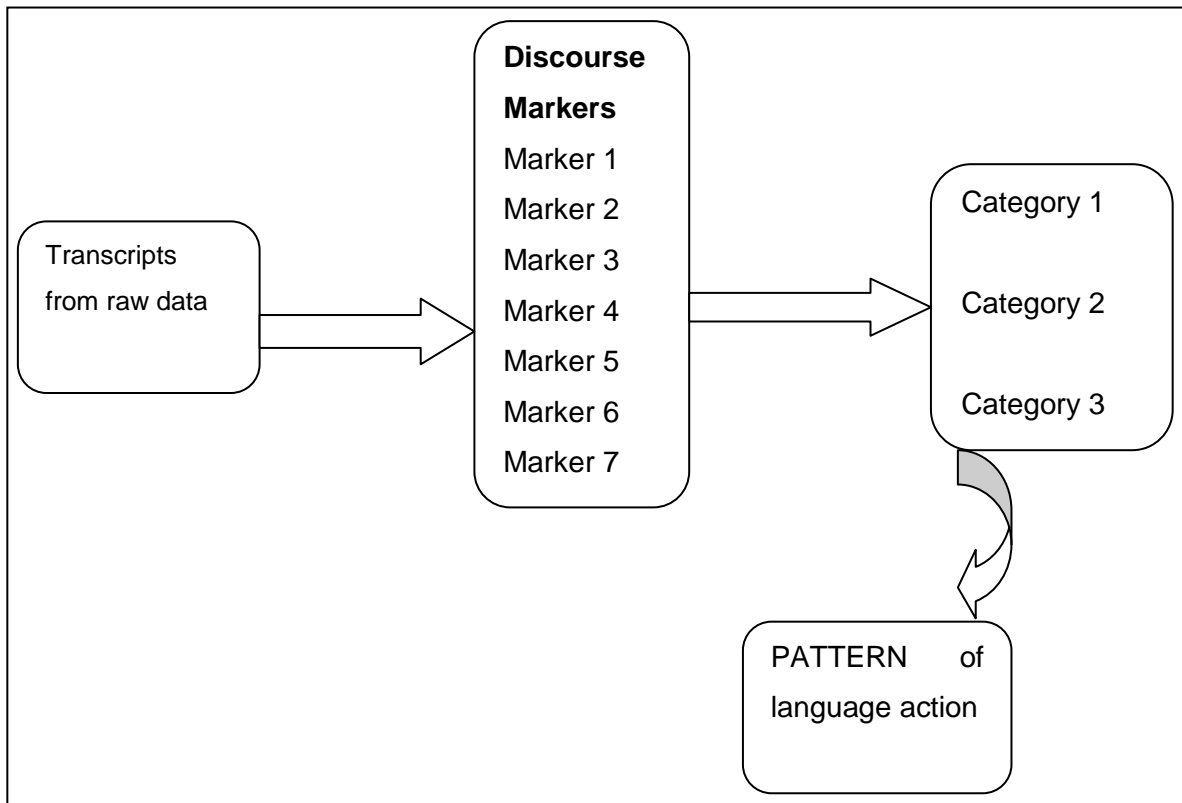
for pertinent themes (via coding and categorising); however, the premise on which the search is based is that there are multiple meanings and that the clues to those meanings need to be found in the discourse, the rule-governed language behaviour of the participants and the way in which they make sense of their reality (Henning et al., 2004).

According to Van Dijk (1997, p. 3), “language users actively engage in text and talk not only as speakers, writers, listeners and readers, but also as members of social categories, groups, professions, organizations, communities or cultures”. Language users further interact as women and men, black and white, old and young, poor and rich, and so mostly in complex situations. In conducting the analysis, the main question to be asked is:

What discourse(s) frame(s) the language action and the way in which the participants make sense of their reality and how was this discourse produced and how is it maintained in a social context?.  
(Henning et al., 2004, p. 118)

In analysing the transcripts, the researcher searched the data for ways in which the participants construct meaning around their reality. The researcher used the method of identifying discourse markers, which are then coded to a specific category or metaphor, at which point a pattern can be established from the categories (as used by Henning, 2004).

This allowed for a systematic approach, which was valuable in this study where the researcher was a beginner in discourse analysis and wished to work according to a specific procedure. The following diagram illustrates the method:



The following gives an outline of the step by step process that was followed in identifying discourses as the researcher was interpreting the interviews and co-constructing knowledge with the participants. The process of constructing meaning involved complex interaction of levels of analysis that occurred in a recursive manner. None of the steps of analysis followed a linear progression.

**Step 1:** Each digital recording was transcribed.

**Step 2:** Recordings were listened to and the transcripts read several times to understand the contextual frame and to familiarize the researcher with the content of the text.

**Step 3:** Meanings that coincided with the research aims and objectives of the research were identified and coded by means of markers. For example:

- Discourses related to prejudice were coded “p”
- Discourses related to dominance were coded “d”

- Each respondent received a unique code. In order to identify each respondent's response, a response related to prejudice for a particular respondent would be coded – MW01-p
- Initial meanings were coded broadly and then narrowed down to a limited number of key categories

**Step 4:** Transcribed text for each interview was analysed according to the discourse markers to reflect power relationships and societal hierarchy related to crime, justice and reconciliation as well as participants' punitive beliefs. The following discourse markers were used:

- Power and equality

These markers indicated gender identity, namely the use of pronouns he/she and markers indicating racial identities, namely reference to racial groups "we" and "us"

- Prejudice

These markers indicated frames of race, namely racist discourses as well as political correctness in discourse

- Dominance

These markers indicated dominance, namely victims and offenders

- Power relations

These markers indicated power relationships in metaphorical frameworks, namely a metaphorical frame can be referenced to the unemployed who carry with them a universal understanding of the concept. It also referenced language that indicates power relationships.

**Step 5:** Only text revealing discourses related to the objectives of the study are quoted in the chapter for illustrative purposes.

**Step 6:** Questions were asked such as:

- What power relation is evident in the text?
- Who is depicted as powerful and who is depicted as powerless?
- Who is exerting power and why?

### **3.13 ETHICAL PRINCIPLES IN RESEARCH**

It is important that the researcher is always aware of the ethical implications for participants throughout the process of the research. Participants need to be protected from harm and their well-being on all levels should be considered, whether it is psychological, health, values or dignity (Banister et al., 1994). The following ethical issues were taken into account in the present study.

#### **3.13.1 Confidentiality and Anonymity**

These aspects are closely linked with the issue of protection. There is always a potential for harm when dealing with personal information. If information is published, anonymity should in all cases be guaranteed. Measures that were taken to preserve anonymity and confidentiality in the analysed material include:

- Closure of the material for a specified period
- Restricted access, where the material was only available to the researcher during the process of analysis
- Anonymity, where all personal identifiers were removed and participant names were replaced with a code

#### **3.13.2. Emotional Well-being and Follow-up**

As the subject matter deals with crime and victims of crime, the researcher has taken measures to safe-guard participants from emotional breakdown by supplying the necessary support by means of referral to a local social worker and/or psychologist. The researcher has further followed-up with participants on their overall well-being after the interview had been conducted and any needs (for example, emotional support) that they may have developed as a result of participating in the study was attended to. Participants were given the opportunity to receive counselling and trauma support where participants chose to engage in this.

#### **3.13.3. Ethics and the Researcher's Position**

In respect to discourse analysts, their position in the study is tied to the discourse group they are investigating, either as members of the same social group or as observers of it. Often the researcher shares in similar construction of meaning to



the participants in the discourse that is under analysis. For this reason, researchers need to be clear on their own positions with respect to the research topic (Bloor & Bloor, 2007). Critical discourse analysts in particular do not attempt the type of objectivity that is sometimes claimed by scientists but recognize that such objectivity is likely to be impossible due to the nature of the experience (Bloor & Bloor, 2007). Instead the researcher is open and critical of her own position. Ethical practice is therefore essential and extends to interrogating one's own participation in co-constructing meaning with participants.

Also central to CDA is the understanding that discourse is an integral aspect of power and control (Bloor & Bloor, 2007). Power is held by both institutions and individuals in contemporary society and any challenge to the status quo challenges those who hold power. Thus, the researcher needs to be committed to social equality, fairness and justice.

### **3.14 SUMMARY**

This chapter presented an overview of the qualitative methodology and the research design. It highlighted the method of data collection, namely face to face interviewing as well as giving an overview of semi-structured interviewing techniques. The researcher discussed purposive sampling and the justification for using this type of sampling for the study. A brief overview of reliability and validity within this particular design was given. The researcher further attempted to give a reflexive analysis and account of the research and how this may or may not have influenced the analysis of the data and the content of the analysis.

Furthermore, this chapter discussed the main tenets of critical discourse analysis and its goal of uncovering power relationships. Talk is created through power relations and also maintains them and the aim of CDA is to clarify and highlight this relationship. This type of relationship is also often unclear to people and the

aim of CDA is to make it visible through the analysis of the discourse. Finally, this chapter gave a description of the process of CDA that the researcher undertook.

The following chapter will focus on the primary aims of this research, through exploring participants' constructions of crime and justice, whether a discourse of restorative justice as an alternative to the traditional punitive systems is available to participants.

## CHAPTER 4: RESULTS ANALYSIS

### 4.1 INTRODUCTION

*“Why? Why? You don’t know me from Adam, you don’t know my children from Adam. Why did you want to hurt us?” (White female victim of armed robbery)*

The analysis of this chapter focuses on drawing the full circle in terms of the aims of this research. With the development of restorative justice in South Africa, the study aims to understand how victims of crime construct meaning around punitive beliefs and whether a discourse of restorative justice as an alternative to traditional punitive systems is available to them. The question that the researcher aims to address is how victims of crime construct crime, justice and reconciliations, using the practice of critical discourse analysis (CDA).

CDA is interested in the way language and discourse “works”. This entails a focus on how language is used to achieve social goals and how it functions in social maintenance and change (Bloor & Bloor, 2007). It will therefore be important as a researcher to understand the analysis in terms of what is going on in an event or discourse, and whether it maintains the existing social structure or is likely to change or revise it. In accordance with this focus of CDA, the researcher will explore sub-areas of analysis that have a bearing on:

- Power and equality (refer to 4.2)
- Prejudice (refer to 4.3)
- Dominance (refer to 4.4)
- Power relations (refer to 4.5)

In CDA there is a special significance attached to the ways in which identity is realized in discourse because people tend to identify themselves with their own

social groupings, and often place themselves in opposition with their other social grouping (Bloor & Bloor, 2007). As well as playing various roles, we identify with different groups. To some extent we are able to choose how far we identify with a group.

The identification of pronouns in CDA is used where “identify” refers to the way people see themselves in relation to others and society at large. Plural pronouns (we, us, you, they and them) refer, of course, to more than one person, with each of them referring to a different collection of people (Bloor & Bloor, 2007). The researcher will illustrate this by looking at the responses of participants and where they place themselves in relation to different social groups.

CDA is also concerned with presuppositions (Bloor & Bloor, 2007). Individuals all presuppose certain knowledge or understanding when they try to communicate with others. The context of assumptions is text dependent. To say that an assumption is true or false, right or wrong depends on the position or belief of the one who is interacting and this in turn may depend on factors such as history and culture. Some assumptions are so current in society that they are automatically accepted without question. However, assumptions simply reinforce inaccurate situations. A presupposition would be that people prefer to look “young” instead of “old” which could be called a cultural assumption (Bloor & Bloor, 2007).

It is assumed that there are many discourses which can be shown to be operating in the text of the interviews. However, the study will focus on the main discourses related to power relations and hierarchy within these discourses from a political stance. Inclusion of all aspects will make the study more comprehensive and beyond the boundaries of a mini-dissertation.

It should be noted that, because of difficulties in analysis, critical discourse analysts have developed a radically different form of analysis which defines the term discourse differently. This group developed a political analysis of text (Bloor

& Bloor, 2007; Lahlali, 2007). The following analysis will be strictly based on a political analysis of the text and its meaning as related to CDA.

During the presentation of the results, reference will be made to some important quotations drawn from the transcripts of the participants. This will provide “evidence” that the data produced the issues the researcher is discussing, but will also preserve as far as possible the language and voice of the participants. Quotations link the researcher with the participants and may be the only real link that can provide insight into the lives of the victims of crime (Mostyn, 1985). The analysis and interpretation of the quotations will be followed by a summary of the findings.

#### **4.2 POWER AND EQUALITY**

In Chapter 3 the researcher discussed that the major function of CDA was to investigate how discourse was instrumental in maintaining power structures and support discrimination. The following section will focus on the first sub-area and how it relates to victims’ construction of crime, justice and reconciliation. This will be discussed in terms of the significance of language in classifying people with respect to their role or position in power structures and how powerful groups can use language to maintain inequality.

It will always be in the interest of the dominant elite group if the subjected group can accept their position as an ideological imperative – in other words, if they can believe that this is the way things should be or the best that things can be, and if they “accept their lot in life” (Bloor & Bloor, 2007). Power structures also tend to be institutionalized and often fixed on customs and laws and this encourages people to behave in certain ways or to identify with certain groups.

We may ask the question - how does an individual get assigned to a group? Individuals are involved in different social domains and play different roles

throughout the course of their lives. In some roles one is born into the family unit, whilst others involve occupation or leisure activities one is involved with. Some roles are thrust upon us by our parent's wishes or society who has control over us such as prisoners. We identify ourselves and others through these roles. However, some classification systems transcend roles and impose an identity on individuals that they may find unwelcome. This becomes the official discourse and is institutionalized. Some of the major institutionalized identities are (Bloor & Bloor, 2007):

- National identity
- Racial identity
- Gender identity
- Class identity

During the analysis the researcher attended to how participants drew on socially constructed identities when constructing meaning around their experiences as victims of crime. In particular, two of the above mentioned categories of identity – that of racial and gender identity - were specifically drawn on by participants when constructing meaning around their experiences as victims of crime. In the following section the researcher explores how participants used constructions of racial identity and gender identity and gives examples from the discourses of the participants to illustrate these constructions.

#### **4.2.1 Racial Identity**

Whereas nationality may refer to geographic boundaries such as place of birth, racial identity is more popularly regarded as being inherent in bodily structures such as skin colour, facial features and so forth. However, race is not physical but discursive and race and ethnicity as a classification system has led to a considerable amount of stereotyping (Illustrated by extract 1). In this extract the participant stereotypes offenders as young black men and also stereotypes society's reaction to young black men.

**Extract 1:**

*“Look, like we all know most violent crimes are committed by black, young black men so that there is problematic. So clearly, if most violent crimes are committed by young black men one does not want to meet a young black man late at night alone. Whether that makes me a racist I don’t care, but there is a, it is, yes and most middle-aged black men would agree with me that they would not like to meet a couple of young black men late at night outside their house”. (MW01)*

The above extract illustrates how participants draw on race through identifying it in certain physical characteristics associated with certain practices, behaviours and even criminality. Such use of the construct “race” functions as a form of stereotyping and serves to ostracise certain groups of people from societies. When racial identity is constantly reinforced by society, it becomes so real that it is difficult to change.

Discourses around race have a particular historical development in South Africa and the manner in which race is constructed by participants is influenced by this history. Large scale institutional racism has been seen in South Africa under the apartheid regime, where racial identity was forced upon members of the population. In 1914, the National Party instituted the policy of apartheid which systematized a long-standing racist organization in the country, excluding ‘non-white’ people from power and as far of possible from different racial categories. The African National Congress (ANC) and other revolutionary organizations such as the Pan-African Congress (PAC) and the Communist Party (all of which were illegal at the time) were increasingly resistant. The end of apartheid began in 1989 under the presidency of the Nationalist leader, F.W. de Klerk who released the ANC leader, Nelson Mandela, from prison in 1990 and who was subsequently elected as president in 1994 (Bloor & Bloor, 2007).

Racial identity for many Afrikaners was believed to be conferred to them not only by the state but also by God. Subsequently, extremist members of the Dutch Reformed Church, considered themselves as the “chosen people” selected by God to rule and the only true human beings. The three sister Afrikaner churches, as they were known, supported these beliefs. Non-Afrikaner white South Africans profited from apartheid and many supported it, but it should be noted that whites, including Afrikaners were represented among the anti-apartheid activists, which demonstrates that not everyone accepted the state-inflicted identity – even when it meant having considerable privileges (Bloor & Bloor, 2007).

In extract 2, the participant makes reference to South Africa’s history of violence which goes beyond Apartheid and the belief that this has made our society a violent society. This extract refers to a culture of opposition, where the participant considers violence and binary oppositions of “us” and “them” as being historically ingrained in South African society. Such a view positions South Africans as being “trained” over centuries to ostracise certain groups and exist in opposition. Drawing on differences based on race is an extension of such a historical predisposition to violent opposition to groups that are constructed as “different” or “other”.

**Extract 2:**

*“Absolutely it is out of control but we don’t think it is. We are going: ‘Ja\*(Yes\*)’, but that is normal’. So we think it is good and normal for us to beat the Australians at rugby. That is the way it should be. You must understand, 400 years of history that has always been one big fight. What now? A violent society”.* (MW01)



Participants often referred to distinctions based on race, emphasising the salience of such a discourse in South African society. Despite the considerable progress South African society has made with regards to eradicating the injustices of the past and moving towards a non-racialist society, the interview texts demonstrate how the remnants of apartheid remain ingrained in the discourse of many South Africans (illustrated by extract 3 and 4 presented below).

**Extract 3:**

*“Well, technically there should be no racial exclusion in this country but I can tell you now that last year when a company\* who I had the contract for quite a few years said: ‘Look, unfortunately because of our business profile we can no longer appoint you but we do understand that you are a composer of music. Do you know any black people who can write music exactly the same way as you?’ And I was like, they never fuckin’ phoned me again. Are you joking? My rights? What rights? We live in what is essentially a fascist state...” (MW01)*

**Extract 4:**

*“Well I actually can believe that there’s racism. I believe if a white person walks into a police station where there are only black people working there, they will not pay as much attention to it as if a black person walks in, and vice versa. I absolutely believe that there’s racism”. (MW03)*

Note that in extract 5 and 6 presented below, the participant refers on the one hand to the “whiteys” and on the other to the “darkies”. The words “whitey” and “darkey” have now become nouns, similar to the white/non-white dichotomy which is constructed as a simple binary choice. The participant places himself in

the position of the racial minority (in this case the “whiteys”) in relation to the “darkeys” which is evidence of race as a social construct.

**Extract 5:**

*“There are the racially based scars on both sides of the divide. In my case I have got the scars of being shot by a young black man without asking any questions. He was truly a Nazi. He shot first and asked questions afterwards. So yes, whereas I don’t make the concept of a universal racism that means ‘because you are black you are bad’, I do harbour certain racist feelings towards blacks which are normal for a person of my background. I dislike the idea of, how shall I put it? The collective, that communist crap, the collective as if everybody is exactly the same. On an individual basis I have many black friends. You won’t burst out laughing there but I do and good friends and I work in a predominantly black environment and I work with predominantly black issues. **Stuff my newspaper deals with is not for whiteys...**You can notice that I am ambivalent about the whole race issue. I think it is being wrongly addressed in this country. It should be put on the backburner whereas at the moment it is, okay under the Mbeki era it was put right upfront. It was the issue that needed to be resolved before other issues could be”. (MW01)*

**Extract 6:**

*“Whiteys don’t realise that crime in the suburbs are but an embryo or a baby compared to crime here in the townships and in the squatter camps. Okay, the darkies whine about it as well but it is, I am talking about my family [inaudible] friends is mostly white. So it is whitey whining or darkey whining”. (MW01)*

Participants' use of words like "whitey" and "darkey" function to emphasise differences based on race. And particularly that these socially constructed differences are drawn on to create an oppositional construction of "us" against "them", where crime is constructed as affecting people differently based on their race. Both groups are constructed as seeing themselves as different from the other and as "being worse off" in terms of how crime affects them. This binary functions here to emphasise that race is regarded as intertwined not only with how perpetrators are constructed, as referred to earlier in this section, but also with how victims are constructed.

In conclusion, power relationships have been institutionalized through government and civil society in South Africa and there are residual forms even today; however since the first democratic election in 1994 there have been beginnings of change. The voices of some of the participants still speak of racial divide and a strong racial identity leading to stereotyping and antagonistic attitudes towards other racial groups. It is also evident that the offender is often stereotyped in terms of racial identity which may lead to a wrongful exclusion of other racial groups from possible offenders. The analysis further indicates that participants not only construct being an offender in terms of race but also construct being a victim of crime through drawing on socially constructed notions of race.

#### **4.2.2 Gender Identity**

Participants also made use of references to gender when constructing meaning around being a victim of crime. The researcher will briefly discuss gender identity and give illustrative examples from the discourses of participants. Most critical discourse analysis issues centre on gender, seeking to identify ways in which discourses support or create gender discrimination. For the purpose of this study the researcher will focus on the way language itself is gendered in that the male pronoun 'he' can be used to refer to either males or females (but not females alone) (Bloor & Bloor, 2007). Although gender may be with us at birth,

institutions and society play a large part in establishing the nature of gender identity itself. It then is not so much a question of biology but becomes a question of gender stereotyping as different behaviours and so forth are associated with each gender (Bloor & Bloor, 2007).

The criminal is often gendered as male as opposed to female, and society will seldom refer to a criminal as female even if gender is not apparent. In the extract presented below, the participant not only makes reference to the race of the criminal, but also specifically refers to the gender of the criminal as male.

**Extract 1: (Repeat)**

*“Look, like we all know most violent crimes are committed by black, young black men so that there is problematic. So clearly if most violent crimes are committed by young black men one does not want to meet a young black man late at night alone. Whether that makes me a racist I don’t care, but there is a, it is, yes and most middle-aged black men would agree with me that they would not like to meet a couple of young black men late at night outside their house. So if that makes me a racist, well”. (MW01)*

The male pronoun is most often used in reference to criminals even if this may include females thereby stereotyping the criminal in society as male. Furthermore, the victim is often gendered with the pronoun ‘she’ illustrating that society often accepts the female as victim and the male as offender. This is evidence that in the construction of the criminal, the male is the perpetrator and oppressor and the female the victim being subdued by the offender (illustrated by extract 8).

**Extract 8:**

*“Because, no, if the victim is there and then just going to court, maybe he just going to court one, maybe three times. And then*

*thirdly they said 'Okay, we must just take this somebody behind bars for 10 years, or 12 years, or for 15 years.' I think that's makes even the victim very happy, because that murdered somebody is behind the bars for 15 years or 17 years, whatever. Sure the victim is not going to see him for such a long time. And then that I think is going to make her much happier because she knows that he's safe now, whatever. I think so". (FB03)*

This is nothing new as society mirrors this struggle with a considerable amount of gender discrimination in terms of educational opportunity, job equality, income, home ownership, work distribution and child care provision.

From the analysis it appears that gender is drawn on in constructing not only the offender but also the victim, where the offender is typically constructed as male and the victim as female. It seems that this discourse positions men in particular ways (where men do not have access to a victim role) and also positions women in particular ways (where women are described as not having agency, as being powerless and as being vulnerable to crime). This illustrates the effects of discourse in shaping subjectivity.

#### **4.3 THE DISCOURSE OF PREJUDICE AND PARTICIPANTS' VIEW OF THE CRIMINAL**

This section deals with prejudice in the discourses of the participants and how it relates to their view of the criminal in the South African society. Racists often think of their race as superior to others or even more mature. Other races can be viewed as childlike and this can be patronizing. The discourses of apartheid were based on such metaphorical accounts. Another dominant frame developing from this is "primitive Africa" which tends to operate in the same way (Bloor & Bloor, 2007). Racist expressions are often based on an evolutionary scale in which the racist is at the most advanced evolutionary stage and other ethnic and

racial grouping are at a more primitive stage of development (Bloor & Bloor, 2007).

The researcher argues that this racist frame is not only evident within the discourse of racism alone but is seen in the discourse of crime in South Africa. While the root of this discourse might be within racist discourse the analysis presented in this section indicates that this discourse is also drawn on by participants when constructing crime in South Africa. The following extracts (extract 9 & 10) illustrate the stereotypical view of the criminal as more primitive in development than the rest of society in terms of educational development and ability to be employed.

**Extract 9:**

*“I think many of the criminals are unemployed and it’s because they don’t have work that they steal; so it is an opportunity in prison for them to learn a new skill or a trade or to further their studies and then to go back into society and make a real contribution. I think out of frustration they commit crime because it’s not like you can stand on the corner of the street and ask someone to pay for your swottings for a degree, so there they at least have the opportunity. If you sit in prison for 4 years, you might as well study”. (FW01)*

**Extract 10:**

*“Because these skelms\*(criminals), they’ll just make money. They don’t want to wake up early in the mornings and go to work. Because I think half a loaf is better than no bread. You can’t sit in your house, stay there and then you get money. How you get money? You have to wake up early in the mornings and go to work”. (FB04)*

In extract 9, the participant stereotypes the criminal as unemployed and uneducated begging on street corners. In extract 11 presented below this construction is extended to also refer to a lack of morality. The participant uses the lexical item “moral codes and values” to describe what is lacking within criminals. To explain further, a lexical item triggers a desired conceptual image or understanding (Bloor & Bloor, 2007). By using the lexical item, the participant implies that there is a mutual understanding between her and the rest of society about the meaning of “moral codes and values”. This is often used when there is a wish that the listener will identify and understand “without prejudice”.

**Extract 11:**

*“People that cannot anticipate consequences. Because they are roaming free, they can do whatever they want; I find it very scary, because inevitably you are going to hurt other people. ...there are no consequences for them; I can do whatever I want so you can wreak destruction if you want to because nothing is going to happen. It obviously is related to your moral code and values, you know, so you will bullshit other people, rob them, steal, lie and you just get away with it. Yes, it’s a moral and value thing obviously”.*

**(FW01)**

The above discussion points to a construction of the criminal as having certain inherent qualities (such as not being employable, being unskilled, uneducated and lacking in morals). Such a description focuses on qualities that reside in the individual, as opposed to descriptions of broader social problems and structural inequalities that perhaps create the conditions for someone to act in ways that are criminal. It is almost as if the criminal is blamed for his or her own lack and inadequacy, while the broader structural problems in society that lead to crime are not attended to in this construction. By constructing the criminal in this manner (in an individualistic manner and as internally flawed) any blame is removed from participants and from society in general and all blame is placed on

the criminal. It further serves to reinforce a view of the criminal as separate from society.

Prejudice against other groups is a widespread feature of social life. It is an aspect of group solidarity and is largely inspired by fear, may it be fear of the unfamiliar, fear of difference, territory, or even fear of change. It is a valuable resource in obtaining and maintaining power (Bloor & Bloor, 2007). Prejudice sometimes has some rational base whether sound or unsound, but it can also operate on an unconscious level as well as conscious level informing what is thought of as common sense (Bloor & Bloor, 2007). To illustrate, in society by and large the criminal is not viewed as a wanted part of society and law-abiding citizens will accept that criminal activity should be punishable by law. The researcher argues that this rational base of thinking in society is a strong predictor of the simple dichotomy of 'us' and 'them', the criminal and society. The criminal therefore has certain qualities that warrant certain treatment, enforcing the construct of the criminal as separate from society.

The following section deals with society's need to view the criminal as separate and distinct from them even if this means geographic control and in extreme responses complete removal from society through death penalties infringed upon them.

#### **4.3.1 Geographic Control as a Function of Prejudice and Power**

One of the implicit themes that emerged from the interviews was the need for participants to have a special divide between them and the offender. The analysis suggests that the removal of the offender from society displays the victim's dire need for subjugation over the offender. Geographical landscape and its regulations are strongly linked with power and domination (Levett et al., 1997). This isolation and partitioning asserts participants' right to an inviolable private domain which is otherwise overpowered by the offender. Participants' understanding of the external world is determined by their physical landscape,



what they own and what they inhabit and a violation of this changes the meaning they hold of their external world. Once they are unable to control their external world they are rendered helpless. The researcher argues that removing the criminal from our external world brings back a sense of control and power to the participants' external world and their creation of meaning in this world.

From the analysis it appears that participants live in a society of hierarchical locations and "race" is part of a system, from the wealthy in the suburbs to the poorest of the poor in the squatter camps or informal settlements. In everyday conversation, social categories divide people by location and form part of a societal prejudice such as: immigrant, boer, squatter, bergie, maid, tsotsi, each bringing with it the concept of location (Levett et al., 1997). Extract from the interviews also indicate that these categories have a history of domination. It is likely that the removal of the offender from society divides society and brings further divide in the category of human versus inhumane, the victim and the offender, us and them. As previously discussed (section 4.2), prejudice is largely inspired by fear, and the removal of the offender from society may remove society's fear and bring back a sense of safety and ownership.

The fear of the offender returning to society is apparent in the need for some kind of branding to set them apart from the rest of society (if permanent removal is not possible). This places the participant in a power relationship over the offender able to control the offender, her or his movements and ability to inflict harm on society (Illustrated by extracts 12 – 15). In the following section the researcher will look at the discourse of dominance and power relations as it relates to the criminal and victim and how this influences the victims' punitive beliefs. In the extracts that follow participants draw on references to reinforcing a separation between the offender and the rest of society. Participants refer to their desire to not to see their offender "for a long time" or even the rest of their life, where offenders are geographically separated from them and the rest of society.

**Extract 13:**

*“Oh, they should be kept away for good. That’s the best way, you know? I think it will reduce the number of people to do a crime like stealing a cell phone or getting to a shop and taking things out of a shop. I think they should just keep them away for the rest of their life”.* (FB04)

**Extract 14:**

*“It has to be a form of incarceration because they cannot be allowed to move freely in society. So whether you’re sending them off to their own little island somewhere like the British used to do, or you’re putting them in a prison with walls or whatever, you’ve got to keep them away from other people somehow. So I don’t know that there’s another option to removing them”.* (FW05)

In extract 15 below, the participant wishes that the offender should be branded by society as a total rejection of the offender. This will make it possible for the victim to dominate the offender and reverse the previous power relationship of domination that existed between the offender and the victim. It should be noted that these themes not only address prejudice and the need for geographical control but also power relationships and control over the offender which will be discussed later in this chapter.

**Extract 15:**

*“Not prison. Prison doesn’t do anything I guess because they come out. Maybe cut their fingers out every time they do something wrong. And then you could actually, people could actually notice that, oh, this one doesn’t have a finger. This one must be the bad person that does things. Maybe have a sign that this person is not an okay person around other people. That’s what I think”.* (FB03)

This victim indicates a need for offenders to be removed from society. However, at the same time society must not be held responsible for the needs of the offender (in terms of care through tax money). It is established throughout the study that the victims do not want to be accountable or responsible for the offender and it may be that the offender has a debt to society that she or he must settle before returning to society. In extract 16 – 19 that follows below the participants make it clear that the offender must be removed from society and not have a “too nice time” where they land up. In a sense the participant wishes oppression over the offender as they were oppressed by the offender. Again, there is a reversal in the power relationship and the need for control.

**Extract 16:**

*“Well, firstly they’ve got to, there’s a duty to protect people. Okay? So I think those people should be removed from society. And I think they shouldn’t have too nice a time wherever they land up.”*

**(FW05)**

**Extract 17:**

*“It’s like I said earlier about criminals being put into jail but it’s like a big holiday, or they get out early, yeah so what about the person who was attacked? Or was robbed or whatever the case may be? Raped?”* **(FW02)**

**Extract 18:**

*“I do believe that there is a certain level of prisoner that should not even have any rights as in voting rights and things like that. They wronged society and that there’s a punishment. You can’t wrong society and go and sit in a five star hotel where the only difference is the doors are locked. And still carry on with the rest of your life”.*

**(FW05)**

Geographical control over the offender is a way for the victim to reverse the power relationship of dominance that the offender once had over the victim. This gives the victim a new sense of control which is taken away by the criminal act. This loss of control and a sense of powerlessness will be discussed shortly.

#### **4.4 THE DISCOURSE OF DOMINANCE AND PARTICIPANTS' VIEW OF CRIME**

Crime and violence has a subjugating power of repressing individuals to a state of obedience and docility to the offender (Levett et al., 1997). However violence in itself contains elements of resistance to institutionalized norms such as seen in the South African society where the African National Congress (ANC) resisted the apartheid regime often by force and the opposite also being true where the resistance movements were met with violence by the apartheid government (Levett et al., 1997).

Dominance is by no doubt practiced and reproduced through language. According to Van Dijk (1998), dominance is defined as the exercise of social power by elites, institutions or groups that results in social inequality, including political, cultural, class, ethnic, racial and gender inequality. Dominance leaves the subjugated party powerless as seen in extract 19 where the participant felt that she could do absolutely nothing to stop the crime from happening and it was a violation of her privacy. Privacy in itself is a way for the participant to have control over her life and if this is violated she is unable to claim this control.

##### **Extract 19:**

**Researcher:** *Why did you feel like that?*

**Participant:** *“Because of the sheer powerlessness of something like that happening. There’s absolutely nothing you can do about it. You get the police, they come and take fingerprints, if there are*

*any, and that's it. That's gone. That's over. The total invasion of privacy. That feeling of standing in a room and knowing a stranger that you have never seen, and probably never will see, stood there, put his hand into your cupboard, and took your stuff".*

**Researcher:** *What do you feel is the greatest violation for you?*

**Participant:** *"Violation of privacy". (FW02)*

Furthermore, in extract 20 the participant felt immobilized as he was not only robbed physically but robbed of his freedom. He feels that he is unable to do what he wants to due to the dominance of the offender in his life. This makes him a prisoner in his own home. Here is an example of how the offender does not only dominate the victim at the time of the offence but that society is constantly dominated by offenders in the way they have to live behind high walls and enclosures to ensure their safety. The participant also makes reference to "jy moet laer trek" which means that he goes to war with the offender - a deep desire to dominate the offender.

**Extract 20:**

*"Ek dink dit het 'n immobiliserende aspek wat ons van vryheid beroof. Jy is nie in staat om te doen dit wat jy wil doen nie, as jy altyd oor jou skouer moet kyk nie. Jy het nie vryheid as jy moet alarms stel en yster hekke moet sluit nie. Jy kan nie beweeg waar jy wil nie, want jy moet versigtig wees van hoe laat is dit? Is dit veilig? Dit is, mense se vryheid word beroof. Jy's ge-immobiliseer, jy moet gaan hok slaan. Jy moet laer trek, jy moet jouself beveilig".*

**(MW03)**

**Extract 20:**

**(Translated in English)**

*“I think it has an immobilizing aspect that robs our freedom. You can’t do what you want to do if you must look over your shoulder all the time. You don’t have freedom if you must always set alarms and lock up iron gates. You can’t go where you want to because you must always be careful about what time it is. Is that safe? It is because people’s freedom gets robbed. You’re immobilized. You stand in a cage. You must encamp and secure yourself.” (MW03)*

Resistance is aimed at not necessarily against the repressive forces but against the actions that tie them to a particular identity, for example racial identities (white versus non-white) and associated discrimination as discussed in section 4.1. The identities people are associated with be it racial, gender, class or nationality bind people in a social and physical context which may demand of them to act and behave in a certain way - for instance, the identity associated with women often places them in a subordinate position in relation to a male dominant society. This is evident in the number of women in executive and governmental positions.

The power that is in operation in society aims not only to produce citizens that are peace-loving, but the power in society is also constraining individuals who are coming into opposition with these powers of violence. The following extracts further illustrate this sense of powerlessness that participants feel and the criminals’ ability to place the victim in a subdued position of dominance (illustrated earlier by extract 17). The victim becomes the prisoner while the criminal has a position of authority over the life and living of society (illustrated by extract 21 & 22).

**Extract 21:**

*“You know that you can’t do the same things you used to be able to do in the past. You don’t have the same freedom”. (FB03)*

**Extract 22:**

*“Daar was genoeg crime in die afgelope paar jaar om ons woonbuurt, om mense te dwing om soos gevangenis in die huise te leef. Dit maak my bomenslik woedend, want as jy nie in jou eie huis veilig is nie, dan begin jou, dit jou denke versteur. Jou eerste plig is self-verdediging en dan jou gesin en jou familie, die oomblik as jy nie in staat is om dit te doen nie, laat dit jou of extreme optree of dit laat jou oorgee. Jy voel magteloos.” (MW03)*

**Extract 22:**

**(Translated in English)**

*“There’s been enough crime in our neighbourhood in the past few years to force people to live in their houses like jails. It makes me superhumanly angry because if you’re not safe in your own house, then your mind starts getting, you thoughts get disturbed. Your first responsibility is self-defence and then your family members and other family. The minute you can’t do that it lets you act extreme or it makes you give up. You feel powerless.” (MW03)*

Participants’ discourses indicate that they have to a large degree reached “tipping point” in their tolerance towards offenders. Participants relate this to an imbalance of power resulting from the violence exerted on them and the constant guard and fear for their safety which has shaped them into holding a markedly punitive view in dealing with offenders. Participants construct a view of society as no longer wanting to afford any offenders privileges which they themselves cannot enjoy and the infringement on their rights have become the centre-point of their argument for a removal of rights of the offender. Extract 23 is an

example of one of the participant's reaction to crime and her emotional reaction to it.

**Extract 23:**

*"It has made me very much more aware of it. It has made me more enraged about it. I get more easily upset when I read about it. I am I think more nervous, more, I'm scared more often. And I get very upset about people who are let go because of a technicality in the case or something like that. Or people who are caught and they go out on bail and they go and do the same crime again. It, the emotions that I feel about stories like that are a lot more amplified than it used to be". (FW02)*

Participants state that as part of the tax-paying society they demand that their money is not spent on sustaining the ones who oppress them (offenders) and uphold a view of society as becoming increasingly merciless towards the offender (illustrated by extract 24 - 28). In extract 24, the participant brings in the argument of "crime free" war torn countries that have death penalties, without considering the broader injustices that are taking place in those countries. This extract emphasises a drive towards dominance over the offender, a power relation which is constructed as a rebalancing where the offender dominated the victim and society should in turn dominate the offender.

**Extract 24:**

*"Hang them. Hang them. I say bring back the death penalty, public. They do it in Iran. They put a crane down to the rope and then they lift them up, there. How much crime do you think there is in the war torn countries?" (MW02)*

This stance does not give a great deal of leniency towards a society where Restorative Justice can become a part of the justice system as civil society is fighting for stricter and harsher punishment as opposed to a justice that brings



restoration. Extract 25 again illustrates that the participant needs to see that the punishment fits the crime. He believes that this is a universal norm, however adds that he personally would like to see a much harsher punishment than this and is therefore glad that his views are not the norm. This is indicative of a very strong punitive view towards offenders which goes beyond society's prescriptions.

**Extract 25:**

*“Okay, it is, they must be punished and punished quite harshly. I am once again ambivalent about the death penalty. It depends on the day. Clearly the day after I was shot the death penalty seemed like a brilliant idea to me. I am not a hateful person in the [inaudible] - so yes, too many criminals get away without any consequence and once again it is the police that are at fault. So the punishment should fit the crime. That is a universal norm and I agree with that. I don't think that - ja - punishment; I believe strongly in the rule of law. That is, although I personally would want to slowly torture most criminals it is good that my views are not the norm”. (MW01)*

**Extract 26:**

*“Oh. I come from a country that when you kill somebody, you get killed. So that's the best solution that you could ever come up with. If you kill somebody, justice should kill you too. But after investigating if you really, really killed that person intentionally, not accidentally”. (FB03)*

**Extract 27:**

*“Oh, I hate that one! Rape is the worst. Rape is the worst. I'm always praying God that whatever happened to me, it mustn't be a rape. Because I think it's the last thing I'm going to die with that*

*wound of rape. Because the people outside, they're sick of AIDS. Somebody's coming to rape you, he have got AIDS. What's going on? What if be out there? So you're going to be, end up with AIDS. And I think government we'll back him. We'll back him. He must just bring the death penalty". (FB04)*

**Extract 28:**

*"I think the president must allow the policemen just to shoot to death. Definitely they must do that. No matter you white, you green, you black - whatever. A crime is a crime. There's no other way. There's no other way. They must just shoot them. I agree with them". (FB04)*

Although the death penalty has been abolished in South Africa, participants call for harsher punishment, the death penalty and a merciless system. A system they demand that the state institutes to protect them against the dominating power of the offender. They are fighting for punishment that fits the crime and beyond. Discourses of powerlessness are seen throughout the text and a call for the death penalty may give the victims a sense of freedom from the powerlessness and the dominance of the offender. The researcher questions how this punitive discourse of dominance is able to change to a discourse of restoration which may open the possibility of restorative justice as an alternative to harsher sentencing.

#### **4.5 THE DISCOURSE OF POWER RELATIONS AND PARTICIPANTS' VIEW OF CRIME, JUSTICE AND RECONCILIATION**

Foucault exclaimed that power is,

*...not the exercise of some dramatic force emanating from a single point at the apex of the state. Power is rather a function of a*

multiplicity of discursive practices that fabricate and position subjects. Power is productive. Rather than believing in an autonomous all powerful state, discursive work describes ‘acts of power’ which are performed and the conditions which allow these effects. (cited by Levett et al., 1997, p. 3)

Power relations constantly affect societal discourse and society’s response to these power relations are often seen in the dominant discourse around these relations. An illustrative example is how crime and violence in society has become the dominant discourse, and how society has accepted this role and the power it exerts over society. Society no longer wakes in the face of violence and crime but accepts this powerless position. This is illustrated by extract 29 in the blasé way in which crime is treated in conversation.

**Extract 29:**

*“All I know is that everybody goes ‘Oh! Another hijacking. Are you okay? Ja. (Yes) Good.’ Nobody even says the details. ‘Where did it happen?’ ‘Oh no, there on Empire Road. Do you want a beer? Ja. (Yes)’.* (MW02)

In many ways society has accepted “their fate” without showing resistance and stepping back in the face of the all powerful criminal. Society has made crime a norm and the researcher argues that by making crime a norm society has afforded the criminal the power position they hoped to impose on society and society is wilfully becoming subordinate in this relation. Again, extract 30 illustrates how our society has become desensitized to crime. The participant indicates how he and his girlfriend continue as normal after an armed robbery which occurred the previous evening, as if nothing happened. He even refers to the incident as “lekker” (nice), indicating a lack of sensitivity to the situation.

**Extract 30:**

*"I think that crime has become acceptable, you know. Look at me. I am going on the next day. Now look, if this had happened in London we would be front page Sky news. We would be on the fuckin' TV networks. Oh, my God! Three armed men broke into a house and there was, I mean, Lesley\* screamed so loud people were jumping out of their houses four houses away. Alarms flying. I am chasing people down the road. Dit was lekker (It was nice\*). Alright? Yes, now, I mean, if I had to ask my sister who has been living in London if that happened to her, she would be in therapy for the next four reincarnations. I am sitting here having a dop\* (a drink\*) waiting for my girlfriend to have her hair done, and she was the one who raised the alarm by threatening to take their balls off".*

**(MW01)**

In extract 31 the participant refers to crime as something you talk about "like the weather". This exact also indicates the total loss of control and powerlessness of society over crime and the participants not knowing how to change the situation and realizing how "out of control" the situation is. Society in turn reacts to this loss of control with a sense of apathy in order to deal with the situation.

**Extract 31:**

*"You talk about what you read in the newspapers and how terrible it is and how sad and especially if it is a child and if you know how someone got hurt. But it is almost like talking about the weather - no-one's got a real solution and everyone feels as if they don't have control. So it's really just a way of conversing. It's an everyday conversation. How terrible is that and that is where it ends and everyone feels some kind of apathy. I don't know, maybe its not apathy - maybe it's just out of control? There is nothing I can do to*

*turn the situation around. Hmm, I think most people are passive about it, not necessarily apathetic". (FW01)*

Again, in extract 32, the participant compares the crime situation to that of South Africa beating Australia in rugby. It is a given for him, "the way it should be". This has become a dominant discourse in South Africa – we are powerless against crime and it is just the way it is in South Africa.

**Extract 32:**

*"Absolutely! It is out of control but we don't think it is. We are going "Ja\*(Yes\*), but that is normal." So we think it is good and normal for us to beat the Australians at rugby. That is the way it should be". (MW01)*

In extract 33 below the participant further exclaims that a great deal of people have been touched by the crime situation in South Africa. This has made it an everyday occurrence.

**Extract 33:**

*"...it's an everyday occurrence. It's not a case of there's a murder once a month in a city. It's an everyday occurrence, and because there are just so many people who have been touched by it". (FW02)*

This brings the researcher back to Foucault's (cited by Levett et al., 1997) understanding of power as a function of a multiplicity of discursive practices that fabricate and position subjects. The discourse of power or the loss of power, positions the South African society in such a way that the offender has rule and power over them. Their "acts of power" not only positions the offender in a power relationship over society, but society also creates the conditions which allow these effects by placing themselves either consciously or subconsciously in this

role of allowing this power relationship to continue. This is amplified by society's apathy towards crime and acceptance of crime as "the norm".

#### **4.5.1 The Media and Power Relations**

Participants made frequent mention of public discourses around crime and how the media shape society's views about crime and justice. The media fulfil a power relationship with society in that it may direct the discourses that society has about crime and justice. Through its reporting of crime it directs, persuades, and shapes thinking about crime and justice. It is the lens through which society is able to view crime and is therefore in the powerful position of changing the course of society's thinking and beliefs through what it reports and how it reports it.

Excessive reporting of violence in the media can desensitize society to such an extent that violent crime is no longer being frowned upon when reported in the media but is seen as an everyday occurrence. The media in turn amplifies their reporting to gratify society's need for newsworthy events. As discussed in Chapter 2, the media is of fundamental importance in constructions of criminal justice and criminal justice agents. The majority of public knowledge about crime and justice is derived from media consumption (Ericson et al., 1987; Graber, 1980; Roberts & Doob, 1990; Surette, 2007).

Extract 34 below illustrates the participant's view of the media as guided by the so-called "purse-strings" and selling news is what keeps media commerce operational. What is interesting in this extract is that the participant does not view the media as part of general society as she contrasts the media with society in general. This would imply a power relationship between society and the media.

**Extract 34:**

*“I think they’re trying their best. I think most newspapers and news programmes are trying their utmost best to put a spotlight on it and to show it for what it is. But, yeah, they also have to dance according to the people who hold the purse strings. And I think also often it’s a case of ‘Oh well, we’ve already written about five murders this week, we’re not going to write about the sixth or the seventh one.’ I think they’ve become, the Afrikaans word is vuisvoos. Just like general citizens. But I think they are trying, they’re trying very hard”. (FW02)*

Extract 35 below further demonstrates this relationship in the way in which the participant discusses how the media marginalizes the victim in its portrayal. The media as viewed by the participant is concerned with sensationalizing crime (also illustrated by extract 36), exploiting victims and not showing the full picture. The power of these structures is maintained by the state and both within the media and from societal pressures for newsworthy events.

**Extract 35:**

*“Well, it depends on the specific medium. Because 99% of all media are, have some political affiliation, whether it’s conscious or just because they’re more right or left leaning. Yeah, I think there are newspapers specifically who go for sensationalism and then they will put all the spotlight on the victim, which is not necessarily wrong, but it’s the way they do it. Whereas others will try and make the criminal look like this poor sad person who’s never had a chance in life”. (FW02)*

**Extract 36:**

*“Sekerlik ook met ‘n vet streep sensasie van [unclear] koerante om te verkoop, maar as dit nie daar was nie, as die oortredings nie*

*daar was nie, as die korrupsie nie daarin was nie, as die syfers, die statistiek nie gewys het nie, dan sou hulle in elk geval niks gehad het om oor te rapporteer nie. So ek dink hulle hou van die sensasie, maar hulle neem hulle watch dog opdrag ernstig op en ek sal eerder wil hê dat hulle elke dag hiervan rapporteer sodat die dinge meer transparent kan wees... So, ja, ek het nie probleme met die manier waarop hulle, al lyk dit partykeer 'n vet streep sensasie. Sensasiesoekend". (MW03)*

**Extract 36:**

**(Translated in English)**

*"Definitely also with a fat lot of sensation [unclear] so newspapers can sell, but if it wasn't there, if the violations weren't there, if the corruption wasn't there, if the numbers, the statistics didn't show it, they wouldn't have had anything to report on. So I think they like sensation, but they take their watchdog role seriously. And I would rather want them to report this every day so that things can be more transparent... So, yes, I don't have a problem with the way that they...even if sometimes it looks like a fat lot of sensation. Sensation seeking." (MW03)*

Extract 37 also portrays the media as an offender in society. The participant draws reference to the perception of dishonesty of the government and then elaborates on the integrity and competence of the government thus placing the government in a similar position over society. Furthermore the participant places the police in a centre position between society and the media by her reference of "they are getting it from all sides".

**Extract 37:**

*"I think they've, to some extent there's reporting to combat dishonesty on the part of the government because the government*



*has obviously been dishonest about things like crime statistics. But I think sometimes they sensationalise it as well. What little contact that I've had with the media has led me to believe they can't get anything right. So I'm sceptical of the facts they publish, because I've had very, very marginal little contacts with them and nearly every time they've managed to get at least one important fact wrong. Then I know they've got it wrong because I had the interview with them or I sent them the photo or [unclear] else. So I know what I sent or I know what I wrote with the photo and they published as something different, so ... I think they could probably look a bit harder for the hero stories. There are still a lot of dedicated cops out there. And I really think they have a hard time of it. They're getting it from all ends". (FW05)*

Society looks at crime and justice through the lenses of the media and the media hold the power to direct society's opinions, beliefs and perceptions. Society feeds on the media and places a demand on what they need to hear, see and ultimately "buy" and the media in turn delivers what society is willing to "pay" for. Thus the relationship is reciprocal. Society is in many cases not satisfied with the outcome of the media such as seen in extracts concerning the media sensationalizing crime, exploiting victims and not showing the full picture. However, society shows dissatisfaction with the media if it reserves sensationalism and subsequently sales decrease. From the extract it is evident that the power relation of the media with society is maintained by society and by the state.

#### **4.5.2 "And what about my rights?" – Power Relations and the Need for Justice**

The construction of justice is multi-dimensional and holds within it various punitive beliefs of which law breaking and the subsequent consequences are the most strongly upheld in society.

From the interviews it also became evident that participants only feel that justice is served when those who infringed on the societal boundaries are punished according to their infringement. Thus the statement that the punishment should fit the crime is very applicable in society.

In the following extracts the researcher wishes to give the participants a voice where they may have been silenced before by a justice system that did not provide them justice, or by a state that did not grant the victim the rights they so justly award to the offender.

Extract 38 illustrates how the participant views the justice system as a reflection of society. The justice system is constructed as the protector and voice of society (as illustrated by extract 39). In such a construction the decisions of the justice system give society the ability to live in peace and freedom and the victim is able to make peace with what the justice system prescribed. When society offends, the justice system is able to wave the flag of peace by balancing the power relationship between the victim and the offender. Participants construct this as the desire of society - a justice system that gives them peace. Such a discourse opens the possibility of a justice system that brings restoration. According to the participant, this is after all the eventual goal of victims, namely to find peace and restoration. As stated by the participant - "if you feel that the justice system looks after your interests then I have peace".

**Extract 38:**

*"Wel, die, want ons regstelsel is ook 'n refleksie van ons samelewing. Die regstelsel behoort te praat vir die mense wat nie kan praat nie, dit wil sê ek en jy en die publiek. Hy's daar om na ons te kyk en as jy voel dat die regstelsel jou belange sal behartig dan het ek vrede. As daar onreg teen jou gepleeg is en, of jy kan sê die straf is 10 jaar of 15 jaar, of 3 jaar, of 2 jaar of 'n swaer boete*

*of community service of wat ook al en dit gebeur dan daarvolgens, dan maak jy vrede met dit. Ons samelewing het opgetree teenoor hierdie oortreding”. (MW03)*

**Extract 38:**

**(Translated in English)**

*“Well, this, because our justice system is also a reflection of our society. The justice system should talk for those who can’t talk. This means, you and I, the public. He is there to look after us and if you feel the justice system should manage your interests and then I have peace. If injustice has been committed against you, or you can say the punishment is 10 years, 15 years, or 3 years, or 2 years or a heavy fine or community service – whatever, and it happens like that, then you must have peace with it because our society has acted against this offence.” (MW03)*

**Extract 39:**

*“We have the right to be safe in our own home, but it gets violated by people who don’t think you have the right, because you have, I will take it from you. So, yes, those rights have to be reinforced by the police and the community and one has to get everyone to reinforce those rights. Yes, I think one must fight back to get those rights”. (FB03)*

In extract 40 the participant describes justice as the punishment of a wrongful act but also that those who are innocent should not feel guilty. The researcher is inclined to think that this statement may be indicative of a justice system that marginalizes victims and dehumanizes their experiences by not giving them a voice. There is a sense that the participant is voicing a cry to be recognized without prejudice and be acknowledged without being shamed.

**Extract 40:**

*“Dit is wat justice behoort te wees. Die wat verkeerd gedoen het behoort gestraf te word. Die wat onskuldig is behoort nie skuldig te voel nie. Dit wat reg is, is reg. Dit wat verkeerd is, is verkeerd. Dit is justice”.* (MW03)

**Extract 40:**

**(Translated in English)**

*“This is what justice is supposed to be: those that did something wrong must be punished, those who are blameless shouldn’t feel guilty. That which is right is right, that which is wrong is wrong. This is justice.”* (MW03)

Again, in extract 41, the participant points us towards a discourse of justice that should be impartial and treat people likewise. Restorative justice involves a series of strategies that attempt to bring together those most affected by a criminal incident (offenders, victims and community members) in a non-adversarial process to promote offender accountability and repair harm resulting from crime (Bazemore & Umbreit, 2001). By its very nature it leans towards impartiality as it strives towards restoration for both the victim and the offender.

**Extract 41:**

*“Justice means treating people even-handedly”.* (FW05)

The justice system’s hierarchical structure leans itself towards an abuse of power which renders society helpless as those who need to enforce these rights are often the very ones who abuse this power. Within any power relationship there is the possibility of oppression which exploits those who are supposed to be protected by these institutionalized powers (illustrated by extract 42 & 43). In extract 42 the victim refers to himself as “I am nobody” in relation to the justice system. This indicates a discourse of being marginalized by the justice system,

not being taken seriously and even victimized by the very power that is placed there to protect society.

**Extract 42:**

*“The treatment of my case was shabby to say the least, incompetent. The cops, the robbers left my wallet with my cards in my, by, after request by myself and the cops came in afterwards when I went to hospital and the cops stole the wallet. There was no investigation. There was, they did not nothing, I mean, so the catchment’s area of justice there were the reign of justice must fall on street level because I am a nobody they take, they didn’t take this seriously, you know, at all. That I was shot in my bed at 17 minutes to four in the morning left them completely cold. They rather chose to steal my wallet and some other odds and ends in my house when I went to hospital”. (MW01)*

**Extract 43:**

*“Well, I just thought that there’s no justice in South Africa. That’s it. Just thought that they couldn’t help me get my stuff, so I guess they just left those people. Even my docket number, I don’t even have it right now, but they told me they’re going to give it to me”. (FB03)*

In the following extract (extract 44) the participant had difficulty explaining what justice is but was able to explain what justice is not. Society’s discourse about justice is often shaped around what justice is not, as opposed to what it is. Justice discourse has a negative connotation instead of a positive restorative association. It is not corruption, it is not incompetence on the side of the police and through these opposites justice is defined by participants.

**Extract 44:**

*Researcher: "What is the first thing that comes to mind when we talk about justice?"*

*Participant: "Corruption."*

*"Because the ANC is being led by, is not being led but is more interested in putting people in places because of not what they are but because they belong to a circle of friends. It is essentially the same system as a [inaudible] assess system because there it is who you know and not what you know. It is the same thing as any corrupt government in the world." (MW02)*

Reference is also often made of non-action or the passivity of the vehicle of justice to act in the interest of society such as described in extract 45. This perception of unresponsiveness of the police is a common discourse in society which has led to society's belief that the police are unable to protect them or bring about justice. There is also an underlying assumption in this extract that in the past (implying prior to 1994 during Apartheid) the police would take action. However, this is believed to no longer be the case.

**Extract 45:**

*"Well, no, not really. Ag yeah, it was as I said, nobody's going to try and find the person who broke in, because well they just don't do that anymore. Who's going to look for someone who stole a TV, a hi-fi and a duvet? It's such a, it's become a petty break-in. Nobody's going to do anything about it, so, first of all as I said, we don't have insurance so why go through all the trouble, secondly they're not going to do anything about it. It's not like we're going to get our TV and our video back. Our TV and hi-fi back". (FW02)*

Extract 46 gives further reference to a construction of a CJS that is unable to do the task at hand and a severe lack of confidence in the CJS. The participant also makes mention of the “will” of the police service to handle cases albeit small.

**Extract 46:**

*“Ons sit met ‘n groot [unclear] in ons polisiemag wat as kwalifisering voor hulle kan by die polisie aansluit moet hulle matriek hê, maar hulle kan kwalik met die publiek praat, hulle is nie in staat om verslae af te neem, te skryf ordentlik nie, daar ek vind nie dat daar ‘n wil is om selfs klein sakies op te los nie. Ek het al dikwels en ek het dit self daar gaan beleef met ons ding dat die vingerafdrukke mense het nie eers uit, of toe hulle uitgekom twee dae na die tyd, daar was geen opvolg om te sê “Ons het so en so gedoen en hierdie persoon is aangestel, of ...” (MW03)*

**Extract 46:**

**(Translated in English)**

*“We sit with a big [unclear] in our police force that must have matric to qualify to join the police but they can hardly talk to the public, they don’t have the ability to write reports (take statements), or write properly and then I don’t think there is a will to even solve small cases. I have often...I have experienced it there myself with our fingerprints people didn’t come out, or if they came out after two days, there was no follow up to say: ‘We did this and that or this person was appointed, or...” (MW03)*

What is the driving force or “higher power” behind the CJS? As the participant in extract 47 perceives the police to be the spearhead of the CJS; however the state has to provide the political will to combat crime. The CJS is therefore in a hierarchical relationship with the state whereby the state prescribes and determines the direction and therefore also the discourse within the CJS. The

instant the state grants authorization, be it direct or indirect to the police services, they have an increased ability to address crime in South Africa (as indicated by the participant in extract 37).

**Extract 47:**

*“If the police did their job they would. I have full confidence in the structures of the South African Criminal Procedures Act and the law and the prescribed punishments but I do not have any confidence in the spearhead of that system and that is the police but I am gaining confidence now because I think there is the political will to do something about crime”. (MW01)*

Several other extracts referred to the incompetence of the police services and reference was also made to aspects such as bribing and corruption. These extracts will not be discussed in order to limit the scope of the dissertation. From the interviews it was evident that enforcing rights (which in itself is a power relationship) would provide society with justice and peace. Most of the participants define justice in terms of the law and society’s reaction to those who break these laws. Society places penalties on its citizens and regulates behaviours and any deviation from this behaviour carries with it the consequences and an infringement of the rights of those who are behaving within the boundaries that society has placed.

Distrust in the CJS may have lead to participants’ marked punitive beliefs as they no longer see a justice system that is able to protect them from the evils in society. The less justice is served according to their construction of justice the more inclined they are towards punitive discourses and moving away from restorative options.



### 4.5.3 The Power Relation of Violence

What is the relationship between violence and peace? Peace is commonly thought of as involving consensus, but in contrast, it offers a conception of power and resistance which suggests that peace is not a consensual, terminal or universal value (Levett et al., 1997). Violence and peace are typically constructed as mutually exclusive. As Levett et al. (1997) state,

Peace emerges as a good force in opposition to one that is violent. Therefore 'peace' can be used in a manner to imply that violence may be quelled by increasing the force of peace. (p. 31)

But what is the discourse around violence in South Africa? The forces of violence are the all powerful forces interplaying in the lives of everyday people, and people live in hope and confidence to still these forces, be it with violence. In extract 48, the participant exclaims her desire to use physical force against the force of violence - to subdue violence with violence. The participant constructs this as a need to reverse the repressive relationship with the offender through retaliating with force.

**Extract 48:**

*"I never thought of it. I've had visions of taking a baseball bat and smashing someone's head in, although not necessarily the person, the people who perpetrated the armed robbery. The people who broke into my house took things and left. I have visions of catching them in the act and blowing their heads away, even though I don't even own a gun". (FW02)*

It is apparent that crime and violence has a subjugation power of repressing individuals to a state of obedience and docility to the offender. However, violence in itself contains elements of resistance to institutionalized norms - for

instance, uprising during the apartheid era by the ANC was coupled with violence as a means of resisting the government.

The power that is in operation in society aims to not only produce citizens that are peace-loving, but the power in society is also constraining individuals who are coming into opposition with these powers of violence. This is also evident in society's reaction to crime and criminals as they are coming into opposition to the power of violence. Participants construct society as no longer producing only peace-loving citizens but also citizens that do not want to be tied to the identity of victims and are coming into sharp resistance against this as illustrated in extract 49.

**Extract 49:**

*“Well let me ask you this. Louis Theroux, Paul Theroux’s son, the writer comes out and he does this exposé on crime in South Africa. So they catch the oke red-handed after he has beaten the crap out of people and shot at them and they beat the shit out of the criminal. Alright? Louis Theroux sits there and goes “Can I get you a fuckin’ ambulance?” and the people around him in South Africa started laughing because they went “(A) he deserves it. (B) If he bleeds to death that is one less and (C), you call an ambulance here do you know how long they will take? Grow up, this isn’t London.” Justice? Harsh and then, look what is this? They are going to lose the docket. He is going to go to court. Six years later he is going to escape from the fuckin’ system. The system doesn’t work. It has failed us because it is politically correct now. Alright, so what I do is, take them out. There are a lot of mineshafts around here and it has been done often. End of problem”. (WM02)*

#### 4.6 RECONCILIATION AND RESTORATIVE JUSTICE

As discussed in Chapter 2 in the literature review pertaining to restorative justice, victims of crime often describe that they benefit from a reconciliatory process of forgiving the offender. The extracts below (50 - 52) illustrate a need for forgiveness (forgiving) for these participants in order to maintain or reach some form of peace.

**Extract 50:**

*“Reconciliation, I think it means a just like me, somebody who do something to me and then I must just have a peace with that somebody. If he just tell me ‘I do this 1, 2, 3. And then please forgive me’. And then I think its reconciliation”. (FB04)*

**Extract 51:**

*“Sjoe. I suppose if I think about people who, from my perception did really wrong, I would like to face that person and ask him why he did what you did. I’d like to hear that person say ‘I am sorry for what I did’. And then that’s it. I would like to hear someone say ‘I am sorry’. (FW02)*

**Extract 52:**

*“I think if there’s no remorse, there’s no value in trying to talk about it... Then I don’t think I’d even like to meet that person. Because it will upset me even more. It will, the negative emotions, the rage will be even greater...But there also needs to be a point where there’s forgiveness. And forgiveness in the sense that they can go out and start life again...If someone has paid their debts, and they were punished then there should be forgiveness and they should be able to continue life...Personally, as I said at the beginning, if the outcome of that conversation is not going to be that that person’s going to admit what he or she did, and apologise for it,*

*then I would rather not have the conversation. Because if that person is not going to have remorse, then it's just going to make me even angrier than I already am. Then I would rather not have the conversation". (FW02)*

Remorse and subsequent forgiveness often gives the victims a sense of autonomy and assist the victims in the process of regaining power. It is a process of empowerment for the victim (Zehr, 1990). When the offender displays remorse, the victim experiences a sense of regaining back what has been stolen from them whether it is emotional or physical as the very act of remorse becomes an act of balancing the power relationship and domination. The victim is able to empower themselves by forgiving the offender and finding a purpose in life.

There is a discourse that emerges from the theme of forgiveness regarding the victim's ability to "move forward" or "move on" with their lives when they are able to forgive. It is apparent that many victims feel that forgiveness affords them this opportunity. It is therefore an act of power in the hands of the victim over their own lives and not so much over the life of the offender. The discourse also relates to the well-being of the victim which is determined to a large extent by their forgiving of the offender (as illustrated in extract 53). In the extract presented below the participant describes this need to "forgive and move on".

**Extract 53:**

*"You have to be able to forgive whoever has committed a crime against you. You must get to the point where you don't take it personally. Because if you're going to take it personally, you're going to end up in a mess. And so, yeah, I think you need to get to that point of forgiveness and acceptance and move on. That's ... Some people might feel motivated to get involved in some kind of a programme that helps with rehabilitation or whatever. I don't think you have any duty to do that. I think quite frankly, yeah, if you want*

*to go ahead, but it's really not your duty. I don't think you owe the criminal anything, let's put it that way". (FW05)*

The positive contributions of these approaches toward humanizing relationships between offenders and victims serve as a process of humanizing the offender. This process of humanizing the offender is a frame with which to understand reconciliation and notions of justice (White, 2003) (illustrated in extract 54)

**Extract 54:**

*"Oh, yes, if you can see that even though he had a gun in his hand he is just a human being. But one must obviously also look at the perpetrator, if the perpetrator wants to do further damage and doesn't have remorse for what he has done then the process will not be good. So both parties must be willing". (FW01)*

In South Africa, the TRC heard testimony from over 22,000 individuals and applications for amnesty from another 7,000. Since then the idea of restorative justice, in general, is gaining more widespread support, especially following the creation of the International Criminal Court. Restorative justice holds within its definitions the possibility of victims being able to find the type of justice that leads to reconciliation and gives the victim a voice within the justice process (Zehr, 1990).

One of the participants drew on a construction of reconciliation as a process of rebuilding, which in itself implies that the former relationship was demolished or broken down. Rebuilding can also imply restoring the power relationship where the perpetrator victimized society and society are able to reclaim this power by enforcing justice (consequence) and restoring the power balance.

In constructing restorative justice it can be kept in mind that society creates its own reality through social processes and knowledge sharing and that any

definition of restorative justice and subsequent belief will be a subjectively constructed version of current accepted ways of understanding and the processes people engage in. Restorative justice affords perpetrators the opportunity to repay the damage done to society. From the extract below, it is evident that the participant leans towards a restorative approach in their dealing with the offender. Repaying society is a way for society to regain power of the offender and restoring balance (illustrated in extract 55). The offender is subjugated in a relationship with society of recompense, and society is able to benefit from this relationship through alternatives such as forced community services.

**Extract 55:**

*“I think people must be given an opportunity, I think they must be punished but I think they must be given an opportunity to give back. I like the idea of community service. It is a good alternative. Instead of just giving a suspended sentence you say ok, now you’ve got to give a bit. Let them work in state hospitals, wash the floors or whatever, yes, our whole state system is overworked and understaffed and this is the ideal situation to punish people by letting them do community service”. (FW01)*

It is interesting that although participants draw on a notion of society needing to reclaim power for the victim, vengeful power relations are not approved of. This is of interest considering how participants often drew on constructions of strong punitive beliefs concerning the treatment of offenders. Within the context of the law and institutionalized law enforcement, extreme punitive measure is acceptable. However, outside of those institutionalized norms it becomes unacceptable even if it is not as severe as those punishments subscribed by law (as illustrated in extract 56).

**Extract 56:**

*Researcher: “How do you feel about the victim being part of the decision making in the steps that should be taken against the offender?”*

*Participant: “Sjoe, that’s a difficult question because some people would want serious revenge. That’s quite a difficult one. To what extent do you incorporate what they think is an appropriate punishment. Like parents whose child is murdered would feel that they should give him six life sentences. So it’s a difficult one. Yes but to include the victim in the process can be nice but not for the eventual decision making. Yes, but it can make someone feel very empowered if they feel they made a decision in they thought was fair. Yes, it can work”. (FW02)*

Willingness of both parties in the process of restorative justice is of utmost importance for most participants. An unbalanced power relationship is not welcomed in this process and whenever this kind of relationship exists, participants show a definite opposition to engaging in restorative justice. As seen in the extracts below (57 & 58) the participant needs to refer to the perpetrator as human in order to engage in restorative justice whereas prior to this the offender is seen as “less than human”.

**Extract 57:**

*Researcher: “How do you feel about a victim and offender facing each other and given the opportunity state his case?”*

*Participant: “No I don’t see a future in that. That is not going to fly. I don’t want to fuckin’ ask him questions; I want to fuckin’ slap him. Okay, that is not going to fly. It is, that would be a medieval concept”. (MW02)*

**Extract 58:**

*“What must I do? Make him a better man? Is this now my responsibility? Is it my responsibility because somebody else infringed on my rights then I am going to make him feel better about himself? Nobody is going to do that for me. Why should I do it for him and I am a humanitarian. Why must I do that? Why must I do that?” (MW01)*

From the analysis it appears that participants draw on various constructions of restorative justice. In one sense they construct restorative justice as a necessary part of “moving on”, through forgiving their offender and in that way achieving peace. In this construction participants view restorative justice as benefiting them and enabling them to heal. Participants also draw on a construction of restorative justice as a process of rebuilding, where they can reclaim the power that they regard as being taken away from them. In another construction of restorative justice participants indicate that restorative justice has the potential to allow offenders to redress the damage they have done. Finally, from the analysis it is apparent that support for a construction of restorative justices relies on participants being able to construct their offender as human. It can be concluded that in spite of strong support for punitive beliefs, a discourse of restorative justice was also present in participants’ discussions.

#### **4.7 CONCLUSION**

The results showed evidence of the victim’s need to experience justice. Some victims may experience a demand for vengeance; however this may grow itself out of a lack of a more positive experience of justice. Offender treatment, vulnerability about becoming a victim and subsequent reactions towards crime all form part of the construct of crime of the participants. These constructions influence the likelihood of participants considering restorative justice thinking and processes.



There is a hierarchical relationship that exists between the offender, the state and the victim. The CJS is experienced as a dehumanized system while reconciliation brings back a sense of control and personal autonomy. The state that is supposed to be the protector of society further victimizes the victim through acts of corruptions and exploitation. The following chapter will summarize the findings as well as provide the conclusion to the study and recommendations.

## **CHAPTER 5: CONCLUSION AND RECOMMENDATIONS**

### **5.1 INTRODUCTION**

Chapter 5 serves as a conclusion of this dissertation; however from a social constructionist position meaning is constructed each time the text is read (Potgieter, 1997). As the reader engages in the text new meaning is constructed and every reader imparts his/her own reality. In this way new ways of thinking will constantly be added.

This study explored the constructs of crime, justice and reconciliation of victims of crime. The researcher investigated how victims of crime construct punitive beliefs and whether a discourse of restorative justice as an alternative to the traditional punitive systems was present in their discussions. The study used a qualitative methodological framework to collect data and critical discourse analysis to analyse the data.

Restorative justice provides a different framework for responding to crime. Here the offence is constructed as primarily a conflict between individuals and the primary victim is the person who was violated, not the state. The role of the offender is changed from that of a passive participant to one required to understand the consequences of their behaviour, and accept responsibility both for their consequences and for taking action to repair the harm.

The following section is a brief summary and discussion of the findings, followed by the limitations of the study and recommendations based on the findings.

### **5.2 SUMMARY OF RESULTS**

During the presentation of the results, reference was made to quotations (extracts) drawn from the transcripts of the participants. This provided evidence

that the data produced the issues the researcher was discussing but also preserved as far as possible the language and voice of the participants.

Power relationships have been institutionalized through government and civil society in South Africa and there are residual forms of oppressive systems associated with apartheid even today. Some of the participants still speak of a racial divide and a strong racial identity leading to stereotyping and antagonistic attitudes towards other racial groups. Evidence was also given that the offender is often stereotyped in terms of racial identity which may lead to a wrongful exclusion of other racial groups from possible offenders. In addition to race, participants also drew on notions of gender in constructing both offender and victim identities.

Prejudice as an aspect of group solidarity was discussed as it is a valuable resource in obtaining and maintaining power. Prejudice sometimes has some rational base, sound or unsound, but it can also operate on an unconscious level as well as conscious level informing what is thought of as common sense. The results indicated that the criminal is not constructed as a wanted part of society and law-abiding citizens accept that criminal activity should be punishable by law. The researcher argued that this rational base of thinking in society relies heavily on the simple dichotomy of “us” and “them”, the criminal and society. The criminal is constructed as having certain inherent qualities that warrant certain treatment, enforcing the construct of the criminal as separate from society.

During the analysis there was reference to participants' need to view the criminal as separate and distinct from them even if this means geographic control and in extreme responses complete removal from society through death penalties and a merciless system imposed upon them. This geographical control over the offender is a way for the victim to reverse the power relationship of dominance that the offender once had over the victim and gives the victim a new sense of

control. This discourse was strongly linked to a punitive action and did not give indication to openness towards restoration and reconciliation.

This brings the researcher back to Foucault (1972), and his understanding of power as a function of a multiplicity of discursive practices that fabricates and positions subjects. The discourse of power or the loss of power, positions the victims of these crimes in such a way that the offender has rule and power over them. Through their “acts of power” offenders are not only positioned as being in a power relationship over participants but participants also create the conditions which allow these effects by placing themselves either consciously or subconsciously in a position of allowing this power relationship to continue. Participants spoke about how this has led to apathy towards crime by accepting it as the “norm”.

In terms of media consumption, participants showed some dissatisfaction with the media in terms of sensationalism. However, results also indicated that the power relation of the media with society is understood by society and by the state.

It was evident that enforcing rights (which in itself is a power relationship) would provide society with justice and peace. Most of the participants define justice in terms of the law and society’s reaction to those who break these laws. Society places penalties on its citizens and regulates behaviours, and any deviation from this behaviour carries with it consequences and an infringement of the rights of those who are not behaving within the societal boundaries.

Distrust in the CJS may have led to participants’ strong support for punitive actions as they no longer see a justice system that is able to protect them from the evils in society. Several extracts referred to the lack of competency by the police services and reference was also made to aspects such as bribing and corruption. The less justice is served according to their construction of justice the

more inclined they are towards punitive discourses and moving away from restorative options.

In terms of reconciliation, participants constructed reconciliation as offering an opportunity for rebuilding, which in itself implied that the former relationship was demolished or broken down. Rebuilding also implied restoring the power relationship where the perpetrator victimized participants and participants are able to reclaim this power by enforcing justice (consequence) and restoring the power balance.

This is also evident in society's reaction to crime and criminals as they are coming in opposition to the power of violence. Society is no longer producing only peace-loving citizens but also citizens that do not want to be tied to the identity of victims and are coming into sharp resistance against this.

Even though participants spoke about a need to reclaim power for the victim, vengeful power relations were not approved of. Participants often indicated strong support for punitive beliefs; yet where it concerned the treatment of offenders within the context of the law and institutionalized law enforcement, they indicated that extreme punitive measures outside of those institutionalized norms were unacceptable.

Participants' also indicated that in order to engage in restorative justice discourses they had to construct the perpetrator as human, whereas prior to this the offender is seen as "less than human".

### **5.3 THE CONSTRUCTION OF CRIME AND THE VICTIM OF CRIME**

Given all reactions of victims of crime in this study, it would seem logical that victims should be the centre of the justice process with their needs being the main focus point. One would think that victims would have some say in what

charges are brought against the offender and that their needs might be taken into account in the final disposition of the case. The least one would expect is that they would be told when an offender has been identified and would be informed as the case proceeds. In many cases, little or even none of this takes place. Victims are often only considered in the process when they are called as witnesses. This dehumanizes the victim and the victim loses a sense of control and autonomy.

The denial of the victims' autonomy by the offender and the CJS is a large part of why the experience of crime is so traumatic. To become whole again, it is important for the victim to regain the sense of autonomy and to find a way of reasserting him/herself. Victims find various ways of doing so, such as security measures, or finding ways to live their lives successfully. Some find their hope in forgiveness as a way of empowering themselves. Results indicated that there is a need for the victim to be recognized within the justice system as an act of balancing the power relationship between the victim and offender.

Victims feel powerless in the hands of the CJS. Victims feel they lose control over themselves and their lives. Their lives have not only been endangered but they are faced with a CJS that is perceived as corrupt, incompetent and does not serve to meet their needs. The CJS (which is representing the state) ought to be the protector of society but is constructed by participants as the victimizer where they no longer feel that the state can objectively determine and deliver a just punishment or suitable outcome.

Furthermore, our CJS is designed in such a way that the offender is subjected to the power of the state. They are sent to prison which further diminishes their sense of power and worth. Victims too are being denied a sense of power by the state and the justice process as their needs are being ignored, deepening the sense of victimization. Therefore the state denies both the victim and the offender a sense of power, which has harmful consequences for both.

#### **5.4 THE NEED FOR A RETRIBUTIVE SYSTEM**

Participants indicated that the failure of the justice system to seriously consider their needs has left them in a place of anger, suspicion and with a growing demand for retribution and vengeance. From the findings it appears that this encourages an ever increasing distrust in justice which in turn leads to a racist society with a great degree of perhaps classism in terms of control of the victim over the offender (“them” versus “us”).

In terms of retribution and vengeance, participants support a punitive system of retroactive intervention in which a penalty is meted out deservedly to the offender who receives her or his just deserves (“You do the crime, you do the time!”). The need for a system that delivers punishment swiftly where guilt is determined and the offence is avenged via sentencing is clearly evident in the data. Furthermore, the punishment inflicted must be severe enough to deter the offender and other potential offenders from future offending even at the expense of reformation or rehabilitation. The expectation is that stiffer sentencing or harsh treatment yields less crime and provides greater public safety.

Even though crime is viewed as an offence against the victim by participants, the power is given to the state (judges, attorneys and so forth) to deal with the offenders. When the question of rights is considered, participants drew on a construction of the perpetrator having more rights and being “protected” by the law, with scant attention being given to victims’ rights and their need for justice and healing.

#### **5.5 TOWARDS CONSTRUCTING RESTORATIVE JUSTICE**

The victims of crime in this study have a deep-seated need for retribution, with a focus on guilt and punishment. There is increased pressure and support in public sentiment for harsher sentencing, the death penalty and severe sanctions. The first question may be: “Why introduce restorative justice as an alternative at

a time when there is so much pressure for punitive actions?” The lack of demonstrable success with deterrence, suggests widespread system failure.

When victims are unattended and their needs are unmet, they find it difficult to put their experience behind them. The experience and the offender will dominate their lives. This was seen in the interviews with participants where many of the participants could recall their experience of crime as if it happened yesterday. As society shares in certain common beliefs with participants, the experience is not limited to the victim and is a societal vulnerability which is steered through the media and works to undermine a sense of community.

In instances where participants did draw on a discourse of restorative justice, it was constructed as a process that could benefit them in that forgiving their offender might bring them a sense of peace. Restorative justice was also constructed as a process of rebuilding where it is regarded as returning to participants a sense of power which was lost when they were positioned as victims of crime. Finally, it was also constructed as affording offenders an opportunity to repair the damage they had done through harming the victim.

Restorative justice is a movement towards a justice where the power is shifted to the victim. However, in order for restorative justice to become an integral part of the way people think in South Africa, victims need to be able to gain confidence in a justice system that meets their needs.

Currently victims predominantly draw on constructions of justice that are highly punitive, seemingly due to a lack of justice in their personal experiences as victims of crime which encourages a strong movement towards increasingly punitive and retributive orientations. However, once victims start realizing that there is a justice system that offers them the opportunity to regain power and find healing this option may become a foremost choice in the minds of society.



Restorative justice offers problem-solution, reparation and restoration. The cry of most victims is to continue with a life of wholeness after a serious crime. Restorative justice is however still very much a misunderstood concept. It is often seen as a soft solution to crime where punishment should still fit the crime and criminals should receive their just deserves. It might therefore be helpful to promote greater awareness of the principles of restorative justice (Zehr, 1990):

- It is a process where the victim is central
- The offender is given a role in the problem solution
- The process is aimed at reconciliation
- The process does not diminish the offender's responsibility towards society and the victim
- The harmful act is denounced
- The victim's suffering is recognised and acknowledged
- Information is provided to the victim
- Harm by the victim is balanced by making it right
- The victim is not responsible for the offender
- Repentance and forgiveness is recommended and encouraged between the two parties, however not forced

## **5.6 LIMITATIONS OF THE STUDY**

The following limitations to the study suggest further research:

- The study considered victims of serious crimes; however future research can extend the value of the findings by including victims of various crimes or specific crimes
- The study did not include victims of crime who had previously participated in a process of restorative justice. Future research can explore restorative justice from the stance of those who have experienced such a process
- Additional research on aspects related to society's punitive beliefs in terms of age, race and gender can be valuable

## 5.7 CONCLUSION AND RECOMMENDATIONS

Considering the main discourses identified in this study it appears that there is value in placing victims at the centre of the justice process with their needs forming a focus point in any process aimed at achieving justice. Failure to meet the needs of the victim leaves the victim without any personal power and with a sense of being victimized in the same way that their experience of crime victimized them. Instead of returning power to the victims by allowing them to participate in the justice process, the legal system enacts power on the victim and compounds the injury against the victim by denying the power that they so justly deserve.

For restorative justice to become an integral part of the way people think in South Africa, victims need to be able to gain confidence in a justice system that meets their needs. Efforts to address shortcomings in the justice system will enhance opportunities for a discourse of restorative justice to develop in South Africa. The researcher also recommends that restorative justice be promoted among South Africans as this type of justice is still an unknown concept among many citizens. By creating greater awareness of restorative justice, victims of crime may begin to see reconciliation as a beneficial and valuable means of dealing with crime.

Even though restorative justice has been introduced in South Africa in 1992 by NICRO, it still has a long way to go in terms of creating awareness (Maepa, 2005). It is through awareness and storytelling that restorative justice will become a more acceptable way of dealing with crime. It is then further recommended that narratives of victims of crime who participated in a process of restorative justice be made publicly visible to promote greater awareness of such a justice system.

The researcher recommends further study in the field of restorative justice especially as it relates to society's discourses around restorative justice approaches and practices. This research has been able to identify some of the

discourses related to crime, justice and reconciliation, but by no means covers the extent of research still needed in this field. Further explorations of the transcripts will also reveal valuable information regarding society's punitive discourses.

## REFERENCES

- Austin, D. M., Furr, L. A., & Spine, M. (2002). The effects of neighborhood conditions on perceptions of safety. *Journal of Criminal Justice, 30*, 417–427.
- Banister, P., Burman, E., Parker, I., Taylor, M., & Tindall, C. (1994). *Qualitative methods in psychology: a research guide*. Philadelphia: Open University Press.
- Bazemore, G. (2004). Reaction essay: whom and how do we reintegrate? Finding community in restorative justice. *Criminology and Public Policy, 4*, 131-148.
- Bazemore, G., & Umbreit, M. (2001). A comparison of four restorative conferencing models. *Juvenile Justice Bulletin*.
- Becvar, D. S., & Becvar, R. J. (2000). *Family therapy: a systemic integration* (4th ed.). Needham Heights, MA: Allyn & Bacon.
- Benesh, S. C., & Howell, S. E. (2001). Confidence in courts: a comparison of users and non-users. *Behavioral Sciences and the Law, 19*, 199–214.
- Bloor, M., & Bloor, T. (2007). *The practice of critical discourse analysis*. London: Hodder Education.
- Braithwaite, J. (1989). *Crime, shame, and reintegration*. Cambridge, UK: Cambridge University Press.
- Brown, S. E., Esbensen, F., & Geis, G. (1991). *Criminology: explaining crime and its context*. Cincinnati Ohio: Anderson Publishing Co.

- Bryman, A. (1984). The debate about quantitative and qualitative research. *British Journal of Sociology*, 35, 75 – 92.
- Burman, E., & Parker, I. (1993). *Discourse analytics research: repertoire and readings of texts in action*. London: Routledge.
- Burr, V. (2003). *Social constructionism* (2nd ed.). New York: Routledge.
- Burton, P., du Plessis, A., Leggett, T., Louw, A., Mistry, D., & van Vuuren, H. (2004). National victims of crime survey: South Africa *ISS Monograph Series no. 101*: Institute for Security Studies.
- Butler, J. (1990). *Gender trouble: feminism and the subversion of identity*. London: Routledge.
- Cavendar, G., & Mulcahy, A. (1998). Trial by fire: media constructions of corporate deviance. *Justice Quarterly*, 15, 679–719.
- Chang, D. (Ed.). (2008). *The 2009 flux trend review*. Johannesburg: Pan MacMillan.
- Christie, N. (2004). *A suitable amount of crime*. London: Routledge.
- Clear, T., & Karp, D. (1999). *The community justice ideal*. Boulder, CO: Westview.
- Cormier, R. (2002). *Restorative justice: directions and principles*. Ottawa, Ontario: Public Works and Government Services Canada.
- Costello, M. T., Chiricos, T., Burianek, J., Gertz, M., & Maier–Katkin, D. (2002). The social correlates of punitiveness toward criminals: a comparison of the Czech Republic and Florida. *Justice System Journal*, 23, 191–220.

- Covington, J., & Taylor, R. B. (1991). Fear of crime in urban residential neighborhoods. *Sociological Quarterly*, 32, 231–249.
- Crawford, A. (2004). Reaction essay: involving lay people in criminal justice. *Criminology and Public Policy*, 3(4), 693–702.
- Crawford, A., & Newman, T. (2002). Recent developments in restorative justice for young people in England and Wales: community participation and representation. *British Journal of Criminology*, 42, 476–495.
- Cullen, F. T., Link, B. G., & Polanzi, C. W. (1982). The seriousness of crime revisited: have attitudes toward white-collar crime changed? *Criminology and Public Policy*, 20, 83–102.
- De la Rey, C., & Owens, I. (1998). Perceptions of psychosocial healing and the Truth and Reconciliation Commission in South Africa. *Peace and Conflict*, 4(3), 257-270.
- Doan, R. E. (1997). Narrative therapy, postmodernism, social constructionism and constructivism: discussion and distinctions. *Transactional Analysis Journal*, 27(2), 128 – 133.
- Dowler, K., & Zawilski, V. (2007). Public perception of police misconduct and discrimination: examining the impact of media consumption. *Journal of Criminal Justice*, 35, 193 – 203.
- Du Plessis, A., & Louw, A. (2005). Crime and crime prevention in SA: 10 years after. *Canadian Journal of Criminology & Criminal Justice*, 47(2), 427 – 446.

- Durkheim, E. (1966). *The rules of sociological method* (S. A. Solovay, J. H. Mueller & G. E. G. Catlin, Trans.). New York: Free Press.
- Ericson, R., Baranek, P., & Chan, J. (1987). *Visualizing deviance*. Toronto, Ontario, Canada: University of Toronto Press.
- Esterberg, K. G. (2002). *Qualitative methods in social research*. Boston: McGraw-Hill.
- Evans, D., & Herbert, D. (Eds.). (1989). *The geography of crime*. London: Routledge.
- Finlay, L., & Gough, B. (2003). *Reflexivity: a practical guide for researchers in health and social sciences*. Oxford: Blackwell.
- Foucault, M. (1972). *The archaeology of knowledge* (A. Sheridan, Trans.). New York: Pantheon.
- Garland, D. (2001). *The culture of control*. Oxford: Oxford University Press.
- Garofalo, J. (1981). The fear of crime: causes and consequences. *Journal of Criminal Law and Criminology*, 72, 839–857.
- Gergen, K. J. (1985). The social constructionist movement in modern psychology. *American Psychologist*, 40, 266-275.
- Gergen, K. J. (1994). Exploring the postmodern: perils and potentials? *American Psychologist*, 49, 412-416.
- Gergen, K. J. (1999). *An invitation to social construction*. London: Sage.
- Gilchrist, E., Bannister, J., Ditton, J., & Farrall, S. (1998). Women and the 'fear of crime': challenging the accepted stereotype. *British Journal of Criminology*, 38, 283–298.

Goodey, J. (1997). Boys don't cry: masculinities, fear of crime and fearlessness.

*British Journal of Criminology*, 37, 401–418.

Graber, D. (1980). *Crime news and the public*. New York: Praeger.

Gross, H. (1979). *A theory of criminal justice*. New York: Oxford University Press.

Hampson, F. O. (1996). *Nurturing peace: why peace settlements succeed or fail*

Herndon, VA: USIP Press.

Harel, I., & Papert, S. (1991). *Situating constructionism*. Norwood, NJ: Ablex

Publishing Corporation.

Hayes, H., & Daly, K. (2004). Conferencing and re-offending in Queensland.

*Australian and New Zealand Journal of Criminology*, 37(2), 167–191.

Henning, E., Van Rensburg, W., & Smit, B. (2004). *Finding your way in*

*qualitative research*. Pretoria: Van Schaik Publishers.

Hibberd, F. J. (2005). *Unfolding social constructionism*. New York: Springer

Science and Business Media.

Hulsman, L. H. C. (1986). Critical criminology and the concept of crime.

*Contemporary Crises*, 10(3-4), 63-80.

Karp, D., & Drakulich, K. (2004). Minor crime in a quaint setting: practices,

outcomes, and limits of Vermont reparative probation boards. *Criminology and Public Policy*, 3(4), 655–686.

Lahlali, E. M. (2007). *Critical discourse analysis and classroom discourse*

*practices*. Muenchen: Lincom.



- Latimer, J., Dowden, C., & Muise, D. (2001). *The effectiveness of restorative justice practices: a meta-analysis*. Ottawa, Ontario, Canada: Department of Justice.
- Lederach, J. P. (2001). *Turbulent peace: the challenges of managing international conflict*. Washington, D.C: United States Institute of Peace Press.
- Levett, A., Kottler, A., Burman, E., & Parker, I. (Eds.). (1997). *Culture, power and difference: discourse analysis in South Africa*. London: Zed Books.
- Lincoln, Y. S., & Guba, E. (1985). *Naturalistic inquiry*. Beverly Hills: Sage.
- Louw, A. (2007). *The results of the 2007 national victims of crime survey*. Institute for Security Studies. Unpublished paper.
- Madriz, E. (1997). *Nothing bad happens to good girls: fear of crime in women's lives*. Berkeley: University of California Press.
- Maepa, T. (2005). *Beyond retribution: prospects for restorative justice in South Africa*. Pretoria: Institute for Security Studies, with the Restorative Justice Centre.
- Marshall, C., & Rossman, G. B. (1995). *Designing qualitative research*. Thousand Oaks: Sage.
- McEvoy, K., & Newburn, T. (Eds.). (2003). *Criminology, conflict resolution and restorative justice*. Hampshire, UK and New York, NY: Palgrave MacMillan.

- McGarrell, E. (2001). *Restorative justice conferences as an early response to young offenders*. Washington, DC: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.
- McNamee, S., & Gergen, J. (Eds.). (1992). *Therapy as social construction*. London: Sage.
- Mills, S. (1997). *Discourse*. London: Routledge.
- Morrison, W. (2006). *Criminology, civilisation and the new world order*. London: Routledge.
- Morse, J. M., Barrett, M., Mayan, M., Olsen, K., & Spiers, J. (2002). Verification strategies for establishing reliability and validity in qualitative research. *International Journal of Qualitative Methods*, 1, 2.
- Mostyn, B. (1985). *The content analysis of qualitative research data: a dynamic approach*. London: Academic Press.
- Muntingh, L. (1993). *The development of a victim-offender mediation project*. Pretoria: HSRC.
- Neuman, W. L. (1997). *Social research methods: qualitative and quantitative approaches* (3rd ed.). Boston: Allyn & Bacon.
- Olson, S. M., & Dzur, A. W. (2004). Revisiting informal justice: restorative justice and democratic professionalism. *Law and Society Review*, 38(1), 139–176.
- Oosthuizen, P. (2002). *The ideological purposiveness of the social construction of black and white in the new South Africa: an evolving therapist's*

- exploration*. Unpublished master's dissertation, Rand Afrikaans University, Johannesburg.
- Pain, R. (2001). Gender, race, age, and fear of the city. *Urban Studies*, 38, 899–913.
- Pharoah, R. (2008). National victims of crime survey *ISS Paper 175*. Pretoria: Institute for Security Studies.
- Potgieter, C. (1997). *Black, South African, lesbian: discourses of invisible lives*. (Unpublished doctoral dissertation). University of the Western Cape, Bellville, South Africa.
- Potter, J. (1992). Constructing realism: seven moves (plus or minus a couple). *Theory & Psychology*, 2, 167-173.
- Potter, J. (1996). *Representing reality: discourse, rhetoric and social construction*. London: Sage.
- Potter, J., & Wetherell, M. (1987). *Discourse and social psychology: beyond attitudes and behaviour*. London: Sage.
- Punch, K. (1998). *Introduction to social research: quantitative and qualitative approaches*. London: Sage.
- Rand, A. (2004). *Atlas shrugged*. New York: Plume.
- Rebovich, D. J., & Kane, J. L. (2002). An eye for an eye in the electronic age: Gauging public attitudes toward white-collar crime and punishment. *Journal of Economic Crime Management*, 1, 1–19.

- Reid, F., & Hoffmann, D. (Directors). (2000). Long night's journey into day: South Africa's search for truth & reconciliation. In F. Reid (Producer). New York: California Newsreel.
- Riger, S., Gordon, M., & Le Bailley, R. (1978). Women's fear of crime: from blaming to restricting the victim. *Victimology*, 3, 274–284.
- Roberts, J., & Doob, A. (1990). News media influences on public views of sentencing. *Law and Human Behavior*, 12, 451–478.
- Sacco, V. (1990). Gender, fear, and victimization: a preliminary application of power-control theory. *Sociological Spectrum*, 10, 485–506. S
- Schafer, J. A., Huebner, B. M., & Bynum, T. S. (2003). Citizen perceptions of police services: race, neighborhood context, and community policing. *Police Quarterly*, 6, 440–468.
- Schönteich, M. (2003). NPA in the dock: thumbs up for the prosecution service. *SA Crime Quarterly*, 3, 29–32.
- Scott, H. (2003). Stranger danger: explaining women's fear of crime. *Western Criminology Review*, 4, 203–214.
- Sekhonyane, M., & Louw, A. (2002). Violent justice: vigilantism and the state's response *ISS Monograph Series no. 72*. Pretoria: Institute for Security Studies.
- Shotter, J. (1993). *Conversational realities: constructing life through language*. London: Sage.
- Silverman, D. (2000). *Doing qualitative research: a practical handbook*. London: Sage.

- Simon, F. B., Stierlin, H., & Wynne, L. (1985). *Family psychotherapy; family therapy; language; terminology*. New York: Family process press.
- Skelton, A., & Batley, M. (2006). *Charting progress, mapping the future: restorative justice in South Africa*. Pretoria: Restorative Justice Centre.
- South African Police Service. (2010). South African crime statistics 2009/2010. Retrieved on June 10, 2010 from [http://www.saps.gov.za/statistics/reports/crimestats/2010/crime\\_stats.htm](http://www.saps.gov.za/statistics/reports/crimestats/2010/crime_stats.htm)
- South African Police Service. (2007). South African crime statistics 2006/2007. Retrieved on June 10, 2010 from [http://www.info.gov.za/issues/crime/crime\\_aprsept\\_ppt.pdf](http://www.info.gov.za/issues/crime/crime_aprsept_ppt.pdf)
- Spector, M., & Kitsuse, J. I. (1973). Toward a sociology of social problems. *Social Problems, 20*, 407-419.
- Stanko, E. A. (1995). Women, crime, and fear. *Annals of the American Academy of Political and Social Science, 539*, 46–58.
- StatsSA. (2007). Community survey 2007. Retrieved on August 16, 2010 from [http://www.statssa.gov.za/community\\_new/content.asp](http://www.statssa.gov.za/community_new/content.asp)
- Stiles, W. B. (1993). Quality control in qualitative research. *Clinical Psychology Review, 13*, 593–618.
- Strang, H. (1999). *Restorative justice: current developments and research findings*. Paper presented at the 3rd National Outlook symposium on Crime Australia.

- Strang, H., Sherman, L. W., Barnes, G. C., & Braithwaite, J. (1999). Experiments in restorative policing: a progress report. Canberra: Australian National University.
- Sumner, C. (Ed.). (2003). *The Blackwell company to criminology*. Oxford: Blackwell Publishing.
- Surette, R. (2007). *Media, crime, and criminal justice: images, realities and policies* (3rd ed.). New York: Wadsworth.
- Sutherland, E. H. (1949). *White collar crime*: Dryden Press.
- Tappan, P. (1947). Who is the criminal? *American Sociological Review*, 12, 96-102.
- TerreBlanche, M., & Durrheim, K. (1999). *Research in practice: applied methods for the social sciences*. Cape Town: University of Cape Town Press.
- Umbreit, M. S. (2001). *The handbook of victim offender mediation: an essential guide to practice and research*. San Francisco: Jossey-Bass.
- Umbreit, M.S., Vos, B., Coates, R.B. & Lightfoot, E. (2006). Restorative justice in the twentyfirst century: a social movement full of opportunities and pitfalls. *Marquette law review*, 1, 251-304.
- Uwe, F. (2006). *An introduction to qualitative research*. London: Sage.
- Valentine, G. (1989). The geography of women's fear. *Area*, 21, 385–390.
- Van Dijk, T. A. (1997). *Discourse studies: a multidisciplinary introduction* (Vol. 1). London: Sage.
- Van Dijk, T. A. (1998). *Ideology : a multidisciplinary approach*. London: Sage.

- Von Glasersfeld, E. (2005). Thirty years constructivism. *Constructivist Foundations*, 1(1), 9-12.
- Walgrave, L. (1988). *Restorative justice for juveniles: potentialities, risk and problems for research*. Paper presented at the International Conference Leuven.
- Weitzer, R., & Tuch, S. A. (2002). Perceptions of racial profiling: race, class, and personal experience. *Criminology and Public Policy*, 40, 435–456.
- Wenzel, J. P., Bowler, S., & Lanoue, D. J. (2003). The sources of public confidence in state courts: experience and institutions. *American Politics Research*, 31(2), 191–211.
- Wetherell, M., & Potter, J. (1992). *Mapping the language of racism: discourse and the legitimization of exploitation*. New York: Harvester Wheatsheaf.
- Wetherell, M., Taylor, S., & Yates, S. J. (2001). *Discourse theory and practice: a reader*. London: Sage.
- White, A. (2003). *Positive approaches to peacebuilding: a resource for innovators*. Washington DC: Pact Publications.
- Williams, B. (2005). *Victims of crime and community justice*. London: Jessica Kingsley Publishers.
- Willig, C. (2008). *Introducing qualitative research in psychology* (2nd ed.). Buckingham: Open University Press.
- Wood, L. A., & Kroger, R. O. (2000). *Doing discourse analysis: methods for studying action in talk and text*. Thousand Oaks, California: Sage.

- Zehr, H. (1990). *Changing lenses: a new focus for crime and justice*. Scottsdale, PA: Herald Press.
- Zehr, H. (2002). *The little book of restorative justice*. Intercourse, PA: Good Books.
- Zehr, H. (2004). *Critical issues in restorative justice*. New York: Criminal Justice Press.
- Zehr, H., & Mika, H. (1997). *Fundamental concepts of restorative justice*. Akron, PA: Mennonite Central Committee.
- Zhao, J. S., Gibson, C., Lovrich, N., & Gaffney, M. (2002). Participation in community crime prevention: are volunteers more or less fearful of crime than other citizens? *Journal of Crime & Justice*, 25, 41-61.
- Zimmerman, J. L., & Dickerson, V. C. (1994). Using a narrative metaphor: implications for theory and clinical practice. *Family Process*, 33(3), 233-245.

## **Legislations**

South Africa. (1991). *Probation Services Act 16, 1991*. Pretoria: Government Printer.

South Africa. (2002). *Child Justice Bill 49, 2002*. Pretoria: Government Printer.



## APPENDIX

### Interview Schedule

#### Introduction and Goal

[Thank the participant for their time]

“Before we begin, I’d like to briefly talk you through the background of the interview.

I am doing research as part of my Masters degree in Research Psychology at the University of Pretoria. I am looking into people’s perceptions of crime, justice and reconciliation.

I very much welcome your insights and highly appreciate your participation.

I expect the interview to take between 1 and 2 hours. Is that okay with you?”

I would also like to record the interview which is easier for me to concentrate on the discussion and listen to your responses at a later stage for greater insight. Is that okay?

“I will not attribute comments to you individually without your written permission and all comments will be anonymized. Nevertheless, I would like to illustrate some of the findings with quotes in the dissertation. Would you be comfortable with me publishing your comments anonymously?”

YES

NO

None of your comments will be distributed to a third party and all recordings will be in safe keeping at the University of Pretoria after publication of results.

“Do you have any questions at this time?”

### **Demographic Questions**

1. Please could you indicate your age? [Exact age is needed, if participant does not want to answer, indicate age brackets i.e. 18 – 24, 25 – 34, 35 – 44, 45 – 54, 55 – 64, 65 and older]

---

2. Please could you indicate your race? [Tell participant that this information is needed for statistical purposes only]

---

3. Gender [Do not ask this question, to be completed only]

---

4. Socio-economic status [Do you consider yourself:]

- High income
- Middle to high income
- Middle income
- Middle to low income
- Low income
- House-wife
- Unemployed
- Student with parental support

Other (please specify): \_\_\_\_\_

5. In what province and city do you live?

\_\_\_\_\_

6. What is your home language?

\_\_\_\_\_

7. What is your marital status?

- Single
- Married
- Divorced
- Widowed
- Co-habitation

8. Where do you live?

- Secure Estate
- Independent House: (Boomed area/not boomed)
- Secure complex
- Informal dwelling
- Flat
- Other (please specify): \_\_\_\_\_

9. What is your highest level of education?

- Primary school
- High school
- College (certificate/diploma course)
- University degree (undergraduate)
- Post-graduate degree

10. What type of crime/s were you a victim of?

11. How long ago were you a victim of crime? (last incident)

**Unstructured interview guidelines:**

The following questions should be used as a guideline in the interview using prompts until the questions are saturated (participants have nothing else that they would like to add).

1. What is the first picture you see in your mind when I say the word justice?

**Possible prompts:**

What does it mean when your rights are protected?

How would you feel if your right would be protected?

What do you feel should take place for there to be justice?

2. What is the first picture you see in your mind when I say the word reconciliation?

What do you feel would have to take place for there to be reconciliation?

3. How do you feel that the offender should carry the consequences of committing a crime?

Do you feel that offenders today carry the consequences of committing crime?

What do you think is the best way of dealing with a criminal?

4. How has being a victim of a serious crime influenced the way you think about crime?

5. In what way do you think does crime influences your life?

6. Do you believe that crime is decreasing or increasing in South Africa? Why?

a. Possible prompt – do you feel that crime is out of control in South Africa?

b. What do you think should be done about it?

- c. Do you think the CJS is doing enough about it? What should they do?
7. Are there any specific crimes that you think are increasing or decreasing?  
What made you think so?
8. Please tell me about any experiences you've had with the SAPS?
  - a. Do you think they are doing enough to combat crime?
9. Please tell me about any experience you've had with the courts?
  - a. Do you think they are doing enough? What do you think should change?
  - b. What do you think should change in our CJS?
10. What do you think about incarceration of prisoners? (Why?)
  - a. Would you like an alternative to incarceration of prisoners?
  - b. Do you think anything else besides incarcerating prisoners can work?
  - c. What do you think is an alternative to incarcerating prisoners?
  - d. For what crimes do you think it would be applicable?
11. What is your opinion about crime in your neighbourhood?
  - a. How do you think crime can be combated in your neighbourhood?
12. How does it affect the way you feel about crime?
13. In what way does crime influence your opinion about South Africa?
  - a. How do you think people feel about SA as a result of crime?
14. How do you think the police, courts and the CJS treats women?
15. How do you think the police, courts and the CJS treats people of different races?
16. How do you think the CJS should deal with petty crimes? (Give examples i.e. theft, shoplifting)
  - a. Do you think the CJS is effective in dealing with petty crime?
  - b. What makes you think so?
  - c. How do you think they should deal with the offender of petty crimes?
17. What role do you think the victim should play in dealing with petty crimes?

18. How do you think the CJS should deal with serious crimes? (Armed robbery, rape, murder)
  - a. Do you think they are effective in dealing with serious crimes?
  - b. What makes you think so?
19. What role do you think the victim should play in dealing with serious crimes?
20. How do you think the CJS should deal with White collar crimes? (Fraud, money laundering, et cetera?)
  - a. Do you think they are effective in dealing with White collar crime?
  - b. What makes you think so?
21. How has the media portrayed crime in South Africa for you?
22. How has the media portrayed the police services, courts and prisons to you?
23. How has the media portrayed the victim to you?
24. What rights do you think the **victim** currently has in South Africa?
25. What rights do you think the victim **should have**?

**Possible prompt** – do you think the perpetrator has more rights than the victim?
26. Do you feel vulnerable of becoming a crime victim again?
27. Does your family and friends feel vulnerable of becoming a crime victim?
28. What discussions have you and your family and friends had around the topic of crime and justice? (**elaborate**) – **Possible prompts**: What do you talk about?
29. Have you ever reported a crime that wasn't for insurance purposes only? (Why/Why not?)
30. How do you feel about the victim being involved in the decision-making about the steps that should be taken against the offender?
31. How do you feel about victims and offenders facing each other and the victim being given the opportunity to question the offender, and the offender also being able to state his or her case? (**You may ask questions**)
32. Do you think this process is suitable for all victims?
33. In which circumstances do you think this process would be suitable?
34. Would you consider this process? (Why/why not?)



**[Thank you again for your participation]**

**Record Date of Interview: \_\_\_/\_\_\_/2009**

**Record time of interview: \_\_\_H\_\_\_**

**Record duration of interview: from \_\_\_H\_\_\_ to \_\_\_H\_\_\_**