How restorative justice conferencing “works”? Relationship between readiness and interactional dynamics

Masahiro Suzuki
Email: masahiro.suzuki@griffith.edu.au
Doctoral Candidate
School of Criminology and Criminal Justice
Griffith University

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Research Aim

• Research aim: Propose a new approach to develop an explanatory model of theory of restorative justice conferencing (RJC) to understand its dynamics

• Introduce 2 different concepts: readiness vs. interactional dynamics
  » The concept of “readiness” suggests that RJC outcomes may be determined in part a priori, based on participants’ attitudes and dispositions
  » The concept of “interactional dynamics” suggests that the influence of ritualistic interactions in the RJC process may function, in part, to determine its outcomes
Outline

1. Research Gap
   » Lack of Knowledge on How RJC “Work”
   » Lack of Explanatory Theory of RJC

2. Proposed Approach
   » Focus on Why RJC “Not” work
   » Concept/Effect of Readiness
   » Concept/Effect of Interactional Dynamics

3. Discussion
   » People or Process?
   » Participant Characteristic & Complexity of Interaction
   » Proposed Question
Research Gap

- RJC has lots of strengths over the traditional criminal justice approaches (Sherman & Strang 2007; Strang et al 2013)

- Little is known about the internal process of RJC
  - Lack of link between theory, practice and goal (von Hirschi et al. 2003; Bazemore & Schiff 2005)
  - Not clear about what are the “independent” variables of RJC (Bazemore & Green 2007)

  E.g. What are the factors to reduce reoffending through RJC? (Gielen 2010)
Research Gap (Con’t)

- Some attempted to apply existing theories (Walgrave 2012)
  - BUT, a “complete” and “specific” theory or model of RJC has not been established yet (Rossner 2008)

- Many “normative” theories of RJC have been developed
  - Need to develop an “explanatory” theory or model of RJC (Walgrave 2011)
  - “How, in what conditions and for whom” does RJC work? (Joudo-Larsen 2014)
Proposed Approach: Focus

- Propose to take a different approach from the existing RJ literature
  - Focus on why RJC “does not” work

- Most studies have focused on why RJC “works” (and on successful cases)
  - Failed to explain why some RJC “do not” work (Conrad 1990)

- Despite many strengths, there are also some limits in the effects of RJC (Daly 2006)
  - Important premise: RJC is not a “one-size-fits-all” strategy (Choi 2012; Liebmann 2007)
  - Why do some RJC “work” for victims and offender, while others “do not”?

- Significance of focus
  - Emphasis in RJ literature on outcomes
  - Understanding of the mechanism of RJC
Concept of Readiness: Interest

- Introduce a concept of “readiness”

- South Australian Juvenile Justice (SAJJ) findings
  - Participants were divided into self- and other-regarding (Daly 2003; 2005)
  - Readiness: participants’ motivations and interests to make the RJC process work
    - “Limits on offenders’ interests to repair the harm and on victims’ capacities to see offenders in a positive light” (Daly 2005, p. 156)

- Some participants may be “ready to have an interest” in the restorative goals before the RJC process, but others may be not
Concept of Readiness (Con’t): Emotion

- Importance of emotion in criminology (Karstedt, Loarder & Strang 2011)
  - Can be one of other possible dimensions of readiness

- The RJC process is emotional (Harris, Walgrave, Braithwaite 2004)
  - Participants experience a variety of emotions from negative to positive (Rossner 2013)
  - The RJC process is supposed to help to transform negative emotions into positive ones (Hayes 2006)
  
  E.g. Tomkins’ affect theory (Nathanson 1992), McDonald and Moore’s collective vulnerability (2001), Wallis’s empathy model (2014)

- BUT, realities sometimes do not proceed as is suggested in theories
  - Focus on specific emotions: shame, nervousness & distress
Concept of Readiness (Con’t): Shame

- Shame
  - Particular focus in RJ because of importance (Braithwaite 2000)
  - 2 main theories
    - Nathanson’s compass of shame (1992)
    - Braithwaite’s reintegrative shaming theory (1989)

  - Developed into the theory of shame management (Ahmed et al. 2001)

- BUT, need to account for individual differences in response to shame (Maxwell & Morris 2002; Matthews 2006)
  - May not work for some types of participants (Ahmed 2001; Braithwaite, Ahmed, and Braithwaite 2006)
Effect of Readiness (Con’t): Nervousness & Distress

- Other specific emotions
  - Nervousness
    - Due to the daunting nature of RJC, many participants feel nervous about participation (Maxwell et al 2004)
    - Deemed to dissipate as the process proceeds (Doak & O'Mahony 2006)
    - BUT, for some participants, esp. young offenders, such transitions sometimes do not occur (Campbell et al 2005; Choi, Green & Gilbert 2011)
  - Distress
    - Need to account for differences among victims (Pemberton, Winkel & Groenhuijsen 2008)
      - Different effects of crime on different victims (Cunneen & Hoyle 2010)
      - Highly distressed victims had negative outcomes (Morris & Maxwell 1993; Strang 2002) and were less likely to be recovered (Daly 2005; 2006; 2008)

- Given the emotionally-charged nature of RJC, participants may also need to be “emotionally ready” for restorative goals
Concept of Readiness (Con’t): Preparedness

- Preparedness: Another possible dimension of readiness

- Important roles of preparation in RJC (Umbreit 2000)
  - Make participants’ attitudes & understanding oriented toward restorative goals (Rossner 2013; Zernova 2007)

- Importance of preparation in RJC (Barton 2003; Shapland 2009)
  - Recognised both by practitioners and researchers

- BUT, often compromised in practice (Zernova 2007)
  - Even if provided, some lack of appropriate levels of understanding or expectations (Vanfraechem 2005)
  - Consequently, negative outcomes (Gerkin 2008; Morris & Maxwell 1993)

- Given the unfamiliarity and complexity of RJ as a concept and of the process, participants may also need to be “ready with adequate preparation” toward the restorative goals
Concept/Effect of Readiness

- Concept of readiness
  - To achieve restorative goals, participants may need to be “ready” in terms of their interests, emotions and preparedness

- Effect of readiness
  - RJC outcomes, especially restorativeness, may be determined in part a priori, depending on the level of participants’ readiness (participants’ attitudes and dispositions)
Concept of Interactional Dynamics

- BUT, is the RJC process itself irrelevant to its outcomes?

- The most important feature of RJC process: Interaction (Hayes & Daly 2003)
  - Victims’ stories may elicit positive emotions or attitudes from offenders, or offenders’ stories or apologies may induce positive emotions or attitudes in victims (Hayes 2006)

- “Success” of RJC depends more on interactions?
   » Enable to isolate the components of “good” RJC because in the RJC process ‘the sequence and flow of the interactions are patterned, ritualized and relatively predictable’ (Rossner 2011b, p. 96)

Analysis on a video-recorded RJC process involving an adult offender who had committed a burglary
   » Found key elements of interaction rituals in RJC e.g., shared consensus (Rossner 2011a)
     ▪ Also found in the Reintegrative Shaming Experiment data (Rossner 2013)

Importance and effect of ritualistic characteristics of RJC constructed by interactions and dynamics of the RJC process
   » The key of “success” in RJC may be, in part, the interactional dynamics
Discussion: People or Process?

- Introduced 2 different concepts: readiness vs. interactional dynamics
  - The concept of readiness suggests that RJC outcomes may be determined in part a priori, based on participants’ attitudes and dispositions
  - The concept of interactional dynamics suggests that the influence of interactions in the RJC process may function, in part, to determine its outcomes

- Which is more influential on the process and outcomes of RJC, readiness or interactional dynamics?
  - Readiness > interactional dynamics = people
  - Readiness < interactional dynamics = process
Lack of focus on participants’ characteristics in RJC research
  » People take different approaches in conflict resolution (Umbreit 1995)
    ▪ Need to account for individual differences = readiness?

Lack of studies on the dynamics perspectives of RJC (Braithwaite & Braithwaite 2001)
  » Complexity of the RJC process
    ▪ Gender role (Kenny & Leonard 2014)
    ▪ Victim-offender relationship (Zernova, 2006)

Emotional Trajectories suggest that different cases follow different trajectories throughout each phase – (1) storytelling and (2) negotiation – depending on the participants’ attitudes and interactions (Rossner, Bruce & Miler 2013, p. 52)
Discussion (Con’t): Proposed Question

- Focus on the interactions between participants with “high” readiness and those with “low” readiness
  » Easy to assume outcomes of the cases where both participants have the same degrees of readiness e.g. victims with “high” readiness & offenders with “high” readiness
  » Difficult to assume outcomes of the cases where both participants have different degrees of readiness

- Do the outcomes differ in cases where offenders have “high” readiness and victims have “low” readiness and cases where offenders have “low” readiness and victims have “high” readiness?
  » How do these participants with different degrees of readiness interact with each other and what outcomes are produced?
References


Summary

- **Research aim**
  - To propose a new approach to develop an explanatory model of theory of restorative justice conferencing (RJC)

- **Introduce 2 contradictory concepts: readiness vs. interactional dynamics**
  - What are the effects of readiness and interactional dynamics in conferencing?
    - The concept of readiness suggests that conference outcomes may be determined in part a priori, based on participants’ attitudes and dispositions
    - The concept of interactional dynamics suggests that the influence of interactions in the conferencing process may function, in part, to determine its outcomes
  - Which is more influential on the process and outcomes of conferencing, readiness or interactional dynamics?
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- **Propose possible methods and analytical strategies**
  - Pre-test; relational hypothesis analysis; case study approach

- **Contact**: masahiro.suzuki@griffith.edu.au

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Proposed Methodology: Pre-Test

- Lack of research on how the participants’ conditions before the RJC process affect the process and outcomes of RJC (Shapland, Robinson & Sorsby 2011)

- Despite some concerns (Strang et al 2006), important to employ a before-and-after comparison design (Wemmers & Canuto 2002)
  » Retrospect measures may be affected by the process itself (Daly 2003)

- Importance of pre- and post-comparison
Proposed Methodology (Con’t): Quantitative Approach

- Analytical strategy for quantitative approach to examine the relational effect of “readiness”

- Adopt relational (zero-sum) hypothesis test (Strang 2002, chapter 7)
  1. Divide participants’ readiness into “high” and “low”
  2. Create pairs of victims and offenders in the same RJC process
  3. Divide pairs into cases depending on the combination of readiness (see the right figure)
  4. Divide identical (“both victims and offenders have been asked to respond to the same statement”) or reciprocal (“victims and offenders have been asked about the same feelings or experience from their own perspective”) questions into “win” and “lose”, depending on their responses
  5. Determine which case is more likely to “win” or “lose”

<table>
<thead>
<tr>
<th>High Readiness Victim</th>
<th>Low Readiness Victim</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Readiness Offender</td>
<td>Case 1</td>
</tr>
<tr>
<td>Low Readiness Offender</td>
<td>Case 3</td>
</tr>
</tbody>
</table>

Created based on Strang (2002, p. 156)
Proposed Methodology (Con’t): Qualitative Approach

- Quantitative approach does not tell the dynamic perspectives of RJC

- Analytical strategies for qualitative approach to examine the dynamics of the RJC process

- Case study approach
  1. Divide participants’ readiness into “high” and “low”
  2. Create pairs of victims and offenders in the same RJC process
  3. Divide pairs into cases depending on the combination of readiness

- 2 analytical process (see the right figure)
  1. Thematic analysis within cases
  2. Comparative analysis between cases

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Created based on Choi & Gilbert (2010, p. 213)