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REGULAR PAPER

“Dangerous conversations”: a case study involving language

A case study
involving
language

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Abstract

Purpose – Drawing on the approach of Bourdieu (1977, 1986), and using language as an exemplar, the purpose of this paper is to engage in a “dangerous conversation” to explore how and why issues of diversity were mobilised, ignored and leveraged in one particular service context.

Design/methodology/approach – Qualitative research exploring the language choices of 25 service users who had been processed through the criminal Justice System in Wales in the last five years.

Findings – The argument is made that in some service contexts, a habitus obtains that renders reflexivity about diversity issues problematic and predicates against the critical reflection necessary to promote anti-oppressive practice.

Research limitations/implications – Small sample size, not generalisable.

Practical implications – The authors intend the paper to encourage greater reflection on instances when diversity issues are raised and to render simplistic any attempt to invalidate claims of discrimination.

Social implications – Encourage dialogue about claims of discrimination and greater reflection by service providers about the legitimacy of such claims.

Originality/value – Anti-oppressive theorising has, for the most part, constructed minority group members as passive victims within hierarchical power relationships. While acknowledging how power is unequally distributed, the paper challenges hierarchical models which designate minority group members as bereft of power.

Keywords Discrimination, Power, Criminal justice, Diversity, National cultures, Minority language, Oppression

Paper type Research paper

Background

Over recent years the expression of explicit oppressive remarks about, or overtly oppressive behaviour towards, members of minority groups has increasingly become prohibited (Van Dijk, 1992; Dovidio and Gaertner, 2004). Particularly in professional contexts, prejudicial attitudes and behaviours now have the potential to spoil or devalue the identity of those with whom they are associated. Accusations of having acted in a discriminatory manner can assume the force of a “moralistic weapon of mass destruction” (Ballard and Parveen, 2008, p. 77) and so majority group members are motivated to avoid acting, or at least being perceived as having acted, in an overtly prejudiced manner in public settings (Augoustinos and Every, 2010; Shelton *et al.*, 2010).

While practices and institutional rhetoric around issues of diversity may have changed, claims for the existence of a more tolerant, fair and inclusive society should not be overstated (Loftus, 2008). Just as negative discourses about “the other” can, over time, produce more positive subjectivities on the part of minorities, authors such as Bourdieu (1977) argue that new discursive strategies of classification emerge to reassert the cultural and economic dominance of powerful groups. Thus, new forms of oppression that are more indirect, subtle and procedural than in the past are identified as emerging in the literature and associated with new racism (Anderson, 2009,



Perez, 2013), new sexism (Benwell, 2007), new homophobia (Smith, 1997) and new disablism (Wolbring, 2008).

Sustaining these new forms of oppressions are claims that political correctness, or the desire to promote equality, has gone too far (Marques, 2009). The popular press in many countries has led the backlash against language or practice that seeks to redress injustices inflicted on minority groups, by consigning such injustices to the past or to over-sensitivity (Augoustinos *et al.*, 1999; Marques, 2009). In turn it is suggested that reverse discrimination, whereby the majority are now a minority experiencing oppression, is the new norm (Norton and Sommers, 2011). This process of re-appropriation of subject groups, through new attempts at classification, is considered by Bourdieu (1984) to underpin not only attempts to promote interests but to create “new social beings” (p. 674). Here, participants’ positioning in relation to “oppressed” and “oppressor” may be seen as reflecting a symbolic struggle to forge out a distinctive social space with the former group’s cultural capital conferring a higher social status’. Bourdieu’s concept of “field”, employed to convey the sense of a playing field occupied by actors that have different levels of economic and cultural capital, is useful here. Lifestyles and behaviours, for Bourdieu, are implicitly caught up in social struggles. Presently the victim subject position may be understood figuratively as representing a prized acquisition (Woodward, 2002, p. 319). As Engles (2010, p. 304) has argued claims to victimage have come to have “curative” or medicinal usage in transforming the undeserving transgressor into the deserving victim.

Where the subject position of oppressor or oppressed is hierarchically ordered, it is perhaps unsurprising that anxiety and fear characterise conversations around diversity. Hence, Shiner (2010) and Mitchell (2010) highlight how fear about “saying the wrong thing” is a feature of probation talk in the criminal justice system. Similarly, research has indicated that UK police officers display visible anxiety around issues of race and fear being accused of racism (Loftus, 2008). Of significant concern here is how this anxiety may impact on the ability for service providers to be reflexive about anti-oppressive practice (Adamson, 2006). In a range of criminal justice systems, despite equal opportunities legislation which seeks to prohibit discrimination, members of minority groups may still receive an inferior service. This has been evidenced in research focused on the experiences of black people (Chigwada-Bailey, 2003), people with learning disabilities (Cooke *et al.*, 2002), people who are gay or lesbian (Bernstein and Kostelac, 2002), Irish travellers (Power, 2003) and Welsh speakers (Jones and Eades, 2008). Not only is the provision of an inferior service a concern, criminal justice agencies may end up failing to discharge their wider responsibilities. Dennis *et al.* (2001) suggest some police forces have failed to effectively police areas with large concentrations of black minority ethnic people for fear of offending members of these groups and appearing racist. More recently it has been suggested that child sexual abuse went unchallenged in Rotherham in the UK because there was a racial element to the offending that professionals and local politicians were wary of confronting (Jay, 2014). Anxiety around diversity issues impacts on service users’ willingness to highlight instances of discrimination. Bourdieu (1984) refers to “labelling judgements” whereby the actions of the minority can be neutralised through language (p. 474) and so the claim that “the race card” is being deployed may act as a rhetorical device to silence claims of experiencing discriminatory practice (Sefa Dei *et al.*, 2004).

As the preceding comments indicate, discourses around diversity can constitute powerful rhetorical resources with the potential to be mobilised to particular ends. Mobilised in one way it might be used to challenge discriminatory practice, lead to innovation and even social change (Moscovici, 1976). An example of this is the way

Stephen Lawrence's parents' campaigned to secure justice for their murdered son in the UK. Conversely discourses around diversity might be mobilised for less legitimate ends. The Laming Report (HMSO, 2003) cites an example of the abusers of Victoria Climbe deflecting police and social workers' attention by feigning poor command of English and ascribing disciplinary practices in the home to cultural differences. The report was critical of the abusers but also the inaction of professionals born out of fear of being seen as insensitive to the family's African background.

To explore some of these issues further, hereafter and from the relative safety of being Welsh speakers who have supported the development of Welsh language services, we use language as an exemplar "diversity issue" and engage in a "dangerous conversation" (Le Fevre and Sawyer, 2012, p. 261) about this important diversity issue in Wales. Some conversations are "dangerous" because they render those that engage in them liable to denouncement. Such denouncement arises readily where majority and minority groups are positioned in a zero sum game of comparative victimization, wherein talk of minority power is taken to render majority oppression less meaningful. However, whilst discourses around diversity constitute a powerful rhetorical resource, the use made of them by majorities and minorities should be more fully explored than they have been. Such exploration, we argue, will contribute towards challenging situations whereby the unspoken directs and delimits practice (Goncalo *et al.* 2014) and help create the space for more meaningful as opposed to normatively approved of discussions around diversity, with greater transformational potential, to occur.

In previous publications the authors have explored the historical oppression of the Welsh language in Wales and within the criminal justice system and the intention is not to repeat that exercise. It is important to note and reiterate here, however, that in Wales, the Welsh language constitutes a significant marker of identity and attempts to preserve and make it possible to use the language have been the focus of an ongoing and sometimes violent civil rights campaign. There are very few if any monolingual Welsh speakers in Wales, but many Welsh speakers feel their language is central to their sense of selfhood. In response the amended 1993 Welsh Language Act granted the right for the country's 500,000 bilingual English/Welsh speakers to use the Welsh language in judicial and administrative contexts (Huws, 2006, 2009; Lewis, 1999). Currently in Wales, police forces, probation, youth justice teams and the Crown Prosecution Service, all use language schemes approved by the Welsh Language Board, which grant individuals the right to receive services in either English or Welsh (Crown Prosecution Service, 2008; HM Courts and Tribunals Service, 2013; North Wales Police and North Wales Police and Crime Commissioner, 2013; Wales CRC, 2014).

Methods

The paper draws on qualitative interview data collected as part of a PhD study. In earlier publications we analysed this data set using a discourse analytic approach to explore how first language Welsh-speaking service users accounted for the linguistic choices they made in the criminal justice system. We explored how respondent accounts were used to legitimise or defend claims to Welsh identity (Madoc-Jones and Parry, 2012, 2013). Here we explore new issues, specifically how issues of linguistic diversity are sometimes ignored, deflected and leveraged in the criminal justice system in Wales. To this end we draw more on Bourdieusian theory which holds that accounts are embedded and embodied in a habitus that we understand to render exploration of diversity issues problematic and which predicates against critical reflection on good anti-oppressive practice. The PhD explored accounts of language use by 26 first

language Welsh-speaking “offenders”, who had been in prison during the preceding five years; and 25 service providers.

Service users were recruited to the study with the assistance of the Prison Service, Probation Service and Youth Justice Service. Ethical approval for the study was obtained from Glyndwr University Research Ethics committee. Interviews were audio recorded and fully transcribed. A software package (NVivo) was used for data management and storage purposes. The research received no specific grant from any funding agency in the public, commercial or not-for-profit sectors.

Here we draw on the experiences of respondents across the study sample, but present evidence from accounts of six service users and one service provider. The use of a sub-sample reflects the qualitative method but it is important to note that the narratives were not unique and differ from others in the wider sample only by dint of being better articulated and liable for more clear presentation.

In presenting the data the following transcription notation rules, indicated by brackets, are observed: (...) indicates where data have been deliberately omitted, for example, to protect participant anonymity/confidentiality. The nature of the data, however, is highlighted (e.g. Welsh town). The insertion of XXX indicates an expletive was used and {...} that the participants used the English language, and where, therefore, there was no need for translation. All respondents have been allocated pseudonyms, the letter “I” is used to denote the interviewer and “R” the respondent.

Findings

Our previous publications have explored, and it is important to note here, how our Welsh-speaking study respondents primarily used English rather than Welsh during their most recent encounters within the criminal justice system. In most of these accounts, this was presented as a function of discrimination and oppression, namely that Welsh speakers were powerless over language selection and, related to this, victims within a discriminatory criminal justice system. For example, in the following extract Robert reflects back on his experiences:

I Did it make any difference to you that it went ahead in English?

R {Too right} it did, you know what-it was {totally unfair}, a {miscarriage}, the {cops are corrupt xxx}, {I don't care} what anyone says, they are {xxxx, it's who you know in this town}.

I So as far as you're concerned not getting a language choice meant...?

R They don't give you a choice, never, it's {automatic in English} because all the cops speak English, you don't get the choice, {its unfair}, they're all English outsiders.

In the above data extract the police station is portrayed as an English-speaking domain, where all the police are English speaking. There, the failure to offer a language choice is described as “totally unfair” and leading to a “miscarriage” of justice. While the police are portrayed as abusive, however, the narrator himself uses expletives to position himself within this antagonistic relationship. Here, the police are accused of showing favouritism in their practices and of corruption. The word corrupt carries significant negative connotations in the criminal justice context, where ‘justice and “due process” discourses predominate.

Notwithstanding such accounts were very common, there were instances where service users reported they had been offered the opportunity to use the Welsh language in criminal justice settings but had declined. The following extract focuses on the

expectation that Welsh speakers would experience harsher treatment in the police station if they requested or took up Welsh language services:

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R I always have it in English.

I Why's that?

R Because you've got no choice, if you ask for it in English no Welsh then they've got to get Welsh speakers and then they think you can look as if you're just {trying to be awkward} or be {funny} with them and that could go against you.

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When asked to explain, the narrator, Meic, suggests Welsh speakers have no choice but to use the English language in the police station. This is because those using the Welsh language might be evaluated as "trying to be awkward" or "funny with them". The respondent positions himself as powerless as he implies that those using Welsh may be interpreted as leveraging their diversity for illegitimate ends. In the following extract another respondent, Wyn makes a similar point:

I Have you ever chosen to do things in Welsh?

R No, if you ask for Welsh and there's a {trial} and things, then you've put them to a {lot of effort} getting {translators and judges} and if you get a {guilty} after that they can get you back by {putting you away} to do a long sentence.

I But that do you think that has that ever happened to you?

R Not me but it does happen so you've got to go do it in English.

I Right, ok so you prefer not to cause a fuss?

R For me yeh it's just better.

In this narrative, asking for a service in the Welsh language is understood to put agencies in the Criminal Justice System to much effort because providing "translators and judges" entails some inconvenience. Using Welsh is associated with a risk of retribution, namely harsher sentencing.

Notwithstanding these accounts, diversity was also an issue respondents could mobilise to powerful effect. Hence, for example, while in a previously sited data extract, Robert described himself as the recipient of language discrimination at the police station, later in the interview a different account of language choice is presented:

R I didn't need their solicitor, I've got (name) as my brief yeh he's a {good boy} I've been with him {ages} and I like the way he makes things out to magistrates, he has a way of getting things over the {criminal justice}.

I He doesn't speak Welsh though does he (name)? The point I'm trying to make is that you wouldn't have been able to give a {statement} or get a Welsh court case if you used him.

R I don't know about me, I don't think I would, what it is you see, I stick with (name), he know what the cops are like you see with me, they're {XXXXXXXX corrupt} they are, {XXXXXXXX corrupt}.

Here the narrator develops a different construction about language choice. The narrator indicates that it would not have been possible for him to be interviewed in the medium of Welsh even if such a service had been offered to him. This is

because he retains the services of his own English-speaking solicitor. This renders the previous construction of language choice as being fettered in the police station as partial, developed out of an awareness of the potential reputational damage that could be inflicted on the police by suggesting they were insensitive to diversity.

In the following extract Marc expands on a narrative he had been developing wherein language choice in the courtroom was not offered and thus his trial was illegitimate:

R So I couldn't get (Welsh speaking solicitor) or a Welsh speaking solicitor so I had the case in English, they were English, the system took over and that was it I was found guilty of (offence), it was a joke a proper {miscarriage}.

I I thought given what you said about the Welsh language you might have insisted on having the trial in Welsh we you aware of what your rights were?

R Nobody offered but I was aware.

I So why not go in Welsh?

R I got a duty first and ok he spoke Welsh but he wasn't any good so I had to get rid of him, he was totally {ineffectual} like all the others were in the end really/

I Why not replace him with a Welsh speaker?

R Because of the fact that when you start with a solicitor you carry on with them more or less.

In this account the narrator initially suggests that using the Welsh language was not an option for him. Subsequently, however, the narrator owns to an awareness of his language rights which were foregone because he replaced his Welsh speaking, with an English speaking, solicitor. Arguably, failure to acknowledge this initially, supports the narrator's accusation of unfair treatment and miscarriage and positions him as victim.

These accounts suggest service users' awareness of "diversity" as a potential tool. Throughout interviews, the more adversarial the relationship narrated the more likely language issues were to be rendered problematic. This is best illustrated by comparing the above accounts of language choice in the police station and court, with accounts of language choice in the probation office. Offenders, in general have a more cordial relationship with probation rather than police staff. Consequently, whilst several respondents talked about not receiving language choice from the Probation Service, this was never presented as problematic. For example, in the following extract Gwilym, who had complained about not being offered service in Welsh at court talks about his probation experiences:

I Before you got sentenced you would have had a report prepared by a probation officer- do you remember that?

R Yes.

I Was that in English or Welsh?

R The interview was in English.

I How did that happen?

R Don't know really, I just know the {probation officer} spoke English and I didn't mind so we ended up speaking English and always have.

Here, although the respondent and the probation officer used the English language, this is not rendered problematic, and a non-adversarial, friendly, relationship with the probation officer is presented.

At times respondents gave accounts of using their linguistic skills to leverage advantages and agencies being powerless to challenge them about this. In the following data extract, Seimon claims that while using Welsh in the block (disciplinary wing) of an English Prison could have negative repercussions, English might be strategically used to meet particular ends:

I Was there any restriction on using Welsh in jail

R Yes, but if we're down the block we have the right to defend ourselves in Welsh if we want, it was on the back of the charge sheet when I was in (prison)

I Did you ever do that

R Nobody would have understood. I could have done but there'd be no-one to translate it and then I'd have been in the block for two weeks whilst somebody translated it- you're only supposed to be there for a few days, I always when I was down the block, I took a dictionary with me and one of the prison officer queried it when I was going to adjudication once {"Hang on"} he said {"you can't take books into there"} {"It's not a book"} I said, {"it's a defence tool because I'm not going to ask for the proceedings to be in Welsh which I could do so the least you could do is allow me to have an English Welsh dictionary so I can check a few words"}

I You didn't need a dictionary for that

R No it was a prop

I What for?

R When the governor was being bolshie or staring me out I'd open the dictionary and he starts talking and I say {"hold on Governor"}... (Long pause) {oh yes, that's what it means} and then answer his question having had all that time to think

I wouldn't he see your English was good enough

R Maybe but its not something they'd challenge

Although Seimon is inhibited from using Welsh, despite acknowledging his right to do so, ability in Welsh provides him with a tool in the adjudication process to manage the pace of exchange and position him as someone who resists and exercises power. Seimon acknowledges the power of the diversity agenda when describing service providers as powerless to resist his demands.

Below, Myfyr, who had used English during his most recent court appearance, recalls a previous court appearance, when he requested Welsh language services:

R I was well guilty (laughs) but not going to make it {easy for them}, I was laughing about it, they had to find a Welsh speaking {judge} and that was more effort, I was quite happy about that because they were making {my life xxxx}.

Here, no recourse is made to injustices. Rather, Myfyr chooses to use Welsh in order to obstruct the business of the court, thus signifying his powers of resistance in the "field".

Service providers themselves, acknowledged the difficulties faced by Welsh speakers to access Welsh language services in the criminal justice system. That said, they also narrated instances where they perceived diversity issues were unfairly leveraged:

R I know other people think this as well but you do get some that are playing the system, suddenly want to use Welsh but you've sent them the paperwork and all that you see that sometimes, not often but other people then end up being inconvenienced then in court and maybe the whole thing or a lot of it is going on in Welsh but the victim is English and you maybe know that the solicitor normally uses English but is doing it in Welsh to unsettle the victim, they have to use a translator and no-one else

I how is that kind of thing responded to when it happens?

R I probably shouldn't have said anything really, but I don't think it is, to suggest it isn't right, well you'd get hammered

The above account highlights the sensitivity of the issue of language, diversity and leverage. First, it is notable how others are drawn into the narrative to legitimise the respondent's account of language leverage. Second, the narrator acknowledges, in retrospect, the expediency of censoring his comments. He also notes that anyone challenging linguistic choice in the court would be "hammered". This verb has an immediacy and force to it which positions service providers in a powerless position *vis-à-vis* diversity, and marks the intolerance that would meet any challenge to user's choice of language. Finally, however, it can also be suggested that the account demonstrates how those in power can "re-group" and reappropriate power by taking on a new identity themselves as "victims" of attempts by minorities to disrupt routine processes of justice.

Discussion

We intend our paper to encourage greater reflexivity in instances when diversity issues are raised and to render simplistic any attempt to automatically validate or invalidate claims of discrimination. To this end, our paper engages in a dangerous conversation. It illustrates afresh the phenomenon of diversity issues occasioning staff anxieties. While acknowledging power is unequally distributed, it illustrates how hierarchical models which designate minority group members as bereft of power are misguided (Bhui, 1996; Edwards, 2001). Conversely, it suggests that even those in apparently powerless positions can be active agents, utilising diversity issues in the exercise of, and resistance to, power (Van Dijk, 1996). Whilst primarily drawing on discourses of oppression to position themselves as powerless, respondents demonstrated through the selective use of (English or Welsh) language, the ability to wield "temporary license" and exercise power. Accounts of language were mobilised to castigate service providers and Welsh might be used selectively to delay the criminal justice process. Equally English might be used when engaging preferred (English) representation, to expiate (or at least not delay) processes and project appearances of compliance. Service providers in turn were not possessed of unqualified power. Their accounts evidence a wariness around diversity issues especially as it concerns challenging claims to particular considerations based on language abilities. Whilst in some context this unwillingness should obtain because it acts as a challenge to discriminatory tendencies, it may have a downside to the detriment of others. This is, first, victims and witnesses associated with proceedings who might be inconvenienced or even harmed by

unnecessarily delays. Second, future Welsh speakers involved in the criminal justice system. Where the decision to use Welsh is perceived as deriving solely from its potential to interrupt or disrupt criminal justice processes, but this perception is suppressed rather than explored, popular discourse in which diversity is exploited to gain unfair advantage may be reinforced. The potential service users have, as our data shows, to “disrupt” the doxa or existing habitus, thereafter becomes imbued with negative implications for the future of diversity politics and the “struggles” we have presented here go further.

While it may, at one level, be easy to misread this paper as critical of minority rights, it is important to remind ourselves that the act of leveraging diversity are situated and is not the sole prerogative of those who find themselves occupying the least powerful positions in society. It also applies to members of social groups distinguishable by their social advantage, or relative powerfulness. Bourdieu (1986), for example, proposed that as some languages became associated with formal and high prestige contexts, speakers of that language find their linguistic and cultural resources turned into linguistic and cultural capital that allows them to interact more effectively with the state or the legal sector and to prosper. Conversely, speakers of other less prestigious languages, find they have less valuable linguistic and cultural resources, or what Blackledge (2001, p. 345) has described as “the wrong sort of capital”. Notwithstanding changes in linguistic markets (as particular languages become more or less valuable over time), Bourdieu (1986, 1991) suggests that the dominance of some types of capital is maintained because its supremacy, and its leveraging goes unnoticed and essentially unquestioned by the vast majority of people.

Here it is also useful to consider Bourdieu’s (1989) construction of symbolic power, which is the power to engage in a struggle to produce/activate visions of the social world. The ability to operationalise symbolic power depends on ownership of symbolic capital and this, in turn, relates back to social structure and practices and also the extent to which the individual’s vision corresponds to something real (Bourdieu, 1989). Here, it may be argued that objective structures form the basis for subjective representations, and thus constitute structural constraints that bear upon interaction. The exchanges therein, however, reflect individual and collective struggles which may transform or preserve these structures (Bourdieu, 1972/1977). Accordingly, it may be argued that individuals in the study presented here, who were endowed with different linguistic resources, struggled over symbolic power to produce and to impose the legitimate vision of the world. The important point is that linguistic resources which individuals deploy are necessarily adapted to the context in which they are situated. Hence linguistic interaction to some extent reflects the social structure that it expresses and reproduces (Bourdieu and Thompson, 1991). Because of this it might be argued that the exercise of symbolic power by service user respondents was dependent upon the context which officially acknowledged yet routinely ignored the legitimacy of their symbolic capital, in other words their right to use Welsh in the criminal justice service in Wales.

Thereafter the leveraging of diversity, apparent in respondent narratives, may best be understood as a function of the minority and relatively powerless position in which respondents found themselves. When using language to leverage some, albeit minor, advantage, narrators in the study reported here, deployed the very factor which defined their difference (or disadvantage) to their advantage in order to realise specific ends. In this respect it may be argued that respondents were similar to “judo” competitors, in the sense that they used the power of the opponent for their own purposes.

Their potential to exert influence, resist and exercise power, derived directly from their powerless status, relative to others and arguably as a function of the inadequacy of current linguistic provision to provide seamlessly for service users to use the English or the Welsh language in the criminal justice process. Rather than leveraging diversity therefore, respondents in this study may be more accurately described as leveraging service deficits in order to realise some specific advantage.

Moving on, it may be seen that both service provider and user are engaged in a struggle which involves the redefinition of self and other. As this article has argued, service users experience discrimination. In turn, however, they may go on to, and be perceived through language narratives to “play” the system to provide an (albeit temporary) persona of “holding the cards” – with the service provider defined as “victim” of the process of “playing the system”.

Applying a Bourdieusian framework to the data, it may be said that the very act of contestation contribute to the development of new identities or “classifications” for both the service user and service provider. To quote from Bourdieu (1984):

What individuals and groups invest in the particular meaning they give to common classifying systems by the use they make of them is infinitely more than their ‘interest’ in the usual sense of the term; it is their whole social being (p. 677).

Not least amongst these new identities is the service user as “oppressor” and service provider, or others, as “victim”. Ironically, this may well result in a backlash against the very real necessity of policies that speak of and for minorities, as seen in the new forms of oppression referenced earlier in the paper.

To conclude, we intend our work to highlight that where the potentialities of the “diversity agenda” remain unrecognised and unexplored – a “theatrical game” (Bourdieu, 1984, p. 680) may be played out – that, albeit unsettling to the doxa, ensures the future re-appropriation and preservation of existing hierarchies, even if such power relations be expressed in new ways.

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