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Moving Beyond Retribution: Alternatives to Punishment in a Society Dominated by the School-to-Prison Pipeline

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Abstract: There is a growing national trend in which children and adolescents are funneled out of the public school system and into the juvenile and criminal justice systems—where students are treated as criminals in the schools themselves and are expected to fall into this pattern rather than even attempt to seek opportunities to fulfill the ever elusive “American Dream”. There is a blatant injustice happening in our schools, places that ironically should be considered safe havens, places for knowledge, and means of escape for children who have already been failed by the system and sequestered to under-resourced, overcrowded, and over-surveilled inner cities. Focusing on the damage the public education system has caused and the ways in which policies and practices have effectively made the school-to-prison pipeline a likely trajectory for many Black and Latinx students, we hope to convey the urgency of this crisis and expose the ways in which our youth are stifled, repeatedly, by this form of systematic injustice. We will describe models of restorative justice practices—both within and beyond the classroom—and hope to convey how no matter how well intentioned, they are not adequate solutions to a phenomenon tied to neoliberal ideologies. Thus, we ultimately aim to exemplify how a feminist approach to education would radically restructure the system as we know it, truly creating a path out of this crisis.

Keywords: school-to-prison pipeline; restorative justice; zero-tolerance; criminal justice; education system; carceral state; public schools; Black and Latinx children; neoliberalism; feminism

1. Introduction

Universal public education has two possible—and contradictory—missions. One is the development of a literate, articulate, and well-informed citizenry so that the democratic process can continue to evolve and the promise of radical equality can be brought closer to realization. The other is the perpetuation of a class system dividing an elite, nominally ‘gifted’ few, tracked from an early age, from a very large underclass essentially to be written off...The second is the direction our society has taken. The results are devastating in terms of the betrayal of a generation of youth. **The loss to the whole of society is incalculable** ([1], p. 162)¹

Our public education system is said to be one of the great equalizers of the United States—the leveler of the playing field in society, a way in which anyone can achieve the American Dream. Though,

¹ Bolded emphasis added. Adrienne Rich’s *Arts of the Possible: Essays and Conversation* is a collection of essays that imagine a more socially just world and speaks to those possibilities.

as we have seen throughout history and exemplified by Adrienne Rich's words, universal public education can create even starker class divides among those deemed worthy of a *good* education, and those who are not [1]. Rich's assessment is bleak enough; however, what happens when the educational system continuously fails students, to the point that their trajectory into normative society is jeopardized?

Educational policy changes in the past 20 years have intensified the inherent inequalities caused by the education system in the United States [2]. Currently, there are two journeys, as Alice Goffman notes, that lead people from childhood to adulthood: college (the ideal path for the elite) and prison (the predetermined path for many Black and Latinx² students) [3]. Rather than fostering an atmosphere of understanding, learning, collaboration, and limitless opportunity, current school-based practices and education models have more and more blurred the lines between school and jail, as we will shortly discuss. The school-to-prison pipeline is the pattern of (either subtly or forcibly) removing students from educational institutions, primarily through zero-tolerance policies³, and putting them directly and/or indirectly on the track to the juvenile and adult criminal justice systems [4,5].

Entering the school-to-prison pipeline is not by random chance [5]. Howard Witt's study shows that, disproportionately, the poor, the disabled, and the students of color—in particular Black students—are suspended and expelled more often than their peers [6]. In part, the school-to-prison pipeline exists because, as The Free Thought Project⁴ expands, "America's public schools contain almost every aspect of the militarized, intolerant, senseless, overcriminalized [*sic*], legalistic, surveillance-riddled, totalitarian landscape": we criminalize small disciplinary infractions with detention, suspension, or expulsion with zero-tolerance policies, we have police or security officers stationed at schools to "monitor" the daily happenings and to discipline "disorderly" students, and focus on "standardized testing that emphasizes rote answers over critical thinking [7,8]. In essence, many schools, and, usually, schools in lower-income communities that are often majority minority, look more and more like prisons rather than spaces for learning and knowledge, acclimating "young people to a world in which they have no freedom of thought, speech, or movement" [8]. There is also a highly correlated risk for students who are suspended or expelled to end up in the prison system at some point in time during their adolescent and/or adult life [2].

The school-to-prison pipeline cannot and does not exist in a vacuum: it is deeply connected to our current political and social climate which is increasingly harsh and interested in punitive punishment rather than understanding. It is also tied to neoliberal ideas of restoration which reactively seek to offer forms of "justice" instead of *proactively* combating the mass prison industrial complex through complete deconstruction of both the education and carceral systems. We see this through well-intended efforts of rehabilitation seen both in and out of the classroom. Can we imagine a justice system that prioritizes recovery and rehabilitation over retribution in a mass prison industrial complex without replicating ideologies of destructive neoliberalism? Our society depends on truly transforming our education and justice systems to move out of this time of crisis so that the hierarchy of lives can be rethought.

² Latinx is intentionally employed to challenge the gender binary and exclusivity in the terms Latino and Latina that do not necessarily include gender non-conforming, Latin American-identifying people.

³ The American Psychological Association writes that "Zero Tolerance Policies" were "originally developed as an approach to drug enforcement . . . [and] became widely adopted in schools in the early 1990s as a philosophy or policy that mandates the application of predetermined consequences, most often severe and punitive in nature, that are intended to be applied regardless of the gravity of behavior, mitigating circumstances, or situational context. Such policies appear to be relatively widespread in America's schools, although the lack of a single definition of zero tolerance makes it difficult to estimate how prevalent such policies may be. Zero tolerance policies assume that removing students who engage in disruptive behavior will deter others from disruption...and create an improved climate for [others]."

⁴ The Free Thought Project, founded by Jason Bassler and Matt Agorist, seeks to "foster the creation and expansion of liberty minded solutions to modern day tyrannical oppression" through an online platform "hub", forwarding a "revolution of consciousness."

With this context in mind, this piece seeks to extend our understanding of these questions: what is this time of crisis, and what do our current system and restorative justice practices say about whose lives we value more in this society? How can feminist pedagogy create our path out of this crisis?

2. Reflection on Crisis

Public education is under assault by a host of religious, economic, ideological and political fundamentalists. The most serious attack is being waged by advocates of neoliberalism, whose reform efforts focus narrowly on high-stakes testing, traditional texts and memorization drills. At the heart of this approach is an aggressive attempt to disinvest in public schools, replace them with charter schools, and remove state and federal governments completely from public education in order to allow education to be organized and administered by market-driven forces. [9]

The “American Dream” is an illusion. It is an image created for us to aspire to. It is a promise to be fulfilled contingent upon following a path circumscribed by champions of “democracy” and justice. The questions become: what does democracy look like and for whom is it intended? What is justice if there is no investment in the poor, the marginalized and the disenfranchised? How do we get there? A common misconception is that education is the answer. If that is the case, what has our education system become to betray us?

The United States education system has devolved into an inherently flawed vehicle of global capitalism. Public education was developed in response to the need to equalize access to school for both poor folks and women, for whom the cost of private education was prohibitive [10]. In fact, in the South, public education stems from the agitation of former slaves during the era of radical reconstruction. Their fight was an effort to gain access to non-commoditized education, which ultimately benefited poor people, both White and Black [11]. During this time, education was equal to liberation. We have since deviated from these ideologies. Our current models of education are inextricably linked to neoliberal logics of hierarchy, consumerism and ultimately the destruction of our most vulnerable members of society—those with the least socioeconomic capital. The objective of education is no longer to create global citizens, who value and promote democratic visions and a just world, but rather to sustain a dystopic society in which wealth and power are maintained and unchallenged. Who we value and who we render disposable are tied to the structure of our schools and to methods of punishment within these schools, as punishment often results in the shuffling of the students deemed expendable into the penal system at staggering rates. Overwhelmingly, Black and Latinx students, especially from lower-income neighborhoods, are the victims of this process. Forget imagining the “Dream”—these children are disqualified from the start.

This is the *crisis* we find ourselves in. Prominent news outlets, social media, politicians, and pundits carefully inundate us with propaganda to convince us that our most exigent crisis and the domestic war we are up against is waged by the hands of radical organizations, women-led, youth-driven, Black, Brown, queer, trans, intersectional protests, grassroots committees, and passionate dissenters, who refuse to pander to the status quo and are daring to reclaim their agency to create the change our collective humanity demands⁵. What these influencers fail to acknowledge is the real war that we are fighting—in the classrooms—and that Black and Latinx children are the casualties. Black and Latinx children are disproportionately targeted as fodder for the ravenous school-to-prison

⁵ This reference intentionally describes the evolving #BLACKLIVESMATTER movement founded by Black, queer activist Alicia Garza, Patrisse Cullors and Opal Tometi in response to the acquittal of George Zimmerman after he murdered Trayvon Martin on 12 February, 2012 in Sanford, Florida. Due to the epidemic of Black genocide, the movement has gained momentum in correlation with each Black life taken with impunity—from Ferguson, South Carolina, Baltimore and to New York, the list continues to grow. Since its inception the movement has expanded to include activists, students, and community members of all intersecting identities, united in their goal of justice and fighting against the crisis that is systematic racism and state-sanctioned Black death.

pipeline that not only robs them of their right to an uninterrupted education but also of the opportunity to forge a life unrestrained by the shackles of a criminal record. Through punitive “zero tolerance” and “broken window⁶” policies, these children are disciplined in ways that are not commensurate with their “misbehavior”. Instead of a pedagogy grounded in justice and empathy, these children are being taught by educators who are more interested in penalizing them than investing in their futures. As Henry Giroux asserts throughout his critiques of neoliberalism and its permeation into our education system, schools have become havens for social indifference and degrading individualism⁷.

This is not to say that Black and Latinx children are more likely to commit minor infractions than their white counterparts. However, when 51% of high schools that are mainly comprised of Black students have police officers who function as security guards, it is no wonder that Black students are 2.3 times more likely to be disciplined by law enforcement than white students [13]. Giroux indicts public schools for their resemblance to “punishing factories”, where punishment and fear are critical modalities mediating youth to the larger social order. Further, he describes the way in which selective punishment of infractions of poor or disabled students of color neglects to address the underlying social needs of these students. What he describes as potential “teachable” moments become criminal offenses.⁸ These instances of punitive treatment are congruous to the function of the neoliberal machine that governs this country. Giroux and Brad Evans note, “The regime of neoliberalism is precisely organized for the production of violence. Such violence is more than symbolic. Instead of waging a war on poverty it wages a war on the poor—and does so removed from any concern for social costs or ethical violations [15].” This iteration of racialized violence against children is unconscionable.

If this argument sounds familiar, it is because it is. This paradigm is analogous to that of the United States’ carceral state—a system that also targets, arrests, and sentences Black and Latinx men and women at disproportionate rates, namely for petty drug offenses. Black people comprise 13% of the United States’ population, yet 40% of those incarcerated. Latinx people comprise 16% of the population, yet 19% of those incarcerated. White people comprise 64% of the United States total population, yet only 39% of those incarcerated [16]. If the United States public school system continues to function as a microcosm of its penal system, these are the statistics Black and Latinx children are projected to join. The material impact of this trajectory is already well established. Research studies have elucidated the ways in which incarceration deteriorates the fabric of communities and the deleterious effects it imposes on its members’ physical, emotional and mental health [17]. Every fundamental right, from returning to school, securing a job, procuring safe housing to staying alive, is at jeopardy [18]. When simple prerequisites for living escape their grasp, the rate of recidivism increases [19]. When these trends become routine, why is there not coverage, commotion, concern? Why is the system the least gentle and most negligent with its most vulnerable members? Why are local legislatures and school administrators not being held accountable?

Instead of criminalizing Black and Latinx children, who with every turn of the fall are less and less present in the classrooms and more and more confined to juvenile or adult detention centers, a reimagining of the structure of public school and their methods of punishment are necessary⁹. The livelihoods of Black and Latinx children matter. Despite the flawed logic of white supremacist, capitalist patriarchy¹⁰ that manifests in public education institutions—incentivized to push-out Black and Latinx students who “underperform”, commit minor infractions and disobey, and are supported

⁶ Similar to the logic of “zero tolerance” policing, broken window policing originated in 1982 and argues that punishing low-level offenses will deter acts of major crime and therefore benefit the overall safety of a community.

⁷ Taken from several passages from: Henry Giroux’s “Education Incorporated?: Corporate Culture and the Challenge of Public Schooling,” *Educational Leadership* ([12], pp. 12–17).

⁸ A reference to Henry Giroux’s article “Schools as Punishing Factories: The Handcuffing of Public Education” [14].

⁹ According to the sentencing project’s report in 2013 on racial disparities in youth commitments and arrests, racial disparities among juvenile detainees have increased despite decreases in overall arrests and commitment of juveniles across the nation.

¹⁰ Prominent author, scholar, and activist bell hooks defines and uses this term widely to describe the interlocking socio-political systems that shape the politics of our society. While her analysis does not include the politics or actions of individuals, she notes that both individuals and systems can uphold, support and perpetuate white supremacist, capitalist patriarchy [20].

by the leniency afforded to them—the education system cannot be a tool weaponized against them.¹¹ We must consider what we are teaching these children—and all their witnesses—when we betray their humanity this way. Effectively, we are saying that they are dangerous, without value, need to be surveilled, hounded, followed, attacked, gunned down, and dead. There is a better way, a more tender way, a more transformative way of empowering and preparing these children—our children—for a promising future rather than a prison cell or a tombstone.

3. Neoliberal Rehabilitation

How can we take seriously strategies of restorative rather than exclusively punitive justice? Effective alternatives involve both transformation of the techniques for addressing “crime” and of the social and economic conditions that track so many children from poor communities, and especially communities of color, into the juvenile systems and then on to prison. The most difficult and urgent challenge today is that of creatively exploring new terrains of justice, where the prison no longer serves as our major anchor. [21]

Rehabilitation models are the status quo’s and reactionary approach to combating the prison industrial complex. We can tie Michelle Chen’s writing regarding rehabilitation in the private prison industrial complex to this similar situation: “Reform initiatives like rehabilitation . . . focus on making ‘corrections’ less punitive . . . rather than dismantling antisocial systems” [22]. So, while in many ways well-intentioned, these efforts are not enough. Through examining the value and efficacy of neoliberal rehabilitation models based on the concept of restorative justice within and beyond the classroom, which in part can serve to elevate instead of condemn our most vulnerable children, we can conclude that a feminist framework and mindset of radically undoing the current system as we know it will be a true advance towards justice and equity.

Rehabilitative Models Within and Beyond the Classroom

There are some current models of rehabilitation programs that provide some alternatives to the practice of retribution and jail time and try to combat the effects of the school-to-prison pipeline. Rather than tackle the root of the issue, these models provide ways to handle the crisis we see in our classrooms after the fact. Nevertheless, these models are the dominant and prevailing way to handle this crisis and are designed with good, albeit flawed, thoughts of neoliberal intentions. It is, therefore, important to understand the current landscape of rehabilitative models.

The concept of “zero tolerance” and similar forms of policing were allegedly enforced under the premise that removing disruptive students will cease all classroom disruptions, and thus create an environment more suitable for learning. According to the American Psychological Association’s (APA) Zero Tolerance Task Force, the impacts of these biased policies have not only been ineffectual but have also negatively impacted students’ performance, created a hostile classroom climate, targeted Black and Latinx children, and effectively compromised children’s right to an education. This study offers approaches rooted in an understanding of the socio-psychological needs of children—approaches that even still most public schools, as they stand, are unequipped to enforce. The task force research found that effective school discipline and anti-violence programs must include three levels of strategy: bullying prevention, threat assessment, and restorative justice. Implementation of these strategies has resulted in reduced office referrals, school suspensions, expulsions, and an improved school climate [4]. Overall, the APA task force echoes a fact that people across all disciplines have discovered to be true, which is that “zero tolerance” does more harm than good and that its most violent offenses are

¹¹ Despite rhetoric around bridging the gap of achievement in public and charter schools, reform policies such as “No Child Left Behind”, focused on elevating test scores, incorporating inexperienced teachers who leave after two years, and over-disciplining to weed out “problem” children are not progressive, nor do they address the needs of the students in a way that is anti-biased and just.

committed against Black and Latinx children. While the recommendations in and of itself are not transformative on a large scale, we know that they support the vehement protests against hostile classrooms that treat Black and Latinx like criminals.

Another more holistic and “zen” approach was introduced at Robert W. Coleman Elementary School in West Baltimore, MD. Students, instead of being sent to the principal’s office, are being taught how to meditate in the “Mindful Moments Room” [23]. This policy has been in place since 2015 and has already shown remarkable results. Since implementation, there have been no suspensions and the effects of meditation have even demonstrated an impact on the children’s home lives. It is easy to overlook the many ways children bring their baggage from home to school and vice versa. Imagine a method of teaching geared toward nourishing both their educational and personal lives. This idea was spearheaded by the Holistic Life Foundation in Baltimore; however, the benefits of meditation—physical, spiritual and mental—have been topics of research for centuries, and can be found inherent to many Chinese, Hindu, Jain and Buddhist traditions. What all forms of meditation share is the emphasis on being present in the moment. When used as an alternative to disciplining or reprimanding children, it allows the child to connect to what may be responsible for their behavior, reflect on it, and reach a state of calmness that subdues feelings of anger or frustration. This is the operative benefit. We are too quick to eradicate a “problem” and not invested enough to address it. When children misbehave, break the rules or agreements, when they throw a fit, act out, or emote erratically, it is not without reason. What meditation illuminates is that our feelings and their physical manifestations stem from something deep, much deeper than our prejudices allow us to see in others. We cannot diagnose a problem without then tending to its source. Most importantly, we cannot react to a child’s misbehaving without offering forgiveness—especially for themselves—and the chance to repair. This is *restorative* justice—healing the broken pieces, not disposing of them. There have been material impacts of this much more tender method in this Baltimore school.

Furthermore, there are efforts beyond the classroom that react to and seek to combat the school-to-prison pipeline. Esperanza, an organization in New York City, is one type of program that is attempting to employ “community-based alternatives” to incarceration for court-involved youth living in New York City [24]. With both youth charged in family court as well as youth undergoing prosecution in Criminal or Supreme Court (being charged as juvenile offenders or as adults with felony charges), Esperanza is making a tangible difference in the lives of young people—mostly young people of color—by engaging with them through direct services and reducing the placement of youth in juvenile detention or prison. Through direct services, such as counseling for families and the young person involved, case management, and crisis intervention, Esperanza seeks to support and rehabilitate rather than punish them in a prison cell [24].

These are just a few examples of the ways in which our society has taken a reactive approach to combating the school-to-prison pipeline. Unfortunately, reactionary measures play into the logic of neoliberalism by failing to acknowledge the vast socio-political problems that undergird behavioral differences. If we ask ourselves the motive behind punishment, especially when applied selectively, we can no longer evade the obvious elephant in the room. We cannot pretend that criminalizing Black and Latinx children in the classrooms is not an extension of how they are perceived and valued within the larger socio-political hierarchies of our society. We need to shift the narrative to condemn the broken system that creates the need for these programs and work towards establishing a transformative educational system.

4. Feminism as a Tool for Educational Transformation

I often like to talk about feminism not as something that adheres to bodies, not as something grounded in gendered bodies, but as an approach—a way of conceptualizing, as a methodology, as a guide to strategies for struggle. [11]

The principles of feminism are antithetical to neoliberalism. The foundation of any intersectional feminist approach to problem-solving is rooted in notions of deconstruction and transformation.

This is what we need to employ when dealing with this pernicious cycle of racialized violence and marginalization that plagues our education and penal systems. Prominent scholar-activists, such as Angela Davis, distance themselves from language of reform towards language of abolition. If we are to mimic her logic, the way towards a just, truly democratic and anti-violent education system would be to rebuild it from the ground up, not to offer solutions as a reaction to an intractable problem. Our current model is irreparably mired by racist, classist, and ableist ideologies to no one's benefit, not even the white and wealthy's. Feminist pedagogy asserts that until we are all free, none of us are. Feminist pedagogy urges us to think of how this broken, neoliberal inflicted system, while enacting violence primarily on Black and Latinx bodies, has ruined us all. It has stunted our imagination. It has stifled our ability to challenge authority and to demand our agency. It has created a culture of social disengagement and complacency.

“Whenever you conceptualize social justice struggles, you will always defeat your own purposes if you cannot imagine the people around whom you are struggling as equal partners. You are constituting them as an inferior in the process of trying to defend their rights. The abolitionist movement has learned that without the participation of prisoners, there can be no campaign” [11].

So, this is where we begin. With feminism as our most potent tool in contending with the school-to-prison pipeline, we look to the students and their families to guide us towards a reconstruction of an education system that works for them, that holds their humanity tenderly, that fights for their potential and that aims to secure their futures. What is created will honor accurate and difficult histories that challenge the status quo and delegitimize notions of hierarchy, meritocracy and our current model of democracy. It will empower students by promoting the value of both their personal convictions and their compassion for others. It will approach socio-political and economic terrains through intersectional frameworks and encourage speaking truth to power. It will value the poor, queer, disabled and people of color and not only recognize how their humanity has been wrongfully threatened but also facilitate reparations. Feminism calls for the eradication of the current system as an acknowledgement of how deeply it has failed us. It may be difficult to imagine now, but a feminist approach looks like freedom.

5. Conclusions

Criminalizing children will have constitutional implications for generations to come. It is corrosive and rends the fabric of our erstwhile civil society, makes a lie of equal opportunity, and rewards authoritarian personality disorder at the expense of our humanity. [25]

For many vulnerable youth in our country, the school-to-prison pipeline, though at odds with the ideals of a society said to provide equal opportunity to all, is a well-known path. This matter has led us to a dire time of crisis—one that is endemic to our sociopolitical systems and to all people. The reality is that Black and Latinx students are being pushed from the classroom to the jail cell and treated as disposable in our society. This is where we are. These are the structures that exist, that have existed and persisted for so long that it can be hard to imagine something different. Maybe a world where Black children are allowed to be children? A universe where Latinx children are allowed to be human? However difficult it may be, we must. We seek to imagine a society in which all people are granted the benefit of humanity. We seek to envision a total eradication of social hierarchies that separate the valued from the unvalued and the living from the better off dead. We seek to imagine a time where our empathy for others in our communities belies our history of hegemonic social control and isolation. We dream of a day when the sources of tension, hatred and violence are acknowledged and repudiated. Demonizing and criminalizing communities of people, including their children, who are reminded daily of their tenuous and provisional affiliation to the “American Dream” is never just or to anyone's benefit. This is the lie we have been sold. This is the nightmare we must wake ourselves from. We are amidst an escalating crisis and something needs to be done.

With a feminist framework and complete transformation, we need to implement compassion and justice into the education system to stymie its evolution into an iteration of the penal system. We need to move past just functional models of rehabilitation to undo the psychological, physical, and material damage the foot soldiers of white supremacist capitalist patriarchy have already done to Black and Latinx children. We need methods of addressing and stopping the social, economic, and health disparities that plague marginalized communities that can induce behavioral and emotional issues which we are too quick to condemn. Unlike the punitive and reactionary system we have now that does not prioritize the lives of those involved, a radical and feminist approach will take love, time, and patience. But we will get there. We must.

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