

Restorative Justice in Schools: Theory, Implementation, and Realistic Expectations



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“The moral arc of the universe bends at the elbow of justice.”

—Martin Luther King

Martin Luther King’s words evoke a powerful image but also leave much to the imagination. What should justice look like? What form should it take? How should it be administered, and by whom?

The answers to these questions depend in no small part on (a) how much you trust authority to act in the public interest and without bias, (b) where you stand in regard to the possibility of redemption, (c) whether you would rather err on protecting the innocent (at the cost of not punishing some of the guilty) or convicting the guilty (at the cost of punishing some who are innocent), and (d) your core beliefs about the role of punishment in shaping individual behavior and social norms.

If this sounds political, it is. In countries influenced by European approaches to justice, distinct political perspectives have traditionally either doubted or trusted hierarchical authority, focused on protecting the rights of the accused or of those harmed, and supported or campaigned against stronger forms of punishment. However, despite these distinctions across the spectrum from a “tough on crime” ideology focused on individual responsibility to one focused on changing the social conditions associated with criminal choices, policy has similarly relied on state-imposed punishment as the primary response to crime. Indeed, “getting justice” in these countries is so synonymous with punishing the person who broke the law/rule that many are hard pressed to even imagine justice having any other form.

Within this sphere of European colonial influence, punishment was traditionally intended to cause physical suffering and tended to take a corporal form (e.g., flogging, caning, whipping). Even capital punishment was typically intended to

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elicit suffering before death.¹ While the punitive system's claims to legitimacy have rested largely on its supposed unbiased, universal application, its actual distribution has consistently followed the distribution of power within these societies and in relation to their colonial domination. Thus, in these societies, punishment has simultaneously served the secondary function of socially controlling marginalized populations and prohibiting acts perceived to be subversive of this control. As social sensibilities and the colonial logic started to shift, more explicit imposition of physical suffering began to be replaced by means primarily exclusionary in nature. In this way, the practice of temporarily or permanently excluding a person from society, primarily through incarceration, has increased in many societies.

Such punitive practices are pervasive. Professional sports leagues typically enforce their rules with fines and suspensions. Many workplaces rely on a system of written warnings, probationary periods, and ultimately work terminations. Colleges and universities, faith communities, and political/activist groups all have their own codes and exclusionary sanctions. Even family life equates justice with punishment. Indeed, the home is the most punitive place many of us know or remember, with various forms of corporal discipline still normative in many regions and communities. Though no longer endorsed by developmental psychologists and pediatricians, more than 80% of Americans continue to believe that "spanking is sometimes appropriate" (Corso, 2013). The highest rates are found among born-again Christians, African-Americans, Southerners, and Republicans, but spanking is endorsed by the majority of every major US demographic category (Enten, 2014). Moreover, even in so-called progressive and evidence-based circles that tend to reject corporal discipline, punishment itself is so widely accepted and practiced with children that parents who reject punishment (and "consequences") altogether are often ridiculed for their "permissiveness" and "neglect" (Kohn, 2006).

Conventional School Justice Systems

With the exception of a handful of alternative schools, both public and private schools in these societies have similarly defaulted to punishment as the primary response to conflicts and rule violations, typically constructing discipline systems and policies that closely resemble those of the punitive criminal justice system. Historically, schools relied on corporal punishment as the primary discipline strategy well into the second half of the twentieth century. Its use has declined over the past 50 years (e.g., US rates were 400% lower in 2014 compared to 1978, Gershoff, Purtell, & Holas, 2015), but corporal punishment continues to be practiced in 69 countries (Gershoff, 2017), including in the United States, where it remains legal in public schools in 19 states (and in private schools in every state except New Jersey

¹Interested readers can find a description of such punishments at https://en.wikipedia.org/wiki/List_of_methods_of_capital_punishment#Ancient_methods

and Iowa) and commonly used in many of those states, especially in the South (Farrell, 2015).² Schools maintain these practices in direct contradiction to empirical evidence that links school corporal punishment to a variety of negative outcomes, including increased aggression, disruptive behavior, lower academic achievement, increased drop-out rate, and a variety of internalizing symptoms such as school phobia, low self-esteem, anxiety, somatic complaints, depression, and suicide (Poole et al., 1991).

As public support for corporal punishment waned, school systems, like their criminal justice counterparts, began to turn toward exclusionary discipline. Accordingly, detentions and suspensions (and when deemed necessary, expulsions) began to replace corporal punishment and new structural systems sprung up to implement the new policies. As part of this discipline infrastructure, certain spaces in the school became designated as in-school suspension rooms and schools worked to develop an efficient process via which teachers and other school staff could remove a student from class or other school space. Following such removal, a new full-time professional role (usually occupied by deans or vice-principals) was developed to process the discipline violation by determining responsibility for wrongdoing and meting out the appropriate punishment.

Looked at from the perspective of control, in many ways this system worked well. Its use was so widespread that students and teachers could count on a familiar system even when they switched schools. It aligned with the logic present in many homes and exemplified in the functioning of the criminal justice system, and was thus mutually reinforcing of consistent standards across young people's interactions with adults and of the relationship between education and society as a whole. It swiftly (albeit temporarily) removed from class behavior deemed to be disruptive to instruction, which generally resulted in teachers depending on this methodology to feel supported by the administration. Having discipline professionals focus on accountability and behavior also allowed teachers and discipline specialists to both do the kind of work they wanted to do and removed teacher bias from the discipline process. Over time, this system of exclusionary discipline not only became familiar to students, teachers, and parents alike but generally got endorsed by all three as the correct response.

Paralleling the increase in adult incarceration rates, school suspension rates also saw sharp increases in the mid-1990s, when "tough on crime" laws led to the Gun-Free Schools Act of 1994. This act required each state receiving federal funds to have a state law requiring students bringing a firearm to school or being in possession of a firearm in school to be suspended for at least 1 year (Legal Information Institute, n.d.). This and other "zero tolerance" school policies sought to increase safety and create learning environments conducive to learning. To those ends, exclu-

²According to the U.S. Department of Education, nearly 167,000 students received physical punishment in the 2011–2012 school year, with Mississippi and Texas accounting for 35% of the reported cases. According to the report, Alabama, Arkansas, and Georgia accounted for an additional 35% (Anderson, 2015). Students can be physically punished from kindergarten to the end of high school, meaning that even legal adults (over age 18) are sometimes spanked or paddled by school officials (Farrell, 2015).

sionary discipline was widely endorsed by US educators as an effective and more progressive alternative to corporal punishment. It did not turn out that way.

Despite widespread support by experts in both criminal justice and education, exclusionary discipline did not actually produce the desired outcomes in either context. A review of the criminal justice outcomes is outside the scope of this chapter, but the school data are unambiguous. While it was posited that suspensions would increase safety and academic achievement, a major study concluded that, compared to demographically matched low-suspending schools, “higher suspending schools reap no gains in achievement, but ... have higher dropout rates and increase the risk that ... students will become embroiled in the juvenile justice system” (Losen & Martinez, 2013, p. 20). For those students who are suspended, the risk of negative outcomes is particularly high. Being suspended once in 9th grade doubles the drop-out rate from 16 to 32% and a single suspension triples the chance of juvenile justice involvement within a year. Additionally, high suspension rates likely diminish school and community safety by increasing student disengagement, diminishing trust between students and adults, and removing students from adult supervision for extended periods (Losen & Martinez, 2013). The findings are so compelling that the American Academy of Pediatrics (2013) concluded that suspensions do not make schools safer and called for pediatricians to urge schools to end them except as a last resort.

Importantly, there is also a racial aspect to school exclusionary discipline. The rise in suspension rates in US middle schools and high schools has been almost exclusively for black, Latino, and American Indian students. Black students, in particular, have experienced the highest increase, moving from 11.7% (in 1972–1973) to 24.3% (in 2009–2010), compared to just a 1.1% increase for white students, a race-group difference that is more than 11 times higher (Losen & Martinez, 2013). As a result, black student suspension rates are currently almost 300% higher than those of white students. The change in the number of Latino suspensions is also notable, not only because the suspension rates for this group have also almost doubled (12% compared to 6.1% in the 1970s) but also because Latino and white suspension rates were almost indistinguishable in the 1970s (Losen & Martinez, 2013).

The racial disparities in suspension rates become even more pronounced when race and gender intersect. An analysis of national elementary schools (ES), middle schools (MS), and high schools (HS) shows that the suspension rates for black boys in MS and HS are at 30%, a gap of over 20% relative to their white peers. The suspension rate for black girls is at a more modest 17% (MS) and 19% (HS) but these rates are not only much higher than those of their white peers (3% MS, 5% HS) but also higher than those of male students in any other racial/ethnic group (Losen & Martinez, 2013).

These racially disparate discipline outcomes are sufficiently troubling that they have become an increasing focus of both school reformers and racial justice activists. During Barack Obama’s administration, Secretary of Education, Arne Duncan, made eliminating them a primary concern and state legislatures and school districts responded with policy changes designed to reverse the trend (e.g., AB420, passed in California in 2014, which prohibits public schools from expelling or suspending

students in third grade or below for “willful defiance”). Unfortunately, though there have been documented decreases in suspension rates in recent years, the racial disproportionality has not changed, including in California where black student suspension rates remain about 300% higher relative to their white or Hispanic peers (Loveless, 2017). Furthermore, the federal directives did nothing to address the underlying issues for the students’ behaviors and there are concerns that the directives are themselves potentially discriminatory (Heriot & Somin, 2017).

The Restorative Alternative

Restorative justice is a roughly 40-year-old international movement organized around a coherent philosophy and ethical theory and consisting of a variety of different practices from many places across the world, many of which claim roots in indigenous traditions. New Zealand codified restorative justice as a first response to juvenile crime in 1989, with Australia following in 1991 (Maxwell & Hayes, 2006). By 2005, an estimated 100 countries formally utilized some form of restorative justice (Van Ness, 2005). Today that number is undoubtedly higher, with the Council of Europe, European Union, and the United Nations publicly endorsing restorative practices (Richards, 2011).

More specifically, restorative justice is defined as “a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future” (Tony Marshall, in Braithwaite, 2000, p. 115). Whereas punitive justice essentially seeks to achieve justice by determining which law/rule was broken and imposing (just and proportional) suffering on the person who broke it, restorative justice focuses on identifying the harm to both persons and community and, to the degree possible, repairing that harm through making amends (Zehr, 2015). Thus, the parties involved and impacted by what happened gather for the purpose of mutual understanding and, eventually, voluntary agreements designed to repair harm and address unmet needs.

Notably, while those who caused the harm are supported in making amends, it is not unusual for other community members to also be moved to contribute to the unmet needs of both the individuals and the larger community. Thus, while punitive justice is typically handed out by those with authority status (judges in the courtroom, teachers and principals in the schools, parents or guardians in the home), restorative justice aims to be an inclusive, dialogue-driven, and community-owned process. Importantly, the emphasis on community is broader than just as a response to harm. It is also “a proactive strategy to create a culture of connectivity where all members of the school community feel valued and thrive” (Oakland Unified School District, n.d., p. 2).

At the same time, the modern restorative justice movement has no single origin, no unifying theory, and no dominant approach. In addition to indigenous influences, the movement has been shaped by radical criminologists, including Nils Christie, John Braithwaite, and Howard Zehr; a variety of thinkers in education, psychology,

and other disciplines; and a handful of practitioners who developed their own unique methods through trial and error in the field. As a result, a variety of very different practices are labeled as “restorative” and, for the present, there is neither credentialization nor licensure for those doing restorative justice work. The corresponding diversity of approaches allows flexibility and innovation but also creates confusion about what it means to be restorative and challenges in terms of researchers’ ability to systematically examine which practices produce the most favorable outcomes in different contexts.

In the United States, the Lansing School District in Michigan (2005), the Minneapolis Public Schools in Minnesota (2008), and the Oakland Unified School District in California (2005) were among the early adopters (Byer, 2016), instituting district-wide mandates to implement restorative practices but often without clear guidelines regarding what such implementation should look like. Other school districts (in a variety of different states) are similarly vague. In Illinois, Senate Bill 100 mandates that schools first exhaust all “appropriate and available behavioral interventions” (the list includes restorative practices, as well as mindfulness and social and emotional learning) prior to expelling or suspending students for more than 3 days (Illinois General Assembly, 2015, p. 7). In addition, there is no widely accepted restorative implementation roadmap, only a set of guiding principles and a still small but growing group of restorative justice pioneers with sufficient experience to provide schools with initial training and system-building support.

Restorative Principles

Restorative principles are widely discussed in the restorative justice movement by both scholars and practitioners. A comprehensive treatment of these principles is beyond the scope of this chapter. However, the first author (Mikhail) here elaborates on a few that he considers essential based on the second author’s (Dominic’s) work in Brazil and around the world.

Principle 1: Engaging Conflict Is Productive

Most of us learned how to respond to conflict early in life from watching our parents and navigating our own conflicts with parents, teachers, siblings, and classmates. Many of us learned that one either wins or loses and that winning feels a little better. Some of us were hit by our parents for hitting someone else, because, of course, “hitting is wrong.” Some of us learned to give in to the demands of those with more power and to stay out of their way. Some of us learned how to hurt others—sometimes with fists, sometimes with words—before they could do the same to us. Some of us learned to lie, because the truth might upset someone with power. Some of us came to understand that conflict is unpredictable, that it can result in a parent

leaving the family or in some form of violence. In short, many of us learned that conflict is messy and potentially dangerous.

From a restorative perspective, we got it all wrong. It is not conflict that is dangerous but how we have learned to interpret and respond to it. When we fail to hear and understand the unmet needs (e.g., justice, respect) behind the conflict, we create conditions for those who are unheard to turn up the volume, initially literally but, in some cases, eventually with violence (Barter, 2012). This is particularly important for members of marginalized groups whose histories and current experiences are often characterized by erasure, invalidation, and oppression. As Martin Luther King (1968) observed, “a riot is the language of the unheard.” Through such a lens, a conflict is an opportunity to understand what is not working for people and figure out together what might be done about it. In such a context, conflict engagement does not get in the way of safety; it increases it.

Principle 2: Conflicts Belong to the Community

More than 40 years ago, Nils Christie (1977) pointed out that when Western nations created the modern justice system, they decided to give away people’s conflicts to professionals specializing in law and law violations. There were good reasons for this. There were more and more laws and sorting them out was becoming more and more complicated. Professionals could do it better and, it was thought, with less bias. But there was a (perhaps unintended) downside. Those whose job it became to sort out conflicts (i.e., police, attorneys, judges) were typically not themselves impacted by those conflicts and had relatively little connection to either the communities in which the conflicts took place or to the people who lived in those communities. Restorative justice seeks to return the conflicts to the individuals who are involved and the communities that are impacted. Its emphasis is not on which laws were broken but on understanding and repairing the harm (see principle 4) so that individuals can relate to each other better and so that the community can remain (or become) healthy.

Principle 3: Effective Conflict Engagement Requires Collaboration and Power Sharing

The restorative movement often calls for inclusion and collaboration. In the context of a school system’s hierarchy, this might manifest as a demand that those with structural power voluntarily share some of that power with those who lack it. Such shifts can inspire relational changes beyond the confines of the school’s response to conflict and bring additional benefits. Thus, when Mikhail’s students bring to him either a concern or a request, rather than making the decision unilaterally, he now looks for opportunities to include them in the decision-making. “What do you think

would be fair?" he asks. Almost all of the time, he is content with their response. When he is not, he articulates his concerns and invites them to join him in thinking through how those concerns might be addressed. Most of the time, the decisions made using this approach are not significantly different than those he would have made on his own. However, because they were meaningfully included in the decision-making, the students often view them with more enthusiasm. And the inclusion really is meaningful. We know this, because there are times when the decision winds up being something different than what Mikhail originally had in mind.

Importantly, power sharing does not mean handing power over to someone else and abdicating the responsibility that goes with decision-making. In many ways, the responsibility remains solely mine, as will become immediately clear if there is ever any kind of review or appeal. This is entirely appropriate given that I am the one with the requisite training and credentials and am the one employed to teach the course. With power sharing, those with more power are still involved and still responsible. They are just choosing collaboration over unilateral decision-making. In this same way, when someone's behavior causes harm, adults in the schools need not give up their power to make decisions that promote safety and learning. Rather, they bring their expertise to the community process, which also includes the voices of those with less power.

Principle 4: The Goals Are Mutual Understanding and Agreements About How to Go Forward

Like conventional justice, restorative justice is interested in what happened. It also concerns itself with the motivations of the actors in making their choices and on the impact of those choices on themselves and others. Ideally, it examines the systemic conditions that may have contributed to those choices. Because it is, at root, a community process, it is not a so-called impartial authority who must understand the facts but rather those who are directly involved and impacted who must understand each other. From such understanding and only from such understanding, it is possible to make agreements about how to move forward. Justice is then operationalized not as punishment but as restorative actions designed to make amends by repairing harm and creating conditions for future well-being. Importantly, the harm is examined broadly. Those who harm others are themselves harmed by their actions. As such, it is not unusual for agreements to not only address the unmet needs of those who were directly harmed but also of those who did the harm and of the community in which the harm occurred.

Importantly, it is not the responsibility of the harmed party to be nice or to forgive. To the contrary, they have no responsibility, no obligation at all, not even to participate in such a process. Their participation is welcome, of course, and it may provide them with closure and even healing. But it is the rest of the community that bears responsibility, and a restorative process can proceed even when those who

were harmed decide not to participate, because others may also feel impacted and others can still work out ways to address unmet needs and make at least some things right. Similarly, the restorative process can proceed without the party that caused the harm, albeit with a slightly different focus (e.g., on what others may have done to create conditions for the harm to occur; on how individuals were impacted) and with community members taking on the responsibility for making amends and addressing unmet needs.

Implementation Challenges

As part of our work, we have each accompanied several schools in their transition from punitive to restorative justice. In this last section, Mikhail describes a few of the challenges associated with this transition in the U.S. context and shares a few thoughts about how to make the transition process just a bit easier for schools about to embark on it.

Getting Buy-In

Restorative practices can be implemented from the ground up, as well as from the top down. There is no reason that students cannot just start to respond restoratively to at least some of their own conflicts. A few teachers or staff might even be eager to support such efforts, both with encouragement and by allocating class time, classroom space, or both. Some teachers might find ways to include restorative justice in their curriculum. In some schools restorative practices were nurtured in just this way (see Wadhwa, 2015).

At the same time, if a school is going to not only implement some restorative practices but also move away from punitive discipline, there must eventually be some buy-in from the top, ideally at both the building and district leadership levels. At these leadership levels, the positions are often at least somewhat politicized and such transitions typically carry at least some political risk. Even in a school or district struggling with violence, the present leadership is unlikely to be held accountable for a system it inherited. In contrast, new policies and organizational structures, especially those that depart drastically from previous practices, are likely to bring public scrutiny and calls for personal accountability if the outcomes do not show rapid improvement. For these reasons, as well as because changing large systems is often expensive and time consuming, those with structural power are often understandably wary. Getting their support often requires either a crisis or public pressure to change the status quo, combined with some personal exposure to a restorative justice process and compelling restorative justice outcome data for demographically comparable schools or districts. The latter are increasingly available, but it sometimes takes years of building trust before there is sufficient openness to either look at the data or sit in a circle.

The endorsement from the leadership at the top is crucial but not sufficient. While some teachers and staff resonate with restorative principles and turn into early adopters, others find the principles (and associated strategies) disorienting and contrary to their expectations of top-down discipline. For those who have internalized the association of punishment with justice, a restorative system is not only unfamiliar but absent of what they see as necessary standards and accountability in regard to right behavior. Depending on their personalities and interaction styles, some may express their opposition and disdain openly while others remain quiet but resolve to continue in the same top-down way as before. A handful may feel particularly threatened and attempt to actively sabotage the restorative agenda.

Even those being punished seem to have a certain comfort in the punitive process: It is familiar, has a predictable procedure and timeframe, and allows (if one wishes) not only a complete lack of responsibility-taking but a victimization narrative about unjust treatment by the system. In contrast, the restorative approach not only seems to lack these benefits but, from their point of view, also lacks the well-defined boundaries that we all require to feel safe. What can I really say in a circle and not get punished? How will my peers feel and how will they react if I speak the truth? What kinds of agreements can we really make here? And why should I trust these circle-keepers? When given the option, it is not unusual for students to say they prefer to get suspended. When not given the option (of a suspension), it is not rare for them to ask for it anyway. Many parents have similar mistrust of the new system and similar preferences for a punitive response.

There are no short-cuts to getting either adults or students to endorse restorative approaches. Even the notion that some people require persuasion is often not useful, as students tend to not trust adults who think they know better what is good for them and, frankly, neither do other adults. The only effective way forward I've seen is through opportunities for skeptics to have first-hand experiences with restorative practices and via authentic relationships that allow restorative justice champions to both listen to the values and concerns of others and talk about their own (restorative) values while consistently behaving in ways that are congruent with those values, even when (especially when) others do not. This includes how we respond when we experience or see others experience harm. It also includes how we set up the new system.

Unlike a conventional discipline policy which is worked out by a handful of administrators and then announced to both students and staff, the restorative system needs to be built collaboratively, with active (not tokenized) involvement from not only the early supporters of restorative approaches but also its vocal critics, who often have important perspectives and sometimes considerable structural or informal power. In that way, their perspectives can inform the decision-making, potentially resulting in a system that meets the needs of all involved. Similarly, students, especially those who are likely to have first-hand experience with the school justice system, should also be included. If they have a voice in creating the system, they may feel at least some ownership and at least some trust that the system will care for them in the ways that matter to them.

When such inclusion is rejected or otherwise not possible, either open sabotage or passive resistance (depending on power and personality differences) is likely.

Depending on the power dynamics of the particular institution, such resistance might prove successful and the restorative system is labeled a failure. In other cases, the restorative system prevails, leaving those with irreconcilable philosophical differences to either continue to resist in relative isolation or leave for another institution that better fits their value system.

Building an Infrastructure

Every school we have ever encountered—even tiny alternative schools—had an existing infrastructure for dealing with conflicts and rule violations. In larger schools, this infrastructure is much more developed and typically includes full-time personnel whose job description includes sorting out what happened and determining what should happen next. The infrastructure also includes dedicated spaces (e.g., the dean’s office, the detention room) where justice is done, as well as a well-known procedure for activating this justice system when there is a conflict or rule violation. In smaller schools, this job might fall to the principal or some other designated person who also has other responsibilities. Additionally, the space likely serves other functions as well. An efficient procedure is necessary regardless of school size.

In the early 2000s, Dominic and colleagues in Brazil coined the term “restorative system” to describe the specific aspects of infrastructure required for practices that share power to be effective and sustainable. Rather than authorities tasked with determining wrongdoing and administering punishment, there need to be individuals with sufficient support and experience to facilitate circles, conferences, or other developed or chosen process. These restorative processes require a space, ideally furnished and decorated in ways that support its intended purpose. And here, too, there must be an efficient and reliable procedure for students and school adults to learn about how the new system works and how to activate it when they need it. While all this may seem obvious, few students and school personnel have any experience with creating such an infrastructure from scratch. That is, individuals may have been moved in and out of various roles, spaces may have been redesignated and repurposed, and referral policies may have been tweaked, but rarely has an infrastructure been entirely designed and distinguished from the default system to serve a different purpose. Yet, this is exactly what is required in a transition to doing justice restoratively. It requires collaboration both within and across traditional school power hierarchies (e.g., with students), time, an openness to trying new things, and a willingness to be honest about the specifics of what is not working without giving up on the restorative philosophy and its guiding principles. Dominic’s work in South Korea, Senegal, and other countries has shown that each cultural context presents its own challenges and timelines. In the United States, it typically takes several years and, because it is relationship-driven, trying to rush only tends to slow everything down.

Addressing Power

Power dynamics exist in every system, and it is important that both those who are setting up the restorative system and those using it have an awareness of how such dynamics operate and, when necessary, the sensitivity and willingness to minimize their impact. In this section, the role of power dynamics are examined in three different time periods: during system building, during the preparation phase, and during the actual restorative process.

During system building School administrators may have valid and reasonable concerns about the use of resources in responding to conflict and may want to implement guidelines and restrictions regarding when a restorative process can be used. While resource allocation is essential to consider, it is useful to do so mindful of existing power dynamics. How such decisions are made and who is included in the decision-making process can sometimes determine whether the new restorative system is seen as something meaningfully different or as yet another strategy for controlling the behavior of those who are already largely excluded from the school community. While ideally all conflicts could receive such a response, a clear policy about which kinds of conflicts will receive a formal restorative process might be necessary due to limited resources. In such cases, the practice of gatekeeping, whereby some person is given the authority to greenlight individual cases, is discouraged, as it closely resembles an authoritarian, top-down process. In the same way, a restorative system in which deans and other adults in roles of authority do all the facilitation is likely to feel less inclusive and less restorative than a system in which circle facilitators represent the entire school community, including students and teachers.

During the preparation phase Because restorative systems arise from local knowledge, they tend to produce unique agreements and practices in every cultural context, which in turn results in a variety of facilitation approaches. Thus, we have different experiences of what works best, related to where and with whom we have worked. In every context, awareness of and engagement with power dynamics has shown itself essential in not only designing the system and practice but also in the facilitation. Below are some recommendations from Mikhail's experience in U.S. schools.

1. **Do not assume you understand the power dynamics.** As we find out what happened and who the players are, we will often develop ideas about who has more power and who has less. This is probably unavoidable, but it is important to treat these ideas as hypotheses rather than facts. Structural power is important and should not be underestimated, but there are many kinds of informal power, including force of personality, social influence, and history of oppression, that may be obvious to participants yet invisible to facilitators. Rather than assuming who might need support in order to feel safe enough to show up and speak their

truth, check in with everyone regarding this issue during the preparatory part of the process.

2. **Promote realistic expectations.** As much as we might like to, we will not be able to make up for 400 years of oppression in setting up a restorative process. We are also not going to be able to change the reality of structural power determined by the jobs and other roles participants occupy outside of the circle. To create conditions for restorative outcomes, it is useful to flatten out the power hierarchy in the circle space, but we do not want to lose sight of the fact that, when the circle is over, the hierarchy will still be a reality. Thus, as facilitators, we do not want to promise or even narrate a sense of safety that is not within our control but rather understand that, for some participants, discerning what to say and how to say it is important for survival.
3. **Bring up relevant concerns pertaining to group status.** One of the insidious ways that power operates is by rendering itself invisible and, therefore, not up for discussion, much less intervention. Thus, men in authority rarely talk about gender and sexism and white people in authority rarely talk about whiteness and racism. Gender and race are not always the most relevant dynamics of a conflict, but by checking in about these and other dynamics related to our identity, we signal to participants that we are aware of these influences and are open to bringing them to the restorative process.
4. **Collaborate with participants to determine who needs to be invited.** There are a variety of considerations that determine who is invited. Most of these have to do with individuals' roles in the conflict, but the inclusion of specific others may change the power dynamics enough that showing up and participating becomes viable for some people. Sometimes, this is a friend or other trusted person. Sometimes, it is someone in a formal support role, like a sexual assault advocate. Other times, it is someone with enough status to change the balance of structural power in the room, like the school principal, when the conflict is between a student and a teacher. Facilitators are advised to raise and investigate these issues, but it is important that these decisions be made collaboratively, not imposed by the facilitator who usually has a much poorer understanding of the nuances of relational power than those who navigate those relationships on a daily basis.
5. **Collaborate with participants to create enough safety for participation.** Conflict can be very painful and in many places restorative responses to conflict are still unfamiliar to most people. As such, anxiety, discomfort, and ambivalence about participation are not unusual. We do not need to get rid of this distress (we probably would not be able to if we tried), but if the distress is so high that the person is unwilling to participate in an authentic manner, it is useful to unpack their concerns, collaboratively explore potential strategies for addressing those concerns, and ultimately support the individual in discerning whether participation is in their best interest. To this end, it is sometimes useful to obtain written "reverse Miranda rights" statements from those with structural power. Unlike Miranda rights, which warn those accused of a crime that "everything that they say can and will be used against them in a court of law," so-called

“reverse Miranda rights” are a written promise (by prosecutors, police chiefs, school principals, etc.) that the things said and done in the circle will NOT be used against the participants in any kind of disciplinary or punitive action following the restorative process (Belden, 2012). There may be legal restrictions (e.g., Title IX violations) to these promises and these should be made explicit in the statement. There may also be circumstances when such statements are unnecessary or even counterproductive. At times, however, (as in the case-study below) they can create enough trust and perceived safety for individuals to show up and be honest about their contributions to the harm.

Case-Study: The Broken Windshield

As it often does, it started with the best intentions. A group of high school students approached their school administrators about doing a Black Lives Matter protest. The administrators were supportive and guidelines were negotiated with the student leaders, including that the protesting students would remain in the building. But as the event unfolded, some subset of the students didn't comply and spilled out into the street, which hadn't been shut down. The car that happened to be traveling down the street was forced to stop as the (mostly black) students blocked its path. By the time the driver, a white woman from a neighboring town thought about backing up, that option disappeared as the next wave of students filled the street behind the vehicle. The driver grew anxious; she had to get out of there. It occurred to her that if she gently took her foot off the brake, the car would inch forward and the students would get out of the way. Instead, some of the students became offended by what they perceived as a disregard for their safety and started to pound on the car's windshield, which eventually cracked. Eventually, the police arrived to clear the scene but the damage had been done. Predictably, the community response split across racial and political lines with the left angry at the driver's disregard for students' safety and the right outraged by student disregard for property. Following a lengthy police investigation, the state's attorney called for a restorative process in lieu of pressing charges. Though few of those involved had even heard of restorative justice and despite a lack of any pre-existing agreement that such situations would be handled restoratively, we agreed to try to set one up.

Because she initiated the process, our first preparation meeting was with the state's attorney who, of course, was eager to have the process take place. After that, we met with the driver and then with the young people who organized the event and others who were placed at the scene of the windshield being damaged. Both the driver and the students were reluctant to participate as both had concerns about the potential consequences of their participation. We anticipated some of the students' concerns and came to the preparatory meeting with reverse-Miranda statements from both the state's attorney and

the chief of police. Those were well-received but the students quickly told us they were insufficient. The student organizers were worried that their teachers (who supported the protest) would get in trouble and asked if similar reverse-Miranda statements could also be obtained from the school superintendent and the school board. We obtained such statements and prepared these new parties to participate as well, along with the principal, chief of police, and various leaders from the African-American community. Also in attendance were support people for both the driver and each of the students. Altogether, 16 individuals participated, from a total of about 30 who were invited and prepared. Several teachers, as well as the students who reportedly hit the windshield, declined to participate, unwilling to trust a process they did not have a voice in creating or choosing and with which they had no previous experience.

The dialogue itself took several hours. The student organizers talked about why the protest was important to them and expressed regret about the damage to the car (and for students spilling out into the street), while the African-American community leaders talked about the history of racism, both nationally and in the local community and emphasized the need for nonviolent training and organizing. When it was her turn to speak, the driver explained how panicked she felt as she watched the students surround her vehicle. The agreements addressed the variety of needs. The African-American leaders pledged to cover the damages to the car with a community fund-raiser, the school principal made plans to continue the dialogue with the many students who felt impacted but were not directly involved and therefore not present. Perhaps more importantly, the participants seemed content that their voices were heard, that their good intentions were seen, and that the unpleasant and highly contested incident could be put behind them. As promised, no punitive action was taken against any of the parties.

During the circle Although most of the work related to power dynamics takes place during system design and in the preparation phase, there are also things facilitators can do during the actual process. In family group conferencing and in circles that use a dialogue process rather than a talking piece, it is important to be strategic (in relation to power dynamics) regarding whom to invite to speak first and when to invite each of the other participants. Here again, there are many considerations. Sometimes, it is meaningful for those who perceive themselves as having been harmed to speak first. Other times, there are reasons to begin with those who did the harm. But if we do not attend to various aspects of power, we may wind up unintentionally replicating social power hierarchies by having most of the men (or the dominant racial/ethnic group) speak first or more often or have the last word (Lyubansky & Shpungin, 2015).

Attempting to silence any kind of self-expression, even in the name of caring for those who have less power, is not recommended. This is likely to lead to resentment, frustration, and perceived bias and injustice. All of these are likely to make the process less restorative for all parties. Instead, look for opportunities to bring in the voices of

those with less power and, if necessary, amplify their voices by underscoring (repeating back) the essence of their expression.

Focus on including all points of view rather than giving all participants equal time. If the conflict is between two clearly defined groups and one group has more representation in the restorative process, every person having a voice may, ironically, feel unfair to the group with less representation. It is true, of course, that inclusion and having a voice are core principles of restorative practices. However, in restorative practices that do not have a predictable speaker order, it is sometimes better to ask “Does anyone have something new or different to add?” rather than just inviting the next person to speak.

During the agreements stage, look for subtle signs of either coercion (by those with more power) or acquiescence (by those with less power). Respond to these signs by slowing things down, expressing concern about the particular power dynamic in the room, and inviting feedback from those present. It is not necessary for everyone involved to feel joyful and excited about the agreements. We just do not want the restorative process to unintentionally replicate existing power dynamics by letting those with more power have disproportionate influence.

Realistic Expectations

When working with a new school on transitioning to restorative practices, it is important to set realistic expectations so that administrators can make informed choices regarding whether and when they want to start, what will be required by way of time and resources, and how long it will take before the restorative system is working smoothly and efficiently.

Expected Utilization Patterns

Restorative practices are not a conflict avoidance system. To the contrary, they are designed to engage conflict, understand the unmet needs of the different parties, and find mutually agreeable ways to move forward (Lyubansky & Barter, 2011). It is not unusual for conflict to seemingly increase when restorative practices are implemented, because, if they are implemented well, they demonstrate a systemic ability to engage conflicts that had previously been suppressed. If it seems to the adults in the building that students are using the restorative system in greater frequency than they anticipated, it is a sign of trust that the restorative system can meet their needs. If it seems to the adults that students are using the restorative system for what seem like small or trivial conflicts, it may be an indication that students are trying to establish such trust by experimenting with conflicts that are perceived to be more safe.

On the other hand, if it seems that both students and adults in the school are avoiding the restorative system, it may be because the concepts of restorative justice are still unfamiliar and the boundaries of the process (i.e., who can attend, what kind of language may be used, the consequences of speaking honestly) are not yet well understood. Such conditions create discomfort and avoidance, valuable feedback that more work in regard to building understanding and trust remains to be done.

Occasionally, some students and adults find the experience of being heard so pleasurable that they begin to seek it over and over. There is healing in such experiences and it is unwise to discourage them unless they place an unsustainable burden on the restorative system's facilitators. In either case, such demonstrated interest in the restorative system provides an opportunity to bring a new circle facilitator into the fold.

Altogether, it is natural for something new to inspire curiosity and interest, which sometimes results in what might seem to be an increase in conflict. It is more likely that the conflicts had always been there, suppressed by a punitive system. As students and school staff become familiar with the new justice system, it will become part of their normal routine, available when needed but otherwise in the background as academics and relationships take their proper position on center stage.

Expected Time and Energy Resources

There has long been a perception that restorative practices are time consuming and exhausting. The time concerns are generally raised first, usually directly: "Two hours for a circle? Where are we going to find the time?" They're not all 2 h, of course, but the concern is valid. Some conflict circles require that much time. A few require more. In a school day that is already bursting at the seams, such time is hard to come by for teachers and students alike. But here it is useful to consider the time costs of the punitive alternative. The same small handful of students typically skip school, get into fights, and disrupt classes. How much time do adults in a punitive system spend trying to control and respond to these behaviors, week after week, sometime stretching for years? Is a restorative process really more time consuming?

Concerns about energy expenditure, though often subtler, are also common, as in a recent New York Times Magazine cover story that took the position that restorative practices are "*an effective but exhausting alternative* (Dominus, 2016). Here, too, such arguments ignore the likely alternative. In schools that are still doing punitive discipline, teachers are also frequently exhausted, particularly in schools where violence and others acts of harm are frequent and unabating. When schools shift to restorative practices, many of the adults actually feel energized. For those whose natural instincts are to work relationally and collaboratively, the punitive system produces the need to constantly rationalize (to one's own conscience) actions incongruent with one's values, resulting in a substantial emotional toll. But it is not just those with "restorative personalities" who are vulnerable. Every person who has

observed that suspensions and other punitive discipline methods do not produce the desired results has to deal with the cognitive dissonance associated with regularly engaging in behaviors they know to be ineffective, if not outright counterproductive. A recent meta-analysis suggests that such emotional dissonance may contribute to the job stressors that lead to emotional exhaustion” (Kenworthy, Fay, Frame, & Petree, 2014).

Expected Outcomes

Administrators and teachers in urban public schools have long known that many of their students face considerable obstacles to academic success. Many students live in considerable poverty,³ uncertain about whether there will be enough to eat on any given day. Some have experienced significant trauma, as in the case of physical or sexual abuse or losing family members and friends to violence. Quite a few are dealing with substantial mental health or substance abuse issues. Restorative practices will not and cannot solve all these problems. However, they can help students and adults navigate such obstacles more productively.

While studies regarding the effectiveness of school-based restorative programs are still relatively few, those that exist suggest such programs not only decrease suspensions but also the number of fights and other violent acts (Lewis, 2009), the amount of substance abuse (Karp & Breslin, 2001), and the number of police visits to the school (Gillinson, Horne, & Baeck, 2010). Importantly, restorative practices in schools have also been shown to improve relationships and increase perceptions of safety in those who had experienced harm (Cameron & Thorsborne, 2001). It is important to keep evaluating different outcomes, but the early returns are exactly the sorts of outcomes community psychologists focus on (Jason & Glenwick, 2016) and peace activists hope to achieve (Sims, Nelson, & Puopolo, 2014).

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³ In the United States, for example, 21% of all children (about 15 million total) live in families with income below the federal poverty threshold (National Center for Children in Poverty, 2018).

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