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The Empty Seat in the Classroom: A Philosophical Analysis of the School-to-Prison Pipeline and Zero Tolerance Policies

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Abstract

Education incontestably shapes our knowledge. It enhances our skills, cognition, and is a key component in our character development. Therefore, it is evident that everyone should be able to receive a proper education; however, the opportunities to receive a proper education have significantly decreased. Many blame the school-to-prison pipeline, a social phenomenon that links strict school discipline, such as zero tolerance policies, to students who wind up in the criminal justice system. Do zero tolerance policies and its disciplinary actions truly play a fundamental role in the school-to-prison pipeline, or are there more powerful causes that create the high rate of incarceration of students? How do factors, such as race, age, and economic status, play a role in the school-to-prison pipeline? What are alternative responses to disciplinary issues and zero tolerance policies?

Keywords: School-to-prison Pipeline, Education Reform, Zero Tolerance Policies

Introduction

Emile, or On Education is among the many literary contributions of Jean-Jacques Rousseau that has significantly shaped all disciplines of modern society. Consisting of both a

novel and treatise, *Emile, or On Education* delineates Rousseau's conceptualization of a "natural man" in an educational environment. Idealistically, young children are supposed to be cared for and protected by adults. Once able to care for themselves of the basic necessities, Rousseau contends children should begin to learn subjects based on their own curiosities, which will allow a natural instillation of the desire to learn. Once this motivation is instilled, children will thrive with guidance from teachers and tutors (Rousseau, 1966).

Rousseau's idea of education is fueled by his belief in providing students opportunities to learn based on their natural eagerness and curiosity. Unfortunately, social issues, such as the school-to-prison pipeline and school violence, obscure individuals' freedom to receive proper education. In order to control the rise of school violence, strict initiatives, such as zero tolerance policies, were put into effect; however, many people question the ethics and efficacy of such regulations.

There is little controversy over the responsibility of schools to use appropriate means to ensure a safe learning environment; yet is the zero-tolerance policy approach an effective measure to mitigate school violence? What is the link between zero tolerance policies, racial barriers, and the school-to-prison pipeline? This paper will analyze multiple scholarly sources and their perspectives on the school-to-prison pipeline and effects of zero tolerances policies. To conclude, I reflect on the sources addressed, and contend zero tolerance policies yield more harm than benefits in our educational system, especially among minorities, and suggest alternatives to zero tolerance policies that have the potential to alleviate the school-to-prison pipeline.

Part I: Sources and Analysis

Challenging the School-To-Prison Pipeline (New York Law School Law Review, 54(4))

The question of whether the foundations of our criminal justice system are evenly distributed between retribution and rehabilitation has been heavily debated in discussion about prison and education reformation. According to this *New York Law School Law Review* article, there is reason to believe our criminal justice system consists more of retributive measures rather than opportunities for rehabilitation. This parallels with current school systems and their focus on punishment and criminalization of students rather than valuing the education and rehabilitation process. Specific policies were put into place in order to decrease the violence and crime within schools. Additionally, more schools have increased police staffing and metal detectors, creating more of a detention-like environment. According to the review, the “number of students suspended from school each year has nearly doubled from 1.7 million in 1974 to 3.1 million in 2000. And in 2006, one in every fourteen students was suspended at least one during the year,” (Archer, 2009). Schools are punishing more students to promote a safe learning environment rather than focusing on rehabilitative measures to ensure education is still attainable.

The law review defines the school-to-prison pipeline as a “collection of education and public safety policies and practices that push our nation’s schoolchildren out of the classroom and into the streets, the juvenile justice system, or the criminal justice system,” (Archer, 2009). Additionally, the school-to-prison pipeline heavily impacts African American students, who only represent 17% of public-school enrollment but make up 34% of school suspensions in 2000. The school-to-prison pipeline remains one of the most critical civil rights issues today, as it affects the people of the future.

African American Disproportionality in School Discipline (New York Law School Law Review, 54(4))

According to this New York Law School Law Review, there are two main reasons as to why the zero tolerance policies have been implemented. There is a hope that the consequences of zero tolerance policies would serve as a powerful precedent for students, deterring the inappropriate behavior from happening again and creating a safer school environment. Additionally, policy supporters believe that removing “troublemakers” would aid teachers in controlling the classroom and establishing effective learning (Skiba, Eckles, & Brown, 2009).

As stated in the review, there is no data supporting that zero tolerance policies, suspensions, and expulsions deter students from committing the infraction again. In fact, “studies of suspension have consistently found relatively high rates of repeat offending among those who are suspended, suggesting a clear lack of deterrence for those students,” (Skiba et al., 2009). Furthermore, empirical data shows that school suspension is linked to higher dropout rates, even as much as encouraging students to drop out of school. Although zero tolerance policy advocates claim that pushing “troublemakers” out of the classroom would ensure a safer and more effective learning environment, it is found that schools with high rates of suspension due to zero tolerance policies tend to have a lower academic performance in standardized test, regardless of the school’s financial status or demographics.

However, there are studies that support a disproportionate number of expelled students are students of color. A study conducted by Donald Stone revealed out of 1,382,562 students from thirty-five school divisions, 46% of the students were white, 44% were black, and 10% were other races. Although the number of white and black students were merely equal, 71% of

expelled students were black compared only 28.5% being white students. Another study conducted with socioeconomic indicators remaining the same, the suspension rate of black students remained significantly higher than white students (Skiba et al., 2009). This supports many claims of the school-to-prison pipeline being a critical civil rights issue as well.

When disciplinary actions of schools were closely investigated, it revealed a commonality between the high expulsion rates of African American students. The rates seemed to be higher for African American students because they are more likely to be punished for “less severe or more subjective infractions” yet more research needs to be done to confirm this (Skiba et al., 2009). Unfortunately, expulsion numbers seem to remain high for African American students because there is not enough initiative by educational reformers to alleviate the racial issue. There is a strong belief that overall, actions by authorities (such as the government or schools) are presumed to be “colorblind unless it can be shown that there was an intent to discriminate based on race,” (Skiba et al., 2009). This idea has made it extremely difficult for African Americans to speak up and challenge disciplinary actions that are questionably discriminatory.

Are Zero Tolerance Policies Effective in the Schools?

An evidentiary journal review by the APA Task Force examines existing policies that attempt to prevent school violence and its effectiveness. According to the task force, the term “zero tolerance” refers to policies that have “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,” (American Psychological Association Task Force, 2008). The task force states that zero tolerance policies have not made schools safer and

more effective in handling disciplinary issues. One reason why zero tolerance policies have little effect on bettering the school system is because there is not enough evidence pointing towards a rapid increase in school violence. According to the task force, the number of critical and deadly school violence has remained small and has even decreased slightly since 1985 (American Psychological Association Task Force, 2008). Therefore, implementing strict policies have little purpose. However, since the review's publication in 2008, there have been 427 school shooting incidents from 2010-2019, with 110 shootings in 2018 alone, proving that times have in fact changed and promoting school safety should not be belittled (ABC7, 2019). A key assumption of zero tolerance policies is that removing students who are disruptive would promote a safer learning environment; however, schools who implement zero tolerance policies and have high suspension and expulsion rates shown a disproportionate amount of time on discipline and less time focusing on academic achievement.

Race. In terms of students of color, there is an overrepresentation of African American students facing disciplinary actions like out-of-school suspension (American Psychological Association Task Force, 2008). There is no evidence supporting or denying the claim that African American students are more disruptive; however, there is evidence supporting the increased likelihood of African American students to be punished for less serious offense to be far higher than any other race. The task force states that some teachers are not trained well enough for classroom management, and unfortunately some give into racial stereotypes (American Psychological Association Task Force, 2008).

Cognition of Adolescents. The review analyzes the psychological development of children and youth and discusses the effects of zero tolerances policies at a young age. At 14

years and younger, it has been proven in psychological trials and neuroscience studies that adolescents have poor resistance against peer influence, understanding risks, and controlling impulsivity. Since crucial parts of the decision-making area of the brain are still undeveloped, children are more likely to take greater risks without understanding its consequences (American Psychological Association Task Force, 2008). Therefore, when used “inappropriately,” zero tolerance policies can negatively impact the psychological and neurological development of students, as well as their judgement.

Criminal Justice System. Interestingly, the task force claims that zero tolerance policies have also increased due to the rapid increase in criminal profiling. Although profiling has the reputation of being unreliable, it is still a common source of prospectively identifying people. Furthermore, the increase of zero tolerance policies has led to an increase of referrals to the juvenile justice system, which is where the school-to-prison pipeline comes into play. Due to the increase in referrals, many have questioned if the constitutional rights of the students have been fully respected. The task force states the research done on the school-to-prison pipeline is anecdotal or descriptive (American Psychological Association Task Force, 2008).

Suggestions. The task force list alternatives that could assist in maintaining a safe learning environment. One of their suggestions is implementing more flexibility in zero tolerance policies, mirroring many police officers’ wide discretion in their powers of citations and arrests. Furthermore, teachers should have regular contact with parents to develop a strong relationship. Teachers should also be the authoritative figure that contacts the parent if a student commits a misdemeanor act, not an administrator or principal. Taking this into consideration, teachers should also receive more training on how to manage classrooms. In

terms of policy, instead of having a set consequence, disciplinary actions should be administered depending on its severity (American Psychological Association Task Force, 2008). This would include options such as parent-teacher conferences, afterschool detention, community service opportunities, or counseling for the less severe acts instead of automatic expulsion and time out of the classroom. Schools should reach out to their students who are currently in or are at-risk for juvenile detention to develop a strong relationship. To conclude, the task force states that there is not enough research regarding the implementation of alternatives to zero tolerance policies and proposes more attention towards the issue.

Part II: Personal Exploration, Deliberation, and Reflection

The implementation of zero tolerance policies reflects many beliefs of renowned deontologist Immanuel Kant. Retrospectively, Kant's ethics fixate on the ideas that actions are either morally right or wrong, and that we have the strict obligation to follow the laws that govern us. Kant believes that we possess certain intrinsic morals that by no means should be violated, such as lying and murder. If one commits such acts then they are intrinsically wrong, despite the consequences and circumstances.

In contrast, utilitarians Jeremy Bentham and John Stuart would argue that an act is not measured by a blatant right or wrong. Rather, services should be articulated based on whether or not it produces more benefits than harm, maximizing the happiness of people. In this section of the paper, I reflect on the scholarly sources and propose a more utilitarian and rehabilitative approach to school discipline instead of zero tolerance policies and strict discipline in order to alleviate the issue of the school-to-prison pipeline. Rather than establishing a black-and-white

right or wrong, I propose treating each infraction uniquely with a remedial focus, which would curtail the infamous link between school discipline and the criminal justice system.

Flaws of Zero Tolerance Policies

Although not explicitly stated in the U.S Constitution, historical legal cases such as *Brown v. Board of Education* validate children's fundamental right to receive an education, which promotes equality; however, how *equitable* is our education across the country? We all possess the equal right to receive an education, but in terms of distributing resources based on various needs, our educational system lacks equity, and zero tolerance policies do not aide this issue. Instead, it promotes students to avert the classroom and into the criminal justice system, deprecating the equal right to receive an education.

Zero tolerance policies increased in popularity in the early 1900s. Public schools focused less on a rehabilitative model of discipline and created stricter consequences and policies to combat the slow rising of school violence (Skiba et al., 2009). The passing of the Gun-Free Schools Act (GFSA) of 1990 helped stimulate the implementation of zero tolerance policies across the country, requiring states that receive federal funding to "expel any student who has a firearm on school grounds for a minimum of one year," (Skiba et al., 2009). Furthermore, police are required to be informed when a student violates the act, and they can instill additional consequences that are independent from the school's disciplinary actions. According to an article, essentially a "student may be found not guilty of criminal charges, but still be subject to the provisions of the GFSA," (Dunn, 2002).

The Act set a crucial steppingstone for the school-to-prison pipeline. It provided a direct connection between schools and the criminal justice system through litigation. Although

possessing a weapon on school grounds is incontestably serious crime, the Act leaves little to no room to analyze the situation before its consequences. As stated in the Act, the student is automatically expelled from that school for at least one year and even has the opportunity to receive additional consequences from legal authorities, such as juvenile detention. *United States v. Lopez (1995)* eventually ruled the Act unconstitutional, reasoning it was an overreach of congressional power over schools since schools were controlled by states and not federally. However, the Act still played a big role in zero tolerance policies today, proving that such policies along the lines of the GFSA give too much power over governing systems.

The reasoning for implementation zero tolerance policies is plausible. Again, safety is a significant concern of the educational environment. There was a rapid rise in school violence; however, many statistics do not consider *who* commits these acts of violence. As stated previously in this paper, the number of students committing acts of violence in the classroom has remained high, but steady. If zero tolerance policies were to help promote a safer learning experience, these numbers would decrease; however, zero tolerance policies do not target people *outside* of the school. A handful of the deadliest school shootings after the 2000 Columbine High School massacre were committed by people who were not students attending the school at the time. 20-year-old Adam Lanza walked into Sandy Hook Elementary School and killed 26 people, with 20 of them being students between six and seven years old. Nikolas Cruz who was expelled from Stoneman Douglas High School, killed 17 people with 14 of them being students (Keneally, 2019). Zero tolerance policies were intended to control violence inside schools, but we must expand our lenses and develop better measures that protect students from external criminals.

Zero tolerance policies are difficult because they are articulated specifically with little to no flexibility. Especially in an environment where students are slowly maturing and developing, strict policies are doomed to damage the adolescent minds. Such policies do not take into consideration the brain development of students. Many neurological studies even claim that the front lobe of the brain, which controls emotions into logical response, does not fully develop until 21 years old (Faer & Omojola, 2014). Therefore, implementing zero tolerance policies, suspensions, expulsions, and even arrests as a norm in school systems at such an early age assists in creating the foundation for a pathway to the criminal justice system.

As discovered, the school-to-prison pipeline is a race issue that stems from zero tolerance policies. It is concerning that the scholarly articles stated there is no evidence proving African American students are more disruptive; instead, they are more prone to be punished for less severe infractions, which explains why statistics for discipline African American students are high. It is also concerning that even in predominantly white schools, African American students still have the highest suspension and expulsion rates (Reynolds, 2016). Many students who come from struggling homes consisting of family or financial issues find school as a sanctuary. However, once schools become focused on detention and suspension, students feel trapped and see only one option: the criminal justice system. Incarcerating students instead of educating them is ethically wrong, regardless of race, because all children should have the opportunity to receive a quality education.

Reforming Discipline in Schools

A handful of surveys shows that a decrease in police officers possessing a weapon on campus does promote school safety. One school decreased its weapons on campus but

increased its police staff, promoting friendly engagement with students and a change of perception of police because less arrests were made (Faer & Omojola, 2014). This solution is plausible, but would require employing and paying more police officers, which may be difficult in some areas of the country, especially in a school district that extends through many counties and land (compared to an urbanized area where there are more police officers).

The training process of teachers needs to be modified to focus on developing more personal relationships with students. Since students are still in the cognitive structuring stage of their lives, they should be surrounded by positive adults who instill not only written knowledge, but the values of responsibility, respect, and critical thinking. As Rousseau stated, teachers guide students towards a certain direction; therefore, it is essential that teachers not only lead by example and teach efficiently but also encourage students to remain in the classroom and learn. Dr. Jay N. Giedd, a brain imaging scientist, stated that children are forming lifelong patterns in their brain during adolescence. They therefore they need all the positive reinforcement they can get (Faer & Omojola, 2014). Some schools in California have focused on bettering staff training, and so far, the results have shown a positive impact in the school's overall behavior. Schools are divided into tiers, which helps teachers focus specifically on how to manage various students. Tier 1 refers to a "broad support system for all students," and tier 3 is more individualized support for "high-risk students" who may find themselves misbehaving often, with tier 2 as a medium. The tiers are divided into 5 categories: social emotional learning, mental health, positive behavioral interventions and support, restorative justice, and implicit bias (Faer & Omojola, 2014). This helps staff focus on *how* to treat students based on different development and behavior levels. For example, one way to discipline high-risk students based

on tier 3 is for family group counseling instead of suspending him or her from school immediately.

In addition to training teachers better, we must understand the value of the connection between teachers and their students. If students do not want to be themselves because they do not feel comfortable at school, it is the teacher's job to be at least a counselor-like figure. Students should feel comfortable talking their teachers, and teachers should feel comfortable talking to their students. If more teachers put in the effort to connect with their students, they can understand "why" students act the way they do and help them on a more personal level than obliging to policies. Additionally, parents play a significant role in how students present themselves in the classroom; therefore, going further and developing a strong relationship between faculty and parents is crucial. If the connection between teachers and parents is strong, teachers can also understand students' actions better.

California has made significant legal efforts to combat zero tolerance policies and strict disciplinary actions. The California Education Code states that for most school offenses, suspension can only be used as a final measure by the school. Essentially, there needs to be proof of other forms of discipline to be deemed ineffective. This may not necessarily decrease the amount of misbehaving in the class, but it will open up the path to rehabilitation and keep less kids out of the pipeline. Additionally, schools "may not suspend students in grades K-3 for disruption and willful defiance" according to California Education Code section 48900(k) as of January 1, 2015 (Faer & Omojola, 2014).

Conclusion

At the end of the day, the number one priority of students should be to learn material in a safe environment. Students are sent to school to obtain the information needed in order to change the world and better the future, and we should not have to think that school itself may be the issue. Students should be nurtured to respect others, work hard, and have the opportunity to reflect on their mistakes in instances of inappropriate behavior. More rehabilitative measures need to be adopted in modern education. It is unfair that some students are not given the opportunity to continue their education after an infraction to deter similar behavior in the future, sometimes even for petty offenses.

Zero tolerance policies leave little flexibility for these values, resulting in an increase of school suspensions that prove to have a direct correlation to a higher probability of suspended kids ending up in the criminal justice system. Zero tolerance policies increase the likelihood of students spending less time in the classroom learning, undermining the fundamentals of Rousseau's *Emile*. If we fix the disciplinary issues in our school systems, we can solve a plethora of problems in our criminal justice system, similar to the restorative measures of Norway and recent reform in California's educational system. A second chance or alternative punishment should be an option (even if it is not used), especially with younger schoolchildren, because having a zero-tolerance mindset is toxic not only inside the classroom, but the world. Every situation is different, and there should not be a one-size-fits-all policy that punishes those who misbehave and prevent further crimes from happening when data contradicts its effectiveness.

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