

**Restorative Justice as an Alternative
Disciplinary Method in Schools**

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It is an accepted truth that discipline in schools is necessary to maintain order and facilitate learning. For many years discipline at school came in the form of highly punitive measures including physical punishment, spanking or other ways of causing physical pain. Until the last quarter of the 20th century corporal punishment was generally considered an acceptable way for schools to mete out punishment. Today corporal punishment is still allowed in 21 states, although individual school districts within each state may ban this practice. (Sabo & Foley, 2008) The purpose of discipline is to correct student misbehavior, prevent future transgressions and teach self-control. However, corporal punishment teaches little, other than not to get caught again. Corporal punishment may act as a deterrent to future misbehavior if students refrain from misbehavior to avoid further physical pain, but it does nothing to teach students where they went wrong, who they harmed or how to make better choices in the future. (Amstutz & Mullet, 2005) The purpose of this paper is to demonstrate that restorative justice, as part of a whole-school approach, is more effective than punitive or retributive disciplinary methods in maintaining order, teaching self-control, facilitating social and emotional learning, and recreating schools as places of peaceful learning excellence.

When we rely on rules rather than relationships to guide our responses to harm, everyone loses. Families view the school as uncaring and may contribute less to the school. Victims feel helpless and abused and may invest less in their schoolwork. Bystanders are less likely to say what they saw because nothing changes in the end. Educators and administrators are frustrated because they feel they only have limited options. Wrongdoers blame their victims, and when someone eventually holds them accountable, they don't understand their responsibility or the need to be accountable. (Amstutz & Mullet, 2005, p. 42)

Traditional punitive or retributive disciplinary methods focus on swift "justice" delivered by an authority figure and frequently leave the offender resentful, angry and likely to lash out again. The student "tends to question the nature of the punishment and to blame the punisher rather than take responsibility for the harm done by the misbehavior. Punished students exhibit a domino effect: they blame teachers, take out their frustrations on peers, and passively resist assigned work." (Amstutz & Mullet, 2005, p. 12) In this context punitive or retributive disciplinary measures include both corporal punishment and punishments of exclusion such as detention, suspension and expulsion. These nonviolent punishment methods still cause harm to the offender by impairing his or her ability and opportunity to learn. A student is likely to sit in detention not reflecting on how he or she could have handled a situation better, but instead planning his or her next escapade or plotting revenge on an unjust world. All the while this hypothetical student is falling behind in classes because of being separated from the rest of the school community as punishment for his or her misdeeds. The hypothetical student is not being taught how to make better choices, build empathy and self-control – he or she is not being taught at all, merely warehoused. "Excluding our children from school seems to be a precursor to them entering the legal system as they face academic failure, which often, in turn, leads to higher school dropout rates. Some have called it the 'school-to-prison pipeline.'" (Amstutz & Mullet, 2005, p. 47)

Traditional punitive or retributive disciplinary measures do not address the damage done to the victim and the community. "Retributive justice primarily punishes the offender, but does not

directly attend to the emotional needs of the victim.” (Witvliet, Worthington, Root, Sato, Ludwig, & Exline, 2008, p. 13) If the trauma of conflict is not resolved, the victim may later become an offender, recreating the offense that caused harm as a way of dealing with the lasting damage of conflict or trauma. “If it is not adequately dealt with, trauma is reenacted in the lives of those who experience the trauma...” (Zehr, 2002, p. 31) While traditional punitive disciplinary methods focus on determining who committed an offense and what penalty they should suffer, restorative justice asks who was harmed, what needs to be done to make it right, and whose responsibility it is to take steps to heal the damage. (Zehr, 2002, p. 21) The ‘restorative’ aspect of restorative justice is to repair the damage caused by wrongdoing, heal the harm and rebuild the relationship.

Restorative justice is defined by Howard Zehr, who is considered to be the grandfather of the restorative justice movement, as “a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs and obligations, in order to heal and put things as right as possible.” (Zehr, 2002, p. 37) It was developed from influences of Aboriginal, Native American, and New Zealand’s Maori tribal dispute resolution practices. (Cowie, Hutson, Jennifer, & Myers, 2008) Restorative justice was first applied in the area of criminal justice, but soon educators developed ways to apply restorative justice principles in school settings. “There is no doubt that schools are crying out for a cultural change that meaningfully responds to the rapidly changing needs of our youth and the broader community.” (Harrison, 2007, p. 20)

Restorative justice is built on three key principles: “1) Crime is a violation of people and of interpersonal relationships; 2) Violence creates obligations; 3) The central obligation is to put right the wrongs.” (Zehr, 2002, p. 19) While the word ‘crime’ may be replaced with ‘misbehavior’ in a school setting, the meaning is the same: deliberate action in defiance of established behavioral norms that harms other individuals and the school as a community. Unlike punitive or retributive justice’s focus on penalties for violation of rules, restorative justice seeks to repair damage done to individuals and communities and rebuild relationships damaged by transgressions.

From the perspective of restorative justice, harm from an offense is not necessarily confined to the victim of an offense; classmates, teachers, and even family members and friends of the primary victim may suffer from the misbehavior of another. Therefore harm resulting from an offense may be much more widespread than previously believed. In restorative justice it is crucial for anyone who feels harmed by the actions of another to be included in the restorative justice process, have the opportunity to tell his or her story and know that it has been heard. (O'Brien, 2007)

Although restorative justice focuses heavily on the harm suffered by the individual and the community at the hands of an offender, restorative justice also asks why the offender chose to offend, what needs the offender has that are not being met, and has the offender suffered harm at the hands of another that must be repaired. “Studies show that many offenders have indeed been victimized or traumatized in significant ways. Many other offenders perceive themselves to have been victimized. These harms and perceptions of harms may be an important contributing cause to crime.” (Zehr, 2002, p. 30) Restorative justice seeks to interrupt the cycle of victimization and offense by healing the offender as well as the victim. One of the most important aspects of restorative justice is that it allows an offender to make amends for his or her misdeeds and restore his or her standing within the community. This creates formal acceptance of the offender back into the community, while exclusionary methods of discipline such as detention or suspension affirm the offender’s status as an outsider to the community. Acceptance into the community provides critically needed support for the offender not to reoffend.

Restorative justice has been implemented in schools all over the world and has a track record of success and enthusiastic acceptance, provided implementation is done as one aspect of a whole-school program. In order to change the climate of a school, all parties involved – students, teachers, administrators and parents – must commit to creating lasting change, learning new ways to interact with each other, and trusting that the process will work over time. A temporary commitment to restorative justice is useless; a partial implementation of restorative justice will not change the school's climate. A whole-school approach to restorative justice requires schools to be “committed to restorative justice training for all administrators, teachers, and staff as a way of infusing restorative discipline practices in the classrooms, hallways, playground and extra-curricular activities.” (Amstutz & Mullet, 2005, p. 73)

Restorative justice is a collaborative process that actively involves any member of a community who wishes to speak or feels he or she has been harmed by the actions of another. A common technique used in restorative justice is the circle, in which all parties gather to listen, speak and be heard. (Zehr, 2002, p. 51) The circle is led by a facilitator who is trained in communication skills and restorative justice principles. Prior to conducting the circle, the facilitator meets with all involved parties to explain how the circle will be conducted, answer questions and develop buy-in and commitment to the process. Once the circle begins, some facilitators incorporate into the opening activities the signing of a contract in which participants consent to follow the restorative justice process, preserve confidentiality if needed, conduct themselves honestly and openly, respect and listen to the other participants, and abide by the results of the circle. (Rundell, 2007)

Often a talking piece is passed around the circle to indicate whose turn it is to speak. This helps each participant be heard and prevents one-on-one discussion or direct response that can easily become negative or hostile. The talking piece “provides a greater opportunity for listening and reflection since a person has to wait for the talking piece to come around before speaking. Participants tend to focus more on what people are saying than on preparing an immediate response.” (Amstutz & Mullet, 2005, p. 54) Passing a talking piece around the circle offers each participant the opportunity to be heard without having to compete with louder or more forceful speakers, and encourages every member of the circle to participate, knowing they will be heard. This is especially important in school-based restorative justice, when students may otherwise stifle their own opinions as a result of peer pressure or fear of retribution. The structure of the circle and the commitment to honest and open participation help children speak more openly and honestly about their feelings. “The power of the process comes from the engine of emotional engagement of the participants.” (Rodogno, 2008, p. 143) Spontaneous apologies for harm may occur naturally during the circle, and these can hold tremendous power to repair relationships. (Rundell, 2007)

Part of the circle discussion involves asking the participants what they believe is a fair and equitable way to repair harm done to the community. In this respect restorative justice is both highly collaborative and highly creative, and the methods of repairing harm to individuals and communities are usually tailored to each specific situation. Those who have suffered harm are given the chance to state what constitutes meaningful repair of harm, an empowering aspect of restorative justice. The members of the circle, including the offender, come to a mutual agreement on what is needed to repair the harm to individuals and communities, rebuild relationships and reintegrate the offender as a member in good standing of the community. (Rundell, 2007)

Another key difference between restorative and punitive or retributive discipline is the recognition that because each offense is different in what harm was done to whom and why, each

offense requires a unique solution. ‘Cookie-cutter’ punishments, such as automatic suspension for certain offenses, are not appropriate in a restorative justice system. Eliminating automatic punishments for specific offenses is necessary to a whole-school implementation of restorative justice processes, and may be done as part of a review of all school policies and procedures to determine what will work harmoniously with a restorative justice model of discipline and what will need to be changed. (Amstutz & Mullet, 2005)

Restorative justice encourages social and emotional learning among children because it helps them develop empathy, problem-solving and communication skills, and encourages the growth of healthy relationships. This fits with the characteristics of emotional intelligence programs as identified by Salovey and Mayer, which include: “understanding feelings; managing feelings; self-motivation; handling relationships; and empathy.” (Cowie, Hutson, Jennifer, & Myers, 2008, pp. 497-498) A meta-analysis by the Collaborative for Academic, Social and Emotional Learning (CASEL) indicates that students who are exposed to social and emotional learning programs show documented improvement on several measures, including “improvement in social and emotional skills, school bonding, pro-social norms, self-perceptions, positive social behaviors, and academic achievement”, strong protective factors that help children make better choices in life. (CASEL, 2008, p. 2) This study also demonstrates that students show significant academic improvement from exposure to social and emotional learning programs by scoring 11% higher on standardized achievement tests than students who did not receive social and emotional learning exposure. They also show 9% higher scores on self-image questions, 9% lower rate of classroom disruption, and 10% lower rate of anxiety and depression. (CASEL, 2008, p. 2) It is critically important for society to “help children to recognize and understand their emotions and the emotions of others so that they will be more able to control themselves in positive ways” (Cowie, Hutson, Jennifer, & Myers, 2008, p. 498), and the way to do that is through social and emotional learning.

Restorative justice has been implemented in schools around the world, and when put into place as part of a whole-school implementation, restorative justice has established a solid track record of effectiveness in improving school climates, reducing conflict between students and enhancing the educational experience for all students. “Most school reforms efforts have fallen short because they have neglected to take the time or risk to try and change the foundation of the school and its culture.” (Cowie, Hutson, Jennifer, & Myers, 2008, p. 496) Restorative justice practices were implemented in London in 2000, and these programs were evaluated for effectiveness in 2004. According to the findings of that evaluation, “introduction of restorative practices within the school environment were both beneficial and successful” in reducing anti-social behavior such as truancy, bullying and other violence in school settings. (Cowie, Hutson, Jennifer, & Myers, 2008, p. 500)

In schools in Hong Kong, many primary schools experienced a severe bullying problem. Surveys of students in 47 primary schools indicated that in the previous six months 87% of students had witnessed verbal bullying, 68% had experienced physical bullying, 62% reported being verbally attacked by a classmate, and 28% said they had been socially excluded. The same survey reported that 67% of students who were bullied did not report the incident to a teacher, and over two-thirds did not tell a parent. (Wong, Lok, Lo, & Ma, 2008, pp. 37-45) A study conducted by researchers from the City University of Hong Kong recommended that a combination of social and emotional learning and restorative practices be implemented to address this problem. Researchers focused on the need to interrupt the cycle of violence and revenge by teaching students positive ways of dealing with emotions and conflict, creation of a positive school climate, encouraging cooperation and

collaboration among students, and using restorative practices to heal the damage done by bullying. (Wong, Lok, Lo, & Ma, 2008, p. 50) Researchers also noted that “restorative practices seem to be compatible with Chinese culture in that they emphasize collective values and the restoration of interpersonal harmony.” (Wong, Lok, Lo, & Ma, 2008, p. 51)

In Sydney, Australia restorative practices were implemented at the Marist Youth Care, and quantitative evidence revealed a statistically significant improvement in attitudes and behaviors as well as “a significant reduction in out-of-school suspensions, and no exclusions, reflecting a commitment to inclusiveness.” (Harrison, 2007, p. 19) Qualitative evidence indicated that restorative justice methods were accepted enthusiastically by all parties and that relationships between student, teachers and parents had improved and strengthened as a result. (Harrison, 2007)

In the United States, restorative justice has been implemented in schools in Wisconsin, California and Colorado, to name but a few examples among many. (Amstutz & Mullet, 2005) In Oshkosh, Wisconsin, schools use restorative justice to address problems of truancy, vandalism and harassment, while in Raising City, California the schools utilize a curriculum called Making It Right which was developed by a local teacher specifically to tailor a restorative justice approach to the local schools. (Amstutz & Mullet, 2005, p. 75) In Barron City, Wisconsin, the restorative justice program has been in place long enough for students to grow up under such a system and as a result they treat it as a natural way to resolve their conflicts, often requesting assistance from restorative justice facilitators to help them resolve personal issues before they become significant enough for the school to take action. As one student said, “We know that sometimes we just need help working things out and this is the best way to do it.” (Amstutz & Mullet, 2005, pp. 73-74) In Denver, Colorado a nonprofit group called The Conflict Center is implementing restorative justice at specific elementary and K-8 Denver Public Schools as one component of a whole-school program. This program also includes classroom management skills for teachers, parent education, conflict management coaching for students and teachers, training students as playground conflict managers, and working with school administrators to modify school curricula and policies to support a restorative justice model of discipline. (School Programs, 2008)

Although proponents of restorative justice are enthusiastic about its potential, many also concede that restorative justice is not a cure-all for school discipline problems. Even Howard Zehr concedes, “Restorative justice is neither a panacea nor a replacement for the legal system. Restorative justice is by no means an answer to all situations.” (Zehr, 2002, p. 12) However, as this paper has demonstrated, restorative justice is a proven method to create peaceful climates of learning excellence, teach ways to resolve conflicts without harming others, create social and emotional awareness and build strong relationships, and as such it deserves a place in each educator’s skill-building toolbox.

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