RADICAL RESTORATIVE JUSTICE: REFLECTIONS ON CONFLICT, TRAUMA, AND HOPE IN CHICAGOLAND SCHOOLS

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This Article tracks how abolitionist and reformist debates are unfolding within urban schools' attempts to smash the school-to-prison pipeline. We document how Chicago-area public school teachers are grappling with new restorative justice programs and their complex and divergent sociopolitical and institutional meanings. Drawing on over forty qualitative interviews with teachers, we illustrate how difficult widespread implementation of new conflict resolution mechanisms, in the name of restorative justice, are turning out to be. We analyze how teachers are interpreting restorative justice practices and the challenges they involve for students, educators, and school administrators who learn and teach and work in hierarchical and bureaucratic institutions. Through this analysis, we bring readers face-to-face with some of the broader challenges that restorative justice and abolitionism confront as a large-scale and world-making project, digging in to show how teachers are having to transform themselves and the work they do as educators in order to meet the calls of the present day and age.

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INTRODUCTION

American public schools are today implementing a new common sense: When conflict and harm happen, educators and administrators should not default to consequences like suspensions and expulsions that are penal and carceral in their ideology and practice. Rather, they should use restorative justice ("RJ") approaches to conflict and its resolution, such as mediation, circles, and conferences, that understand harm as a breakdown in relationships rather than a violation of rules. Today, this experiment does not simply reflect local policy choices in particular classrooms or in schools with histories of progressive education. Rather, in the United States, it is part of a statewide legislative effort in a diverse range of places. Strikingly, in 2021, twenty-one states and the District of Colombia had legislated some form of support for RJ in public schools, with a marked uptick occurring between 2013 and 2019.[1]

In large part, this sea change—legislating a new alternative dispute resolution (ADR) practice into the highly regulated, and not infrequently highly conflictual, space of American public education[2]—reflects a policy response to what has become known as the "racial discipline gap" and the "school-to-prison-pipeline," the reality that students who are repeatedly excluded from school have greater contacts with the criminal legal

[1] Thalia González, Rebecca Epstein, Claire Krelitz & Rhea Shinde, *Restorative Justice, School Reopenings, and Educational Equity: A Contemporary Mapping and Analysis of State Law*, 55 U.C. DAVIS L. REV. ONLINE 43, 52 (2021).

[2] For a classic account of how conflict and workplace dynamics in schools confound efforts at reform, see CHARLES M. PAYNE, SO MUCH REFORM, SO LITTLE CHANGE: THE PERSISTENCE OF FAILURE IN URBAN SCHOOLS (2008).

system.[3] In 2014, the Obama administration issued guidelines to reduce both of these phenomena, which included encouraging the use of RJ.[4] But among many scholars and practitioners (and even among some legislators), there is a second, if not as widely shared, view that RJ techniques alone are not likely to solve the high rate of conflict within American public education.[5] Effective RJ requires educators to do more than replace, say, a suspension with a peer mediation (even as reducing suspension and detention numbers preoccupies administrators[6]). It requires everyone involved to embrace a "whole-school"[7] approach—an adjective proponents use to invoke a shift in hearts and minds, as well as in culture and social organization, that transforms schools into places where all interested parties are engaged in dialogic problem-solving and

3 For history and data on the school-to-prison pipeline, see LIZBET SIMMONS, THE PRISON SCHOOL: EDUCATIONAL INEQUALITY AND SCHOOL DISCIPLINE IN THE AGE OF MASS INCARCERATION (2017); CATHERINE Y. KIM, DANIEL J. LOSEN & DAMON T. HEWITT, THE SCHOOL-TO-PRISON PIPELINE: STRUCTURING LEGAL REFORM (2010); Russell J. Skiba, Mariella I. Arredondo & Natasha T. Williams, *More than a Metaphor: The Contribution of Exclusionary Discipline to a School-to-Prison Pipeline*, 47 EQUITY & EXCELLENCE EDUC. 546 (2014); Paul J. Hirschfield, *Preparing for Prison? The Criminalization of School Discipline in the USA*, 12 THEORETICAL CRIMINOLOGY 79 (2008).

4 *See* Letter from Catherine E. Lhamon, Assistant Sec'y, Off. for C.R., U.S. Dep't of Educ. & Jocelyn Samuels, Acting Assistant Att'y Gen., C.R. Div., U.S. Dep't of Just. to "Colleague" (Jan. 8, 2014), https://www.ed.gov/sites/ed/files/about/offices/list/ocr/letters/colleague-201401-title-vi.pdf [https://perma.cc/4ZM5-VXPK].

5 *See* González et al., *supra* note 1, at 57 (reporting that Maryland's law explains that "'[r]estorative practices' means practices conducted in a whole-school ethos or culture that supports peacemaking and solves conflict by building a community and addressing harm in a school setting" (quoting MD. CODE ANN., EDUC. § 7-305.1(a)(3) (West 2024))).

6 In 2015, President Obama's Every Student Succeeds Act (ESSA) required schools to report on "measures of school quality, climate, and safety, including rates of in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, referrals to law enforcement, chronic absenteeism (including both excused and unexcused absences), incidences of violence, including bullying and harassment." Every Student Succeeds Act, Pub. L. No. 114-95, § 1111(h)(1)(C)(viii)(I), 129 Stat. 1802, 1848 (2015) (codified as amended at 20 U.S.C. § 6311(h)(1)(C)(viii)(I)).

7 In the early 1990s, reformers began to use the term "whole-school" as a counter to piecemeal reforms focused on a particular curriculum, grade, etc. Perhaps most prominently, New American Schools, a private nonprofit with venture capital sensibilities, proposed a whole-school approach by funding reformers to develop "'break the mold' school designs" that could be adopted at scale. PAYNE, *supra* note 2, at 158; *see also* Sheila Nataraj Kirby, Mark Berends & Susan J. Bodilly, *A Decade of Whole-School Reform: The New American Schools Experience*, RAND (2002), https://www.rand.org/pubs/research_briefs/RB8019.html [https://perma.cc/GM2V-D7PC]. The term has since travelled beyond this context to reference the quality of the social relationships and connectedness among stakeholders across a school "ecology." *See, e.g.*, Fiona Rowe & Donald Stewart, *Promoting School Connectedness Through Whole-School Approaches: A Qualitative Study*, 109 HEALTH EDUC. 396 (2009).

collaborative relationship building both before and after harm and conflict occur.[8]

This Article intervenes in this moment of rapid policy change. It investigates the promises and some of the challenges of taking RJ to scale in a moment when different understandings of RJ are competing for resources as well as for foot soldiers and professional meaning. There is RJ as an "alternative form of discipline" replete with a set of skills in social and emotional learning, conflict resolution and problem-solving, largely focused on child and youth development and on changing student behavior. There is also RJ as a "whole-school" but also a bottom-up social-movement practice that envisions relationship-building in the classroom as a site for bringing a different world into being. The alternative discipline vision aims at institutional reform and administrative management where schools no longer target disproportionate punishment at students of color. The world-making vision, by contrast, aims at the possibility of deep self- and collective transformation. Sometimes these visions can proceed in tandem, though sometimes there is conflict and antagonism between them. Indeed, some radical educators today suspect that RJ is being installed into bureaucratic institutions as a discrete managerial solution to the systemic problems of racism and authoritarian approaches to teaching. As Barbara Sherrod puts it, "restorative practices have been repackaged and marketed as a promising new way to '*control yo bad-ass kids!*,'" when what is needed is for adults to "relinquish the power [they] hold over children." "Imagine," she writes, "asking White women to relinquish power not just to children, but to Black children."[9]

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8 For a sampling of scholars recently advocating (in different ways) for a whole-school approach, see David Knight & Anita Wadhwa, *Expanding Opportunity Through Critical Restorative Justice: Portraits of Resilience at the Individual and School Level*, 11 SCHS. STUD. EDUC. 11 (2014); CAROLYN BOYES-WATSON & KAY PRANIS, CIRCLE FORWARD: BUILDING A RESTORATIVE SCHOOL COMMUNITY (2015); Marilyn Armour, *Restorative Practices: Righting the Wrongs of Exclusionary School Discipline*, 50 U. RICH. L. REV. 999 (2016); Thalia González, Heather Sattler & Annalise J. Buth, *New Directions in Whole-School Restorative Justice Implementation*, 36 CONFLICT RESOL. Q. 207 (2018); Lydia Nussbaum, *Realizing Restorative Justice: Legal Rules and Standards for School Discipline Reform*, 69 HASTINGS L.J. 583 (2018); Mara Schiff, *Can Restorative Justice Disrupt the 'School-to-Prison Pipeline?,'* 21 CONTEMP. JUST. REV. 121 (2018); Martha Minow, *Restorative Justice and Anti-Racism*, 22 NEV. L.J. 1157 (2022); ANNE GREGORY & KATHERINE R. EVANS, NAT'L EDUC. POL'Y CTR., THE STARTS AND STUMBLES OF RESTORATIVE JUSTICE IN EDUCATION: WHERE DO WE GO FROM HERE? 8 (2020), https://files.eric.ed.gov/fulltext/ED605800.pdf [https://perma.cc/Y4YS-WX6E].

9 Barbara Sherrod, *Your Silence Will Not Protect You*, *in* COLORIZING RESTORATIVE JUSTICE: VOICING OUR REALITIES 55, 55–56 (Edward C. Valandra, Waŋbli Wapȟáha Hokšíla ed., 2020). Sherrod's argument, we should add, points to a contemporary American context where most teachers are White. For example, a Pew Research Center report suggests that from 2017 to 2018,

To understand how similarly situated actors within schools are defining and advancing RJ for different ends, we interviewed over forty educators in Chicago in the summer of 2022 via Zoom. Teachers are crucial stakeholders in the transformation of schools—no theory of RJ can transform a bureaucratic institution without the participation and interpretations of its primary workers. And yet teachers are oddly neglected in studies on RJ's institutionalization, which tend to ask about RJ's measurable effects on and for students,[10] obscuring the lives, feelings, experiences, and operations of the very people who are supposed to produce them.[11]

As context for our case, we begin in Part I with a brief overview of RJ ideas in U.S. education. We trace RJ's various expressions as a practice of social emotional learning and an alternative form of discipline to its more recent expressions as part of a broader social movement for racial justice, anti-oppression, and a polity and economy based on care and cooperation. In particular, we stress how racial justice organizers, scholars, and practitioners have recently reimagined RJ in part by insisting on the power of shifts in self and interpersonal relations to

79% of teachers identified as White, with White teachers comprising 69% of urban school teachers and 90% of rural teachers. Katherine Schaeffer, *America's Public School Teachers Are Far Less Racially and Ethnically Diverse Than Their Students*, PEW RSCH. CTR. (Dec. 10, 2021), https://www.pewresearch.org/short-reads/2021/12/10/americas-public-school-teachers-are-far-less-racially-and-ethnically-diverse-than-their-students [https://perma.cc/9FML-VZCX]. In the 2020 to 2021 school year, 80% of teachers overall identified as White. Katherine Schaeffer, *Key Facts About Public School Teachers in the U.S.*, PEW RSCH. CTR. (Sept. 24, 2024), https://www.pewresearch.org/short-reads/2024/09/24/key-facts-about-public-school-teachers-in-the-u-s [https://perma.cc/VWA6-EW25].

10 A recent literature review on RJ in education summarizes the following focuses of empirical studies: "[i]mpact on student misbehavior and school discipline," "[i]mpact on attendance and absenteeism," "[i]mpact on school climate and safety," "[i]mpact on academic outcomes," and "[a]ccess to restorative justice." TREVOR FRONIUS ET AL., WESTED JUST. & PREVENTION RSCH. CTR., RESTORATIVE JUSTICE IN U.S. SCHOOLS: AN UPDATED RESEARCH REVIEW 28–32 (2019), https://www.wested.org/wp-content/uploads/2019/04/resource-restorative-justice-in-u-s-schools-an-updated-research-review.pdf [https://perma.cc/V9KR-DWE5].

11 *See* DAVID GRIFFITH & ADAM TYNER, THOMAS B. FORDHAM INST., DISCIPLINE REFORM THROUGH THE EYES OF TEACHERS 15 (2019), https://files.eric.ed.gov/fulltext/ED597759.pdf [https://perma.cc/LE9H-FRH8] (explaining that the authors have undertaken the first systematic survey of teachers' approaches to discipline since roughly 2004); *see also* Bernice Garnett et al., *Needs and Readiness Assessments for Implementing School-Wide Restorative Practices*, 23 IMPROVING SCHS. 21, 24 (2020) (calling for more attention to the "assets, needs and readiness" of the people tasked with implementing RJ in schools and creating a survey tool to that end). There has been a sprinkling of qualitative studies interested in teacher perspectives on RJ. *See, e.g.*, Dorothy D. Vaandering, *Student, Teacher, and Administrator Perspective on Harm: Implications for Implementing Safe and Caring School Initiatives*, 35 REV. EDUC. PEDAGOGY & CULTURAL STUD. 298 (2013); Scott Russell & Diane Crocker, *The Institutionalisation of Restorative Justice in Schools: A Critical Sensemaking Account*, 4 RESTORATIVE JUST. 195 (2016); *see also infra* notes 52–55 (discussing studies).

catalyze shifts in broader social systems, and in part by infusing RJ with microsocial principles attentive to how trauma shapes behavior and relationships.

We then turn in Part II to a case study of RJ in the Chicago schooling ecosystem, which we take to include the large public school district of Chicago ("CPS"), charter schools, community-based organizations, the Chicago Teachers Union, and various engines of student and parent organizing. CPS's size (the fourth largest district in the country) and political nature mean that broader educational discourses and movements often filter into school policy.[12] RJ is now specifically implemented in urban school settings that, like CPS, are under pressure to reduce racially disproportionate discipline numbers. Chicago is also an apt site for this study because it often functions as an example district such that Chicago policy gets taken up nationally.[13] It combines a powerful teacher's union, a long history of youth, parent, and community organizing, democratically elected local school councils, and, until very recently, mayoral control of the school board[14]—a combination of bottom-up and top-down influence and governance that has produced widely studied experimentation in educational policy and practice.[15]

Against this backdrop, we encountered Chicago teachers, weary from decades of reform, waiting to see if RJ has staying power or if the district will decide a different intervention is "the next big thing,"[16] and teachers who approach RJ with reasoned normative suspicion.[17] But most teachers who volunteered to speak with us expressed hope that RJ would have positive effects in their schools and concerns that it was failing to do so. Interested in how these teachers conceptualize the distance between

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12 *See, e.g.*, ELIZABETH TODD-BRELAND, A POLITICAL EDUCATION: BLACK POLITICS AND EDUCATION REFORM IN CHICAGO SINCE THE 1960S (2018); PAYNE, *supra* note 2; STEVEN K. ASHBY & ROBERT BRUNO, A FIGHT FOR THE SOUL OF PUBLIC EDUCATION: THE STORY OF THE CHICAGO TEACHERS STRIKE (2016).

13 PAYNE, *supra* note 2, at 9–11.

14 In 1988, after a period of activism demanding more localized control, the Chicago School Reform Act created local school councils ("LSCs")—democratically elected bodies empowered to approve school budgets, hire and fire principals, and weigh in on other significant decisions. In 1995, amendments to this legislation weakened the LSCs and vested the mayor with control over appointments to the CPS school board. *See, e.g.*, TODD-BRELAND, *supra* note 12, at 172–87. Recently, the pendulum has swung back to more decentralized control: as of 2024, CPS transitioned to an elected school board. 10 ILL. COMP. STAT. 5/2A-48 (2024).

15 *See* PAYNE, *supra* note 2, at 9–11. We should stress: CPS is an important context for any study about education in Chicago, but our study is not a study of CPS—but rather of Chicago educators who have worked across various settings in the city.

16 Interview 22 (special education teacher at a nearly all-Black elementary school) (on file with authors). To preserve confidentiality, we refer to each teacher interview numerically followed by a general brief description.

17 *See infra* note 234.

the ideals they hold and realities they work and live in, our study treats them as their own analysts of a policy "gap." We map three interpenetrating conversations.

Some teachers endeavor to harmonize RJ's aims with what they themselves can accomplish by interpreting RJ as a caring—but hierarchical—practice of student-focused inquiry and skill development that is simpatico with more traditional understandings of teachers' professional roles. Other teachers grapple more explicitly with the idea that RJ requires them to reconstitute their professional identities as people who can show up as vulnerable and authentic in relationships with students even in a moment when many experience their workplaces as sources of secondary (and sometimes primary) trauma. These teachers describe RJ as inseparable from their own self-analysis, personal growth, and therapeutic journeys. As such, a gap between RJ's aims and these teachers' own achievements in part constitutes *them* as people with less (or more) capacity for emotional regulation and self-reflection.

A third group of teachers (which sometimes overlaps with the second) approaches RJ as an opportunity to interpret a new workplace requirement through the lens of their own social movement activism, including efforts to abolish punitive systems. They describe a chasm—not simply between RJ's promises and practices, but more specifically between conflicting meanings of RJ itself. In response to this chasm, these radical educators neither adjust their own world-making conceptions of RJ, nor do they adjust how they understand and relate to their students—strategies that workers in the helping professions commonly use to manage the tensions and frustrations that arise when their institutional constraints mean they cannot deliver services according to their ideals.[18] Instead, they stand in the gap between competing visions, practicing as if a different set of social and institutional arrangements already governed.[19]

Ultimately, our "gap study" offers a twofold observation.[20] First, it illuminates the stakes and demands of a RJ transformation. Indeed, this

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18 *See* MICHAEL LIPSKY, STREET-LEVEL BUREAUCRACY: DILEMMAS OF THE INDIVIDUAL IN PUBLIC SERVICES 83 (30th anniversary expanded ed., 2010).

19 This is a kind of strategy that scholars have described as "prefigurative legality." Amy J. Cohen & Bronwen Morgan, *Prefigurative Legality*, 48 L. & SOC. INQUIRY 1053, 1054 (2023).

20 A long, and by now, neatly summarized tradition in sociolegal studies is the "gap study." *See* Jon B. Gould & Scott Barclay, *Mind the Gap: The Place of Gap Studies in Sociolegal Scholarship*, 8 ANN. REV. L. & SOC. SCIS. 323 (2012). If first-generation gap studies puzzled over why law-in-the-books failed to determine law-in-action with the aim of providing recommendations for reform, second-wave studies examined the ideological and regular function of the gap in legitimating legal and social systems. *Id.* at 326–28; *see, e.g.*, Susan Silbey, *Making Sense of the Lower Courts*, 6 JUST. SYS. J. 13 (1981). Most recently, scholars have viewed the gap from the perspective of lower power people, tracing how people, from the bottom up, may labor to bring reality closer to their desired

work illustrates just how difficult widespread implementation of a new conflict resolution mechanism turns out to be. RJ in schools differs from its originating institutionalization in the criminal legal system. In the legal system, trained professionals facilitate restorative interventions between victims and offenders, typically by standing at some distance from them. In schools, by contrast, RJ potentially asks teachers, who have often received limited RJ training, to bring their "whole selves" to a conflict with young people with whom they are already in relation—with all the practices of personal growth and failure, emotional expression and regulation, and interpersonal and institutional expectations that follow, deeply demanding human challenges largely unacknowledged in policy literature.

To be sure, observing how teachers respond to and manage the gap between design and implementation offers practical insights going forward: as we shall see, teachers have their own views about the kinds of working conditions and institutional changes necessary for RJ to meet more of its "whole school" potential, and they have their own strategies to retool RJ in the demanding environment of urban, K-12 education. But our study also offers a second observation: it illuminates how people assimilate, translate, and even subvert new institutional norms and practices as they create their own local blueprints for larger social change.[21] Notwithstanding a range of everyday failures and disappointments, radical teachers braid their identities as workers together with their identities as reflexive practitioners and social movement actors—actors for whom "demanding the impossible becomes the very opening of possibility as such."[22]

I. A VERY BRIEF HISTORY OF RESTORATIVE JUSTICE IN U.S. EDUCATION

A. *Restorative Justice as Child and Youth Development: Social and Emotional Learning*

RJ first emerged in twentieth-century Western legal discourse and practice not in education but as an alternative to the criminal legal system and its once-dominant ethos of rehabilitation. In 1977, criminologist Nils Christie famously argued that Western states deprive citizens of a critical

ideals. *See, e.g.*, Bruce Hoffman, *Minding the Gap: Legal Ideals and Strategic Action in State Legislative Hearings*, 33 L. & SOC. INQUIRY 89 (2008). Our study contributes to this third tradition.

21 *See* Susan S. Silbey & Austin Sarat, *Critical Traditions in Law and Society Research*, 21 L. & SOC'Y REV. 165, 173 (1987).

22 Benjamin Arditi, *Talkin' 'bout a Revolution: The End of Mourning*, 9 PARALLAX 81, 89 (2003).

resource—conflicts—that they rightfully "own."[23] He submitted that whatever externalizing theory the professional applies to understand crime—biology, personality, or even class—a focus on social explanation takes conflicts away from the parties themselves, reducing offenders to "object[s] for study, manipulation and control."[24] He called instead for lay-oriented processes where offenders could meaningfully experience blame and accountability and therefore actively discuss and make reparations.[25] He wanted processes of bottom-up democratic engagement apart from any "interest in the treatment or improvement of criminals" or "reduced recidivism" rates.[26] Criminologist Howard Zehr similarly rejected penal theories steeped in punishment and deterrence as well as in rehabilitation ("terribly susceptible to abuse," he cautioned).[27] He imagined a practice of RJ in which offenders can, through community support and dialogue with victims, learn to appreciate the consequences of their actions and want to make things right.[28] These early advocates thus envisioned restorative justice as a horizontal, deliberative, bottom-up practice that they set against the therapeutic ethos advanced by the helping professions at the time.

In the 1990s and early 2000s, RJ limped along at the margins of the U.S. criminal legal system, as some prosecutors' offices instituted victim-offender mediation programs.[29] But the legal system did not turn from rehabilitation to restoration. Instead, Americans witnessed the rise of harsh forms of retribution—a cultural and political shift that spilled over into American education.[30] Suspensions, expulsions, and student arrests defined the 1990s and 2000s as the "zero-tolerance" era in American public schools.[31] And yet, restorative ideas began to make small inroads in schools, piecemeal and ad hoc, albeit according to a developmental

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23 Nils Christie, *Conflicts as Property*, 17 BRITISH J. CRIMINOLOGY 1, 4 (1977).

24 *Id.* at 5.

25 *Id.* at 10–12.

26 *Id.* at 9.

27 Howard Zehr, *Retributive Justice, Restorative Justice*, NEW PERSPS. ON CRIME & JUST., Sept. 1985, at 1, 6.

28 *Id.* at 9; *see also* HOWARD ZEHR, CHANGING LENSES: A NEW FOCUS FOR CRIME AND JUSTICE (1990).

29 For more analysis of how restorative justice developed during this period, see Amy J. Cohen, *Moral Restorative Justice: A Political Genealogy of Activism and Neoliberalism in the United States*, 104 MINN. L REV. 889, 903–31 (2019).

30 *See generally* JAMES Q. WHITMAN, HARSH JUSTICE: CRIMINAL PUNISHMENT AND THE WIDENING DIVIDE BETWEEN AMERICA AND EUROPE (2003).

31 *See, e.g.*, Russell J. Skiba, *The Failure of Zero Tolerance*, 22 RECLAIMING CHILD. & YOUTH 27 (2014); Erica Meiners, *Schooling the Carceral State: Challenging the School-to-Prison Pipeline*, *in* WHY PRISON? 261 (David Scott ed., 2013).

logic far more explicit and deliberate than what had first motivated RJ in the criminal legal system.[32]

Criminologist and education reformer Brenda Morrison helped consolidate early RJ and education theory.[33] She reasoned that the justice system differs from the school system in a crucial way: "The former embraces the mandate of human and social order, while the latter embraces the mandate of human and social development. . . . Schools, while microcosm[s] of society, are more intense, socially and developmentally . . . ."[34] She crafted an early "whole school" (her words) vision of RJ where adults would not focus on punishing or deterring student behaviors but instead on instructing students how to address the emotional and material obligations created by harm.[35] She wanted teachers, families, and community members to unite under a common purpose: to mold children into good citizens. The basic idea was that young people were causing and suffering harm, and that educators could help them not through punishment or exclusion, but rather by forging social bonds and teaching skills in creating, repairing, and rebuilding cooperative relationships.[36]

During this period, people understood the paradigmatic harm that they were addressing as student-to-student conflict and bullying. Indeed, Morrison invoked the 1999 school shooting in Columbine—where two White high school students killed twelve students and a teacher—to

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32 *See* David R. Karp & Beau Breslin, *Restorative Justice in School Communities*, 33 YOUTH & SOC'Y 249, 254 (2001) ("At present, the following three geographical locations represent the collective ideological and pragmatic center of the school-based restorative justice movement in the United States: the statewide school system in Minnesota, 15 schools in the Denver metropolitan area, and a small band of 6 'alternative' facilities located in southeastern Pennsylvania.").

33 *See, e.g.*, Brenda Morrison, *The School System: Developing Its Capacity in the Regulation of a Civil Society*, *in* RESTORATIVE JUSTICE AND CIVIL SOCIETY 195 (Heather Strang & John Braithwaite eds., 2001); Brenda E. Morrison, *Regulating Safe School Communities: Being Responsive and Restorative*, 41 J. EDUC. ADMIN. 689 (2003); Brenda Morrison, *Restorative Justice in Schools*, *in* NEW DIRECTIONS IN RESTORATIVE JUSTICE: ISSUES, PRACTICE, EDUCATION 26 (Elizabeth Elliott & Robert M. Gordon eds., 2005); BRENDA MORRISON, RESTORING SAFE SCHOOL COMMUNITIES: A WHOLE SCHOOL RESPONSE TO BULLYING, VIOLENCE AND ALIENATION (2007) [hereinafter MORRISON, RESTORING SAFE SCHOOL COMMUNITIES]; *see also* JOHN BRAITHWAITE, RESTORATIVE JUSTICE AND RESPONSIVE REGULATION 59 (2002) (describing "community deliberation among students, teachers and parents about how to prevent bullying [in schools] with mediation of specific cases" and reviewing studies on school mediation from the 1990s); BELINDA HOPKINS, JUST SCHOOLS: A WHOLE SCHOOL APPROACH TO RESTORATIVE JUSTICE (2004).

34 Brenda Morrison, *Schools and Restorative Justice*, *in* HANDBOOK OF RESTORATIVE JUSTICE 325, 344 (Gerry Johnstone & Daniel W. Van Ness eds., 2007).

35 *See* MORRISON, RESTORING SAFE SCHOOL COMMUNITIES, *supra* note 33, at 69–70.

36 *See, e.g.*, *id.* at 103–09; *see also* LORRAINE STUTZMAN AMSTUTZ & JUDY H. MULLET, THE LITTLE BOOK OF RESTORATIVE DISCIPLINE FOR SCHOOLS: TEACHING RESPONSIBILITY; CREATING CARING CLIMATES (2014).

explain RJ's urgency.[37] Drawing on Daniel Goleman's argument about "emotional intelligence," she argued "that schools are 'the one place communities can turn to for *correctives to children's deficiencies in emotional and social competence*.'"[38] She wanted schools to help make kids less likely to enact harm or violence and to that end she reasoned that RJ and "social and emotional learning" ("SEL") are part of the "same movement."[39]

Other early education reformers similarly described a foundational connection between restorative justice and social and emotional skills—that is, skills that include "self- and social awareness and regulation, responsible decisionmaking and problem-solving, and relationship management."[40] For example, Margaret Thorsburne, who helped introduce RJ into Australian education in the 1990s,[41] argued together with Peta Blood that schools "cannot have [restorative practice] *without* SEL."[42] These RJ proponents imagined school communities teaching interpersonal skills as a means of remedying poor student self-identities and social competencies. For example, Morrison, Blood, and Thorsborne together submitted that: "[W]ithin the institutional framework of the school, students can take on the responsibilities of a good citizen and identify as one; or take on delinquent social identities, if they are not given the opportunity to find a respected place within the school community."[43]

In so arguing, these RJ proponents envisioned educators and school communities against the grain of the standardization and

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37 MORRISON, RESTORING SAFE SCHOOL COMMUNITIES, *supra* note 33. *See generally* Karp & Breslin, *supra* note 32; Dieter Burssens & Nicole Vettenburg, *Restorative Group Conferencing at School: Constructive Response to Serious Incidents*, 5 J. SCH. VIOLENCE 5 (2006); Jeanne B. Stinchcomb, Gordon Bazemore & Nancy Riestenberg, *Beyond Zero Tolerance: Restoring Justice in Secondary Schools*, 4 YOUTH VIOLENCE & JUV. JUST. 123 (2006).

38 MORRISON, RESTORING SAFE SCHOOL COMMUNITIES, *supra* note 33, at 80 (quoting DANIEL GOLEMAN, EMOTIONAL INTELLIGENCE: WHY IT CAN MATTER MORE THAN IQ 279 (1995) (emphasis added)).

39 MORRISON, RESTORING SAFE SCHOOL COMMUNITIES, *supra* note 33, at 80.

40 MARGARET THORSBORNE & PETA BLOOD, IMPLEMENTING RESTORATIVE PRACTICES IN SCHOOLS: A PRACTICAL GUIDE TO TRANSFORMING SCHOOL COMMUNITIES 46 (2013) (quoting in part the Collaborative for Academic, Social, and Emotional Learning's definition of SEL).

41 Thorsborne worked with the Queensland Department of Education to introduce in 1994 what appears to be the first restorative justice program in education. *See* Margaret Thorsborne, School Violence and Community Conferencing: The Benefits of Restorative Justice (n.d.) (unpublished manuscript), https://www.thorsborne.com.au/conference_papers/School_violence_and_RJ.pdf [https://perma.cc/2MSM-3YT7]; Lisa Cameron & Margaret Thorsborne, *Restorative Justice and School Discipline: Mutually Exclusive?*, *in* RESTORATIVE JUSTICE AND CIVIL SOCIETY, *supra* note 33, at 180.

42 THORSBORNE & BLOOD, *supra* note 40, at 55.

43 Brenda Morrison, Peta Blood & Margaret Thorsborne, *Practicing Restorative Justice in School Communities: The Challenge of Culture Change*, 5 PUB. ORG. REV.: A GLOB. J. 335, 337 (2006).

technocratization of the teaching profession increasingly dominant at the time. RJ proponents taught educators that the quality of their relationships with students "is the catalyst for therapeutic change."[44] When conflict and harm happen, restorative teachers are encouraged to hold mediations or circles (typically, mediation when a future-oriented agreement is needed and circles when what is needed is to repair harm)[45] and facilitate a common set of problem-solving questions: "What happened? What were you thinking of at the time? What have you thought about since? Who has been affected by what you have done? In what way have they been affected? What do you think you need to do to make things right?"[46] They are also encouraged to facilitate a set of questions that work with emotions: "How were you feeling when that happened? How have you been feeling since? How do you think others are feeling? How do you think we can make everyone feel better?"[47]

And yet, in the late 1990s and early 2000s, American education policy increasingly required teachers' practices to be decidedly un-person-centered and relational—uniform in deployment and uptake, and with teachers' performances increasingly evaluated through quantitative student output, primarily test scores. In 2002, the No Child Left Behind Act, enacted by the U.S. Congress on a bipartisan basis, introduced metrics-based accountability to narrow the racial and class-based achievement gap through interventions such as standardized testing, as well as through demands for evidence that comes only in the form of numbers to measure qualities as broad as "student disadvantage," "teacher expertise," and classroom size.[48] In this educational context,

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44 Helen Cowie, *Restorative Approaches in Schools: A Psychological Perspective*, *in* RESTORATIVE APPROACHES TO CONFLICT IN SCHOOLS: INTERDISCIPLINARY PERSPECTIVES ON WHOLE SCHOOL APPROACHES TO MANAGING RELATIONSHIPS 75, 77 (Edward Sellman, Hilary Cremin & Gillean McCluskey eds., 2013).

45 To be sure, these processes blur. For a review of these distinctions (and a genealogy of how they, in part, came to be), see generally Amy J. Cohen, *The Rise and Fall and Rise Again of Informal Justice and the Death of ADR*, 54 CONN. L. REV. 197 (2022).

46 BOB COSTELLO, JOSHUA WACHTEL & TED WACHTEL, THE RESTORATIVE PRACTICES HANDBOOK FOR TEACHERS, DISCIPLINARIANS AND ADMINISTRATORS 16 (2009).

47 MORRISON, RESTORING SAFE SCHOOL COMMUNITIES, *supra* note 33, at 91.

48 *See, e.g.*, Linda Darling-Hammond, *No Child Left Behind and High School Reform*, 76 HARV. EDUC. REV. 642 (2006); Radhika Gorur & Jill P. Koyama, *The Struggle to Technicise in Education Policy*, 40 AUSTL. EDUC. RESEARCHER 633 (2013); Kenneth J. Saltman, *Neoliberalism and Corporate School Reform: "Failure" and "Creative Destruction*,*"* 36 REV. EDUC. PEDAGOGY & CULTURAL STUD. 249 (2014). The Obama administration's 2009 "Race to the Top" further incentivized states to create "high stakes" teacher evaluation systems linked to student outcomes, although with little evidence of student achievement gains. *See* Joshua Bleiberg, Eric Brunner, Erica Harbatkin, Mathew A. Kraft & Matthew G. Springer, *The Effect of Teacher Evaluation on Achievement and Attainment: Evidence from Statewide Reforms* (Annenberg Inst., Brown Univ., Working Paper No. 21-496, 2021).

scholars argue, "[r]esults are prioritised over processes, numbers over experiences, procedures over ideas, productivity over creativity."[49]

It is hard to generalize about how RJ experiments unfolded during this moment—there are few in-depth qualitative studies.[50] But by the late 2000s, scholars began to criticize SEL interventions for how they advanced, rather than challenged, the status quo by focusing on individual student deficits and personal achievements and by turning social, emotional, and relational qualities into metrics.[51] Similarly, scholars observed managerial translations of RJ interventions consistent with business-as-usual in the classroom. For example, in a study of schools in Ontario, Canada, in 2008, Dorothy Vaandering observed that when teachers are trained in building restorative relationships, often what they hear is that:

> [RJ] is a means for educators to maintain social discipline, that they are in control of wrongdoing and limit-setting, that they can support and provide assistance to those lacking in some way—that their students can be manipulated. They hear that [RJ] will help them *manage* student behavior and that working WITH students is for the purpose of regulation and social order, not relationship.[52]

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49 Stephen J. Ball & Antonio Olmedo, *Care of the Self, Resistance and Subjectivity Under Neoliberal Governmentalities*, 54 CRITICAL STUD. EDUC. 85, 91 (2013).

50 There were, however, quantitative studies in the aughts that correlated RJ with decreases in disciplinary outcomes and reported decreases in student misconduct. For a summary, see Armour, *supra* note 8, at 1019–20.

51 *See, e.g.*, Diane M. Hoffman, *Reflecting on Social Emotional Learning: A Critical Perspective on Trends in the United States*, 79 REV. EDUC. RSCH. 533 (2009); Deborah Lynette Watson & Carl Emery, *From Rhetoric to Reality: The Problematic Nature and Assessment of Children and Young People's Social and Emotional Learning*, 36 BRITISH EDUC. RSCH. J. 767 (2010); Val Gillies, *Social and Emotional Pedagogies: Critiquing the New Orthodoxy of Emotion in Classroom Behaviour Management*, 32 BRITISH J. SOCIO. EDUC. 185 (2011); Brenda E. Morrison & Dorothy Vaandering, *Restorative Justice: Pedagogy, Praxis, and Discipline*, 11 J. SCH. VIOLENCE 138 (2012); *see also* Merve Emre, *The Repressive Politics of Emotional Intelligence*, NEW YORKER (Apr. 12, 2021), https://www.newyorker.com/magazine/2021/04/19/the-repressive-politics-of-emotional-intelligence [https://web.archive.org/web/20240331191145/https://www.newyorker.com/magazine/2021/04/19/the-repressive-politics-of-emotional-intelligence] (arguing more broadly that SEL programs advance "goals [that] are straightforwardly conservative: to encourage people to stay in school, to secure stable employment, to bind themselves to their work").

52 Dorothy Vaandering, *A Window on Relationships: Reflecting Critically on a Current Restorative Justice Theory*, 1 RESTORATIVE JUST. 311, 322 (2013); *see also* Gillean McCluskey et al., *'Teachers Are Afraid We Are Stealing Their Strength': A Risk Society and Restorative Approaches in School*, 59 BRITISH J. EDUC. STUD. 105, 112, 116 (2011) (describing how U.K. schools that implemented RJ "continued to operate . . . within the context of a regular range of disciplinary sanctions which included classroom isolation, punishment exercises, detention and exclusion" and venturing that RJ in schools could reinforce as much as undermine cultural commitments to the "containment of risk and danger").

Or, as Kristin Reimer observed in her study of a school in Scotland in 2013, "educators, while caring about pupils, used RJ primarily as a classroom management tool where staff remained the ultimate authority and classroom norms remained unquestioned."[53] In a study of how RJ was implemented in schools in Bristol, United Kingdom, in 2007, Natasha Du Rose and Layla Skinns report mostly "[h]ybridised approaches" where RJ had often become "another tool in the box" subject to a range of teachers' own translations.[54] RJ, they thus venture, "lacks praxis—in the sense of a constantly reflexive, dialectical relationship between theory and action. It lacks an analysis of its own significant shortcomings; it lacks an analysis of political power and social power; it lacks a transformative politics."[55]

Or, to put this all another way, early RJ proponents had hoped to build community alongside relational competencies so that teachers could help develop young people with social and emotional deficits in schools. But the kind of relationality and care they envisioned was proving elusive to capture and install in institutions, not least in those that prioritized standardized curricula and market-based forms of achievement and accountability. RJ may well have faded in the early 2000s—or at least it may never have hit mainstream American education. But over the last five to ten years, it has exploded as a solution to a different problem—racially disproportionate discipline—with a new crop of RJ proponents demanding a full-frontal encounter with "an analysis of political and social power."

B. *Restorative Justice Between an Alternative Form of Discipline and Social Transformation*

During the 1990s and 2000s, not only did American schools borrow the criminal legal system's zero-tolerance logic, they also became the first point of contact with the legal system for many students. For example, in 2011, a statewide study in Texas reported that Black students were 31%

53 Kristin Elaine Reimer, *Relationships of Control and Relationships of Engagement: How Educator Intentions Intersect with Student Experiences of Restorative Justice*, 16 J. PEACE EDUC. 49, 68 (2019). She compared this use of RJ with a school in Canada that was more willing to emphasize RJ as a tool to empower students. *See id.*; *see also* KRISTIN E. REIMER, ADULT INTENTIONS, STUDENT PERCEPTIONS: HOW RESTORATIVE JUSTICE IS USED IN SCHOOLS TO CONTROL AND TO ENGAGE (2019).

54 Natasha Du Rose & Layla Skinns, *Challenging the Punitive Turn in Youth Justice Through Restorative Justice in Schools?*, *in* RESTORATIVE APPROACHES TO CONFLICT IN SCHOOLS, *supra* note 44, at 192, 197–201.

55 *Id.* at 203 (quoting CHRIS CUNNEEN & CAROLYN HOYLE, DEBATING RESTORATIVE JUSTICE 186 (2010)).

more likely than their Hispanic or White peers to be suspended, and once a student was suspended from school or expelled, they were nearly three times as likely to be in contact with the juvenile justice system the following year.[56] In the following years—around the same time that researchers were concluding that No Child Left Behind had failed to close the "racial achievement gap"—the "racial discipline gap" was gaining national attention.[57] The national release of the Department of Education's 2013 to 2014 civil rights data revealed a striking disparity in students receiving one suspension (18% of Black boys, 10% of Black girls, 5% of White boys, and 2% of White girls).[58] In 2013 and 2014, in Chicago, roughly one-third of Black boys in high school received an out-of-school suspension compared to "13 percent of Latino boys in high school and 6 percent of white/Asian high school boys."[59] Likewise 23% of Black girls in high school received an out-of-school suspension compared to "6 percent for Latina girls and 2 percent for white/Asian girls."[60]

A policy consensus was emerging: Black and Latinx students are disciplined at higher rates than similarly socially located White peers for similar infractions—with high rates of suspension for "minor misbehavior" or "willful defiance," infractions that leave much room for

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56 TONY FABELO ET AL., COUNCIL OF STATE GOV'TS JUST. CTR & PUB. POL'Y RSCH. INST., BREAKING SCHOOLS' RULES: A STATEWIDE STUDY OF HOW SCHOOL DISCIPLINE RELATES TO STUDENTS' SUCCESS AND JUVENILE JUSTICE INVOLVEMENT x, xii (2011), https://csgjusticecenter.org/wp-content/uploads/2020/01/Breaking_Schools_Rules_Report_Final.pdf [https://perma.cc/5BXZ-JXPP].

57 *See* SEAN F. REARDON, ERICA H. GREENBERG, DEMETRA KALOGRIDES, KENNETH A SHORES & RACHEL A. VALENTINO, LEFT BEHIND? THE EFFECT OF NO CHILD LEFT BEHIND ON ACADEMIC ACHIEVEMENT GAPS 1 (2013), https://cepa.stanford.edu/sites/default/files/reardon%20et%20al%20nclb%20gaps%20paper%2012aug2013.pdf [https://perma.cc/249T-CD47] ("Overall, our analyses provide no support for the hypothesis that No Child Left Behind has substantially narrowed racial achievement gaps, on average."); Roslyn Mickelson, Jason Giersch, Elizabeth Stearns & Stephanie Moller, *How (and Why) NCLB Failed to Close the Achievement Gap: Evidence from North Carolina, 1998–2004*, 3 BRIDGE: INTERDISC. PERSPS. LEGAL & SOC. POL'Y, no. 1, 2013, at 1–3; Maithreyi Gopalan & Ashlyn Aiko Nelson, *Understanding the Racial Discipline Gap in Schools*, 5 AERA OPEN, Apr.–June 2019, at 1.

58 OFF. FOR C.R., U.S. DEP'T OF EDUC., 2013–2014 CIVIL RIGHTS DATA COLLECTION: A FIRST LOOK 3 (2016), https://ocrdata.ed.gov/assets/downloads/2013-14-first-look.pdf [https://perma.cc/8GU8-KJWU]; *see also* DANIEL J. LOSEN, CHERI L. HODSON, MICHAEL A. KEITH II, KATRINA MORRISON & SHAKTI BELWAY, ARE WE CLOSING THE SCHOOL DISCIPLINE GAP? 3 (2015), https://escholarship.org/uc/item/2t36g571 [https://perma.cc/V4PF-7RB2] (documenting "gross disparities in the use of out of school suspension experienced by students with disabilities, and those from historically disadvantaged racial, ethnic, and gender subgroups").

59 W. DAVID STEVENS, LAUREN SARTAIN, ELAINE M. ALLENSWORTH & RACHEL LEVENSTEIN, DISCIPLINE PRACTICES IN CHICAGO SCHOOLS: TRENDS IN THE USE OF SUSPENSIONS AND ARRESTS 2 (2015), https://consortium.uchicago.edu/sites/default/files/2023-06/Discipline%20Practices%20in%20Chicago%20Schools-Mar2015-Consortium.pdf [https://perma.cc/CDA8-ZELD].

60 *Id.* High suspension rates were also reported for "students with disabilities and for students who begin the school year with test scores that are below average." *Id.*

teacher discretion and racialized assessments of behavior.[61] Then Secretary of Education Arne Duncan (who previously served as chief executive of CPS) was quoted in response: "That huge disparity is not caused by differences in children . . . . It is caused by differences in training, professional development and discipline policies."[62] Early reports emerged suggesting that RJ could lessen racial disparities alongside reducing suspensions,[63] and before long policymakers began to propose RJ as an alternative to suspension-based discipline. For example, in 2014, the Illinois legislature enacted language to encourage "restorative measures" defined as a

> *continuum of school-based alternatives to exclusionary discipline*, such as suspensions and expulsions, that: (i) are adapted to the particular needs of the school and community, (ii) contribute to maintaining school safety, (iii) protect the integrity of a positive and productive learning climate, (iv) teach students the personal and interpersonal skills they will need to be successful in school and society, (v) serve to build and restore relationships among students, families, schools, and communities, [and] (vi) reduce the likelihood of

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61 Matthew P. Steinberg & Johanna Lacoe, *What Do We Know About School Discipline Reform? Assessing the Alternatives to Suspensions and Expulsions*, 17 EDUC. NEXT 44, 48–49 (2017); *see also* Russell J. Skiba et al., *Race Is Not Neutral: A National Investigation of African American and Latino Disproportionality in School Discipline*, 40 SCH. PSYCH. REV. 85 (2011); Russell J. Skiba & Natasha T Williams, Are Black Kids Worse? Myths and Facts About Racial Differences in Behavior (2014), https://indrc.indiana.edu/tools-resources/pdf-disciplineseries/african_american_differential_behavior_031214.pdf [https://perma.cc/SWQ4-6T84]; Edward W. Morris & Brea L. Perry, *Girls Behaving Badly? Race, Gender, and Subjective Evaluation in the Discipline of African American Girls*, 90 SOCIO. EDUC. 127 (2017).

62 Donna St. George, *Holder, Duncan Announce National Guidelines on School Discipline*, WASH. POST (Jan. 8, 2014, 3:10 PM), https://www.washingtonpost.com/local/education/holder-duncan-announce-national-guidelines-on-school-discipline/2014/01/08/436c5a5e-7899-11e3-8963-b4b654bcc9b2_story.html [https://perma.cc/SK59-BQQB].

63 For some early studies, see DANIEL LOSEN, DAMON HEWITT & IVORY TOLDSON, ELIMINATING EXCESSIVE AND UNFAIR EXCLUSIONARY DISCIPLINE IN SCHOOLS: POLICY RECOMMENDATIONS FOR REDUCING DISPARITIES (2014), https://www.njjn.org/uploads/digital-library/OSF_Discipline-Disparities_Disparity_Policy_3.18.14.pdf [https://perma.cc/X4XR-UEQ4]; Thalia González, *Socializing Schools: Addressing Racial Disparities in Discipline Through Restorative Justice*, *in* CLOSING THE SCHOOL DISCIPLINE GAP: EQUITABLE REMEDIES FOR EXCESSIVE EXCLUSION 151 (Daniel J. Losen ed., 2015); Yolanda Anyon et al., *The Persistent Effect of Race and the Promise of Alternatives to Suspension in School Discipline Outcomes*, 44 CHILD. & YOUTH SERVS. REV. 379 (2014). For some studies that followed, see Anne Gregory & Kathleen Clawson, *The Potential of Restorative Approaches to Discipline for Narrowing Racial and Gender Disparities*, *in* INEQUALITY IN SCHOOL DISCIPLINE: RESEARCH AND PRACTICE TO REDUCE DISPARITIES 153 (Russell J. Skiba, Kavitha Mediratta & M. Karega Rausch eds., 2016); Ayesha K. Hashim, Katharine O. Strunk & Tasminda K. Dhaliwal, *Justice for All? Suspension Bans and Restorative Justice Programs in the Los Angeles Unified School District*, 93 PEABODY J. EDUC. 174 (2018); Anne Gregory, Francis L. Huang, Yolanda Anyon, Eldridge Greer & Barbara Downing, *An Examination of Restorative Interventions and Racial Equity in Out-of-School Suspensions*, 47 SCH. PSYCH. REV. 167 (2018).

> future disruption by balancing accountability with an understanding of students' behavioral health needs in order to keep students in school . . . .[64]

Such efforts to formalize RJ from above were met by a different set of arguments from below to use RJ to unsettle racist, adultist, authoritarian systems. Around the same time, a new crop of education activists argued that RJ should do more than divert "many youth of color and Indigenous youth (YOCIY) from life-harming suspensions, expulsion, arrests, and convictions," as Illinois's continuum of interventions no doubt intends.[65] Anti-racist advocates challenged RJ to "*divert them from the underlying dynamic of white body supremacy*."[66]

In the education space, Fania Davis, founder of Restorative Justice for Oakland Youth and sister of penal abolitionist Angela Davis, helped spur this collective rearticulation. She proposed to change decades of past practice in which the "the restorative justice [RJ] community largely failed to address race" and "few racial justice activists embrace restorative justice."[67] "Western knowledge systems," she argued,

> based on an ethos of separateness, competition, and subordination, have contributed to pervasive crises that today imperil our future. The scale of devastation is unprecedented—whether of our bodies, families, and communities, or plans, animals, waters, and earth. The unfathomable magnitude of destruction has fueled a quest for alternative worldviews that bring healing to our world. *It is in this historical context that we witness the rapid global rise and spread of restorative justice*. Today's resurgence of indigenous wisdom fulfills prophecy.[68]

For Davis, then, RJ embeds ontologically distinct forms of knowledge and relationality that makes different worlds possible. Indeed, she submitted that because RJ integrates intrapersonal, interpersonal, and systems-level change into a single political and spiritual vision, it stands to subvert the status quo more than any of the previous social movements for racial and social justice she had participated in since the 1950s.[69] Readers here might

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64 105 ILL. COMP. STAT. 5/27-23.7(b)(12) (2024) (emphasis added).

65 Sharon Goens-Bradley, *Breaking Racism's Insidious Grip on Restorative Practices: A Call for White Action*, *in* COLORIZING RESTORATIVE JUSTICE, *supra* note 9, at 37, 37–38.

66 *Id.* For earlier social movement articulations among scholars of RJ and education, see Thalia González, *Reorienting Restorative Justice: Initiating a New Dialogue of Rights Consciousness, Community Empowerment and Politicization*, 16 CARDOZO J. CONFLICT RESOL. 457 (2015); Schiff, *supra* note 8.

67 FANIA E. DAVIS, THE LITTLE BOOK OF RACE AND RESTORATIVE JUSTICE 1–2 (2019); *see also* Minow, *supra* note 8, at 1163–69 (summarizing criticisms of RJ from a racial justice perspective).

68 DAVIS, *supra* note 67, at 21 (emphasis added).

69 *Id.* at 93.

note just how far Davis's articulation of RJ is from criticisms that it lacks an analysis of power and social transformation.[70]

When Davis turned to American education, she argued that RJ proponents "need to press not so much for changes in student behavior, but for changes in adult behaviors."[71] She centered her discussion not on the violence and harm of student conflict as much as the violence and harm of White supremacy:

> A four-year old black boy in a California preschool is suspended for theft for retrieving his bag of Skittles that the principal confiscated. A black seven-year-old special-needs boy is arrested for throwing a tantrum while decorating an Easter egg. A twelve-year-old Latina girl doodling on her desk is arrested by a NYPD police officer, handcuffed, and perp-walked out of the school for defacing public property.[72]

In so doing, Davis rearticulated RJ away from a well-meaning "behavioral and psychological approach" that "locate[s] responsibility for school discipline issues and racial disparities in the children and their perceived cognitive or developmental deficits" through interventions like "mental health services, peer mediation, character development, or conflict resolution programs . . . focused on behavioral deficits."[73] Instead, she offered ideas to intervene at an institutional level: combining RJ training with equity training, pressing for legislative change to address inequitable school funding and educator quality, and monitoring data on school discipline and racial disparities.[74]

Alongside this focus on institutional change, a distinctive microsocial praxis has emerged to guide teachers in their interactions with individual students, consonant with Davis's vision to tackle personal, institutional, and systemic inequalities in tandem.[75] Rather than ask educators to see and address social, emotional, and behavioral deficits, this microsocial practice asks them to see and heal trauma. The basic claim is that trauma—including from "historical and ongoing oppression based on race, sex, gender expression, religion, sexual orientation, class, and ability"—profoundly influences a child's ability to

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70 *See supra* note 55 and accompanying text.

71 DAVIS, *supra* note 67, at 56 (summarizing the words of Ricardo Martinez, an education and racial justice organizer).

72 *Id.* at 42.

73 *Id.* at 53–54.

74 *Id.* at 54–57.

75 *See especially* JOE BRUMMER WITH MARGARET THORSBORNE, BUILDING A TRAUMA-INFORMED RESTORATIVE SCHOOL: SKILLS AND APPROACHES FOR IMPROVING CULTURE AND BEHAVIOR (2021); *see also* Minow, *supra* note 8, 1176–78 (describing a melding of racial justice and RJ and of interpersonal and systemic transformation).

engage in self-regulation.[76] Hence, what looks a behavioral deficit—aggression, evasion, disconnection, disproportionate reactions—may be a learned adaptation by a traumatized child. "[I]n this approach there is no bad behavior," trauma-survivor and RJ practitioner Joe Brummer teaches.[77] Instead, there are only people who experience trauma and use strategies to meet their needs: the strategy, in turn, is not good or bad but simply either "regulating or dysregulating for this individual."[78]

In melding trauma-informed education with RJ, Brummer calls for universal design: all educators should assume behavioral reactions are trauma responses.[79] And all educators should use RJ as a universal precaution and prescription: people heal from trauma through relationships and communities.[80] Restorative educators thus must practice coregulation: teachers "need to be the force of grounding and calm support, and not the controller of behavior or the source of further suffering (i.e., punishments)."[81] Hence, Brummer offers teachers techniques for practicing mindfulness and their own trauma recovery. He also offers techniques for teachers to practice owning their feelings and expressing their needs in a nonviolent manner—a transformation, Brummer submits, that most RJ curricula fall short of teaching. For example, he suggests that the widely used *The Restorative Practices Handbook for Teachers, Disciplinarians and Administrators*[82] models teacher statements that in fact authorize teachers to attribute their feelings to student behavior.[83] Drawing on renowned peacemaker Marshal Rosenberg,[84] Brummer advances a radically democratic form of communication where no one uses their words to exercise power over

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76 BRUMMER, *supra* note 75, at 219, 221.

77 *Id.* at 64.

78 *Id.*

79 *Id.* at 58–59.

80 *Id.*

81 *Id.* at 65.

82 *See* COSTELLO ET AL., *supra* note 46.

83 For example, if a typical teacher response is "[t]alking during class is inappropriate," Bob Costello, Joshua Wachtel, and Ted Wachtel suggest that a restorative teacher use an affective "I statement"—for example: "I am frustrated that you aren't listening to me." COSTELLO ET AL., *supra* note 46, at 14–15. Brummer, however, observes how this statement allows the teacher to blame a student for their feelings rather than express their own needs. Instead, a trauma-informed teacher might say, "When I hear you talking at the same time I am talking, I feel frustrated because I would like to be heard. Would you be willing to raise your hand when you want to talk?" BRUMMER, *supra* note 75, at 108.

84 MARSHALL B. ROSENBERG, NONVIOLENT COMMUNICATION: A LANGUAGE OF LIFE (2d ed. 2003).

others[85]—a defining aspiration of contemporary RJ in social movement circles.[86]

RJ, reimagined in this way, does not ask educators only to help develop students or facilitate restorative interventions among them. It asks them to bring *themselves* to a conflict as a practice of collective empowerment, norm clarification, and impersonal healing—to "own" the conflict in Christie's language. For example, restorative educator and playwright Gilbert Salazar tells adults that when they work through difficult conversations with young people to "[b]ring[] *your own self and your own story* [as] a tool to challenge invulnerability. So at the heart center of restorative practices—at the core of its impact and effectiveness—is vulnerability and the responsibility we have to be vulnerable."[87] Restorative educator Abdul-Malik Muhammad likewise encourages adults to "transform, internally, our use of authority."[88] In schools, transforming authority means creating new "boundary-crossing social networks for students and staff," where "everyone . . . [is] held accountable as a stakeholder."[89] Here, the defining practice is the "circle" where "everyone is an equal part of the whole; a circle has no head and no hierarchy . . . . Everyone is given an equal chance to participate and is encouraged to speak from his or her heart or experience," explains Edward C. Valandra, Founder of Community for the Advancement of Native Studies.[90]

Education professor David Levine illustrates how adults' commitments to vulnerability and boundary crossing can produce empathy and restorative forms of accountability. Based on research in a high school in a Midwestern city, he recounts a circle that was convened after a student pulled away a teacher's chair causing the teacher to fall and sustain a bad bruise. The circle included the student, the teacher, the student's mother, several student circle keepers, and the educator who

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85 BRUMMER, *supra* note 75, at 103–11.

86 *See* Cohen, *supra* note 45, at 226–33.

87 Gilbert Salazar, *Passing the Cup of Vulnerability: Offering Vulnerability as a Challenge to White Fragility Through the Elements of Circle*, *in* COLORIZING RESTORATIVE JUSTICE, *supra* note 9, at 173, 182 (emphasis added).

88 Abdul-Malik Muhammad, *The Cipher, Circle, and Restorative Practices with Black and Brown Boys*, *in* COLORIZING RESTORATIVE JUSTICE, *supra* note 9, at 203, 203.

89 MAISHA T. WINN, JUSTICE ON BOTH SIDES: TRANSFORMING EDUCATION THROUGH RESTORATIVE JUSTICE 142 (2018).

90 Edward C. Valandra, Waŋbli Wapȟáha Hokšíla, *Undoing the First Harm: Settlers in Restorative Justice*, *in* COLORIZING RESTORATIVE JUSTICE, *supra* note 9, at 325, 358–59 (quoting Carolyn Boyes-Watson). *See generally* KAY PRANIS, THE LITTLE BOOK OF CIRCLE PROCESSES: A NEW/OLD APPROACH TO PEACEMAKING (2005); CAROLYN BOYES-WATSON, PEACEMAKING CIRCLES & URBAN YOUTH: BRINGING JUSTICE HOME (2008); CAROLYN BOYES-WATSON & KAY PRANIS, CIRCLE FORWARD: BUILDING A RESTORATIVE SCHOOL COMMUNITY (2015).

ran the school's RJ program. This RJ educator described how the teacher's willingness to bring himself to the conflict produced a relational transformation. In her words:

> [The student] had no idea how his shenanigans really affected this [teacher], and how it hurt him . . . . He was completely floored *because the teacher was so forthright about how he'd been bullied in the past*, and how this [event] reminded him of that experience . . . and [how] it took [the teacher] back, and he got so angry. Then the student was like oh my gosh, that happened to me too, so it was like they really saw each other.[91]

In sum, rather than an alternative form of discipline, these educators all interpret RJ as a directly democratic and also intimate and relational practice; everyone affected by a problem is entitled but also—as part of a shared community—nearly required to add their voice, needs, and feelings to determining its resolution.

Of course, there are many democratic traditions in education (readers may hear echoes here of John Dewey, Paulo Freire, and bell hooks, among other). What is distinctive (and complex) about this moment is that now the practices that potentially authorize radical change are being introduced by policymakers, legislators, and administrators—with disparate and ambiguous meanings. Defined as an alternative form of discipline and a practice of child development, RJ is a new condition of work and a managerial approach to solving problems in American education. And some teachers engage largely within this paradigm. But because of RJ's kaleidoscope of meanings, other teachers are exploiting the anti-authoritarian impulse behind RJ to try to change themselves and, by extension, their workplace communities and institutions.

III. WHEN TEACHERS "OWN" THE CONFLICT

A. *Restorative Justice in Chicago Schools*

In Chicago, residential and school segregation remain defining features of the schooling dynamic, with many Black students segregated

[91] David Levine, Restorative Justice Notes (n.d.) (unpublished manuscript) (on file with authors) (emphasis added). Of course, the idea that people can learn to feel remorse through connections with others is a foundational restorative principle. *See, e.g.*, John Braithwaite & Stephen Mugford, *Conditions of Successful Reintegration Ceremonies: Dealing with Juvenile Offenders*, 34 BRITISH J. CRIMINOLOGY 139 (1994).

into schools with near-total racial homogeneity.[92] Though racial issues and logics in Chicago have long been thought of along Black/White lines, Latinx students make up nearly half (47.3%) of CPS students, with Black students representing about a third (34.2%), while other measurable groups are White students (11.3%) and Asian students (4.7%).[93] Racial inequality, in turn, intersects with poverty: "[I]n 2015, 73% of all Black students and 75% of all Latino students attended schools where more than 90% of the students qualify for free lunch."[94]

In the 2000s and early 2010s, Chicago parent leaders and community organizations began to mobilize around the suspension rates of their Black and Brown children. They successfully persuaded CPS to incorporate some RJ language and practices via revisions to the 2007 and 2012 versions of the Student Code of Conduct even as RJ hardly became standard citywide practice.[95] In 2014, when the Obama administration required schools to reduce exclusionary discipline, CPS shifted gears. It released a widely publicized "Suspension and Expulsion Reduction Plan" that resulted in further revisions to the 2014 Student Code of Conduct to "[l]imit the use of out-of-school suspensions and emphasize [a] restorative approach."[96] That same year, its Office of Social and Emotional Learning piloted restorative programming into seventy-three

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92 Pavlyn Jankov & Carol Caref, *Segregation and Inequality in Chicago Public Schools, Transformed and Intensified Under Corporate Education Reform*, 25 EDUC. POL'Y ANALYSIS ARCHIVES, June 5, 2017, at 1, 2–3. They report that in 2012 in Chicago, "70% of Black students attended intensely segregated schools, down by just 4% from over two decades earlier." *Id.* at 9. This statistic is all the more stunning because, in 1980, CPS signed a consent decree with the federal government to mitigate segregatory practices through measures such as compensatory funding and racially-balanced enrollments in magnet schools; the decree was lifted in 2009. *Id.* at 6–7, 9.

93 *Stats and Facts*, CHI. PUB. SCHS. (Oct. 2023), https://www.cps.edu/about/stats-facts [https://perma.cc/K29N-VJF5].

94 Jankov & Caref, *supra* note 92, at 11. At the time, the Education Trust reported that Illinois had "the largest funding gap in the nation . . . . The highest poverty districts in the state get nearly 20 percent less per student than the lowest poverty districts." Press Release, Educ. Tr., Students Who Need the Most Continue to Get the Least (Mar. 25, 2015), https://www.edtrust.org/press-release/students-who-need-the-most-continue-to-get-the-least [https://perma.cc/ETE9-V98H].

95 Aditi Das, From the Margins to the Mainstream? A Comparative Case Study of Restorative Justice Implementation and Integration Within Public Schools 31–34 (2017) (Ph.D. dissertation, Univervisty of Chicago) (ProQuest).

96 CHI. PUB. SCHS., CHICAGO PUBLIC SCHOOLS STUDENT CODE OF CONDUCT (SCC) REVISIONS (2014), https://www.cpsboe.org/content/documents/student_code_of_conduct_revisions_06.2014.pdf [https://perma.cc/M7LT-L52E]; *see also* CHI. PUB. SCHS., CPS SUSPENSIONS AND EXPULSIONS REDUCTION PLAN AND DATA HIGHLIGHTS (2014), https://www.cpsboe.org/content/documents/student_suspension_and_expulsion_reduction_plan.pdf [https://www.perma.cc/P3HW-LCL3]; CHI. PUB. SCHS., RESTORATIVE PRACTICES, http://www.restorativeschoolstoolkit.org/sites/default/files/CPS-%20OSEL%20Restorative%20Practices%20Guidelines%202013-2014%20%281%29.pdf [https://perma.cc/E56J-2AFG].

high schools.[97] As researchers recount, CPS began to "provide[] training to school staff that emphasized less punitive and more reparative strategies when engaging with students (for example, developing restorative mindsets and language in school staff, creating and implementing restorative protocols and processes in response to disciplinary incidents, and strengthening student-teacher relationships)."[98] By 2017, CPS boasted a 76% reduction in out-of-school suspensions that then-CPS CEO Forrest Claypool attributed to a combination of RJ and SEL.[99]

Of course, like all reforms, CPS's efforts to institutionalize RJ touched down in a particular context. From at least the mid-1990s, Chicago, like other American cities, had witnessed an onslaught of "effort[s] to remake schools in the image of the free market"—for example, competition through charter schools, metric-based accountability, and performance pay pegged to quantitative metrics.[100] These reforms had marginalized teachers (and teachers' unions) as partners in improving public education. As Steven Ashby and Robert Bruno chronicle:

> Illinois politicians and business leaders had pushed education reforms that blamed teachers for all the problems in Chicago's schools, sought to break the ability of teachers unions to negotiate over classroom issues, and prioritized the systematic closing of public schools and their replacement with privately run but publicly funded and often for-profit charter schools.[101]

Unlike many other cities at the time, however, in 2010 new progressive leadership in the Chicago Teacher's Union (CTU) had mobilized rank-and-file teachers—activism that culminated in a 2012

97 *See* Anjali Adukia, Benjamin Feigenberg & Fatemeh Momeni, *From Retributive to Restorative: An Alternative Approach to Justice* 2 (Becker Friedman Inst. for Econ. at Univ. of Chi., Working Paper No. 2023-117, 2023).

98 *Id.*

99 Press Release, Chi. Pub. Schs., CPS Suspension Rates Continue to Fall (Oct. 31, 2017), https://www.cps.edu/press-releases/cps-suspension-rates-continue-to-fall [https://perma.cc/Q5EN-RS36]. In Claypool's words: "A strong emphasis on restorative practices and social and emotional learning has created unprecedented progress in lowering suspensions, as well as helping students focus on learning when they're in the classroom." *Id.* In 2018, the new CPS CEO Janice Jackson likewise commented: "We are building on the district's policies and cultural shift toward restorative practices to address inequities in discipline head-on . . . ." Press Release, Chi. Pub. Schs., CPS Proposes Progressive Revisions to Student Code of Conduct to Promote Equitable Discipline Practices and Strengthen Student Support and Safety (July 23, 2018), https://www.cps.edu/press-releases/cps-proposes-progressive-revisions-to-student-code-of-conduct-to-promote-equitable-discipline-practices-and-strengthen-student-support-and-safety, [https://perma.cc/WDU9-ZLEK].

100 ASHBY & BRUNO, *supra* note 12, at 2–3.

101 *Id.*

strike that teachers politicized as a fight "for the soul of public education" as much as a fight about negotiable labor issues such as wages.[102] Teachers assailed the district for "education apartheid," demanding increased and more equitably distributed resources to improve learning conditions, as well as, crucially, more of a voice in how their classrooms and schools were being restructured—helping to spark what a new labor movement now calls "bargaining for the common good."[103] Support for the strike reflected organizing efforts by CTU members as well as by community groups in Black and Latinx neighborhoods and, more broadly, a long legacy of Black educational political activism and multi-issue and multiracial coalition building in Chicago.[104] Despite achieving some meaningful contract gains in 2012, in 2013, CTU's massive protests failed to prevent CPS from closing fifty "under-utiliz[ed]" predominantly Black schools, leaving thousands of students as well as their teachers displaced.[105]

In the years that followed, CTU began to mobilize around RJ. In 2014, it responded to CPS's revisions of the Student Code of Conduct to reduce exclusionary discipline with a statement urging that

> [a]ll school personnel should be fully informed about restorative justice theory and practices, and there should be a restorative justice or school climate coordinator in every school and network. These personnel should not be part of a third party vendor program or grant—they should be part of the permanent school staff.[106]

As this statement suggests, activist teachers wanted RJ but suspected that the district lacked the will to support it—both financially and ideologically. One RJ professional, then working for a local RJ organization, recalls how, in 2014, his organization received grant funding to help implement RJ in a CPS high school—funding he described as "politically fraught" because the grant was issued through the mayor's office (with "big self-congratulatory events"), the same mayor's office, mind you, that had just overseen "the largest school

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102 *Id.* at 2, 4.

103 *Id.* at 4, 8–9, 234–36; *see also* Alex Han & Emma Tai, *BCG's Big Bang: The 2012 Chicago Teachers Union Strike*, CONVERGENCE (Sept. 14, 2022), https://www.convergencemag.com/articles/bcgs-big-bang-the-2012-chicago-teachers-union-strike [https://perma.cc/998H-SZ53].

104 TODD-BRELAND, *supra* note 12, at 230–33.

105 *See* Jankov & Caref, *supra* note 92, at 18–19; *see also* TODD-BRELAND, *supra* note 12, at 230–31.

106 Press Release, Chi. Tchrs. Union, CTU Responds to Revisions to CPS Student Code of Conduct (June 23, 2014), https://www.ctulocal1.org/posts/ctu-responds-to-revisions-to-cps-student-code-of-conduct [https://perma.cc/V5DY-DPWY].

closure in US history."[107] Or consider the 2016 comment of a CTU activist—who noted that "Laquan McDonald was a CPS student on suspension": "CPS forced [RJ] on a system that has suspended students for so long that to mandate peace circles doesn't work"; restorative practices, she argued, need "attention and love" to function.[108] In its 2019 strike, CTU made RJ a bargaining demand and won the promise of more staffing resources—specifically, counselors, librarians, or RJ coordinators—in its 2019 to 2024 contract.[109]

Activist students have also politicized RJ from below. In 2007, Voices of Youth in Chicago Education (VOYCE) formed to organize against zero-tolerance policies and have since advocated for RJ in CPS policy and practice.[110] Most recently, the 2020 Black Lives Matter protests following George Floyd's murder at the hands of the police enabled

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107 Interview 29 (RJ professional). This RJ project was part of Rahm Emanuel's "Get In Chicago" anti-violence program focused on youth—largely fundraised from corporate partners. *See, e.g.*, John Byrne, *Emanuel Turns to Companies for Anti-Violence Funds*, CHI. TRIB. (Feb. 21, 2013), https://www.chicagotribune.com/news/ct-xpm-2013-02-21-ct-met-emanuel-violence-money-0221-20130221-story.html [https://perma.cc/W86T-N8T8].

108 Sarah Macaraeg, *School Shutdown in Chicago Underscores Attacks on Public Education Nationwide*, TRUTHOUT (Apr. 1, 2016), https://truthout.org/articles/school-shutdown-in-chicago-underscores-attacks-on-public-education-nationwide [https://perma.cc/5BCX-NP2V]. Laquan McDonald was a Black teenager killed in October 2014, when a White Chicago Police Department officer shot him sixteen times while he was walking away from the officers and, eventually, incapacitated on the ground. Dash camera footage, withheld from the public for over a year, prompted protests, some police reforms, and a Department of Justice report on widespread Chicago Police Department use of excessive force. A *Chicago Tribune* article reporting on McDonald's life highlights multiple experiences of school exclusion for behavior and emotions tied to his life experiences. Christy Gutowski, *"This Kid Had an Impact on People": The Troubled Life and Fleeting Potential of Laquan McDonald*, CHI. TRIB. (May 31, 2019, 9:09 PM), https://www.chicagotribune.com/news/laquan-mcdonald/ct-met-laquan-mcdonald-20180904-story.html [https://perma.cc/4JKX-438F]. In many ways, McDonald was the type of young person that RJ activists are fighting for. For more on the case and its cover-up by police, see Ray Sanchez & Omar Jimenez, *16 Police Officers Participated in an Elaborate Cover-Up After Laquan McDonald's Death, Report Alleges*, CNN (Oct. 10, 2019, 8:17 PM), https://www.cnn.com/2019/10/10/us/chicago-inspector-general-laquan-mcdonald-shooting/index.html [https://perma.cc/2KBB-K7BQ].

109 The contract states that thirty schools will receive "one centrally-funded full-time position" for four years that "advances social emotional learning and trauma-informed practices, restorative justice, counseling and advising, or instruction (including library)." AM. FED'N OF TCHRS. & CONG. INDUST. ORG., AGREEMENT BETWEEN THE BOARD OF EDUCATION OF THE CITY OF CHICAGO AND CHICAGO TEACHERS UNION LOCAL 1, AMERICAN FEDERATION OF TEACHERS, AFL-CIO § 49-10(B)(1), (3) (2019), https://contract.ctulocal1.org/cps/49-10 [https://perma.cc/5KVC-A2CZ].

110 *See, e.g.*, VOICES OF YOUTH IN CHI. EDUC., FAILED POLICIES, BROKEN FUTURES: THE TRUE COST OF ZERO TOLERANCE IN CHICAGO 2, 19 (2011), https://schottfoundation.org/wp-content/uploads/VOYCE_0.pdf [https://perma.cc/3AUG-RTDG] (criticizing amendments to the Student Code of Conduct for "pay[ing] lip service to restorative justice, due process, and academic supports during out-of-school suspensions, [even though] CPS has not committed to the staff training and program funding needed to successfully implement these kinds of best practices").

students to advance what had previously felt like an intractable issue: the removal of School Resource Officers (law enforcement) from schools.[111] #CopsOutCPS, a massive youth-led, cross-city movement specifically included RJ in their demands, as well as calls for trauma-informed personnel, counselors, and nurses.[112] Pressured to respond to these calls, in 2021, CPS launched a school safety reform called Whole School Safety, which redefined "safety" as equal parts physical, emotional, and relational.[113] Schools overwhelmingly promised RJ and SEL interventions, hiring RJ coordinators and climate directors.[114]

In the summer of 2022, we approached the CTU asking if it would circulate an email inviting educators to talk with us about their experiences with RJ.[115] We explained that we were interested in studying the forms of expertise and new professional demands that RJ places on educators as they incorporate RJ into their classroom practice. Over forty professionals scheduled conversations. Our semi-structured interviews ranged between one and often two hours and spanned primary and secondary schools, public and charter. To thus stress at the outset, we did not interview a random sample of Chicago teachers but rather a sample likely skewed toward union-oriented, dedicated educators already

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111 Madeleine Parrish, *The Student Fight to Get Cops Out of CPS*, S. SIDE WKLY. (Sept. 16, 2020), https://www.southsideweekly.com/student-fight-get-cops-cps [https://perma.cc/W6X2-3QRS]; *#CopsOutCPS*, CHI. NEIGHBORHOOD DEV. AWARDS (2021), https://map.lisc-cnda.org/2021/cnda/copsoutcps [https://perma.cc/KS5K-LZSC].

112 *See Chicago Students Demand #PoliceFreeSchools*, COPSOUTCPS, https://www.copsoutcps.com [https://perma.cc/UYT7-8Z5B]; Kelly Garcia, *Chicago Youth Activists for #CopsOutCPS Provide Answers to Questions About Police-Free Schools*, TRIIBE (July 6, 2020), https://thetriibe.com/2020/07/chicago-youth-activists-for-cops-out-cps-provide-answers-to-questions-about-police-free-schools [https://perma.cc/567G-MY4D]; Matt Masterson, *Chicago Aldermen Call for Police to Be Pulled from CPS Schools*, WTTW NEWS (June 16, 2020, 1:59 PM), https://news.wttw.com/2020/06/16/chicago-aldermen-call-police-be-pulled-cps-schools [https://web.archive.org/web/20240904063739/https://news.wttw.com/2020/06/16/chicago-aldermen-call-police-be-pulled-cps-schools].

113 Press Release, Chi. Pub. Schs., CPS, Community Groups Provide Recommendations for Trauma-Informed, Whole-School Safety (Mar. 24, 2021), https://www.cps.edu/press-releases/cps-community-groups-provide-recommendations--for-trauma-informed-whole-school-safety [https://perma.cc/Q6AZ-NKAS].

114 Press Release, Chi. Pub. Schs., Chicago Public Schools Shares Comprehensive School Safety Plan and Resources for Staff and Families (Aug. 18, 2022), https://www.cps.edu/press-releases/chicago-public-schools-shares-comprehensive-school-safety-plan-and-resources-for-staff-and-families [https://perma.cc/B374-6GJ3].

115 CTU represents teachers, clinicians, paraprofessionals and other school staff in CPS and charter schools across Chicago. Blanchard had previously attended roughly forty hours of educator-focused professional development and training workshops on RJ and racial justice as a participant-observer to understand how such topics were being introduced to CTU teachers.

interested in RJ—if only evidenced by their willingness to respond to an email sent via the union and gift us their time during the summer.[116]

These educators described a good deal of variety in what RJ entailed in their schools. Most recalled having received some level of RJ training through their school's professional development seminars (their descriptions of these trainings suggest they varied in depth and quality); some had access to a staff administrator/RJ coordinator or to a consultant/trainer (who often worked on contract) devoted to overseeing their school's RJ rollout; some had their own RJ training from community organizing work, university education, or their selected continuing education classes. We could discover no standard set of classroom practices. Some teachers regularly held restorative circles—both proactively to build trust and community and as a response to harm that occurred in their classrooms; others were experimenting with RJ questions and techniques in response to individual student behavior. Some teachers' primary exposure to RJ was via the new RJ staff person they were meant to call upon when disruptive behavior happened or, quite frankly, via the pressure they felt to manage conflict "in-house" in a moment when out-of-school suspensions and punitive discipline was being highly scrutinized.[117] And most scheduled interviews with us because they were concerned that, as one put it, RJ is not working:

> We *are* over-incarcerating Black and Brown men . . . we *do* disproportionately penalize Black and Brown students . . . . [RJ is] about . . . elevating the students to better handle difficult situations and to own their responsibility for their participation within [an] incident . . . . Part of what makes [this response] difficult is I know that [RJ] can work. But I also know that it's not working.[118]

We heard different versions of what is "not working." Some teachers focused on whether RJ was deterring and changing student behavior, whereas others primarily discussed whether RJ was transforming school communities. Within these conversations, three sometimes overlapping typologies emerged: teachers who discussed RJ as an alternative form of discipline, teachers who discussed how administering alternative

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116 As is common for many educators in the United States, the educators we interviewed in Chicago have ten-month (208-day) working contracts. We conducted interviews between late June 2022 and early August 2023 when they were "off-contract" as district employees—for CPS or otherwise. Informed consent was obtained from all participants for being included in the study. The Temple University Institutional Review Board approved the use of oral consent that was documented in our interview recordings.

117 "It just became like, handle it in your house . . . try not to send them down. Don't send them out of your class, even if they're being a disruption, just kind of like . . . find a way, right?" Interview 32 (teacher at a racially diverse middle school).

118 Interview 13 (teacher at a predominantly Latinx middle school).

discipline both requires and produces their own self-development, and teachers who saw a new disciplinary-managerial structure as providing them with opportunities to deploy RJ towards broader social transformations. In the following Section, we illustrate these three articulations of RJ's meanings—observing how teachers diagnose a gap between definition and practice differently among them. Then we turn in Section III.C to some of the strategies that teachers use to manage their disparate expectations for RJ in education.

B. *Restorative Justice's Meanings*

1. Restorative Justice as Alternative Discipline

All the educators we interviewed are aware of the crisis of racially disproportionate discipline and expressed hope that RJ might provide them with better tools and options to improve the classroom atmosphere while reducing the rate of school suspensions. But some expressed skepticism about RJ's capacity to actually change student behavior. In this Section, we collect reflections from educators who described RJ as a top-down requirement failing to produce its intended effects on students. From this perspective, many diagnosed how institutional rules and practices made it harder for RJ to succeed as an alternative to suspensions. In sum, they discussed how new RJ interventions were too anemic to matter to students, and how certain workplace requirements made it more challenging, not easier, for them to implement restorative practices in their classrooms.

Teachers criticized "box-checking" approaches to RJ. As one explained: RJ "has become a buzzword that can be used as leaders discuss lowering suspension rates."[119] Or another: "The [school] board wants to do [RJ] to reduce the number of suspensions so that as long as people aren't getting suspended, everything looks great."[120] As these quotations suggest, people debate how to interpret Chicago's widely publicized reduction in suspensions. Are CPS teachers simply following a new mandate not to suspend students and "fix the numbers," or are they actually changing how students understand conflict and behave? A recent study endeavored to decipher RJ's effects from extrinsic data: the authors document an 18% decline in the number of out-of-school suspension days in CPS high schools alongside a 19% decline in overall student arrests, which in turn comprises a 35% decline in "in-school" arrests and

119 Interview 21 (special education teacher at a nearly all-Black high school).

120 Interview 16 (special education teacher at a predominantly Black high school).

a 15% decline in "out-of-school" arrests—with African American males experiencing the largest declines among all these measures.[121] A decline in out-of-school arrests demonstrates that RJ is for real, the authors reason.[122]

Some readers may object to this inference, which underlies RJ's alternative discipline framing: namely, that behavior change among students, rather than among police, leads to fewer arrests of Black youth. Here, we can only report that several teachers we spoke with doubted that the restorative interventions in their schools were yet sufficiently robust to produce meaningful student transformations. A "friendly grown-up" may take a student out of the classroom for a snack, a game, a conversation about their feelings and then "then they go back to the class . . . and the teacher is told something restorative happened," an RJ professional who had worked across Chicago schools summarized, reflecting a lot of what we were hearing.[123] Or as a teacher explained:

> [RJ coordinators] come in; they have conversations. I think the hardest part for us as teachers is . . . how many conversations can we have? Before something else needs to be done? You know, we get . . . that it's going to take a long time to make the change. We understand that. We are patient with them right now . . . . But there's times when we're like, okay, how often can we give them this space if they're still making the same errors in judgment, over and over and over and over again? When a kid goes, Oh, yeah, I had to talk to so and so, but nothing happened to me and they laugh about it. Now, that's a limit.[124]

Some teachers diagnosed the rules and norms of their workplaces as contributing to the problem: it is hard to implement rigorous restorative interventions in low-trust environments. For example, teachers elaborated concerns about liability, particularly about touching students:

> You don't want me to hug the kids, you don't want me to touch the kids, you don't want me to high-five kids. But somehow I'm supposed to create a warm, welcoming, bubbly, engaging environment through 15–20 minutes of daily SEL . . . [where] students are supposed to be

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121 Adukia et al., *supra* note 97, at 2–4. The authors of the study compare data between the school year beginning in 2009 (largely before restorative practices were introduced) and the school year beginning in 2019 (after restorative practice rollouts in the 2013–2014 school year). *Id.* at 10.

122 *Id.* at 3. In addition to pointing to a decline in out-of-school arrests, the authors use "My Voice My School" student survey data to demonstrate perceived improved school climate, and they identify unchanged test scores and GPA as evidence that "disruption" has not increased with the turn to restorative practices. *Id.* at 3, app. at vi.

123 Interview 29, *supra* note 107.

124 Interview 4 (teacher at a predominantly Latinx elementary school).

> able to open up to me about traumas that they've experienced in their life.[125]

Some discussed how rules about student privacy or top-down administrative practice mean they often do not know details or reasoning of disciplinary resolutions, excluding them from meaningful participation in a student's development.[126] Some described how the new regime—combining relationship building with heightened demands for formal accountability—increased their workloads: teachers must now document "what used to be classroom management kind of things" if they wish eventually to obtain various kinds of out of classroom interventions. "Rather than trusting a teacher when that teacher says, hey, this has happened three times . . . it's extra paperwork" taking time away from SEL work and teaching.[127] Another veteran educator who had worked both as a teacher and an assistant principal summarized a common dynamic in her school where a teacher might explain that they attempted a restorative response and now want a child removed from the classroom: "I did all that. I tried to ask them about their experiences. And he's still picking up objects and throwing them at other students and throwing them at me, I want him gone."[128] And, in turn, a principal would respond by asking:

> Did you document this guy? Did you put this in [the school online system]? Have you made a note? Have you made the parent calls? No,

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[125] Interview 13, *supra* note 118. Or another:

> Now you get in trouble for so much. And you really, really, really have to watch the things that you say to students and how you interact with them. And so if you try to connect with them on a level that . . . someone somewhere could deem as mildly offensive or inappropriate, like, ooh . . . I just really try not to touch them at all, which . . . is tough, you know, it's like you want to give them a pat on the back or the shoulder but . . . I don't want to put myself at risk.

Interview 32, *supra* note 117.

[126] For example, one teacher, who had studied RJ outside of her school, offered: "I'm not sure how to even explain how the administration breaks that trust. . . . When I said before that if there's an incident, and they take students out, they don't tell us what's going on. Like they don't feel we're important enough stakeholders in this game." Interview 37 (teacher at a predominantly Black elementary school).

[127] Interview 5 (teacher at a nearly all-Black high school). This teacher pointed to a larger tension underlying demands for documentation:

> If teachers are professionals, and we're trustworthy, and we're not ageist or racist or classist in the classroom, then saying, hey, the student has done this three times should be believable. We also know that our schools are in intense places of ageism, at the very least, and also that with an overwhelming White teacher population, still, there's intense racism going on.

Id.

[128] Interview 8 (teacher and former administrator at a nearly all-Black elementary school).

> because I was trying to make sure that he was, you know, hitting a [statewide learning] standard one and . . . no, I didn't call everybody and I'm tired.[129]

These teachers were pointing to the contradictions of their moment. On the one hand, they were supposed to build relationships of empathy and care to reform student behavior ("the education system right now is putting so much more social, emotional and restorative responsibilities on the teacher," teachers told us).[130] And yet on the other hand, rules that governed them suspected they lacked professionalism. And they were weary of the constantly shifting performance demands placed on them: "My prediction is that we spend this year on SEL, but then when test scores matter again, then [our work is] going to be tied to more of that. And then we'll see what happens with restorative practices."[131] A subset of these teachers, however, also turned inward in their analysis. In addition to offering institutional criticisms, they interpreted RJ to require changing themselves—as workers and as people—as much as changing their students.

2. Restorative Justice as Teacher Transformation

In this Section, we describe a second set of reflections that sometimes overlapped with the first: teachers who described how effectively engaging in RJ requires them to embrace deeply demanding practices of self-growth, even self-transformation. These teachers, we venture, are acting as gap analysts of a different kind: they are reflexively describing how a gap between their ideals and realities, in part, identifies them as people with less—or more—capacity for mindfulness, emotional wellbeing, and vulnerability as they interact with the adverse rules and bureaucratic constraints of their institutions.

A high school science teacher who studied Martin Luther King-inspired principles of nonviolence with organizers from the Civil Rights Movement (and previously helped pioneer a widely admired RJ program in a charter high school) attempted to explain why people appear differentially capable of doing authentic RJ work:

> I don't know how to frame it other than it's like self-actualization, like you've done the deep work yourself. That's what's so challenging about RJ, it requires deep internal work yourself. If you can't be honest about where you are in the spectrum of harm or be a person who is able to

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129 *Id.*

130 Interview 32, *supra* note 117.

131 Interview 7 (special education teacher at a nearly all-Latinx middle school).

> reflect on your own self and how you show up in spaces and places, you can't do this work.[132]

Self-actualization is a big ask. Here, RJ is not one more thing for teachers to add to their to-do lists in a moment when many feel mounting pressure to educate the "whole child." It demands that people show up to work as "whole teachers" with highly evolved capacities for emotional regulation, mental health, and connected relationships. Thus, an educator turned RJ practitioner explained that she begins teacher trainings with: "What do you need in order for you to be able to *authentically show up* not as a teacher, *but as you*?"[133]

This question, as one teacher deeply influenced by Joe Brummer observed, confounds a general American consensus that workers should "separate emotion from our job"[134]—a consensus that invokes both the ideal worker under capitalism and left demands to demystify the idea of passion driving a culture of overwork.[135] "But in education, like are you kidding," she laughed. "We work with children, [separating our feelings] is impossible." Even more specifically, trauma-informed RJ demands a particular kind of emotional labor—teachers must simultaneously separate from and reconnect with their feelings. They must learn to depersonalize conflict and bring their own needs into a restorative conversation if they "want to create a safe space in a relationship with [a] child," this educator counseled.[136]

The challenge, here, to be clear, is not simply that teachers must now follow new "feeling rules" to meet the service demands of their workplaces.[137] The challenge is that the emotions and needs that teachers express and perform should actually reflect the emotions and needs that they privately feel. Self-actualization, in turn, is the process of making expressed and felt feelings both consonant *and* restorative so that teachers can "authentically show up" in relationships with students.

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132 Interview 9 (teacher at a racially diverse magnet high school).

133 Interview 30 (RJ coordinator at a predominantly Latinx high school).

134 Interview 34 (teacher and RJ coordinator at a diverse elementary school).

135 *See generally* SARAH JAFFE, WORK WON'T LOVE YOU BACK: HOW DEVOTION TO OUR JOBS KEEPS US EXPLOITED, EXHAUSTED, AND ALIENATED (2021).

136 Interview 34, *supra* note 134. She elaborated:

> It's so hard and frustrating having a conversation with a teacher who just can't take themselves out of it—and see that it's a child that's struggling, and it's not about you . . . . Yes, they're swearing at you, and they're talking back . . . but it's like, it's not about you—and to push them to want to create a safe space in a relationship with that child.

Id.

137 *See generally* ARLIE RUSSELL HOCHSCHILD, THE MANAGED HEART: COMMERCIALIZATION OF HUMAN FEELING (3d ed. 2012).

Many teachers told us that this emotional labor is increasingly challenging after the pandemic: "There's a lot of anxiety . . . some depression, so things that normally . . . might roll off your back, no longer roll off your back."[138] Several therefore talked about how being restorative in the workplace, quite literally, requires their own journeys in therapy. One, for example, described the challenge of being a teacher in a restorative circle when a teacher may have harmed a student:

> How many of us really can hear that? . . . I'm sure at times I have said things that I regret saying because I've been frustrated . . . [or] triggered . . . [when] there's something that someone says or does that reminds me of someone or something in my past that brought me back to a not-so-great place. I'm better at being able to say that to kids and adults now. But I'll be honest, I've had years of therapy to be able to say that.[139]

Others described how understanding their own experiences of trauma has helped change how they respond to student harm:

> What are you going to do when a 13-year-old gets in your face and starts screaming or calling you names or racial slurs? . . . As an adult, especially with COVID, I've started therapy myself, and I've been working on my anxiety, and just kind of thinking about, like, what my childhood was like, where I had my trauma . . . Everybody's got trauma, absolutely, everybody.[140]

Another talked about putting on her "facemask" first:

> It's been a lot of growing pains through that emotional discomfort and through those difficult conversations and learning how to name your emotions and what you're feeling and setting those boundaries and how you respond to trauma—all of that big work that you do as an adult in therapy and through reading . . . We know that actually helps.[141]

Teachers here must do more than let student insults slide. They must learn to recognize their own triggers, name their emotions, and confront personal traumas. As the educator influenced by Brummer put it: "I can identify those times of my short temper, or my moods . . . I can identify what's coming from a place of grief and pain . . . I have things that are a

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138 Interview 10 (Career and Technical Education teacher who works at a variety of high schools). Or another: "We have also been disconnected from each other. We come back to work as teachers [after the pandemic], and we're expected to hold children and all the issues that they have . . . when we also have not had those connections with other teachers or other people." Interview 34, *supra* note 134.

139 Interview 4, *supra* note 124.

140 Interview 12 (teacher at a racially diverse elementary school).

141 Interview 13, *supra* note 118.

trauma trigger."[142] It follows that self-reflective teachers must also become skilled at apologizing to students for disproportionate reactions, lapses in self-regulation, and mistakes. As another shared: "in one case, I was the offender. I said something embarrassing to a student [in class] and so I pulled him aside and said, I am very sorry, I should not have said that to you."[143] The student accepted the apology and then announced to the class that "she was just apologizing for treating me like a piece of shit."[144] This teacher, however, appreciated his action: "he was kind of owed that," she conceded, "because my apology was in private, but my action was in public."[145] A teacher who could understand that public harm requires public restoration was probably someone willing to spend a good deal of energy on self-reflection and development. As another teacher put it: "If you're somebody . . . who has a background in talking about and working on your own mental health, it's a lot easier to admit that you're wrong, that you've made a mistake."[146]

Some teachers who experimented with rebalancing authority, reciprocity, and human connection in the classroom reported positive experiences. For example, one high school teacher recounted how she had once "wanted her pound of flesh" from a student she felt was being "blatantly disrespectful" until she had a restorative circle facilitated by a mediator who helped her see the student differently. She now holds weekly circles in her classroom where she shares about herself and practices empathy: "I'm like, I'm just listening to you, you know, I'm just feeling, trying, I'm going through what you're going through in my mind."[147]

Other teachers, however, detailed how they struggled to achieve the kind of vulnerability and reciprocity they understood RJ to require. Asking teachers to experience, not simply perform, new forms of emotional labor at work can leave them feeling very exposed. For example, one high school teacher described how he found instituting circles "emotionally overwhelming." He compared himself to teachers who he thought possessed a certain kind of ease: "I hear them talking to the students, you know, *not like their friends, but not like their superiors*. It's just this special tone. I haven't figured that out yet. There is just definitely something special." He offered his own self-analysis: "Self-esteem is not my strength. I grew up with childhood domestic violence and was the black sheep and then being transgender. . . ." All of that, he

142 Interview 34, *supra* note 134.

143 Interview 41 (former middle school teacher, current parent and LSC member).

144 *Id.*

145 *Id.*

146 Interview 12, *supra* note 140.

147 Interview 15 (special education teacher at a nearly all-Black high school).

candidly explained, makes it hard to know how to "put my walls down, put their walls down" in a classroom that can feel chaotic and bewildering.[148] Nor was he alone in offering self-evaluation. As a middle school teacher reflected:

> I have seen some teachers [use circles] but those teachers have classroom management trump cards that I don't have, and what they are, I don't know. I am trying to figure that out . . . it can come down to facial expressions, it can come down to mannerisms that maybe I don't even pick up on of my own self.[149]

That doing RJ could appear so "special," even ephemeral, made some teachers bristle and externalize criticisms back onto their institutions. One explained how she appreciated her school's RJ training which emphasized "healing yourself and self-care," including "meditating or just different activities to reflect upon the kinds of things that you need as a teacher . . . to be available and fully present." And yet she felt unequipped to respond to physical aggression among students: "We were kind of left to figure it out . . . and then if you were really magically great at all this, then you were extra special, right?"[150] Another objected to how teachers were being newly evaluated based on their capacities for relation-building: "We're supposed to implement [RJ] in our classrooms, and anybody who can't . . . is because you don't know how to have a relationship with the child."[151] One teacher asserted that she repeatedly turned to an administrator (her assigned mentor) for help with a student: "And he's, like, just form a relationship."[152]

The irony of being told to build relationships was not lost on teachers. They were all too familiar with a metrics-based and prescriptive school culture that could swallow any human-focused innovation and turn it back into "another instrument for accountability."[153] And yet they were now being told to reclaim the agency to create authentic relationships to solve a social crisis. Some teachers themselves therefore analyzed relationality as a bureaucratic strategy—a way for administrators to explain and conceal a gap between aspiration and reality by devolving responsibility onto them. But radical teachers simultaneously doubled down: insisting that being-in-relation means cultivating practices that clash with the structures of authority and rules

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148 Interview 17 (teacher at a predominantly Latinx high school).

149 Interview 3 (teacher at a predominantly Latinx middle school).

150 Interview 6 (teacher at a nearly all-Black elementary school).

151 Interview 36 (special education teacher at a predominantly Black high school).

152 Interview 14 (teacher at a nearly all-Latinx middle school).

153 Bryan J. Duarte, *"Part of Their Chemistry": The Reproduction of Neoliberal Governmentality in Principal and Teacher Subjectivities*, 52 ANTHROPOLOGY & EDUC. Q. 274, 283 (2021).

that define their workplaces. For them, RJ means schools—and societies—with less hierarchy and more democratic forms of participation and equality. They therefore described a chasm between what they take RJ to mean and its institutional managerial interpretations.

3. Restorative Justice as Social Transformation

Most teachers we describe in this Section aligned themselves (to varying degrees) with larger movements for racial and economic justice and social and political transformation, and they described RJ as a meaningful part of how social change happens. "I'm all about restorative justice practices. I have fully bought in," one began. "But it has to stem from . . . years-long grassroots movements."[154] Another described her experience learning about RJ in education circles as a solution to the school-to-prison pipeline, *and then* learning about what social movement actors call "transformative justice" ("TJ") in her organizing circles for penal abolition: these two experiences "were completely feeling like different conversations," she observed.[155]

As this experience of divergence suggests, teachers who approached RJ as an idea circulating within left social movements criticized how their schools had narrowed it into an alternative to exclusionary discipline. One teacher who pushed for RJ education in her teacher residency program in the aftermath of George Floyd's murder described being introduced to RJ at a "back-to-school" professional development workshop in her high school that is 99% Black: "They don't really talk about equity at all, it was just kind of like, this the new thing . . . . [W]e're not going to do punitive . . . . [Y]ou need to have restorative conversations with kids."[156] She instead envisioned a district-wide Truth and Reconciliation process that began by acknowledging the harms caused by CPS to the students, families, teachers, and staff in her building.[157] The teacher who distinguished between RJ and TJ similarly suggested that "if leaders and schools were actually thinking about RJ,

154 Interview 13, *supra* note 118.

155 Interview 21, *supra* note 119. The term "transformative justice" once signaled a commitment among restorative justice scholars to theorize interpersonal restoration and social transformation in tandem. *See* RUTH MORRIS, STORIES OF TRANSFORMATIVE JUSTICE (2000). More recently, anti-violence penal-abolitionist feminists adopted the term to also describe community interventions to create accountability for harmers and restoration for victims and survivors as part of a mass grassroots movement to abolish the penal state. For a detailed description of TJ organizers' writings and practices, see Cohen, *supra* note 45, at 223–33.

156 Interview 22, *supra* note 16.

157 *Id.*

there would be processes for any instance of harm to undergo a restorative process, not just [for] students who got into a fight" but also for teachers, community members, parents, and non-teaching staff who experience harm.[158] Or a middle-school educator: "We've been marked as a school that is penalizing minority students . . . . So in order to stop doing that, [RJ] is what we're going to do, so no more demerits, detentions, or suspensions . . . . [I]t definitely comes down to what is measurable."[159]

Teachers who criticized RJ for being defined and practiced too narrowly endeavored themselves to practice RJ otherwise: in particular, by using less power in the classroom as a microcosm to break down hierarchies in society. For example, the middle school educator who worried that RJ is being reduced "to what is measurable" explained that she and many of her BIPOC colleagues instead believed that refusing to exercise "power against" students—refusing to act like "the boss" in their classrooms—is RJ's countervailing first principle.[160]

To be sure, people can and do practice meaningful forms of restoration in hierarchical social, family, and community relationships.[161] But one way that teachers today are responding to the injustices that have enabled carceral practices in their schools is by insisting on an equivalence between restoration and particular forms of equality—specifically, equality under a conflict: the basic idea is that no one's status or role should grant them a privileged position in its resolution.[162]

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158 Interview 21, *supra* note 119.

159 Interview 13, *supra* note 118. "It's almost like," she ventured, "describing a colorblind way of talking about racist discipline." *Id.*

160 *Id.*

161 For one illustration, see Amy J. Cohen & Ilana Gershon, *When the State Tries to See Like a Family: Cultural Pluralism and the Family Group Conference in New Zealand*, 38 POLAR: POL. & LEGAL ANTHROPOLOGY REV. 9 (2015). We examined how New Zealand legislators created culturally sensitive restorative mechanisms for family conflict resolution for indigenous Pacific Island communities that nevertheless embedded particular liberal, equality-inflected assumptions about how decision-making should happen, information should flow, and families should function—assumptions that created tensions for intergenerational Samoan families when they participated in processes supposedly modeled on their own (but in fact more hierarchal) forms of dispute resolution and decision-making. *Id.* For another illustration, see Cohen, *supra* note 29 (describing RJ's meanings and use on the American political right).

162 For an excellent ethnographic discussion of youth-adult dynamics among people aiming for equality in a circle, see ANITA WADHWA, RESTORATIVE JUSTICE IN URBAN SCHOOLS: DISRUPTING THE SCHOOL-TO-PRISON PIPELINE 133–37 (2016). In particular, Wadhwa discusses how restorative high school teachers struggled to withhold authority when students were themselves reproducing hierarchies in circle processes. *Id.* These teachers would "maintain[] a low profile, with the expectation that doing so would force students to demand respect from one another" and yet would sometimes break their roles and become "authoritative—though not authoritarian" when, for example, students in a circle began disrespecting other students. *Id.* at 135–36. Another educator

"Okay, you want restorative justice," demanded an educator and RJ practitioner who explained that her work was alive to "the history, the toxicity, the trauma, the systemic oppression, and racism" that has shaped the present, including some of her experiences as a Black educator.[163] "But do you know what [RJ] is? . . . . We all have to become equal. And that means [for teachers] we take your power down."[164] RJ, she elaborated, involves teachers unlearning traditional approaches to authority. If a teacher participates in an RJ process, "you have to participate not as Ms. Smith [but as] a human not as the leader."[165] A high school teacher, steeped in nonviolent communication and anti-oppressive community organizing, similarly linked RJ to broader movements for "dismantling classism . . . [and] abolition work." "The whole point of restorative conversations," they insisted, "is that you and I are equals." "It's a mentality change," they elaborated, "not a learner's technique change. You can train [a] teacher to do a 90 second calm . . . but you can't have a restorative conversation with someone you don't believe is your equal."[166]

These teachers described how they were creating democratic and dialogic forms of justice in their classrooms at odds with the professional norms of many of their colleagues. Even if some of their colleagues would administer restorative interventions for students, they suspected many colleagues would struggle to reciprocally and genuinely participate as someone who caused or experienced harm. In the circle, "everyone's equal," explained the high school science teacher who had previously studied with civil rights organizers:

> There is no authority here. You don't get to be the teacher who has authority over the student . . . . I think teachers don't want to be vulnerable in that way, to come and be like, "Hey, I know I shouldn't have said you're going to be a failure just like your brother" . . . in front of another adult or a group of people.[167]

Teachers with expansive interpretations of RJ also explained that they were creating forms of justice that they themselves may not receive

argued that "adults had a responsibility to upset the egalitarian nature of circles when it was necessary to offer their wisdom." *Id.* at 137. This educator explained: "I think there's a danger in sort of romanticizing indigenous culture and saying we were all the same and we were all equal. No. There was authority; there was also deference [to those older than us]." *Id.*

163 Interview 30, *supra* note 133.

164 *Id.*

165 *Id.* She worried that teachers of color, in particular, were taking risks in creating horizonal relations: "In order for the work to move, people got to be vulnerable . . . . I just don't like people of color constantly having to put this out on the forefront just for it to be shut down and done incorrectly . . . . No one just needs to keep repeating your pain." *Id.*

166 Interview 5, *supra* note 127.

167 Interview 9, *supra* note 132.

because of how their schools function as bureaucracies. One teacher who did not link RJ to larger social movement activism, but rather to her desires for a better, more restorative workplace, described her efforts to apply her university training in how to facilitate a circle: "My principal yelled at me, he's like, 'You don't talk about how *you* feel with the kids.' And I'm like, 'No, that's the key part of restorative justice. You have to tell the kids what you feel.'"[168] She similarly recounted a conflict about how to respond to a student engaged in troubling behavior, where she felt teachers' views were not elicited: "Why do I not get to talk about this?" she asked of her administrator. "Why are you not listening to my side of the story? That is not why you're here today. *I'm like, there's no restorative justice for me*."[169] Here, too, RJ is more than a kind of alternative discipline technique to administer on behalf of students and even more than a practice that requires teachers to practice self-growth and transformation. It is a demand for a different kind of workplace where everyone has the right—and also the responsibility—to participate in conflict resolution.

A subset of teachers thus linked a new microsocial practice of conflict resolution to larger institutional and social transformations, albeit not without constant frustrations. An RJ professional who had worked extensively in a particular school recounted his sadness when administrators would not "own" a conflict themselves.[170] A student had stolen a classmate's phone, prompting the student-victim's family to call the police. "In the process of the arrest," he explained, "the police used a racial slur; they called this 13-year-old boy the N-word and made a threat."[171] Together with the professional, the school did a lot right—illuminating, we must stress, just how much restorative ideas and practices had meaningfully influenced this school's culture. The school held a circle for both students and their families, and supported the student who stole the phone to enact restorative forms of accountability

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168 Interview 14, *supra* note 152.

169 *Id.* This was a common theme: "[E]verything was focused . . . [on] the kids coming back . . . . My eighth-grade coworker who teaches history was like where the hell is my SEL? And my restorative justice?" Interview 24 (teacher at a racially diverse elementary school). Or another teacher:

> I just want to scream at the sky . . . that we have so much conflict between colleagues and between staff that would go so much better if anyone was thinking about how to hold conversations like these . . . . If we tried to actually address conflict that wasn't kids fighting but teachers saying things behind each other's back . . . . So many things would be so much better for everyone. And it's just not a mindset that I see actually landing with some of the people that have the power to make that happen.

Interview 21, *supra* note 119.

170 Christie, *supra* note 23, at 4–5.

171 Interview 29, *supra* note 107.

rather than impose a punishment. But the RJ professional wanted to link the acts of interpersonal justice that had taken place between the students to larger acts of structural justice that broadened out to the community. To that end, he hoped school officials might bring themselves to the conflict as if the school as a community had been harmed—and, for example, invite the police officers to sit with school representatives in a restorative circle—a suggestion the school declined.[172] That is, he wanted the "whole school," quite literally, to practice RJ as if a very different kind of—connective, cooperative, reparative, and just—society already existed.

C. *Strategies to Manage the Gap Between Meaning and Practice*

One way, then, to understand contemporary RJ in education is that it is asking teachers to show up in conflicts in ways quite different from what their professional roles—and many of the rules and norms of their workplace—have previously trained them to do. All of the teachers we interviewed reported to us that they were differently willing subjects in this new endeavor. They were willing themselves to desire different things. For some, a different kind of conflict intervention and, to varying degrees, a different professional and personal identity. Others were already desiring different things that they were ready to channel through RJ, including visions for social and political change.

In this final Section, we shift gears a bit. We want to offer a glimpse at how teachers who hold different understandings of RJ produce different patterns of practice or "policies" on the ground. We are indebted here to Michael Lipsky who theorized teachers—and other "street-level" workers such as social workers, welfare workers, and police officers—not as people who simply implement policy, but also as people who make policy, using their discretion to allocate resources, rewards, and sanctions, shaping their students' (and other clients') self-understandings and life chances.[173]

For our purposes, what is crucial about Lipsky's work is that he illustrated that the particular ways that teachers (and other workers) make policy reflect the coping strategies that they develop to manage the gap between their ideal standards of professional practice and what they

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[172] *Id.* The RJ professional emphasized the complexity of the situation. He stressed that in declining this suggestion, school administrators expressed concern about the privacy and safety of the student. And yet, he thought there could be creative and safe ways to craft a broader community-oriented, restorative response to this harm. *Id.*

[173] LIPSKY, *supra* note 18, at 83.

can accomplish given their workplace constraints.[174] For example, teachers may modify their conceptions of what their role requires to match what they can offer.[175] Or, they may modify their understandings of their students "so as to make more acceptable the gap between accomplishments and objectives."[176] For example, teachers might draw distinctions between deserving or undeserving students.[177] Or, conversely, they might understand their students as overwhelmingly shaped by environmental shortcomings, thereby absolving teachers from accountability for shortcomings in their professional work.[178] These modifications matter, Lipsky submitted, because workers' "routines and simplifications virtually *are* the policies to be delivered."[179]

On this view, teachers' RJ work is already policy in the gap.[180] In what follows we re-carve the three categories above in order to provisionally describe two distinct patterns of practice or coping strategies that emerged in our interviews. We loosely distinguish between teachers who approach RJ more as an alternative form of discipline and child development and teachers who approach RJ more as about self- and social transformation, emphasizing again that identities shift and overlap. The first group tended to describe RJ as about facilitating skills in peer conflict resolution and student self-regulation. Described in Lipsky-like terms, they "modified" or interpreted RJ as empathic practices of youth development consonant with more traditional understandings of teachers' professional roles. The second group defined themselves as restorative educators based on their reciprocal engagement with students in conflict. Some therefore adopted a different kind of coping strategy we characterize as prefigurative—a term we use to illustrate how particular educators endeavor to build alternative futures in the here-and-now, even as they know this effort is nearly "by design a constant failure, always falling short of the desired future society towards which one is working."[181]

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174 *Id.* at 81–83.

175 *Id.* at 83.

176 *Id.*

177 *See id.* at 153.

178 *Id.*

179 *Id.* at 84.

180 Of course, we are hardly the first to use Lipsky to make this point. *See, e.g.*, DAVID B. TYACK & LARRY CUBAN, TINKERING TOWARD UTOPIA: A CENTURY OF PUBLIC SCHOOL REFORM 135 (1995) ("As 'street-level bureaucrats,' teachers typically have sufficient discretion, once the classroom doors close, to make decisions about pupils that add up over time to de facto policies about instruction, whatever the official regulations. In any case, then, teachers will make their imprint on educational policy as it becomes translated into practice.").

181 PAUL RAEKSTAD & SOFA SAIO GRADIN, PREFIGURATIVE POLITICS: BUILDING TOMORROW TODAY 102 (2020).

D. *Alternative Discipline and Restorative Justice Modifications*

Teachers who approached RJ more as an alternative form of discipline and youth development, and less as part of a social movement, described it in two interrelated ways: as a set of techniques focused on student regulation and conflict resolution, and as a compassionate practice of contextualization, that is, an effort to try to understand a student by engaging in a kind of behavioral and emotional investigation. Below we describe some of the practices that appear to follow.

An educator who expressed skepticism about her ability to implement RJ (as well as skepticism that RJ was making her school environment safer or calmer) suggested that she would check in with students, asking questions about their home life or pets—"just bringing down the anxiety. I would say that's the only thing I'm capable of," she suggested.[182] Other, more enthusiastic, teachers talked about strategies to address anger and peer-to-peer conflict. For example, "maybe next time you can do this . . . and some breathing, [here are] different strategies that you can use when you're angry or when you're upset," one teacher offered.[183] At times, yes, she would "interject my own things or feelings, but not taking away from the fact that no, this still has to be a place where we all have a boss, I'm in charge. This is my classroom. This is the rules."[184] Another primary school teacher explained she has embraced RJ to express to students "that we're not all against you. We're just trying to help make a calmer way to make you feel better." She continued to elaborate that with RJ "each kid gets to talk about their side . . . and we as the adults will just listen."[185]

These patterns of practice echo earlier studies. To recall Reimer: "[E]ducators, while caring about pupils, used RJ primarily as a classroom

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182 Interview 19 (speech pathologist who works across a variety of schools).

183 Interview 38 (teacher at a predominantly Latinx elementary school).

184 *Id.* A high school teacher similarly described a tension between teacher authority and student voice:

> Because of RJ you have to make sure that [the students] feel heard, and then you actually have to do something about it. So I think when it was rolled out there was a lot of voice from students. And I think they've sort of trickled it [down] a little bit because it was too much right? . . . Some of it needs to be about teaching students in the moment how to say, 'You know, it's not okay that you bully him . . . .' In that moment, as a teacher, you should be able to say, 'Hey, that's not acceptable in my classroom,' which I'll do. But sometimes I'll think twice. I'm like, they're gonna go report me, right?

Interview 10, *supra* note 138.

185 Interview 2 (teacher at a nearly all-Latinx elementary school).

management tool where staff remained the ultimate authority . . . ."[186] In Lipsky's terms, these practices also make sense: teachers here use RJ as a better—more responsive, effective, compassionate—way to induce student cooperation with each other and with classrooms goals without upending their professional roles or demanding of themselves more than they feel they can and should deliver given their responsibilities and constraints.

One way teachers engage in this "policy modification," we will venture, is by practicing RJ in part with "why" questions. Classically, restorative teachers are cautioned to avoid "why" questions, which can imply hierarchy and judgement, in favor of "what" and "how" questions (intended to produce reciprocal expression of everyone's views, needs, and concerns affected by a conflict).[187] The special education teacher quoted above reported that her principal was encouraging school staff to ask: "Why are these behaviors continuing to happen? . . . What's the underlining thing?"[188] Following this sort of prompt, several teachers described RJ as about asking "why" to discover root causes: "You know, why are you so angry about XYZ? Or why did you react a certain way?"[189] Or another: "Okay, so you did this, why did you do this? Why did you do that? Because you felt how?"[190] Another teacher explained that he was taught to ask students, "Why are they so angry?" (He was critical of his training: "you just made them worse," he reasoned.)[191]

Venturing further, we wish to suggest that this practice perhaps in part reflects how teachers are attempting to evolve empathic coping mechanisms to respond to a new and, we think, complex reality—one in which they are constantly being told their students are experiencing trauma. For example, one administrator in charge of her school's RJ program, endeavoring to catalyze a culture shift in her building,

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186 Reimer, *supra* note 53, at 68. A parent and local school council member who pushed for RJ in her school described a similar dynamic: "My kids had conflicts with some of their teachers," she recounted. Interview 31. "And no, it wasn't the same kind of resolution as the kids to go through, there was still the hierarchical power dynamic at play. You have to respect your teachers to play." *Id.*

187 BRUMMER, *supra* note 75, at 114. As Brummer explains: "In interpersonal dialogue, the suggestion is not to use 'why' questions when we are dealing with problem-solving or conflicts. This is because they tend to sound accusatory/confrontational; and even when they don't sound like that, they can still be taken that way." *Id.*

188 Interview 2, *supra* note 185.

189 Interview 24, *supra* note 169.

190 Interview 7, *supra* note 131. This educator worried these questions, while positive, were disconnected from "a natural consequence and . . . repairing harm." *Id.* She described working in an environment where the "messaging coming from top down [is that] consequences are bad . . . . If you have asked for consequences—I've never personally been given the prison-to-pipeline speech [but other teachers have]." *Id.*

191 Interview 28 (Career and Technical Education teacher at a nearly all-Black high school).

explained that she always tells teachers: "Let's put a backpack on ourselves of everything that a child has to carry . . . . Is the child carrying trauma? It might be physically or mentally."[192] She offered that she was motivated to work in RJ because she was drawn to the "investigative parts": figuring out why children are behaving as they are. She continued: "There's an answer as to why this happened, or why they're acting this way . . . . Some trauma might be causing the effect."[193]

Trauma—and its associated diagnosis of PTSD—invites a particular approach to mental health. Unlike other psychological diagnoses, "PTSD reserves one feature for itself: the eponymous event."[194] External traumatic events, in turn, change the social meaning of symptomatic behavior: "[R]esponsibility . . . shifts from [one's] will or mind to an external locus."[195] Trauma-informed educators, Brummer therefore argues, should stop asking "'[w]hat's wrong with you?,' which always seems to provoke alphabet soup like attention deficit disorder (ADD), attention deficit hyperactivity disorder (ADHD), oppositional defiant disorder (ODD), obsessive compulsive disorder (OCD), etc." Rather, educators should instead consider, "'What happened to you?,' which we hope invokes compassion and empathy."[196]

But, following Brummer, this shift to compassion embeds a specific approach to dialogue. Trauma-informed educators are not meant to become adept at investigating reasons as to why kids are acting as they are but rather at identifying needs. Indeed, Brummer stresses the futility of searching for "reasons" behind behavior: "We also already know the answers to [why] questions if we follow the theory that behavior is needs-based. The answer to a 'why' question is always going to be 'It meets needs.'"[197] This emphasis on needs, in turn, is supposed to have a more equalizing effect: as teachers connect with students' needs by simultaneously connecting with their own and other students' needs and feelings, they cultivate relationships based on shared humanity.[198] For example, one trauma-informed RJ trainer stressed how she works with children who cause harm to help them learn to see and respond to other people's needs: "Children who've been through trauma, start feeling

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192 Interview 33 (administrator/RJ coordinator at a predominantly Latinx elementary school).

193 *Id.*

194 *Id.*

195 Allan Young, *Reasons and Causes for Post-Traumatic Stress Disorder*, 32 TRANSCULTURAL PSYCHIATRIC RSCH. REV. 287, 289 (1995).

196 BRUMMER, *supra* note 75, at 60. Brummer here echoes an epistemic divide in psychiatry for understanding the cause of mental distress and problematic behavior as rooted in either a diagnosable disease or alternatively in traumas, past experiences, and latent motivations. *See* T.M. LUHRMANN, OF TWO MINDS: AN ANTHROPOLOGIST LOOKS AT AMERICAN PSYCHIATRY 6 (2001).

197 BRUMMER, *supra* note 76, at 114.

198 *Id.* at 65–66.

better about themselves when they help others."[199] The high school science teacher who trained in RJ with civil rights leaders made a similar, perhaps more intuitive, point as she described her own circle-keeping practice: "As this student causes harm to me, when he sits and talks to me, he can hear about my life, he can learn about my life, and I learn about his and it humanizes us, and that humanity helps us to show up differently in our community."[200]

One challenge, however, is that when teachers engage in the reciprocal expression of needs and feelings, they stand to heighten, rather than minimize, the dissonance and disappointments they are likely to feel when their efforts do not produce their desired effects—there is, of course, so much about students' lives that teachers cannot influence or intervene in. By contrast, a search for external causes may enable a greater, if perhaps temporary, sense of teacher efficacy. Or so a middle school teacher suggested. She stressed that her colleagues "care a lot," but their version of RJ does not involve "looking at actions and responses." Instead, these teachers are "looking at long-term reasons," which means, she explained, that RJ "automatically goes to the social emotional deficit of the kid . . . . Oh [this conflictual behavior] must be because . . . they're thirteen and tired in school . . . . We better check and see if they're taking care of younger siblings."[201] She stressed that this well-meaning practice could lead to positive forms of social assistance, but it doesn't supplant the need for restorative accountability. She also explained that as a person of color, she worried about some of the assumptions informing her colleagues' well-meaning investigations:

> Where that's not the assumption [that, for example, a child is experiencing challenges at home], it is typically with somebody that is perceived to be better off, whatever that means . . . . I don't think that's conscious at all . . . . I am not throwing shade on my colleagues for being racist, right. I just think of it as a normal social view.[202]

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199 Interview 1 (former Restorative Practices Trainer and Coach in CPS). She elaborates:

> I learned that when I asked children, particularly traumatized children, "What do you think you need to do to make things right?," the children invariably replied saying they need to change their behavior. They would often say, "I need to control my anger." Children who have been traumatized often already feel badly about themselves. So the negative behavior continues because changing their behavior is a hard thing to do. What does change their behavior is finding opportunities for them to gain self-worth. Children who've been through trauma, start feeling better about themselves when they help others.

Id.

200 Interview 9, *supra* note 132.

201 Interview 40 (teacher at a racially diverse middle school).

202 *Id.*

There is a long critical tradition (including critical writing on RJ) that explores how compassion and care in hierarchical relations can misinterpret its recipients via assumptions based on social categories.[203] But here, we wish simply to observe that these practices modify how many RJ proponents define the policy essence of *restoration*. As an RJ professional remarked, describing other well-meaning conversations, if an intervention or response "doesn't include the needs and concerns of the teacher or the classmates—the people affected peripherally and centrally—then it's not restorative justice, your work is not done."[204]

But, again, asking teachers to implement RJ by bringing everyone's needs and concerns to a conflict—including their own—is a very demanding policy ideal. Adherence to this ideal also stands to heighten the dissonances and disappointments teachers themselves are likely to feel when the structure of their workplaces undercuts their own expectations for mutuality. Two interviewees talked with us at length about a different coping strategy, one that Lipsky describes as withdrawal.[205] One decided to retire. She had been hit and physically harmed by a sixth grader and felt her school had failed at restoring her. "I . . . couldn't make it work," she recounted with a great deal of sadness.[206] A middle school teacher left her job in CPS to work in a different school district: "I don't mean that teachers are ditching because fuck you, we don't want to teach. We're ditching because we ourselves are having trauma. My therapist thinks it's a form of PTSD."[207]

These were outlier cases among the teachers who spoke with us, although recent data on high teacher turnover suggests they are not outlier responses to today's challenges in American public education.[208] In a 2016 quantitative study on RJ implementation, the authors note that they cannot "explain why some teachers implemented RP [restorative practices] more than other teachers."[209] Our study likewise cannot offer any causal accounts. But it does offer some glimpses into how "higher

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203 *See, e.g.*, Richard Delgado, *Goodbye to Hammurabi: Analyzing the Atavistic Appeal of Restorative Justice*, 52 STAN. L. REV. 751 (2000).

204 Interview 29, *supra* note 107.

205 *See* LIPSKY, *supra* note 18, at 142–43.

206 Interview 27 (former teacher at a nearly all-Black elementary school).

207 Interview 14, *supra* note 152.

208 *See, e.g.*, MELISSA KAY DILIBERTI & HEATHER L. SCHWARTZ, RAND, EDUCATOR TURNOVER HAS MARKEDLY INCREASED, BUT DISTRICTS HAVE TAKEN ACTIONS TO BOOST TEACHER RANKS (2023), https://www.rand.org/content/dam/rand/pubs/research_reports/RRA900/RRA956-14/RAND_RRA956-14.pdf [https://perma.cc/55GM-BQSX].

209 Anne Gregory, Kathleen Clawson, Alycia Davis & Jennifer Gerewitz, *The Promise of Restorative Practices to Transform Teacher-Student Relationships and Achieve Equity in School Discipline*, 26 J. EDUC. & PSYCH. CONSULTATION 1, 19 (2016).

implementing"[210] teachers practice according to their ideals under deeply demoralizing conditions.

E. *Self and Social Transformation and Practices of Hope and Prefiguration*

"It feels like an uphill battle . . . the anger and the violence," one teacher clenched her jaw, "and not being able to even legitimately talk about the governmental system with students without them saying, 'Oh, yeah, well, my brother, you know, he wasn't doing anything.' . . . I have to stand in the truth [with the students]."[211] In a moment when the reform of public institutions feels remote and perhaps even illegitimate if the reform does not advance a radical transformation,[212] some teachers choose to act as if structural limitations do not determine their capacity to build restorative relationships—and to venture that through these relationships "something genuinely different" might emerge within, but far more often, they suspect, beyond, their institutions.[213] To that end, they link RJ to their own will to work on themselves to produce healing, social connection, and hope in their profession. "Schooling is always an act of hope," Martha Minow, Richard Shweder, and Hazel Rose Markus offer.[214] So is RJ, Minow affirms: it "invites hope by focusing on the future. New initiatives bring concrete hopes."[215] But teachers here do not exactly articulate hope as a belief that a better future is forthcoming, as much as an orientation that anchors their work in the present.[216] It is, in Sara Ahmed's words, "a *weary hope*, not agentic, bright, forward, and thrusting, but a hope that is close to the ground, even below the ground, slow, low, below; a hope born from what is worn."[217]

Teachers expressed "a hope that is close to the ground" in part as a practice of giving something of themselves to the young people in their care, something that is about more than just survival. For example, one

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210 *Id.* at 21.

211 Interview 8, *supra* note 129.

212 *See generally* Amna A. Akbar, *Non-Reformist Reforms and Struggles over Life, Death, and Democracy*, 132 YALE L.J. 2497 (2023).

213 VANESSA MACHADO DE OLIVEIRA, HOSPICING MODERNITY: FACING HUMANITY'S WRONGS AND THE IMPLICATIONS FOR SOCIAL ACTIVISM 121, 135 (2021).

214 Martha Minow, Richard A. Shweder & Hazel Rose Markus, *Pursuing Equal Education in Societies of Difference*, *in* JUST SCHOOLS: PURSUING EQUALITY IN SOCIETIES OF DIFFERENCE 3, 3 (Martha Minow, Richard A. Shweder & Hazel Rose Markus eds., 2008).

215 Minow, *supra* note 8, at 1177.

216 *See* Fleur Johns, *Hope: An Epilogue*, *in* HOPE IN THE ANTHROPOCENE: AGENCY, GOVERNANCE AND NEGATION 262 (Valerie Waldow, Pol Bargués & David Chandler eds., 2024).

217 SARA AHMED, COMPLAINT! 289 (2021).

teacher described her journey learning to name emotions, set boundaries, and practice nonviolence: "When you feel well, and when you love yourself, and when . . . you're able to forgive yourself, there is great strength and great peace that comes: like, *I'm not going to get up and hurt someone*." She wanted to use the conflicts in her classroom to help students experience the same slow evolution: "I want that for my students. I want that for them because I understand conflict resolution, because I understand that . . . violence is a reaction because people are already feeling hurt."[218] Another recounted some of her childhood struggles: "I really tend to lean toward pessimism . . . [and] I need community to be able to get through the world . . . . The way that you get to be in community is you act like a community member."[219] For her, nurturing a "compassionate and cooperative human spirit," even in a "capitalist, individual, material, consumer, patriarchal society," includes extraordinary efforts to develop relationships with students' parents, guardians, grandparents, and older siblings.[220] Some talked about their faith:

> I want to be able to look children in the eye and tell them that they matter. I don't want to get choked up . . . . Parents are sending us the best that they have. If they had other children, I'm sure they'd send them, but this is who they have. Ministration is working with who we have.[221]

All these teachers share a basic prefigurative impulse: their students cannot "build an alternative society if they never have the chance to live it."[222]

But even as these teachers hold on to their ideals (and describe sacrificing above the requirements of their jobs),[223] they are not exactly

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218 Interview 13, *supra* note 118.

219 Interview 25 (special education teacher at a nearly all-Latinx elementary school).

220 *Id.* Not without personal sacrifice: "You know, you're also talking to me on summer break, and if we had this conversation maybe in January, I might be like, 'Oh, my God, I can't do it.'" *Id.*

221 Interview 8, *supra* note 129. Readers here may hear echoes of Bettina Love's *We Want to Do More than Survive*. BETTINA L. LOVE, WE WANT TO DO MORE THAN SURVIVE: ABOLITIONIST TEACHING AND THE PURSUIT OF EDUCATIONAL FREEDOM (2019). She writes: "To begin the work of abolitionist teaching and fighting for justice, the idea of mattering is essential in that you must matter enough to yourself, to your students, and to your students' community to fight." *Id.* at 2.

222 Dan Swain, *Not Not but Not Yet: Present and Future in Prefigurative Politics*, 67 POL. STUD. 47, 51 (2019).

223 As one young educator explained:

> So it still winds up being a lot of your own personal time that you're pouring into it. If you want to make it work. Either that or you're sacrificing something else, and you're running a risk because admin could come in. And now you're supposed to be teaching science. Why aren't you teaching science? Why are your kids sitting in a circle? Because

"idealistic"—at least not insofar as they imagine any broadscale measure of success will follow from their efforts. And yet, we think they have turned Lipsky's overarching insight into a different coping strategy. In 2010, Lipsky clarified that the point most remembered and circulated from his book—"that the actions of teachers, police officers, or welfare workers . . . effectively 'become' the public policies they carry out"—is "clearly too limited."[224] Street-level workers do make policy but "only in the context of broad policy structures," he emphasized.[225] For radical teachers, Lipsky's point may indeed be limited—they are all too aware of the adverse forces that constrain them—but they nevertheless act as if his point is constitutive.[226]

Let us conclude with two final illustrations of this very different approach to policymaking in the gap. "I think I'm incredibly cynical and very jaded, and I don't really think things are going to get better," explained a high school teacher with a long grassroots background in community organizing, who had described restorative conversations as necessitating participant equality.[227] This teacher had previously recounted that "I didn't go more than two weeks [during the pandemic] where a kid told me a family member had died. By the spring I had kids who had lost both grandparents, aunts and uncles, both parents, siblings, like multiple family members in the course of the year." Caring for students in the aftermath, this teacher explained, is "now rolled into this RJ push . . . . I could not get enough degrees to do the amount of work that you want me to do. And you would never pay me enough or give me enough time."[228] And *yet* this teacher begins the school year by designing a classroom governed by principles of radical democracy—*and* by talking with students about the limits of this design in an authoritarian system. They act anyway, notwithstanding their cynicism, in case a different world is possible someday.[229] They describe this as a practice of hope in the present tense, drawing on Mariame Kaba and Derrick Bell to theorize their labor:

> we needed to talk about it. *You told me to do this*, it is difficult, it seems almost impossible.

Interview 13, *supra* note 118.

224 LIPSKY, *supra* note 18, at 221.

225 *Id.*

226 *Cf.* Cohen & Morgan, *supra* note 19.

227 *See supra* note 166 and accompanying text.

228 Interview 5, *supra* note 127.

229 *Cf.* Cohen & Morgan, *supra* note 19.

> Mariame Kaba talks about hope as something we have to do every day, it's not just this feeling, it's something you have to do.[230] And Derrick Bell is similar and yet sort of the opposite where he's like, you don't have to actually have hope. You can just do the thing. *No, it won't change and yet you do the things that could lead to that change* . . . .[231] I'm a teacher. I can't walk into the classroom, like, "Yo, white supremacy has been a rule folks, like we might as well just be dead right now." . . . What I have to do is teach the steps and the actions that lead to that change, even if I don't think that change will come ever or in my life . . . . [T]hat goes for community building, that goes for teaching.[232]

To be clear, this teacher uses their role as CTU delegate to press for some practical institutional reform.[233] But in the meantime, they embody their imagined future in a material context, pulling an alternative worldview into their classroom (*no, it won't change and yet you do the things that could lead to that change*). It helps that they have community: young teachers in the building are also "deeply invested in restorative

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230 *See, e.g.*, *Hope Is a Discipline Feat. Mariame Kaba*, BEYOND PRISONS PODCAST, at 38:31 (Jan. 5, 2018), https://www.beyond-prisons.com/home/hope-is-a-discipline-feat-mariame-kaba [https://perma.cc/MKR2-ZHLB]. In Kaba's words:

> [F]or me, hope doesn't preclude feeling sadness or frustration or anger or any other emotion . . . . Hope isn't an emotion, you know? Hope is not optimism. . . . The idea of hope being a discipline is something I heard from a nun many years ago who was talking about it in conjunction with making sure we were of the world and in the world. Living in the afterlife already in the present was kind of a form of escape . . . . The hope that she was talking about was this grounded hope that was practiced every day . . . ."

Id.

231 *See, e.g.*, DERRICK A. BELL, FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM 199 (1992). He writes:

> [I]t is not a matter of choosing between the pragmatic recognition that racism is permanent no matter what we do, or an idealism based on the long-held dream of attaining a society free of racism. Rather, it is a question of *both, and*. *Both* the recognition of the futility of action—where action is more civil rights strategies destined to fail—*and* the unalterable conviction that something must be done, that action must be taken.

Id.

232 Interview 5, *supra* note 127.

233 For example, they have endeavored to interpret the section on teacher's rights in the employment contract to demand teacher inclusion in restorative conversations:

> If I send a kid out for fighting . . . that child is not supposed to come back contractually, unless they come back with the adult who either did the discipline or restorative justice. And we all three have a conversation. Like that's a grievance every single time a child is plugged back in without paperwork coming with them or without that conversation happening.

Id.

justice . . . . Part of what the younger folks are doing is the active work to create a different world."[234]

Recall also the RJ professional who attempted to persuade school administrators that they should want to hold a restorative circle with police officers. "It is not going to be an institution that gets it right," he sighed deeply. He takes refuge in an alternative belief system—one that echoes Davis's insistence that RJ is part of a prophetic "resurgence of indigenous wisdom."[235] To keep restorative practices moving forward among individual teachers and students, he acts as if he is working from within a different kind of reality, one in which there simply is no gap for analysts to theorize:

> The practices in the [restorative] teachings have come from indigenous cultures. And one of the things the elders would say is, the teachings will protect themselves. If your project is in accordance with the teachings, it will flourish. If it is not in accordance with the teachings, it will fail. I've lately been keeping it simple, starting there. And the teachings will take care of themselves.[236]

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234 *Id.* We should add: they described a generational divide—not everyone in their building melded anti-racist education specifically with a commitment to RJ:

> Older African American colleagues [will say] that when we do restorative justice in schools, that's not real life. And, well, we can say, 'Hey, we want to do this in school so that our young people grow up and create a world where this is the norm.' The reality . . . right now is that when our kids leave the school, that the cops might very well shoot them for walking down the street, and that's deeply entrenched in racism. And when we say, 'Hey, that race component shouldn't matter, you should be able to talk through anything respectfully,' they turn around and say, 'Try to talk respectfully with a cop . . . .' And so there's a lot of fear . . . . Older African American colleagues . . . see [RJ] as a way for their children to be killed. And I don't want that to be true. But it's true. Because one of the things that restorative justice does is empower young people to speak their minds and to do it well. But that doesn't matter within the larger systems of society.

Id. The high school science teacher similarly described how a "socialized condition to violent structures in our country" means that fear has shaped relationships between adults and students in different schools she had worked in. Interview 9, *supra* note 132. As she described her own work to shift away from this violent reality, she reflected:

> [I]t makes me think also in Black schools about something Ta-Nehisi Coates wrote about in *Between the World and Me* . . . how if we don't discipline hard in our homes, in our schools, the police will discipline our children, and they might kill our children. . . . Just having a conversation does not feel authoritarian or like, showing you I'm the boss.

Id.; *see also* PAYNE, *supra* note 2, at 30.

235 Interview 29, *supra* note 107.

236 *Id.*

IV. Conclusion

Today, numerous policymakers and education reformers are asking about how to institutionalize RJ in a moment when scholars and practitioners describe it sometimes as an alternative form of discipline, and sometimes as whole school transformation, if not part of a radical social movement. Against this mounting pressure for RJ, we set out to learn from teachers how RJ is making contact with the ground. Writing a kind of gap study from the bottom up, we listened as teachers analyzed the distance between their ideals and their realities. Even as our study is again limited by the sample of teachers who responded to our call, as well as by the nature of qualitative interviews abstracted from practice, we submit that sustained attention to how teachers articulate RJ's possibilities and limits offers insight not only into whether a new conflict practice is working and its classically described "barriers to implementation," but more fundamentally into how its "implementors" struggle over its purposes and meanings—and how they therefore use RJ to desire and enact different things.

Teachers offered three braided stories of RJ with different implications for education reformers and scholars of conflict resolution. The first was about RJ as a better technique and set of skills for classroom administration and discipline—a better way to manage conflict that would produce fewer harmful consequences for students, especially students of color. Here, what teachers propose to help bridge a gap between promise and practice echoes many of the recommendations circulating in policy literature so that RJ is not "just about the numbers"—even when a narrow or partial approach to RJ is, yes, significantly better than the zero-tolerance regime that preceded it. Teachers want more resources, such as full-time RJ facilitators to assist them, and they want those facilitators to have union jobs, not short-term contracts.[237] Not least, teachers want more resources to manage their time-starved days so that they can join restorative conversations—for example, on-call substitute teachers so they can participate in a student's reentry into the classroom. And even as everyone nowadays says RJ is more than technique, as we have seen, there *is* a technical craft to learn and practice—to become adept and willing at, say, approaching relationship building as not only asking a compassionate set of questions about a student's interests and home life, but also as feeling competent to unpack everyone's actions, consequences, and needs affected by a conflict. Some

237 As one teacher asked: "How many [RJ] jobs are union jobs [with benefits and pensions]. CPS is going to try and contract out as much as possible. If it were up to them, the social worker coming to my room, she would be getting paid by some separate entity." Interview 3, *supra* note 149.

teachers report that they would simply benefit from more intensive and experiential case-based training. Technique and identity interpenetrate.

To that end, many teachers offered a second set of reflections about what a call for technique *and* "something more" means in their working lives. Even among those who did not approach RJ as a full-blown political philosophy and social movement practice, some nevertheless took seriously the idea that RJ requires them to reconstitute how they approach authority and hierarchy in their professional roles and interpersonal interactions. Recall, for example, the high school teacher who explained that in struggling to implement RJ, he was, in fact, struggling to "put my walls down, put [students'] walls down." Teachers talked about their personal journeys to practice vulnerability and heal from trauma. From this perspective, for teachers, bridging a gap means, in part, working on their own self-development.

At the same time, however, within this second set of reflections no teacher talked about RJ as an exclusively inward-looking project. To the contrary, teachers also talked about their experiences as workers in institutions that did not provide the care or justice that they were asked to offer and that they too were seeking. "The well-being of teachers is huge," one committed teacher said frankly of her coworkers: "They're like why should I? When I'm not being taken care of."[238] We encountered some incipient efforts to recognize how new costs are falling on teachers—for example, one administrator described monthly staff events like yoga and encouraging teachers to use their health insurance to find counselors.[239] But we also encountered teachers articulating reform as genuine institutional overhauls—for example, district-wide truth and reconciliation commissions as well as school-wide rules and procedures and cultures more trusting of them.

Pausing here, these two narratives together help to sketch a provisional blueprint for education reformers interested in RJ going forward, even as this sketch hardly reinvents the wheel. If the aim is to implement RJ as a policy where teachers actually bring themselves to a conflict—to reciprocally help students express their needs and concerns and engage in acts of accountability and repair—our narratives suggest just how much already existing best practices for "whole-school" RJ implementation matter. For example, that RJ should "change the school climate rather than merely respond to student behavior"; that RJ requires genuine commitment and training among administrators, teachers, all staff, and students, as well as collaboration with family members and community organizations; and that RJ in schools benefits from dedicated

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238 Interview 34, *supra* note 134.

239 Interview 33, *supra* note 192.

school trainers, a leadership team, and an ongoing system for analysis and evaluation.[240] At the same time, however, our narratives also illustrate what these already standard sets of whole-school reform requirements actually mean and demand from *people*. Put most bluntly, we suspect that many teachers will not be fully willing or able to engage with RJ as whole-school/whole-teacher intervention if they are not working in institutions genuinely supportive and inclusive of them.[241]

Or to frame this point another way, whole-school RJ demands an overhaul not only of conflict intervention but more basically of people's workplaces and of larger approaches to education. It shares in common with a range of progressive education reforms "a base of values" that insists upon "the ability of all children to learn; treasures collaborative and collegial styles of work; respects democratic process; honors traditional progressive values, including the idea that moral and social development are as important as academic development and the idea that intellectual inquiry is important as an end in itself."[242] All too often such reforms, as Charles Payne argues, are put to district officials

> who are not convinced that their teachers and principals are capable of learning, let alone their students; who have been trained to think of group process in terms of deference to superiors, responding to hierarchical structures, and sticking to procedure; who have never been encouraged to think deeply about any theory of learning; and who distrust goals they can't quantify.[243]

Without mutually reinforcing shifts in mindsets, institutions, and processes for collective decision-making that extend beyond RJ and penetrate the core of education, we would simply venture that many teachers, working in hierarchical environments with weak social relationships, *will* follow new rules to apply restorative practices—in part because they must and in part because they genuinely believe these practices have value. But, as we have seen, teachers may also engage in various kinds of modifications and psychological adaptations to manage their institutional constraints and professional expectations.

For scholars of ADR, we wish to pause to offer a related observation. These two narratives also illustrate that attention to how people respond to a new conflict mechanism offers insight into a broader set of inquiries. In urban public schools, RJ functions simultaneously as part of a larger

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240 *See* Armour, *supra* note 8, at 1030–34 (summarizing best practices for whole-school reform).

241 *See, e.g.*, PAYNE, *supra* note 2, at 30–38 (discussing the role of social demoralization, social trust, and the quality of social relationships among teaching staff and between staff and the administration in enabling or undermining educational reform).

242 *Id.* at 126.

243 *Id.*

assemblage of institutional and bureaucratic goals and logics *and* as a disruptive practice that allows analysts to see how people are attempting to cope with—and sometimes press to change—the institutional structures that govern them. Some teachers are actively linking new microsocial practices of conflict resolution—and new conflict subjectivities—to different expectations for both institutional and macrosocial systems.

In a third set of reflections, radical educators made this link most explicit. These teachers articulate a chasm between RJ's different contemporary meanings: RJ as a tool for reducing the school-to-prison pipeline versus RJ as a praxis for bringing a different world into being. Without modifying their ideals, some teachers described using RJ as a mechanism to collapse intra- and interpersonal practices with structural change in a moment when the structural dominations they identify—racism, classism, violence, carcerality, punishment—feel nearly impossible to move, let alone abolish, when these are identified as systems, but perhaps ever so slightly more malleable when they are rearticulated as social relations. From within the classroom, these teachers are building practices to respond to harm and resolve conflict in ways that challenge rather than reproduce the inequalities that shape the societies in which they work and live. Even as they criticize their institutions, they are not willing to relinquish hope—or rather the practice—that RJ can change them.

For ADR scholars, we also wish therefore to stress the value of what sociolegal scholars once called a "disputes-focused approach" to studying institutions.[244] Here, interpersonal conflict and harm catalyzed a new administrative regime—one in which many people now agree that designing an alternative form of dispute resolution is a politically pressing endeavor if schools wish to shield young people from carceral power. Within this regime, some educators have used a new conflict resolution mechanism as a prism to consider the kinds of larger social orders they want restorative practices and values to nurture and advance. The fact that radical educators are turning to conflict resolution practices opens up new—and old—field-defining questions. Rather than ask how to achieve the effective, efficient, or even just settlement of interpersonal, commercial, and legal disputes, it should spur us instead to ask: how—and under what conditions—can different forms of conflict intervention

244 This is an old tradition in law and society scholarship. *See, e.g.*, David M. Trubek, *The Construction and Deconstruction of a Disputes-Focused Approach: An Afterword*, 15 L. & SOC'Y REV. 727 (1981); Carrie Menkel-Meadow, *Transformation of Disputes by Lawyers: What the Dispute Paradigm Does and Does Not Tell Us*, 1985 J. DISP. RESOL. 25.

advance the kinds of transformations in social, political, and institutional power that its users envision?[245]

People's own conflict practices continually renew this question even as the field does not provide many inspiring stories of transformation. One need only recall the early radical beginnings of mediation as a tool of community organizing and democratic self-governance and its subsequent translations into a workplace system that "reinforce[s] the power and control of managers."[246] We are likewise reminded of Payne's chronicling of persistent failure in an earlier moment of Chicago school reform—"one of those moments when the horizon seemed right there to be touched," he reflected.[247]

But this story is still unwritten. In 2024, spurred in part by leadership of a newly elected progressive mayor Brandon Johnson, the Chicago Board of Education mandated the removal of any remaining law enforcement in schools, urging a RJ approach to safety instead.[248] At the same time, of course, Chicago operates within a broader political climate in which success in installing anti-racist transformations will likely trigger backlash by the political right's legislative and judicial attack on diversity in education.[249] "I had this professor in grad school who would just say any kind of transformative work just gets reabsorbed into the monster of the system, and it feels that way," the high school science teacher shook her head.[250] And yet she *is* one of the teachers who touches the horizon, showing how institutional and social change is both necessary and possible—building relationships in the present so that

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245 *See* Sally Engle Merry, *Popular Justice and the Ideology of Social Transformation*, 1 SOC. & LEGAL STUDS. 161, 162 (1992); *see also* Cohen, *supra* note 45.

246 Howard Gadlin, *Bargaining in the Shadow of Management: Integrated Conflict Management Systems*, *in* THE HANDBOOK OF DISPUTE RESOLUTION 371, 382 (Michael L. Moffitt & Robert C. Bordone eds., 2005); *see* DAVID B. LIPSKY, RONALD L. SEEBER & RICHARD D. FINCHER, EMERGING SYSTEMS FOR MANAGING WORKPLACE CONFLICT: LESSONS FROM AMERICAN CORPORATIONS FOR MANAGERS AND DISPUTE RESOLUTION PROFESSIONALS xvi–xvii (2003).

247 PAYNE, *supra* note 2, at 15.

248 Reema Amin, *Chicago Board of Education Votes to Remove Police Officers from Schools*, CHALKBEAT CHI. (Feb. 22, 2024, 10:12 PM), https://www.chalkbeat.org/chicago/2024/02/23/chicago-board-of-education-votes-out-police-officers [https://perma.cc/2Q45-44XU].

249 *See, e.g.*, Marc Spindelman, *Sunsetting Racial Justice in the Sunshine State and Florida-izing the Nation*, AM. PROSPECT (Mar. 10, 2023), https://prospect.org/justice/2023-03-10-race-legislation-florida-supreme-court [https://perma.cc/56UB-MRFW]. Perhaps a glimpse of what's to come for RJ: Social Emotional Learning (SEL)—even as it has been criticized by left education scholars as an anodyne set of skills compatible with neoliberal logics, see *supra* note 51—has very recently become the subject of right-wing attack. Some parents now suspect that schools are using SEL as a vehicle to introduce and teach critical race theory. *See, e.g.*, *About Us: Who We Are*, PARENTS DEFENDING EDUC., https://defendinged.org/about [https://perma.cc/JY5Y-DYBS].

250 Interview 9, *supra* note 132.

conflict can produce experiences of mutual care and restoration, and so that young people can glimpse, however fleetingly, an otherwise world.