

If people are good only because they fear punishment, and hope for reward,
then we are a sorry lot indeed.

Albert Einstein

Beyond the Bad Apple: Analytical and Theoretical Perspectives
on the development of Restorative Approaches in Schools

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Abstract: The practice of restorative justice allows schools and communities to tap into the rich ecologies of an individual's life, building renewed understanding to the social dilemmas often captured within the conventional domains of institutional cultures, be it schools, courts or children and family welfare. Communities cut across these institutional domains, and can respond in ways that broaden the scope for achieving safe and productive schools and communities. Restorative justice draws on three broad leverage points that offer a distinct perspective to typical institutional responses. First, rather than focusing on external sanctioning systems (rewards and punishment) as a motivational lever, restorative justice focuses on relational ecologies as a motivational lever that foster a rich value based internal sanctioning systems. Thus, in responding to threats to school safety, instead of asking "who did it" and "what punishment do the offenders deserve?", the questions would center around "what happened?", "who has been affected?", and "how do we repair the harm done?" (Zehr, 2002). Second, the process of answering these questions would include those closest to the harm, and those closest to the community affected. This is distinct to current institutional practice, wherein the decision making is often left to third parties, removed from the direct incident, particularly in the context of serious threat or harm. In the context of courts, the system has been characterized as stealing conflict from those most affected (Christie, 1977). Third, restorative justice does not trump emotion with reason, but finds reason for emotion (Sherman, 1999). This is distinct from most institutional responses which focus on establishing the facts, with little focus on the social, emotional and spiritual dimensions the make up the rich ecologies within the lives of individuals and communities. This shift requires institutions to move beyond the "bad apple" analysis, in theory and practice.

Individually and collectively we embrace and create history. Ideas and practices, such as restorative justice, embrace and create history too. Social context influences practice; practice influences social context. The practice of restorative justice is both process and product of institutional culture. Through the opportunity afforded to us through the ESRC, and the Universities of Cambridge, Edinburgh and Nottingham, we have the opportunity to embrace the current history of restorative justice and expand that history to new horizons. What we will find on those horizons only time will tell. I am honoured and humbled to share this journey to new horizons with you.

The idea of restorative justice is nuanced by its history. Many argue that it is both new and old (Pranis, 2003), providing a rich landscape of history and discovery. In terms of recent history, the theory and practice of restorative justice developed within the field of criminology, offering a critical perspective on crime, safety and justice. In contemporary criminology our focus, in the name of justice, has largely sought to sharpen our analytic tools in an effort to find, sentence and punish the offender; in other words, developing and testing normative and explanatory theory to understand and respond to the “bad apple” of society. We punish the “bad apple” for the common good, to differentiate and separate the good from the bad. This system of social control regulates social behavior through the use of strong institutional sanctioning systems, grounded in normative frameworks of distributive, adversarial and retributive justice, each of which dominate are current thinking about managing criminals and other “bad apples”. That system of social regulation, for the most part, has shaped our history as individuals and institutions. This paper asks: are their costs to this system of regulation, wherein we concentrate our efforts on the “bad apple”?

Phil Zimbardo, social psychologist and creator of the Stanford Prison Experiment, has been studying how good apples turn bad, or how good people turn evil, for at least 3 decades. Aptly, he calls the transformation from good to bad the Lucifer Effect (Zimbardo, 2008). Through a commitment to his own history, and dedication to building understanding of how and why human behavior turns bad, Zimbardo (2008) teaches us how to learn from our own failures, for the initial experiment of 1971, over 35 years ago, was deemed one of the most unethical studies ever carried out. It was stopped, by one person, only 6 days into the experiment.

What have we learnt from the Stanford Prison Experiment? The striking evidence, from those few days the experiment ran, shows that the behavior of everyday citizens (deemed mentally healthy through a battery of psychological tests) can be transformed, within particular institutional conditions, to bring out the worst in us. The power of the situation revealed the Lucifer Effect: individuals randomly assigned to the role of prison guards began to systematically abuse their power; individuals randomly assigned to the role of prisoners began to suffer mental breakdowns. In that initial experiment, Zimbardo challenged us to look beyond dispositional (internal) attributes in understanding human behavior (the fundamental attribution error) and consider the situational (external) factors that are predictive of behavior. We learnt that situational variables trumped dispositional variables in understanding behavior patterns in a prison context, be it guard or prisoner. Zimbardo has now further developed his analysis, following the replication of the Stanford Prison Experiment in England (Haslam & Reicher, 2003; Reicher and Haslam, 2006) and being called as an expert witness in Abu Ghraib, where the torture of prisoners was attributed to a few “bad apples”. Zimbardo

now concludes three levels of analyses are important to understanding human behavior gone bad: dispositional (bad apple); situational (bad barrel) and systemic institutional power structures (the bad barrel makers). Zimbardo (2008, p. 326) called “the system” to trial in understanding the abuses of Abu Ghraib and General Myers assertion that the abuse was not systemic but the “isolated work of a handful of “rogue soldiers”, the “bad apples”:

There was something troubling about this authoritative declaration to absolve the System and blame the few at the bottom of the barrel. His claim was reminiscent of what police chiefs tell the media whenever police abuse of criminal suspects is revealed – blame the few rotten-apples-bad-cops – to deflect the focus away from the norms and usual practices in the back rooms of police stations or the police department itself. This rush to attribute a ‘bad-boy’ dispositional judgment to a few offenders is all too common among the guardians of the System. In the same way, school principals and teachers use the device to blame particularly “disruptive” students instead of taking the time to evaluate the alienating effects of boring curricula and poor classroom practices of specific teachers that might provoke such disruptions.

While Zimbardo’s assertion may be a bold leap from one institutional culture to another, it seems a worthy cause to take the time and effort to better understand the potential alienating effects of contemporary educational institutional culture, for the evidence suggests that we are expelling increasingly more “bad apples” from the schools system.

For example, in the United States, zero tolerance policies, which mandate automatic suspension and expulsion for a range of infractions, has become the de facto policy for dealing with school discipline in the United States (Gregory & Cornell, 2009). Though zero tolerance expanded in the wake of school rampage shootings in predominantly white, suburban schools (Giroux, 2009), the “bad apples” that are expelled at disproportional rates are those at the bottom of the barrel: minority students, whose families hold little power in the system. The evidence of disproportional representation is

clear, it is students of color (Advancement Project/Civil Rights Project 2000; Ferguson, 2001; Gordon, Della Piana, & Keleher 2001; Losen & Edley, Jr., 2001) and working class students (Jordan & Bulent, 2009; Skiba et al, 2002). The racial disparities in the school system are reflected in the criminal justice system, where Black males are incarcerated at a rate six times that of White males (Human Rights Watch, 2009).

At the same time, school suspensions have increased for all students, not just minority students. In the United States, since 1973, the number of students suspended annually has more than doubled to 3.3 million students (Dignity in Schools, 2009). Suspension increases the likelihood of a student being expelled, dropping out, and being incarcerated (Ladson-Billings, 2001; Sandler, et al., 2000), a phenomenon dubbed the “school to prison pipeline” (Wald & Losen, 2003). Through zero tolerance and an increasing reliance on police presence in schools, many school officials are in effect helping to create an “institutional link” between schools and prisons (Casella, 2003). Statistics about prisoners reveal further links between schools and prisons: in 1997, nearly seventy percent of prisoners never graduated high school, and approximately seventy percent of juvenile offenders had learning disabilities (Wald & Losen, 2003, p. 11). What do these institutional links reveal about the character of our institutions, particularly schools, our primary developmental institution, through which we educate and socialize our children, and create the history of tomorrow?

Part of the answer may lay in our history of justice and institutional design, established, for worthy intention, in the name of the common good, and a just society (see Braithwaite and Pettit, 1993). Our institution of justice is built on three broad concepts of justice: distributive justice; adversarial justice and retributive justice. Simply put,

distributive justice rests on a set of normative principles designed to guide the allocation of the benefits and burdens of economic activity, which are regulated by the state. These principles gave rise to our notion of just-deserts, wherein the fair distribution of rewards (benefits) and punishment (burdens) is thought to produce the best collective outcomes. The focus is on a strong external sanctioning system, regulated by a state based institutional authority. Adversarial justice is based on the premise that impartial argument (typically between 2 parties) brings out the truth, through a focus on the facts of the case. It is a win/lose system of justice, wherein reason trumps emotion. Retributive justice operates on the premise that proportionate punishment is a morally acceptable response to crime and wrongdoing, regardless of whether the punishment causes any tangible benefits. Punishment is thought to re-enforce the rule of law, or the code of conduct.

Restorative justice grew out of concerns regarding how we institutionalize, and operationalize, these three conceptual ideals of justice. Three broad concerns will be highlighted. First, Nils Christie (1977) argued the case for conflict as property; specifically, that conflict is stolen by the state, for the state, and in that process, conflict is stolen from the people most affected; in particular, the victim. Conflict is not only stolen by the state, individuals are represented by third parties - lawyers, judges and juries – in the name of impartiality. In that process, first party decision making, by those most affected, is lost to third parties, who answer to the state. Second, and related to this first point, the third parties focus on the facts, as the system favours reason over emotion. Sherman (2003, building on Braithwaite, 1989, 2002; Sherman, 1993) argues that there is reason for emotion, that emotional engagement is the key to building common understanding, justice and behavioral change. Third, Zehr (1990) juxtaposed punishment

(retributive justice) with repairing the harm done (restorative justice), as a response to crime, wrong doing and harmful behavior, arguing that the system causes more harm than good when we punish. Instead of asking: “who did it” and “what punishment do the offenders deserve?”; the questions should center around “what happened?”, “who has been affected?”, and “how do we repair the harm done?” (Zehr, 2002).

Are these concerns relevant to the institutional power dynamics of schools? To answer this broad question we can break it down to the same basic three concerns: (1) To what extent do we punish (and reward) in the name of the common good for the school community? (2) To what extent do we send the problem, the “bad apple”, out of the classroom, out school, into the hands of third parties; thus, stealing conflict and opportunity from those most affected? (3) To what extent do we focus on the facts, in the name of impartiality, opening the student code of conduct to decide the just response? To what extent do we value reason over emotion, focusing on the traditional 3Rs, over building social and emotional intelligence? We can reframe these questions in reference to longitudinal school data from the United States, which indicates that connection to school is a strong protective factor for a range of behaviors of concern in schools: violence and delinquency; emotional distress; substance abuse; early sexual behavior and pregnancy (McNeely et al., 2002; Blum & Libby, 2004). The question then is: Do our institutional cultures foster connection to school communities for students at risk for these behaviors, when the institution: (1) punishes? (2) steals conflict away from those most affected? (3) focus on the facts, instead of emotional engagement? Has the cost of these institutional practices been the experience of belonging, of community, that we are striving to protect? Has the cost of these institutional practices been a loss of

understanding and capacity to acknowledge and respond to our common humanity, to our common good?

A group of influential world leaders was recently asked: what is our greatest threat to humanity? While some answered terrorism, poverty and hunger, the Dalai Lama gave a distinctly different answer: “We have raised a generation of passive bystanders”. Could this be the cost of state based institutional justice, opposed to community based justice within classrooms and schools? Imagine an institutional climate wherein we learn the skills to manage our own conflict, instead of sending the problem, and the person, out the door; wherein we learn the importance of telling the truth without fear of punishment; wherein we understand why social and emotional intelligence is as important, if not more important, than academic intelligence. These are the skills, processes and products that restorative justice seeks, in both its normative and operational ideals.

We must not lose sight of these broad concerns, grounded in strong normative and explanatory theory building, which converged to lay the foundation for the field of restorative justice. These broad theoretical concerns were building long before the field of study was born, and named, in the 1990s. As we seek to define the concept of restorative justice do we become myopic in perspective, focusing on the encounter, the value of reparation, the transformation at the expense of broader knowledge and understanding (see van Ness and Johnston, 2003)? With a focus on these three broad levers of institutional design, what does restorative justice add to the justice equation in schools?

By way of illustration, we can take the problem of effectively addressing concerns over school bullying, as the study of bullying and restorative justice make a good

conceptual fit. Bullying is defined as the “systematic abuse of power”; in other words, domination. As a response, restorative justice values non-domination and deliberation, the aim is empowerment, as such restorative responses must be “on guard against imbalance of power” (Braithwaite, 2002, p. 264). A range of ill effects, associated with bullying, have been well documented (see Swearer, Espelage, Vaillancourt, and Hymel, in press). For students who have bullied others, this behavior pattern has been associated with anger, violence, hyperactivity, externalizing problems, delinquency, criminality, depression and suicidal ideation. For students who have been bullied by others, these students experience stress-related illness, school avoidance and disinterest, poor academic performance, increased fear and anxiety, emotional distress, depression and suicidal ideation. Interestingly, while the trajectories are distinct, both students who bully, and are bullied, are on a path of alienation and social isolation. Given the concern about the ill effects of bullying, a range of bullying intervention programs have been developed. Given the fact that many bullying intervention programs had poor effect sizes, Ttofi and Farrington (2009) carried out a meta-analysis of a number of these programs, concluding: “No anti-bullying programme was based on well-developed and tested theories of bullying such as defiance theory or re-integrative shaming theory. Research is needed to develop and test better theories of bullying and victimization as a basis for new intervention programs”. Each of these explanatory theories, in different ways, makes a case for restorative justice. Re-integrative shaming theory, builds our understanding of the role of the moral emotion of shame, and the process of shaming, in understanding and responding to school bullying (see Ahmed, Harris, Braithwaite and Braithwaite, 2001; Morrison, 2007). Defiance theory (Sherman, 1993) builds our

understanding of when punishment increases crime, decreases crime and has no effect.

These are not the only theories that make a case for restorative justice, other theories include: social identity theory (Tajfel & Turner, 1979); self-categorization theory (Turner et al., 1987); re-integrative shaming theory (Braithwaite, 1989; Ahmed, Harris, Braithwaite & Braithwaite, 2001); a theory of unacknowledged shame (Scheff, 1994); and procedural justice (Tyler & Blader, 2000). More recently, Tyler (2006) in an article on rule breaking, procedural justice and restorative justice also concludes that a shift from regulation by external sanctions, to self-regulation, is important:

Sanctioning-based models, which dominate current thinking about managing criminals, have negative consequences for the individual wrongdoer and for society. It is argued that greater focus needs to be placed on psychological approaches whose goal is to connect with and activate internal values within wrongdoers with the goal of encouraging self-regulatory law-related behavior in the future.

Explanatory theories, such as re-integrative shaming theory, social identity theory, and self-categorization theory provide a broad theoretical framework for understanding the psychological mechanism of internal sanctioning systems, which underpin self-regulatory law-related behavior. It is building understanding of the fit between internal sanctioning systems and external sanctioning systems that holds promise for the development of progressive theory building and practice in the area of restorative approach in schools.

While it is often claimed that practice has driven theory building in the field of restorative justice (Morrison and Ahmed, 2006), others have claimed that “nothing is as practical as a good theory” (Lewin, 1950). Both are important for research and development in this emerging field of study, particularly in schools. Practice, and training, without theoretical understanding can produce more harm than good; theory building, without practice, limits external validity. Comparative studies, such as the re-integrative shaming experiments, currently limited to a criminal and juvenile justice

context (see Sherman & Strang, 2007), which test theory and practice con-currently offer a rich medium for further research and development. Together, they can help navigate the paradigm shift of institutional design and culture.

Building on Zimbardo's analysis, the paradigm shift must embrace all levels of influence, and power imbalances: individual, situational, institutional. At an individual level, teaching healthy social and emotional skills is a step in the right direction (see Jennings and Greenberg (2008); at a situational level, developing healthy group norms and social connections that empower bystanders, will empower the community to act, and not to be passive bystanders (Ahmed, 2005; Cartwright, 2005); at an institutional level, a shift from the reliance on external sanctioning systems, of rewards and punishment, that foster and promote power imbalances to a system that promote healthy self-regulation and social engagement is vital (Tyler, 2006; Morrison, 2007). Together, the challenge is to create socially and emotionally intelligent individuals, and peer-cultures, within institutional conditions that acknowledge, develop and nurture self-regulatory behavior, and respond to harmful behavior, such as bullying, in a manner that addresses the underlying issues, while affirming the moral values of the institution.

Many schools have struggled with this transition to restorative justice within schools. I believe that part of the reason this is the case, is that we have been myopic in our understanding and analysis. We too focus our lens too narrowly in defining the field, which is problematic in such a broad paradigm shift, and we continue to measure the results in relation to outcomes important to the paradigm we seek to be shifting from, such as reducing the suspension rates of the "bad apples".

We must learn from the experience of Phil Zimbardo. To examine our own

failures to embrace the difficult conversations in building theory that upholds practice, and practice that upholds theory. We must expand our levels of analysis from individual, to situational, to institutional; beyond the “bad apple” through broad systemic study. At the same time, we must acknowledge and celebrate the anecdotal evidence that is often cursorily to our lens of analysis. For example, acknowledging who stopped the Stanford Prisoner Experiment, and by what process of influence? It was not the institutional authority who stopped the experiment; it was the person closest to Phil Zimbardo, the person who became his wife. She held him accountable for his own behavior, and questioned his moral stance. It was the social and emotional relational dimension that produced the influence and leverage for change. What we need is a shift from institutional mechanism of social control to institutional mechanisms that bring out the best in us, to connect us to each other, to something greater than ourselves. Restorative justice challenges us to move beyond the “bad apple”, beyond passive bystanders, to take responsibility for our own behavior and the behavior of others.

As individuals and communities, we hold our common humanity in our hands. We create the common good as individuals, as communities, as institutions. The time is ripe for a paradigm shift from institutions of social control, born of the Age of Reason, to institutions of social engagement that embrace both reason and emotion, each of which underpin our common humanity.

This new horizon may be characterized as a shift:

- From a myopic focus on the bad apple to embracing the tree of knowledge.
- From an isolating position of fear and fault to embracing the gifts, generosity and abundance humanity brings.
- From accountability through law and authority to fostering accountability through want not fear.
- From a focus on strong institutions, to a focus on strong citizenship.

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