

THE NEED FOR EQUALITY IN EDUCATION: AN INTERSECTIONALITY EXAMINATION OF LABELING AND ZERO TOLERANCE PRACTICES

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ABSTRACT. The authors observe that students in school who exhibit challenging behaviours are given labels such as “severe behaviour,” “troubled,” or “violent” and that these negative labels have repercussions on students. School administrators also employ zero tolerance policies without addressing the root causes of negative behaviour. Using students’ self-reports the authors note the negative effects of labeling and zero tolerance practices on children and schools, and discuss the implications for society as a whole. They conclude with recommendations for changes in policies and practices that more carefully consider the systemic sources of the behaviour, and that align more closely with fundamental educational goals and the *Canadian Charter of Rights and Freedoms*.

LE BESOIN D'ÉGALITÉ EN ÉDUCATION : UN EXAMEN INTERSECTIONNEL DES PRATIQUES D'ÉTIQUETAGES ET DE ZÉRO TOLÉRANCE

RÉSUMÉ. Pour contrôler les étudiants qui montrent des comportements violents à l'école, les éducateurs les catégorisent et les étiquettent par des termes de comportements sévères et utilisent des politiques de tolérance zéro. En utilisant des autoportraits d'étudiants, des jurisprudences, des résultats d'études à grandes échelles, et en prenant en considération une école exemplaire, nous notons les aspects négatifs de la politique de zéro tolérance, de l'étiquetage des élèves et nous discutons les implications de la société dans son ensemble. Nous concluons avec des recommandations, pour des changements dans les politiques et les pratiques, qui considèrent plus prudemment les sources systématiques du comportement, et qui se rapprochent plus étroitement des buts fondamentaux de l'éducation et la *Charte canadienne des droits et libertés*.

Introduction

John Dewey, writing at the turn of the 20th century about the critical interplay between democracy and education, notes that public schools were designed to reflect the “needs of existing community life...improving the life we have in common so that the future shall be better than the past (1916, p. 225). The school was to be more than a place for transmitting knowledge; it was to offer hope for creating a better, more just and equitable world. The education of children in Canada today is considered one of the most important

functions of government (Cruikshank, 1986; Sears & Hughes, 1996). The provincial acts that regulate schools reflect the notion that education plays a crucial role in furthering democratic values and educating our youth. For example, the preamble to the *School Act* of British Columbia states:

Whereas it is the goal of a democratic society to ensure that all its members receive an education that enables them to become personally fulfilled and publicly useful, thereby increasing the strength and contributions to the health and stability of that society; and

Whereas the purpose of the British Columbia school system is to enable all learners to develop their individual potential and to acquire the knowledge, skills and attitudes needed to contribute to a healthy, democratic and pluralistic society and a prosperous and sustainable economy.

The duties of the student are also identified. The *School Act* (BC), and similar legislation across Canada, describe the duties of the students as follows:

- 6 (1) A student must comply
 - a. with the rules authorized by the principal of the school or Provincial school attended by the student, and
 - b. with the code of conduct and other rules and policies of the board or the Provincial school.
- (2) A student attending a school or a Provincial school must participate in an educational program as directed by the board or by the principal of the Provincial school.

When considering the preamble to the Act, we need to ask the question: Are the rules and school policies flexible enough to embrace at risk children and provide them with an education through to graduation? Schools work within an industrial model of mass production and conformity with a blanket of common rules for all, which results in 20-25% of students across Canada, and a full 66% of students labeled as severe behaviour, being excluded through dropping-out or being “pushed-out” (BCTF Research Reports, 2002; Cassidy & Bates, 2005). Further, because the Act leaves the making of the rules to the school principal, and the policies and code of conduct to the school board, are the educational authorities creating inequitable opportunities for students? A student in one school might be expelled for a given action, yet the same action might be ignored in another region. Is this what is intended by the *School Act*, and how should these concerns be viewed within the wider framework of the *Canadian Charter of Rights and Freedoms* and, in particular, its equality provisions?

In this paper, drawing on the *Charter of Rights and Freedoms*, and case law, we examine the notion of the right for all children in Canada to have a safe, ordered, and inclusive environment for learning. We then pit these understandings against educational policies and practices which exclude

and marginalize a particular group of students, in this case, those labeled as “severe behaviour” problems.

We have first framed our discussion through reference to existing studies in the literature on troubled and troubling youth. We do, however, also give significant weight to the voices of the youth and their descriptions of relevant experiences with education. In this regard, we are guided by their accounts in our analyses and in our recommendations. What do they identify as their needs? What are their experiences with the education system? This approach, a naturalistic, qualitative method, recognizes the constructed and contextualized nature of individual understandings yet allows for shared realities (Henderson & Jackson, 2004, p. 800).

Using the students’ self-reports and the findings from widescale studies and discussion about one exemplar institution, Whytecliff Education Centre, we note the negative effects of this labeling and zero tolerance policies and practices on children, and discuss the implications for society as a whole. We conclude with recommendations for changes in these policies and practices that more carefully consider the systemic sources of the behaviour, and that allay more closely with fundamental educational goals and the *Charter of Rights and Freedoms*. An alternate educational model, such as the Whytecliff Education Centre, derived from a change in vision with respect to practice is considered.

Equity in education

We begin with a consideration of the guarantees for the achievement of the above stated goals for education in the *British Columbia School Act*. These guarantees are inherent not so much in the policies intended to set out the purposes of schooling as in the associated legislation and the potential for litigation based upon that legislation. The Supreme Court of Canada, for example, has stated a *Charter* based rights argument is appropriate for establishing schools’ obligations for providing respectful, inclusive, safe and ordered environments in which children can learn. In *Ross v. New Brunswick School District No. 15* (1996), it was determined that schools have an obligation to provide school children with a respectful and inclusive learning environment.

The rights-based approach has been further refined when considering how discrimination can impact on children’s ability to experience the school as safe, inclusive and ordered. The Supreme Court in this instance has encouraged an intersectionality analysis to be undertaken. In *Law v. Canada* (1999), the Supreme Court stated that a claim based upon discrimination can present an intersection of grounds that are listed in s.15 of the *Charter* or analogous to them (Ontario Human Rights Commission Report, 2001, p. 2).

... it is open to a claimant to articulate a discrimination claim under more than one of the enumerated and analogous grounds. . . There is no reason in principle, therefore why a discrimination claim positing an intersection of grounds cannot be understood as analogous to, or on a synthesis of, the grounds listed in s. 15.

That is, with reference to the case of children in schools, it could be argued that children who experience discrimination on the basis of race, gender, class, disability, and/or sexual orientation may suffer from more than one form of discrimination. Those factors can be seen to intersect in ways which compound rather than simply add together in final impact. And, while the child may experience multiple levels of discrimination, multiple levels of protection may not be provided by the school (p. 2). As one example of how an intersectionality analysis could apply, a child from an ethnic minority family, who is female, poor and disabled, may be more vulnerable to bullying than a child with only one of these factors in his or her background.

The construct of intersectionality refers to both a theory and an analytical tool derived from the theory. The idea is that a person's experiences with a multitude of factors, such as race, gender, ability, age and socio-economic location, can interact or intersect in ways that can either advantage or disadvantage the person's well-being and development. Using that rationale, intersectionality as an analytic tool can be used to study, understand and respond to the ways in which these factors do intersect (Symington, 2004, pp. 1, 2) and can expose different types of discrimination and disadvantage. It is basically a "bottoms-up" approach to research which begins by asking how people actually live their lives. The focus in an interview study, for example, would be upon the points of intersection of the above factors in terms of processes and structures that define access to rights and opportunities (p. 5). It is through the individuals' voices then that "data" are collected for analysis.

As Pothier (2001) has argued, with respect to individuals experiencing multiple grounds of discrimination (such as may result from grounds such as race, gender, age, socio-economic situation), these individuals "... at the intersection of grounds are not just more vulnerable to discrimination, they also experience discrimination in different ways and/or in such a different context as to add an entirely new dimension to the problem" (p. 62).

In the area of education, Goli Rezai-Rashti made the necessity for an intersectionality analysis clear when writing about the need for educator sensitivity to the connections among such factors as race, gender and social class. There is a tendency, according to Rezai-Rashti, for equity issues to be separated from each other, with no overarching relational or systemic analysis provided for factors of gender, race and social class for either students or teachers (Rezai-Rashti, 1977, p.24).

Extending Rezai-Rashti's argument to children specifically, many teachers can be said to view issues of intersectionality from an essentialist position in which children are seen as "stable, homogenous, and undifferentiated," whereas the reality is quite different (Ontario Human Rights Commission Report, p. 4).

To help us understand the inherent equity/equality issue for children and schools, one must consider an analysis of three interrelated issues: formal or substantive equality; a contextual approach (p. 4); and individual versus systemic discrimination. To obtain substantive equality, one must focus upon the context of discrimination and disadvantage a student experiences as a result of being a member of a protected group, such as the poor (Buckley, 2001, p. 41). Substantive equality refers to "genuine, real, effective equality in the social, political and economic conditions of different groups in society" (p. 42). Redress must come by way of substantive equality that takes the intersectional context into account (p. 42). It also takes into consideration "the right to have one's differences acknowledged and accommodated both by the law and by the relevant social and institutional policies and practices" (p. 42), in this case, school policy and practice.

A related concept to be applied in these situations is "adverse effects discrimination" which can be said to occur when an "apparently neutral law or policy has a disproportionate and harmful impact on children within a particular protected group" (Buckley, p. 43).

In the highly profiled British Columbia bullying case of Jubran (2002), the Supreme Court dismissed the appeal from the Board of Trustees of School District No. 44 in North Vancouver to review the finding from the B.C. Court of Appeal's decision that school boards have a duty to provide learning and school environments free from discrimination. Even though Jubran was not gay, he was "repeatedly subjected to insults and harassment of a homophobic nature during the five years he was in high school" (*Supreme Court of Canada Bulletin of Proceedings*, October, 2005, p. 1388). Thus, as part of their responsibility, schools are required to establish rules of conduct for students attending in order to assure a discrimination free learning environment.

Children who are especially vulnerable have been shown to become excluded and drop out of schools, and by such action their right to securing a safe, inclusive, and ordered environment to learn is negated. Equity in education is thus denied to them. As LaRocque and Shariff (2001) have reported, zero-tolerance policies to school bullying which can lead to feelings of exclusion have not been shown to be particularly effective in controlling the situation because there are multiple problems with not only the defining of what constitutes bullying and the bully, but with the negative labeling of the bully which can emerge from discriminatory stereotyping of the child

(Shariff & Jackson, 2004, p. 23). Thus these policies have adverse effects that essentially deny the child the safe, ordered and inclusive learning environment to which he or she is entitled under the *Charter*.

As one potential alternative to a zero-tolerance policy implementation, having sufficient resources to enable teachers to monitor student activities all of the time unfortunately does not seem possible, but as Shariff and Jackson argue, it would not seem unreasonable to suggest that they do have a responsibility to engage the student in fostering a safe, inclusive and ordered school environment (2004, p. 8). This can be done through allowing students to participate in defining codes of conduct and rule-making.

Unfortunately, at least in the province of British Columbia, continuing government cutbacks to social services in general, and alternate schools in particular, also means that youth who have difficulty surviving in the traditional public schools system have no alternative system to which they can turn.

Those youth who do drop out because of feeling alienated, marginalized and/or bullied are vulnerable to becoming street youth. As street youth, they are far more likely to become unemployed and to experience health problems. According to a study done in British Columbia by the McCreary Society (2002), the latter problems may include more unwanted pregnancies, higher rates of HIV, and emotional and substance abuse problems, than their in-school colleagues.¹

Finally, the youth are also more likely to engage in illegal activities for which they can become ensnarled with the justice system (Farrington, 2000).

Having set the stage for a more detailed discussion of the problems of labeling which can result from exclusionary policies and practices, we conclude this section with further questions to frame that discussion: First, given the problems outlined above, where does the onus rest in fulfilling the purposes of education for our citizenry? Does it rest upon the schools to change their policies, practices, and, rules to better care for and accommodate students? Or, is it more appropriate for the student to comply with existing policies and rules which may not protect them? And, if the rules are unjust or inequitable, or actually force kids out when they are innocent of wrongdoing, then where does the onus for reform rest? Are students the ones who need to change, or should it be policies and procedures that are changed to embrace those students who are marginalized?

The problem of labeling students as severe behaviour problems

A common practice in Canadian schools is to label students who are disruptive, noncompliant, or unruly as "behaviour problems" (Sohbat, 2003). Because the term becomes attached to the person, rather than the behaviour,

students are referred to as “violent,” “troubled youth,” or “severe behaviour” (the official label given in British Columbia to the most troublesome students), rather than students who, from time to time, exhibit certain problematic behaviours. Once a label is applied it tends to stick (by file and reputation) as students proceed through the grades.

There are several problems with this labeling of children. One problem is that disruptive or inappropriate behaviour is socially constructed, determined or interpreted by the observer, according to a particular lens. Sohbat (2003) says “assuming that violence has a clear and fixed meaning when it is actually defined by personal, cultural and institutional values, is dangerous. The danger lies in the space it provides for dominant cultures and agencies to label who is violent, who is civilized, and who is worthy of respect” (p. 69). Chambliss (1984, in Sohbat, 2003, p. 67-8), for example, found that the youth who committed such delinquencies as vandalism, theft, drinking, driving recklessly, or cheating on exams were treated differently by school staff, the community and the police, if they came from upper or middle class families, compared to lower class homes. Teachers of students in the first group thought the youth were “just playing pranks” and would eventually make something of themselves, whereas they expected the other group of students “to be delinquent and headed for trouble.”

As part of our research for this paper, we conducted a secondary analysis of data collected over an 18-month period at a school, Whytecliff Education Centre.² This accredited independent school, with two sites in the Greater Vancouver area, was established 11 years ago to address the needs of youth aged 12 to 18 who had been expelled or dropped out of school due a history of “troublesome” behaviour, were on probation for criminal activity, and/or faced multiple challenges in their lives, including abuse or neglect, poverty, marginalization, substance abuse, learning disabilities and sometimes mental disorders. The original study examined the ethic of care as understood and enacted in the school, using a qualitative case study approach employing the ethnographic traditions of open-ended interviews triangulated in the analysis with field notes and document review (Lancy, 2001; Merriam, 1988). One paper examining students’, teachers’ and administrators’ conceptions of care has been published (Cassidy & Bates, 2005). In this secondary analysis, we examined students’ (n=14) self-reported experiences at their previous schools compared to Whytecliff, and also analyzed parental interviews (n=6)³ using this same lens (McMillan & Schumacher, 1997).

Although the school is structured differently than most public schools in that one site has a maximum of 60 students and the other site only 30 students, and the teacher/student ratio is lower – on average, one teacher per 10 students – the research found that the school had tremendous success with students in terms of high attendance rate, high rate of course comple-

tion, low rate of criminal recidivism, and high level of satisfaction by both students and parents (Cassidy & Bates, 2005).

The keys to success with these students were found in the quality of the relationships established between staff, students and parents, the fact that staff showed respect for students and valued them as unique human beings, and that staff did not target or emphasize the students' problems but concentrated on their talents and on cultivating the right "soil" or school environment for each child to succeed. Also important was that the curriculum was individualized for each student and focused on their strengths not their deficits, that the school was not rule-based or behaviorist in approach, that is, students were not expelled or given demerit points for misbehaviour but rather their behaviour was considered and responded to within the context of other factors. There was forgiveness given and each day represented a fresh start. Students reported feeling welcome, safe and understood at the school. Parents expressed relief at finally finding a place where their child was happy and was succeeding academically. Students and parents, without exception, contrasted their positive experience at Whytecliff with their negative experiences at previous schools.

One of the parents in the Whytecliff study talked about how she and her son were labeled and demeaned at his former school. When she went with her son to talk to the school counselor, the counselor said, "Well, it's not our fault that you are from the lower-class type thing. . . we're not saying that you're stupid, but you are in that area (of the city)." She said her son just flipped and said, "I'm not going to come to school," and he never did go again. Another Whytecliff parent, a person of colour, said her son's disruptive behaviour at a previous school was precipitated by racial taunts, but the principal was adamant, saying:

In this school there is no racism, we know that." I said, "Well, what can I say?" They don't even give us a chance to express ourselves and to come to mutual agreement, and to pinpoint what we see happening in their school.

Another Whytecliff parent, a single mother living in a low-income area, said "the school treated us as a problem and our kids as problems. It's as bad as racism, or prejudice, and it's rampant."

Judgments by school authorities generally reflect the dominant culture and middle class social norms – a set of values and a way of interacting that may be foreign to students from certain minority cultures. One example of this can be taken from a study of immigrant and refugee girls who were interviewed from an intersectionality perspective. It concluded that some of the problems such a child experiences are related to adjusting to a new country, finding new friends; and, learning to communicate through a new

language. Children's values and actions at school are also influenced by loss of old, established networks in their country of origin. This lack of familiarity, complicated by underlying racism and sexism in school environments, can be overwhelming for some students (see Berman & Jiwani, 2002).

Those raised in abusive or disruptive home environments also experience marginalization. Here labeling fails to account for the situation that gives rise to the action, or for the home environment where certain behaviours or responses are modeled or practiced. Several Whytecliff students, for example, talked about a home life where sexual, physical and/or emotional abuse occurs, where there is often no food on the table, where one or more parents is addicted to drugs or alcohol, where parents are involved in criminal behaviour, and where older children have to care for younger siblings. One student summarized, saying: "We're not from the white picket fence type of environment" (Cassidy & Bates, 2005). They call themselves "survivors;" just being alive and coming to school is a feat. Sometimes they say they act out just because of the circumstances of their lives.

Another problem with labeling is that judgments made by teachers and school administrators are not consistent across classrooms, schools or communities. For example, the press (*National Post*, September 13, 2004) reported a situation in a kindergarten classroom in Ontario, where a five-year-old child was threatened with expulsion because he was hugging and kissing his classmates, and this was interpreted by the school authorities as contravening the *Ontario Safe Schools Act*. In another classroom, a different teacher might applaud this behaviour as supporting a primary goal of education, that of cultivating a more caring and responsive citizenry (Sockett, 1991; Scott, 1991). The differential interpretation and application of what is deemed violent, disruptive or problematic behaviour means that students with similar behaviours in different schools or districts may be treated differently.

A complementary problem is that schools themselves exhibit different levels of tolerance towards certain behaviour depending on the month of the school year. Until September 30th, teachers and school administrators are much more tolerant of disruptive behaviour, as school and district funding is tied to the number of students in school as of this date, with an additional \$6,000 (approximately) given for each "severe behaviour" student. A school district superintendent, who wishes to remain anonymous, said in personal correspondence (October 29, 2004) that it is not that school principals expel a student on October 1st, but they take a much harsher view of a student's behaviour after their enrolment figures have been determined and the funds allocated. This official also said that the problem of expulsions or dropping after this date was so pervasive that the Ministry of Education recently instigated a second count of enrolment numbers on February 1st, threatening to reclaim half the funds previously allocated if student numbers had dropped. The problem of extra payment for severe behaviour is further

compounded when an expelled student arrives at the door of another school and the additional \$6,000 does not accompany him or her. While the intent of this extra payment is to provide added support for students with difficulties (and this can be helpful), it is problematic when students feel the stigma of the label, when their classmates perceive them as different, and when this label negates their opportunity for a fresh start.

Labeling also results in the child being targeted as the problem, rather than the behaviour as the problem. These labels become part of the child's everyday reality, and give the child the message that the problems originate with him or her, and belong to him or her (Bendtro & Brokenleg, 1993; Collins, 1991; Polakow, 1993; Sohbat, 2003). This form of simplistic dichotomization results in students being called good or bad, kind and caring or mean and violent, respectful and civilized or disrespectful and obnoxious (Collins, 1991, in Sohbat, 2003, p. 57). In schools that have implemented the Effective Behaviour Support System (EBS), troublesome students are referred to as "the wolf pack," a label that connotes a wild and vicious band of students set to destroy. Even the social responsibility curriculum in British Columbia, designed to encourage responsible behaviour, labels students as "not meeting expectations," "minimally meeting expectations," "meeting expectations," or "exceeding expectations." Who is to judge whether a student is "not meeting expectations" or only doing so in "minimal" ways? Whose expectations are these? What are the criteria? Should a student who is acting out due to trauma in her home life be labeled "not meeting expectations", or should she be applauded for coming to school and trying to succeed? From what position does the labeler label – from a self-assessed and self-righteous position of "exceeding expectations?"

Every one of the students interviewed in the Whytecliff study said that he or she felt labeled at his or her former school as the troublemaker, the problem kid, the punk, or the bad apple. One parent commented on the negative labeling: "nothing is good (about my child). The school focuses on all the bad stuff. You didn't do that right. . . . so therefore you must be bad, judging you before they know you, and have no idea what's going on."

Labeling also feeds into the personal deficit model of working with children. This model views youth as having a series of problems or deficits that need fixing (Deschenes et al, 2001; McLeod, 1995; Wotherspoon & Schissel, 2001). An alternate approach is to focus on students' strengths and talents and reinforce these (Cassidy & Bates, 2005), as well as confront deeply rooted societal and structural inequities that create disadvantage (Cummins, 1986; Fine, 1991).

The personal deficit model fails to account for the multitude of factors that influence behaviour and the intersectionality of discrimination that many students experience. It also fails to acknowledge that resilience springs from

strength and hope, not from despair. The personal deficit model is akin to the horticulturalist who prunes away at a failing plant in the hope that it will be restored to health, but fails to acknowledge the importance of the soil (the environment) in which the plant is situated, and the need for the right nutrients, water, and light for the plant to thrive (Cassidy & Bates, 2005). As one Whytecliff student noted: "Most principals, when you go to the office, say 'you did it, you're going home.' They look at the negative, not the positive." One Whytecliff parent described a time when her child was in kindergarten and experienced school anxiety and suicidal thoughts. They tested him and labeled him with "childhood depression." Now that her son was older and "in trouble," she reflected: "The school wouldn't help him, instead they stereotyped him, and gave us all this negative feedback." Another Whytecliff parent described the judgment and labeling her child encountered prior to his acting-out behaviour.

T. got to the point that he developed school phobia. He didn't want to attend school; he would cry; he would throw up; he would have asthma attacks. You know, everything because he couldn't read; he couldn't write; he had a speech impediment. But there's something that is going on that is stopping him from learning like the other kids, right...He was the one in the classroom that always got teased, he was the one who ended up having to become "the bully," or get into fights.

Labeling makes the child own the problem, and places the onus for change back on the child, thus deflecting attention away from the school environment as a possible contributor to the behavioural issues. For example, if the instructional pedagogy is un-engaging or the rules too rigid, if there is no accommodation for different learning styles or expressions, or no modification of curriculum for children with learning challenges such as attention deficit hyperactivity disorder or fetal alcohol syndrome disorder, then frustration and explosive behaviour may ensue. One Whytecliff student talked about teachers yelling at him, and then being surprised when he yelled back. Another said: "Teachers expect us to respect them, even though they don't respect us back." In contrast, the principal at Whytecliff noted his school's approach:

Other schools have one set way of doing things and they ask all the people in that school to adapt to that. We say everybody's different and we will adapt as much as we are able to reach every student. . . . If we have an ADHD child we don't tell them their behaviour is bad, we tell them it's normal. . . . It's just who you are. . . (and) then they stop feeling badly about themselves, which is really important.

The principal went on to say that "We really look at the quality of the soil that we've created. Is it a caring environment? Is it a respectful environment?" One of the teachers added, "We have created an environment that is going to be safe and nurturing, and that's our intention, that's what guides us" (Cassidy & Bates, 2005).

In the previously referenced study of anti-violence programs in schools across British Columbia, LaRocque and Shariff (2001) found that only 12% of schools had developed programs to deal with violence and negative behaviour that were embedded in the school culture, sought to empower students and engage them in learning, built students' self-confidence and self-esteem, and raised their level of consciousness about what is expected of them as citizens in a democratic society.

Labeling is also demeaning, robbing the child of respect and dignity. Greene (1991) notes how categorization distances one group from another, sets up barriers of "them" and "us," and serves to undermine notions of community and togetherness. In most schools the teachers and the majority of students are those that "fit" or "us," and then there are the "misfits" or "them" – the challenging students, the behaviour problems. Greene says that even using the "lens of altruism" to categorize people is a form of distancing, a reflection of "self-serving righteousness." One Whytecliff youth commented: "At my other school, you're constantly thinking about what you're going to do next or what you're going to say next and hoping you're going to say the right thing. . . . (I felt) the staff were out to get me."

Labeling reinforces exclusionary practices, locking out certain groups from positions of power and influence. This practice is contrary to fundamental values the education system espouses and seeks to encourage in students: attentiveness to the common good, respect for individuals, appreciation of differences, respect for diversity, and sensitivity to inclusiveness (Goodlad, 2001).

Zero tolerance policies and students' behaviour

Zero tolerance policies foster practices in schools that further exclude students already classified as having behaviour problems. Such policies establish firm and unbending parameters of acceptable behaviour for all children, irrespective of the circumstances. Rules are set and consequences determined for when a rule is broken. Proponents of zero tolerance policies claim that they are establishing clear guidelines for behaviour that each student may choose to accept or oppose. Penalties for breaking the rules apply equally to each offender. But equal application of the rules to all students does not mean that the policy is equitable. Children who come from challenging home environments, who struggle with learning or who experience chaos in their lives are less likely to be able to conform to rules which are inflexible and do not accommodate the life worlds in which these children live.

Zero tolerance policies also assume that children operate from cognition; that if they know a rule then the voice of reason will guide their behaviour. Yet, we know that behaviour is often not premeditated and that young people react in highly charged emotional ways to situations, sometimes without thought of potential consequences. This may be more prevalent among students labeled

as “behaviour problems” since they face multiple challenges and stresses in their lives. One of the administrators at Whytecliff noted:

When a youth acts out and is explosive, it is sometimes because they finally feel safe to express what is really going on in their lives and the anger and hurt they feel. It is often this reactive behaviour that is the beginning of healing. I don't see this as a negative. It can be positive. We take it in stride and absorb the youth's pain, and work with it.

The labeling of students as behaviour problems feeds into zero tolerance practices. More often than not severe behaviour students are at the receiving end of these stringent zero tolerance policies. The Whytecliff students who were interviewed talked about being labeled as the troublemaker, and also being targeted as the instigator of fights or altercations (especially if they were in the vicinity), and then being “kicked out,” often without an opportunity to be heard (Cassidy & Bates, 2005). One Whytecliff parent talked about his son being bullied at school due to the colour of his skin. His son ignored the bullies for several months, until someone hit him, and then he retaliated.

He was the one caught. So the school authorities called me, and expelled him, right away. So I explained the previous incidences, and they said well, that was nothing. So, they terminated him, and then transferred him (to another school) to see if he's going to improve his behaviour. He was placed in an anger management program, and there he started skipping school and running away. The school never gave him a chance. . . in both schools, they didn't actually care about his academic work, nobody spoke to me about him falling behind, or that we needed to work together to put him on the right route.

One of the students from Whytecliff notes: “At regular school, I'd get my teachers so pissed off so easily. Like, they kick you out of school. . . you slip up just a little bit, you get into so much trouble. You have to see the principal and you have to have a meeting with your parents before you can even go back to class” (Cassidy & Bates, 2005). Another Whytecliff student said that once he was expelled, he had a record of “failure,” so no other school would let him in. “A lot of kids, you know. . . they actually do want to get their education. . . they do want to get back into regular school.” Common themes ran throughout the students' interviews; they felt targeted, singled out, isolated, judged, and not listened to.

Like labeling, zero tolerance policies and practices discount or downplay the context of the action, in favour of strict enforcement of the rules. The one-size-fits-all policy is adhered to, without due consideration of the students involved or the impact that the intersectionality of their circumstances can have. Applying the rules, even if it means expelling an offending student, is justified in the guise of making the school safe for all students. Yet intervention or redemptive measures usually do not accompany expulsion policies.

The student is asked to pay the consequences of his or her mistake, which ultimately is lack of access to an education. In the case of the Whytecliff students, when expelled from public school there was often nowhere else to go. Many were refused admittance back into their former school, some were banned from the other schools in the district, and the students' parents or guardians did not have the funds to enroll their child in a private school or to access on-line distributed learning programs. The students came to Whytecliff only because they got involved in criminal behaviour and were referred by their youth justice worker (probation officer).

In one school district in the Greater Vancouver area, zero tolerance policies have extended to youth on probation. As reported in personal correspondence (September 14, 2004), a school district director and a school principal said that youth on probation who are not currently enrolled in a school in their district are being told that they do not meet the requirements and cannot enroll. The perception that they might be troublemakers is preventing access to education. Other school districts restrict youth on probation to alternate schools, if there is available space. As one of the Whytecliff youth commented: "A lot of schools now do background checks on kids, and if you're on probation you won't get accepted into those schools, and you'll have to go to alternate schools, and sometimes there aren't any in your area."

Zero tolerance policies, then, work at both ends: expelling students for misbehaviour, and excluding others from enrolling in school out of fear of possible misbehaviour. These policies place schools in a vulnerable position of being *Charter*-challenges for limiting students' freedom of expression and their right to life, liberty, and security of person.

Implications of labeling and zero tolerance policies

The labeling of children and youth as behaviour problems, and applying stringent zero tolerance policies which impact students labeled as such, have serious and far reaching implications for youth at the receiving end of these measures, for schools as communities of learning, and for society as a whole.

Many labeled or excluded youth suffer from self-esteem problems, feel misunderstood, have anger towards adults in authority, feel like they have no future, and end up fulfilling the negative prophecies foretold to them by adults (Corrado et al., 2003). Confirming this type of problematic outcome for youth, a study undertaken in Montreal analyzed interviews with 117 street youth. It found that social stigma had a significant impact on them (Kidd, 2003). "They described a daily barrage of cruel comments, disgusted glances and numerous experiences with assaults. . . (that was a) constant process of denial and dehumanization" (p. 22). We are not claiming that these problems are the direct result of labeling or zero tolerance policies, only that labeling

and exclusionary practices serve to reinforce youth's pre-existing attitudes towards self, others and school, and further limit their opportunities.

We do also know, from the McCreary Society study, that 1/5 of adolescents in British Columbia reported being abused, physically or sexually, at some point in their lives. This study also showed that abused youth are more likely to have experienced violence in their lives and to be involved in physical fights, discriminated against, harassed, assaulted and sexually coerced. These are the students who are below average in schoolwork, dislike school, skip school, and feel less attached to their school. Youth surveyed in custody facilities for criminal behaviour also reported having been suspended or expelled from school.

One question we are raising in this paper is whether schools are further punishing students who are already marginalized and experiencing pain, through labeling them as "severe behaviour" and subjecting them to zero tolerance policies that apply the "letter of the law" but do not give sufficient allowance for the person or the context of the behaviour. It appears that the students who need the most support, care and guidance are the ones who leave, sometimes of their own volition, and sometimes because they are asked to do so.

These policies and practices also have an impact on the education system as a whole. Teachers and principals must navigate within a system of contradictory messages and practices. For example, there is a widespread movement in British Columbia to implement "learning communities" in schools. Yet, learning communities are based on principles of inclusion, respect for persons and the centrality of relationships, removing barriers to learning, a flattened hierarchy where power and control is shared, and developing a responsive environment where learning flourishes (Cassidy, 2004; Palmer, 2000). These principles stand in opposition to practices that categorize, marginalize, diminish, and exclude youth. Further, there is a wealth of educational literature that supports the notion that education involves much more than academic achievement. For example, Witherell and Noddings (1991) write: "education must deepen our understanding of and respect for both persons and communities. . . (it) calls us to live in the world of actuality and of possibility and of vision." Parker Palmer (2000), in a speech given to educators attending a Learning Community conference, states:

I believe that we educators hold in our hands the power to form, or deform, students' souls, their sense of self and their relation to the world. The world is badly served by a system of education that disconnects people from each other, from their own hearts, and from their own knowledge, thus encouraging the divided life.

Noddings (1988, 1992, 1995, 2002), in her many publications on the need for the ethic of care to pervade schools, notes that the values a school com-

municates through what it models, practices and confirms, have a significant effect on children's learning. Jackson, Boostrom and Hansen (1993), in their book, *The Moral Life of Schools*, describe how the informal curriculum of rules, tone, priorities, and interpersonal interactions communicates powerful messages to students each day. This causes us to wonder whether the process of labeling children as "behaviour problems" communicates to children that it is alright for them to place negative labels on each other, or whether zero tolerance policies that are unbending and apply equally to all, encourages intolerance of differences and rejection of those in pain? We would argue, that, at the very least, there is a disjuncture between the policies and practices of labeling and zero tolerance, and the values and beliefs that underpin education in a democracy.

The policies and practices of labeling and zero tolerance also have implications for society as a whole. The research is clear that youth who drop out of school and fail to graduate, for whatever reason, are over represented in minimum wage jobs and on social assistance (Shariff & Jackson, 2004, p. 9). Statistics for 2001 in British Columbia, for example, show that 85% of income assistance funds and 90% of criminal justice expenditures went to people who had dropped out of high school (Focus Foundation, 2004). High school dropouts in the 25 - 44 age group have a 10% lower employment rate than their peers who graduated, and earn 50% less across the lifespan (Statistics Canada, 2002; Focus Foundation, 2004). Further, children in low-income households have greater difficulty breaking into upper income brackets in adulthood, so the cycle of poverty repeats itself (Shariff & Jackson, 2004, p. 9).

There are economic implications and social implications, and there are also moral implications. Do we as Canadians support a public education system, funded by tax dollars, where approximately 20-25% of all students and 66% of severe behaviour students fail to graduate? Do we support a policy where the punishment for acting out behaviour is suspension or expulsion from the institution that is entrusted to educate as well as socialize (Behar-Horenstein, Amatea & Sherrard, 1999)? Do we support the notion of labeling and categorizing children already vulnerable, and thus separating them out from the mainstream? In British Columbia, the education system has recently instituted a curriculum on social responsibility for all students. It would seem that this notion should work both ways, with school administrators and teachers also assuming the duty of social responsibility relative to their actions toward students.

There are also legal implications. As we said earlier in our paper, schools in Canada seem to be obligated to provide a respectful, inclusive, safe and ordered environment in which children can learn (Shariff & Jackson, 2004, p. 11). This raises the issue of respectful, inclusive, safe and ordered, for whom? The answer should be that it is for the majority of students, including those already marginalized through the intersectionality of multiple

grounds of discrimination, factors the Supreme Court has said should be taken into account. We also raise the issue of adverse effect discrimination, when an apparently neutral law has a disproportionate and harmful impact on a particular protected group. We argue that it is the group of students in school who already suffer multiple levels of discrimination, who are the likely objects of labeling and zero tolerance policies. We posit that equal application of school rules and policies on these students is, in fact, inequitable, and seriously curtails their opportunity to receive an education.

Recommendations

Recommendations for reform of the current state of our school policies should be formed on the basis of our initial discussion of the concept of intersectionality, not only as it operates within the education system, but also in society as a whole. The effects of factors such as racism, gender, class, disability, and sexual orientation can lead to negative labeling of children, by children against children in bullying situations, but also by teachers and administrators when the labels of bully and behaviour problem become attached to individual children. These are dynamics that also occur in the wider community.

We are in agreement with Shariff and Jackson (2004) that we now need to get rid of zero tolerance policies which, in fact, encourage rigidity and negative labeling. What are needed instead are educational models that are legally defensible and actually effective in reducing problematic behaviour (p. 24). The Whytecliff school program appears to be one approach worth further study.

At Whytecliff, the ethic of care, as espoused by Noddings and others (Beck, 1992, Chaskin & Rauner, 1995; Prillamen et al., 1994; Tronto, 1993), is embedded in program policies and practices, featured prominently in the school's vocabulary, and felt in the environment (Cassidy & Bates, 2005). Rules are replaced by a few working principles guided by the opening line of the school's vision statement: "We are a safe, respectful and nurturing community, sensitive to each person and his or her uniqueness." Students, without exception, give the school high praise, describing it as a family and the teachers as friends and helpers – a place where they feel welcome, understood, heard, respected, and encouraged, and where they find success. At Whytecliff, staff have been successful in taking some the most challenging students from the Greater Vancouver area and embracing them, rather than marginalizing them. The staff feel confident that their vision of care, the school environment they have created, the focus they place on building strong and respectful relationships with each other and with students, their willingness to listen to students and to adapt curriculum, and their non-reactive responses to acting out behaviour are powerful catalysts to effect positive change in students. Evidence from research studies demonstrates that this

approach is working (Cassidy & Bates, 2005; Sohbat & Cassidy, 2005). The attendance rate is high, students are successfully completing courses, they are happy at the school, and violent behaviour is almost non-existent.

The Citycentre school project, operating in a large, multicultural, inner city elementary school in the Greater Vancouver area, is another example that employs the ethic of care as its philosophical guide. Here the administrative leaders have been successful in transforming the school into a place where relationships are central, students, staff and parents feel a greater sense of belonging, students are no longer labeled, and where the rules-consequences continuum has been abandoned in favour of dialogue and mutually agreed upon actions which respect the individual and focus on positive change (Cassidy & McAllister, 2004). In the years preceding this project, there was significant bullying on the school playground and in the hallways, and racial tension and divisions among students were high. The previous solutions of trying to curtail the “troublemakers” and of disciplining or suspending students for misbehaviour was not successful in achieving the desired effect of a more peaceful, respectful and inclusive school. When the ethic of care approach was introduced into the school, some staff members worried about what would happen if there were no strict consequences for misbehaviour, the strongest being expulsion. However, the administrator was able to demonstrate that by stressing a student’s intentions and not his or her behaviour and then jointly arriving at a positive solution, that this would contribute to a better and more responsive school culture. Like Whytecliff, parents were also given a role and welcomed into the school, providing a closer link between home and school and a fuller understanding of the lives of each student.

In addition to schools re-directing their energy towards building relationships with students and enacting principles of care, we also advocate that youth themselves should become more knowledgeable about their rights under various provincial and federal human rights acts. It is incumbent upon schools to develop comprehensive strategies to increase students’ awareness of their rights (Berman & Jiwani, 2002, pp. 76-77). It is, of course, assumed that the same rights education would be made available to teachers and administrators. Indeed, we stress that law-related education be given greater priority in teacher education pre-service and in-service programs, so that teachers and administrators become more aware of the role law plays in educational policies and practices (Cassidy, 2000; Shariff, 2003).

In conclusion, we must not forget that the *Canadian Charter of Rights and Freedoms* and our various human rights acts offer protections to all citizens in Canada and that those protections are also intended for our children to secure their “best interests” in helping to become empowered and competent citizens of the future.

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NOTES

1. The McCreary Society Study examined such health issues for abused youth in British Columbia in its survey of three categories of youth: those in school; those in custody; and those deemed to be street youth.
2. See www.focusbc.org for information on this school.
3. Parental interviews were not analyzed and reported in the Cassidy/Bates study.

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