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## **An Examination of Human Rights Violations in U.S. High Schools**

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## **AN EXAMINATION OF HUMAN RIGHTS VIOLATIONS IN U.S. HIGH SCHOOLS**

### **Abstract**

Although there has been more attention to human rights issues in the U.S. in recent years, little focus has been on the ways youth are denied their essential human rights. This paper focuses on U.S. high schools, describing how disciplinary policies, like zero tolerance laws, fail to respond appropriately and do not attempt to prevent harassment and abuse of lesbian, gay, bisexual, transgendered, and questioning (LGBTQ) students. School-based corporal punishment is in violation of international human rights agreements. The paper uses Eisler's (2000) framework of dominator and partnership models as well as Giroux's (2009a) critique of neoliberal education to explain these violations. It concludes by offering suggestions for an alternate educational approach.

Dear Teacher: I am a survivor of a concentration camp. My eyes saw what no man should witness: Gas chambers built by learned engineers. Children poisoned by educated physicians. So I am cautious of education. My request is: Help your students become human.

Haim Ginott (cited in Apsell, 2000)

### **1. Introduction**

Although sadly it was prompted largely by the atrocities committed by U.S. soldiers at Abu Ghraib and elsewhere, there has been increased attention to human rights violations perpetrated by the U.S. in recent years. Yet still the attention is too limited, and has tended to focus on actions overseas, not domestically (Bazon 2005; Conroy 2000; Goodman 2006; Sontag 2004). Domestically, however, human rights violations are occurring every day. Some scholars have recognized and described the link between cruel, unusual, and degrading treatment of prisoners overseas and practices and conditions in U.S. prisons (Conroy 2000; Finley 2009; Franklin n.d; Goodman 2006; Lomax 2005; Marx & Wood 2004). As has been well documented, those most vulnerable to human rights abuses are people with little social power (Conroy 2000; Finley 2009). One of these groups is U.S. high school students, who are required by law to attend school until age 16. Almost no attention has been paid to the human rights abuses faced by public school students as they seek to attain education.

The right to attain education is considered a fundamental human right. What also must be considered, however, is the quality of that education and the environment in which it is provided. In many cases, the educational environment students endure is horrendous. Violations of basic human rights occur daily in U.S. high schools. Lesbian, Gay, Bisexual, Transgendered, and Questioning (LGBTQ) students face harassment and abuse from both students and staff; punitive disciplinary policies push out already marginalized students; and in 21 states it is still legal for educators to beat students who misbehave. Failure to prevent or adequately respond to dating violence, use of invasive search techniques, and inadequate attention to sexual harassment are among the abuses (Finley 2006). For instance, Human Rights Watch found that 83 percent of girls in 8<sup>th</sup> through 11<sup>th</sup> grade had experienced some form of sexual harassment in public schools (Safe Schools: Every Girls' Right 2008). Keys to Safer Schools (2007), a non-profit, identified eighteen instances of sexually abusive behavior against public school students in just one ten-day stretch of 2007. The report noted, "If girls are not protected from physical, psychological and sexual violence, the effect is to undermine their right to education..."(3).

One of the primary reasons for the dearth of focus on human rights violations in U.S. public high schools is connected to the justifications made by those in control of educational systems. Zero tolerance laws and corporal punishment, for instance, are all perpetrated by well-meaning educators who do so "for their own good" (Miller 2002). That is, administrators and politicians say this "benevolent abuse" is to be enacted and implemented as a means to ensure a safe educational climate. This has been particularly true after the 1999 Columbine massacre. Educators, with the support of parents (generally) enacted repressive policies out of fear. In reality, juvenile crime and school crime have been decreasing in the U.S. for a decade (CDC 2004; LeTendre, Baker, & Akiba 2005), yet fear of school violence did not decrease. Much of the fear is manufactured, and this irrational fear has led to the imposition of some inappropriate and detrimental policies and programs directed at youth. Fischlin and Nandorfy (2006) commented that, "Manufactured fear...compromise(s) the rights of innocents and do(es) so in ways that beg the question of how responses to rights abuses can themselves

become abusive, how responses that further spiral into cycles of violence that altogether ignore root causes are themselves a severe threat to global rights” (149). Similarly, Lindle (2008) noted, “fear often drives people into rash decisions and wrong-headed policies that may exacerbate conditions and that certainly offer unintended consequences” (33). Hirschfield (2008) explained that this manufactured fear has prompted an overall trend of school criminalization since the 1990s. This type of criminalization, is not just real but symbolic, as in the frequent use of criminalized metaphors to describe students, schools, and teaching. For instance, teachers speak of teaching as “being in the trenches” while many students can provide a litany of examples of how schools are like prisons. “Rule-breaking and trouble-making students are more likely to be defined as criminals—symbolically, if not legally—and treated as such in policy and practice” (Hirschfield 2008: 80). As Giroux (2009c) noted, the result of these fear-based policies is that youth are increasingly victim to adult indifference, at best, and at worst, mistreatment and abuse.

As was clear with the situation in Abu Ghraib prison, these violations cannot be chalked up to a few bad apples in our school systems. Rather, human rights violations are part of structures, processes and policies enacted in schools. In her book *Tomorrow's Children*, Eisler (2000) elaborated on the dominator model and documented how it has influenced the educational system in the U.S. The dominator model is characterized by four core elements: an authoritarian structure, male dominance, high levels of fear, and systems of belief that “make this kind of structure seem normal and right” (4). It is, in essence, a militaristic model (Finley 2003). Ideologically, the dominator model is not only accepted as the way things are done, but also as the *only way* things can be done. Similar to Eisler, Garland (2001) referred to the treatment of youth (in both the UK and the US) as a “hegemonic culture of control.” The Human Rights Watch report on violence against school girls noted earlier made the point that “Schools are marked by asymmetrical power relations: teachers are supposed to regulate children’s behavior; administrators are supposed to make rules and hand out punishments; older students are role models for younger students. Abusive teachers and school employees are able to exploit these asymmetrical relations, as are older students” (Safe Schools: Every Girl’s Right 2009: 10). In this dominator-focused system, educators have abdicated their job for teaching “the whole child.” Instead, they are increasingly using dominator teaching methods in the classroom—what Freire (1972) called “banking education”—and allowing administrators and even law enforcement officers to police students’ bodies (Finley 2006; Giroux, 2009a, 2009b, 2009c, 2009d). As Giroux (2009c) put it, “the punishing state has divested itself of any moral responsibility with regard to those human beings who, in the logic of free-market fundamentalism, are considered either as commodities or as waste products...”

This paper begins with a brief history of human rights and an outline of the international human rights agreements relevant to high school students in the U.S. It next elaborates on each the above-listed types of violations. This is framed by Eisler’s concept of dominator versus partnership models and Giroux’s critique of neoliberal schools, which can help explain why these human rights violations occur. Eisler’s work also illustrates the possibility of partnership models in high schools. Ultimately, awareness and advocacy for

educational restructuring will result in greater human rights for everyone, including high school students. As Jingsheng (2000: 44) explained, “Discussion of the issue of human rights and international cooperation on human rights is not merely an academic exercise, but is essential to the protection of human rights. If we are not able to exert pressure from within and without regarding various human rights issues, then we will have little means to safeguard human rights.”

## **2. Literature Review: International Human Rights**

### **A. Brief History of Human Rights Development**

First, it is imperative to outline what is meant by the term human rights. Henkin (2000: 5) explained, “The human rights idea declares that every human being, in every political society, has ‘rights’: recognized, legitimate claims upon his or her society to specific freedoms and other goods and benefits. They are claims ‘as of right,’ not by grace, or love, or charity, or compassion: claims that society is morally, politically, even legally obligated to respect, ensure, and realize.”

Although some of the earliest discussions of human rights emphasized that they “apply to all,” “...those who so confidently declared rights to be universal in the late eighteenth century turned out to have something much less all-inclusive in mind” (Hunt 2007: 18). Individuals with human rights had to be capable of developing empathy and respect for the boundaries of each others’ bodies. Further, they were to be able to exercise independent moral judgment (Hunt 2007). Yet, “In the eighteenth century (and indeed, right up to the present), all ‘people’ were not imagined as equally capable of moral autonomy. Two related but distinct qualities were involved: the ability to reason and the independence to decide for oneself. Both had to be present if an individual was to be morally autonomous” (Hunt 2007: 28). Children, the insane, slaves, servants, those without property, and women were thought to be incapable of the ability to reason, nor were they autonomous individuals (Hunt 2007).

### **B. The Universal Declaration of Human Rights**

The Universal Declaration of Human Rights (UDHR) of 1948 was the first international agreement specifically outlining the basic human rights of all individuals. It emphasized the inherent dignity and inalienable rights held by all humans. These are the necessary foundation of freedom, justice, and peace. Among many basic human rights, all humans are entitled to live free of discrimination and are to be guaranteed equal protection under the law. No one can be subject to arbitrary interferences with their personal privacy. Article 18 states that all humans have the basic right to free thought, conscience, and religion, and Article 19 guarantees freedom of expression and opinion. All persons have the right to an education, according to Article 26.

### **C. International Agreements Relevant to Children and Youth**

Children are specifically mentioned in the Geneva Conventions, the Declaration of the Rights of the Child of 1924, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child (UNCRC). The UNCRC, which was adopted by the United Nations General Assembly in 1989 and entered into force as international law in 1990, specifically addressed the human rights of children and youth for those countries that ratified it. It specifies, among other things, the right to freedom of thought, conscience, and religion, and the right to free opinion and expression, including the receipt of impartial information and ideas. It also guarantees freedom from arbitrary intrusions on privacy and guarantees due protection of the law when this occurs.

Article 3 of the UNCRC provides that the best interests of the child should be a primary consideration in all actions, courts and law, which echoes other international human rights instruments (Goldson & Muncie 2006). Article 19 directs all ratifying states to provide any appropriate legislative, social and educational measures necessary to protect children from mental and physical violence, injury, or abuse, neglect, negligent treatment, maltreatment, or exploitation. Article 26 provides for the right to an education that is free and compulsory, among other qualities. Paragraph 2 states that the right to education is to be “directed to the full development of the human personality” (Morsink 1999: 212). Article 37 prohibits cruel, inhuman, and degrading treatment. The UNCRC specifies these protections regardless of race, color, gender, language, politics, origin, ability, or other status. At its essence, the UNCRC specified that children’s rights are human rights—they are not something special but rather the very same fundamental guarantees offered to all humans, and are requisite for the development of the child (Pais 2000). “In light of the Convention on the Rights of the Child, children are no longer envisaged as mere recipients of services or beneficiaries of protective measures. Rather, they are subjects of rights and participants in actions affecting them. They need to be respected in their individuality and in their evolving capacity to influence decisions relevant to their lives.” (Pais 2000: 132-133).

As of now, the U.S. stands with Somalia as members of the UN, but as countries that have not ratified the UNCRC. 193 other countries have done so, making it the most widely adopted of all international human rights conventions. Former U.S. President and human rights activist Jimmy Carter (2000) explained, “Somalia can explain its refusal by pointing to the fact that it lacks a working government, but the United States has a much more difficult task explaining its stance. Some American critics of the Convention on the Rights of the Child misinterpret the document, worrying, for instance, that it undermines parental rights, when, in fact, it repeatedly emphasizes the primacy of the role and authority of parents” (57). Others have noted that the U.S. has not become party to the UNCRC because it would require dramatic overhaul of some of our major institutions that deal with youth, including juvenile justice and schools (Roth 2000). At the time the UNCRC was proposed, the U.S. still executed juveniles, although it no longer does so.

Clearly, children were among the last groups to receive protections from a specific treaty. Fischlin and Nandorfy (2006) explained, “This long delay may be due to the fact that

abuse suffered by children can be interpreted as directed at other aspects of their identities like gender, ethnicity, poverty, and so forth. In Western societies, children are seen as symbiotically attached to their parents, especially mothers, and therefore only recently have their rights been considered as specific” (108-109).

#### D. International Human Rights History Relevant to LGBTQ Persons

Another group that did not receive specific international human rights recognition until recently is LGBTQ persons. “Over the past fifty years, sexual orientation issues have gone from being a topic discussed in embarrassed whispers in the halls of the United Nations to being recognized as a legitimate agenda item for its human rights mechanisms” (Dorf 2000: 229). Yet every day murders, incarcerations, and other infringements on the fundamental liberties of LGBTQ persons violate these basic human rights protections. Further, according to Dorf (2000: 229), “The attention given to these issues by the mechanisms in existence within the United States has been limited.”

The United Nations first addressed the issue of sexual orientation in 1987. The Economic and Social Council (ECOSOC) asked the UN Sub-Commission on the Prevention of Discrimination of Minorities to produce a report on the legal and social problems faced by sexual minorities. Unfortunately:

The report was a dismal and insensitive failure, marked by ignorance about the individuals and communities which were its focus... it claimed, for example, that ‘there would be fewer lesbians if men were able to be more affectionate, attentive and tactful.’ It displayed further fixation on theories of how to reduce homosexuality, rather than how to protect gays and lesbians from discrimination, by claiming that there would be fewer homosexual men ‘if men did not feel called on by the social model to achieve an exceptionally high level of sexual performance with their female partners’ (Dorf 2000: 230).

The UN did not formally address the subject until the 1990s. The UN High Commissioner for Refugees (UNHCR) began to issue opinions on political asylum cases in which people were fleeing persecution based on their sexual orientation in 1993. In 1994, the Human Rights Committee (HRC) interpreted the ICCPR’s provisions on privacy and non-discrimination to protect the rights of individuals to engage in sexual activity with same sex partners. The 1995 World Conference on Women In Beijing was the first time sexual orientation was included in an official conference document (Dorf 2000). Yet it is clear that every article contained in the UDHR is intended to apply to all individuals in society. “This would obviously include lesbians, gay men, bisexuals, transgendered individuals, and anyone else who engages in private, consensual, adult sexual activities” (Dorf 2000: 233).

#### E. Criticisms of the U.S

Many scholars, as well as leaders of NGOs and even other national leaders, have criticized the U.S. for its positions on human rights.

The United States has come kicking and screaming into the modern world of international human rights treaties. Originally an active participant in the drafting process undertaken by the Commission on Human Rights in the late 1940s, the United States did a sudden about-face when Secretary of State Dulles announced, in 1953, that our country did not intend to ratify international human rights treaties. Despite attempts by some presidents, notably Kennedy and Carter, to reverse the policy, U.S. aloofness from the treaties continued until the late 1980s, when the Convention on the Prevention and Punishment of the Crime of Genocide was ratified (Schabas 2000: 110).

In sum, the U.S. record on human rights is a mixed bag. “The United States has been a major influence in the spread of the human rights ideology and a principal contributor to the international human rights movement,” but at the same time, “The United States has been widely—and not unjustly—criticized for crucial failures to support and participate in international human rights. The United States, it has been said, has not been a pillar of the human rights church, but only a flying buttress that supports it from the outside.” (Henkin 2000: 18). By subscribing to the UN Charter, to the UDHR, and to other international agreements and treaties, the United States supposedly made a commitment to promote respect for human rights. This is “not just international human rights for others, and not just when it did not cost the United States much to do so” (Henkin 2000:18-19).

The U.S. did go on to ratify the ICCPR, the International Covenant for the Prevention of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), and the International Convention for the Prevention of All Forms of Racial Discrimination (ICERD), but refused to ratify the Convention for the Elimination of Discrimination Against Women (CEDAW) and, as noted, the Convention on the Rights of the Child. Of those treaties the U.S. did ratify, the trend was to make major reservations, interpretive declarations, and other provisos. Some countries and regions, including the European Union, interpret this as a statement of U.S. arrogance. It is perceived as a rebuff to the concept that the U.S. can learn from other countries, and as a means of protecting ourselves from international accountability for questionable practices (Roth 2000). Other countries have and do make such reservations, but the U.S. stands out (Schabas 2000).

### **3. Human Rights Violations in U.S. High Schools**

#### **A. Treatment of LGBTQ Students in Schools**

The following statistics and examples highlight violations of many of the provisions of the UDHR, the ICCPR, and other international agreements and treaties in regard to the basic human rights of LGBTQ persons in U.S. high schools.

The National School Climate Study is the only national study to specifically focus on conditions at school as perceived by LGBTQ students. First conducted in 1999, the 2005 version included 1732 students ages 13-20. It found 75.4% hear the words “faggot” or

“dyke” frequently, and 89.2% hear comments like “you’re gay,” or “that’s so gay” frequently. These comments are typically made when faculty and staff are not present, but when they are around, only 16.5% of the sample said they intervened frequently. Students said staff are less likely to intervene when they hear this type of remark than when they hear racist or sexist comments. 18.6% of the sample said staff also made this type of remark. Verbal harassment is very common, with 64.1% of students saying they are harassed at least some of the time due to their sexual orientation and 45.5% due to their expressed gender. While less common than verbal forms of harassment, physical harassment is by no means rare. 37.8% of students said they were physically harassed due to sexual orientation and 26.1% due to expressed gender. 17.6% were physically assaulted due to sexual orientation and 11.8% due to expressed gender. 41.2% of the sample said the harassment followed them into the cyberworld. A majority of the sample never reported the harassment, either to a school authority or to a parent or guardian (Kosciw & Diaz 2006).

The impact of this abuse and harassment is tremendous. Of the sample, 74.2% said they feel unsafe at school, 28.9% skip at least one day per month because they feel unsafe. They are three times more likely to skip school if the harassment is physical and five times more likely to do so than the general population. LGBTQ students in this sample were two times less likely to go to college or even complete high school, and students who are more frequently harassed have lower GPAs. Although some schools have policies prohibiting harassment (22.2% of students said their school had this specific to sexual orientation, 10% specific to expressed gender), there is still much more needed in this area. One promising note is that more schools have Gay Straight Alliances (GSAs) than in previous surveys (42.2%). GSAs have been demonstrated to make LGBTQ students feel safer (Kosciw & Diaz 2006). According to GLSEN, there are approximately 4,000 GSAs across the country, with 155 in Florida. In July 2008, a federal judge ordered Okeechobee High School to allow a GSA. The judge ruled that GSAs do not interfere with abstinence-only education, and that schools have a responsibility to take into account the well-being of students who are not heterosexual (Presgraves 2008).

Few schools offer in-class discussion of issues relevant to LGBTQ students (81.7% said their school did not), and many schools use abstinence-only curricula in sexual education that have been shown to be harmful to LGBTQ students (44.6% of schools use this). It has been difficult for schools to opt for comprehensive sexual education, given that the Bush administration tied federal funding to the teaching of abstinence-only (Kosciw & Diaz 2006).

Another 2005 study, conducted by Harris Interactive and commissioned by GLSEN, involved surveys and interviews with teachers and students. Detailed in a report called, *From teasing to torment: School climate in America*, the study found harassment or abuse to be commonplace in schools, especially for LGBTQ students. Two-thirds of teens reported being verbally or physically harassed or assaulted during the past year due to their real or perceived sexual orientation, gender expression, race/ethnicity, gender, disability, religion, or appearance. Half the students reported that sexist or homophobic comments were common, and seventy percent regularly heard the phrases, “You’re so

gay,” or “That’s gay.” A student’s appearance—the way they look or their body size—was the number one reason for harassment, followed by the student’s real or perceived sexual orientation. LGBTQ students were far more likely to report feeling unsafe at school (20% versus 6% of the general population). Two-thirds of LGBTQ students reported being harassed due to their sexual orientation in the last year, 16% had been physically harassed, and 8% were physically assaulted. LGBTQ students in this study were less likely to report harassment than are other students, most often because they believed teachers or staff were powerless to change the situation (GLSEN 2005).

A 2007 study, conducted by Harris Interactive on behalf of GLSEN, found that while half of principals view school bullying as a major problem, they often underestimate the amount and impact of bullying against LGBTQ students. Only 21% of the 1,580 K-12 principals surveyed said bullying based on gender expression or real or perceived sexual orientation occurred at their schools “often” or “very often.” Yet previous research has found that 90% of LGBTQ students are bullied in schools. Twenty-nine percent of the principals rated their staff as “fair” or “poor” in regard to their ability to fairly and appropriately respond if a student is being harassed due to their sexual orientation (Renna 2008).

Although the statistics listed above are sickening, individual cases sometimes make it easier to understand the problem. In spring of 2007, a high school female in Ponce De Leon, Florida told her principal she was being harassed by classmates because she is a lesbian. His response was to tell her homosexuality was a sin, to tell her parents she was gay, and to tell her to stay away from the students who were bothering her. The ACLU filed a suit against Principal David Davis, who was demoted. Judge Richard Smoak of the United States District Court, Northern District of Florida, Panama City Division also mandated that school personnel attend sensitivity training. The district was also ordered to pay \$325,000 in ACLU attorney fees. During the trial, evidence documented that Davis went so far as to raise the shirts of young girls so as to ensure they had not written “Gay Pride” or any similar gesture of support on their bodies (Principal’s outing of gay student... 2008).

In the worst cases, LGBTQ students are murdered because of their sexual orientation. In early 2008, 8<sup>th</sup> grade student Lawrence King was murdered by a classmate inside the Oxnard, California junior high school computer lab, just weeks after he had publicly announced he was gay. King had been tormented by classmates because he sometimes wore women’s clothing to school. Such treatment is commonplace in California schools; A 2005 California Healthy Kids survey found seventh grade students are 50 percent more likely to be harassed by peers because of their gender or sexual orientation than were 11<sup>th</sup> grade students (Cathcart 2008).

A major part of the problem is that teachers are unprepared to affirm and address the needs of LGBTQ students. This has been well-documented. Teacher-preparatory programs often ignore LGBT issues (Athanases & Larabee 2003; Blackburn & Donelson 2004; Kosik-Razabal & Macgillivray 2000; Letts 2002; Macgillivray 2004; Petrovic 1998; Sherwin & Jennings 2006).). The failure to prevent abuse, including not teaching

future educators to respond when abuse occurs, is in violation of the international guarantee to a safe education.

## B. Harmful and Racially Discriminatory Punishments

That school was run more like a prison than a high school. It doesn't have to be nothing illegal about it. But you're getting arrested. No regard for if a college going to accept you with this record. No regard for none of that, because you're not expected to leave this school and go to college. You're not expected to do anything" J.W., former inner city high school student and current maximum security prison inmate (cited in Hirschfield 2008: 79).

In recent years, teachers and administrators in U.S. public high schools have largely relied on three security-related interventions to address the potential for student misbehavior: surveillance, achieved through use of closed-circuit cameras, locker searches, drug-sniffing dogs, drug-testing, and ID badges; use of School Resource Officers (SROs); and expanded use of punishments (Kupchik & Ellis 2008). The latter includes adding offenses that are punishable as well as increasing the frequency of application of the punishment and making the punishments more severe. Most notably, schools have relied on zero-tolerance policies. Zero tolerance laws, which emerged from the 1994 Safe and Gun Free Schools Act, authorize specific punishments, typically suspensions and expulsions, whenever certain offenses occur. "School punishment is increasingly based on uniform procedural and disciplinary guidelines evolving around the nature of the offense rather than the discretion of teachers and other traditional disciplinary agents" (Hirschfield 2008: 81). This trend toward uniformity mirrors movements documented by Feld (1999) in the juvenile justice system. Allegedly uniform responses, which are anything but uniformly applied, have expanded use of suspension and expulsion, which is "a symbolic form of criminalization, irrespective of whether it follows strict penal guidelines or the whims of authorities" (Hirschfield 2008: 82). School policing is the fastest growing form of law enforcement, and "Among preventive practices, metal detectors and personal searches seem the clearest indicators of criminalization since they define students as criminal suspects" (Hirschfield 2008: 82).

Most often, both real and symbolic criminalization can be seen in urban schools with majority minority populations (Devine 1996; Wacquant 2001). Urban schools more often feature detectors and heavy gates, walls, and barricades (Devine 1996). Research spanning three decades has clearly documented the overrepresentation of African American students in suspensions and expulsions (Casella 2003; Casella 2001; Children's Defense Fund 1975; Ferguson 2000; Skiba, Michael, Nardo, & Peterson 2000). Johnson, Arumi and Ott (2006) reported the results of a nationally representative study conducted by Education Insights at Public Agenda in which 19% of White students, 26% of Hispanic students, and 33% of Black students reported that their school is not consistent in applying discipline. In 2001, the American Bar Association (ABA) voted to abolish the use of zero tolerance laws in schools based on their lack of effectiveness and discriminatory application. It is a fear of loss of control in the classroom, coupled with the fear of the "other," that accounts for this practice, what Giroux (2009a) called a

“human waste management system” (Casella 2003; Casella 2001; Fennin & Rose 2007; Noguera 1995).

In her analysis of discursive practices used by teachers in regard to school violence, Solomon (2006) found that most used traditional definitions of violence (that it is excessive use of physical force), and explained that most physical violence by students was not excessive but rather involved “fooling around.” Giroux (2009c) told the story of Porsche, a fourth-grade student from Philadelphia who, in December 2004, was yanked from her class and taken in handcuffs to the police station, where she was held for eight hours because she brought some scissors to school for a project. These policies completely ignore verbal, symbolic, and structural violence, making it difficult if not impossible for educators to define their own actions or those taken by the school as an institution as violent. Fine, Burns, Payne, and Torre (2004) found that students in California believe that educators perceive them as “animals,” “inmates,” or “killers.” African American students are often viewed as unsalvageable, according to Ferguson (2000). Hemmings (2002) found that teachers and students had quite different understandings of control, power, and respect, and that this dissonance played a role in the assigning of and perception of disciplinary practices.

Again, individual cases highlight the problem. In May of 2009, parents of nine African American students filed suit in Alabama, saying their children were harassed by teachers, called “niggers,” “filthy trash,” and told they would not be allowed to run around the school “like a bunch of wild animals.” These students had been suspended for multiple days for offenses like not having their shirts tucked in properly, not wearing a belt or wearing the wrong kind of belt, and wearing the wrong color undershirt. The staff at the school used corporal punishment against the students when they ran in the halls or talked in class, and when their parents complained, they received more punishment. The parents were also banned from school and threatened with arrest for complaining. Since the school board in that district prohibits public speaking related to racial discrimination at their meetings, the parents have had trouble bringing the issue to the public’s attention (ACLU lawsuit challenges racial discrimination... 2008).

On May 20, 2009, Marshawn Pitts, a 15-year-old African-American special needs student, was walking down the hallway of his school in Dolton, Illinois when a school police officer noticed his shirt was untucked. The officer began shouting at Pitts, who immediately started to tuck his shirt in. Not fast enough, however, as the officer pushed Pitts into a locker, punched him repeatedly in the face, then slammed him to the ground and pushed his face into the floor. While Pitts lay on the floor, the officer held him in a hold position that has been banned in eight states because it has resulted in more than twenty deaths. Pitts was left with a broken nose and a bruised jaw. He and his classmates were left confused, scared, and angry. The entire incident was captured on school video cameras and has been uploaded on Youtube. Pitts was not carrying a weapon, nor did he in any way threaten anyone (Giroux 2009a). Giroux (2009a) commented that this incident could not be explained away as the failure of one mentally unstable individual. Rather, “The brutalizing behavior exhibited by this unhinged police officer would be better understood as symptomatic of a set of larger forces in American society that are

increasingly defining kids through a youth crime complex that touches almost every aspect of their lives—extending from the streets they walk on to the schools and community centers in which they spend most of their time.”

Other high profile cases, like the 1999 Decatur 7, in which seven African-American males were expelled for fighting, and the Jena 6, in which six African-American males were criminally charged for beating a white male after the hanging of nooses at the local school, further highlight the racial divide. One of the consequences of these racially discriminatory policies is what has been called the “school to prison pipeline” (Giroux, 2009a; NAACP Legal Defense and Educational Fund, Inc. n.d.). Between 2000 and 2004, the Denver Public School System saw a 71 percent increase in the number of students referred to law enforcement, with many of the referrals for nonviolent offenses. Some schools, like those in the Palm Beach County (Florida) system, have created their own police forces (Giroux 2009c).

The pipeline begins with inadequate resources and segregated schools—schools today are more segregated than when Martin Luther King, Jr. was alive, according to Kozol (2005). These inadequate schools cause kids to disengage and make dropping out more likely. Street (2005) noted that half of the nation’s black male high school dropouts would be incarcerated at some point in their lives. Policies like No Child Left Behind, known to critics as “No Child’s Behind Left,” exacerbate the situation, as they provide incentives for schools to push out “problem” children in order to boost test scores (Kohn 2004). Giroux (2009d) explained that today’s schools, especially those populated largely by poor and minority youth, “are largely viewed as either testing centers where young people are simply bored into passivity or submission, or they are modeled after prisons...in short, if you are a poor black, brown or white kid, you are not considered a student or a productive citizen, but a potential criminal.”

Extreme measures, like zero tolerance laws and school searches, often exacerbate risks, and segregation and exclusion of students many times increases alienation, hence also the risk of violent behavior (Brady 2002; Hanson 2005; Lindle 2008; Lintott 2004; Watts & Erevelle 2004). Giroux (2009d) explained administrators today often “confuse management with leadership,” and, “instead of investing in disadvantaged youth, American society now punishes them.” Not only are they ineffective, then, but because of their discriminatory impact that leaves students of color with unequal opportunity to attain the education guaranteed to them, these policies are in violation of students’ fundamental human rights. Certainly these policies and practices violate the spirit of the agreements that mandate educational opportunity for all, regardless of race, gender, and other factors.

### C. School-Based Corporal Punishment

On August 18, 2003, 10-year-old Tim L. started the fifth grade at his public elementary school in rural east Texas. On the fourth day of school, Tim refused to run in gym class because he did not have his asthma medication. When the gym coach confronted him, Tim said, “coach sucks.” The coach then took a wooden

paddle and beat Tim severely on the buttocks. Faye L., Tim's mother, reported, "There was blood in his underpants.... I had to pull the underwear off his behind from the dried blood (Amnesty International 2008: 1).

When Tim's mother sought legal recourse, not only did authorities attempt to dissuade her, but also she met a dead end because of the legal immunity of public school teachers (A Violent Education 2008). Like police officers, educators generally have qualified immunity, which protects them from liability when using disciplinary discretion (Hyman & Snook 1999).

One hundred and six nations across the globe outlaw corporal punishment in schools, including the UK, which did so following a ruling by the European Court of Human Rights. In the U.S., however, 21 states allow corporal punishment in schools, although the practice is prohibited in most juvenile detention centers and foster care settings (A Violent Education 2008).

According to the Office for Civil Rights at the US Department of Education (cited in A Violent Education 2008), 223,190 students in schools from across the nation received corporal punishment at least once in the 2006-2007 school year, including 49,197 students in Texas alone, the largest number of any state. In Mississippi, 7.5 percent of public school students were paddled during this period, the highest percentage in the nation. The actual numbers almost surely are higher: Human Rights Watch interviewees reported that corporal punishment is often administered in a chaotic environment in which many instances of the practice are not recorded. One administrator reported that 37 students in a single day were sent to his office for corporal punishment. A high school student in another district estimated that as many as 60 students a day are paddled at her school. Several superintendents and district spokespersons admitted that they used corporal punishment far more often than they report (A Violent Education 2008).

Corporal punishment may take many forms, although paddling is the most common. Students can be physically punished for a wide range of misbehavior, including minor infractions such as chewing gum, being late, sleeping in class, talking back to a teacher, violating the dress code, or going to the bathroom without permission. In one school (location undisclosed), teachers are told they must lock their classroom doors when the school bell rings. The principal, as he walks by, then paddles students who are standing outside because they are late. In almost every situation, students could be paddled for vague offenses like "disrespect" (A Violent Education 2008; Hyman & Snook 1999).

Even students who are not punished find themselves in a hostile, violent environment designed to instill fear. One student reported that "licks would be so loud and hard you could hear it through the walls." A teacher reported that a principal turned on the loud speaker while paddling a student: "It was on the intercom in every class in the school.... He was trying to send a message ... [l]ike, 'you could be next'" (A Violent Education 2008).

Paddling students demeans them and degrades the relationship between students and educators. It also teaches students that violence is an appropriate response to school misbehavior. One mother interviewed by Human Rights Watch expressed concern that corporal punishment may legitimize domestic violence. One mother observed: “What are we teaching our young women when a school principal can swat . . . on the behind? We’re saying that it’s okay for a man to beat a woman . . . [that’s] something we don’t want in our families” (A Violent Education 2008).

Like zero tolerance laws, corporal punishment in the US disproportionately affects African-American students, and in some areas, Native American students. In the 2006-2007 school year, African-American students made up 17.1 percent of the nationwide student population, but 35.6 percent of those paddled. In the same year, in the 13 states with the highest rates of paddling, 1.4 times as many African-American students were paddled, as might be expected given their percentage of the student population. Although girls of all races were paddled less than boys, African-American girls were nonetheless physically punished at more than twice the rate of their white counterparts in those 13 states during this time period. Boys are more likely than girls to face physical punishments. According to the OCR data from 2006-07 school year, boys made up 78.3% of students who were paddled (A Violent Education 2008). The paddling of girls, however, brings up additional issues of sexual harassment, as many times the authorities administering the punishment are males (Green, Butt, & King 2002; Hyman & Snook 1999).

Special education students—students with mental or physical disabilities—also receive corporal punishment at disproportionate rates. For instance, in Texas, the number of special education students who were beaten in the 2006-2007 school year amounted to 18.4 percent of the total number of students who received corporal punishment statewide. However, special education students made up only 10.7 percent of the Texas student population, meaning almost twice as many were beaten as might be expected. Corporal punishment damages these students’ education as much as other students, and it may also adversely affect some students’ underlying physical or psychological conditions (A Violent Education 2008).

Students are sometimes asked to choose between corporal punishment and other forms of discipline such as suspensions or detentions. One elementary teacher described her pupils’ decision-making process: “I take the five licks because I’m nine and I want to go outside and play.” Older students choose paddling because they want to seem tough, or because their parents are less likely to find out about their misbehavior if it is handled this way. Human Rights Watch staff commented, “While it is a recognized principle of human rights that children should have a voice in making the policies to which they are subjected (and that participation is increasingly important as they get older), giving children of any age a stark choice between being beaten and other forms of discipline is not appropriate. Rather, it is a form of coercion that exploits vulnerable young people with underdeveloped decision-making capabilities, asking them to trade away their right to be free from beatings by school personnel” (A Violent Education 2008).

Some state laws criminalize the imposition of corporal punishment that is excessive, but

the standard of “excessiveness” is difficult to prove. Some districts have placed limits on the number of blows a child may receive or have required that the paddler not beat children when they are angry, these regulations are difficult if not impossible to enforce. Another difficulty is that, since educators have qualified immunity, a lawsuit must successfully demonstrate that the person administering the paddling acted with malice (Hyman & Snook 1999).

If students move during beatings they may receive additional blows and injuries. One eleventh-grade girl in Mississippi reported that in the course of a beating, her wrist was injured:

“One time I got hit on my wrist with the paddle, and he told me, ‘I told you not to be sticking your hand back there.’ Well, I had my hands on the table and he was about to swing and hit me, and I reached back and he hit my arm with the paddle by mistake ... it hurt!” Another Mississippi girl told us, “[The principal] reared back and paddled me once and I stood up and he said, ‘No, bend over.’ And I said, ‘No, I can’t take no more—that really hurt.’ ... [H]e paddled me again” (A Violent Education 2008).

Many students reported serious bruising after being paddled. In addition to bruising of the paddled area, typically the buttocks, students reported injury to their hands, which they often use to shield themselves from blows. The American Academy of Pediatrics has opposed corporal punishment, noting the higher risk for depression and the reduced self-esteem of students who have been paddled. Research has also linked corporal punishment to increased rates of bullying and aggression (Dussich & Maekoya 2007; Gershoff 2002; Hyman & Perrone 1998). It also contributes to lack of motivation, absenteeism, and higher drop out rates, and, contrary to arguments made by proponents, it has not proven effective at decreasing school violence (Dussich & Maekoya 2002). Hyman and Snook (1999) presented the following stories of corporal punishment and its impact:

A teacher took a book and slammed it on my sprained wrist just because I didn’t know the answer to his questions” (p. 37); “When I was seventeen years old I was in class when I felt a very heavy menstrual flow. I asked several times to go to the bathroom until the teacher finally agreed to let me go. He seemed angry when I returned. He said I had been in the bathroom too long and he took me into the hallway. He pinned me up against the wall so that my feet did not touch the floor and screamed at me for what seemed to me like hours (37).

Human rights experts, according to Human Rights Watch, are in agreement that corporal punishment violates a number of international treaties that protect children from cruel, degrading, and inhuman punishments, such as United Nations Convention on the Rights of the Child, the UN Convention against Torture, and the International Covenant on Civil and Political Rights (A Violent Education 2008). Corporal punishment in US public schools also violates other human rights, including the right to freedom from physical

violence and the right to non-discrimination. Corporal punishment infringes on the right to education, which is guaranteed by numerous international treaties and agreements to which the U.S. is party. Educational experts have concluded that the use of corporal punishment hinders learning, increases drop out rates, and generally undermines the purpose of education.

#### **4. Explaining Human Rights Abuses in U.S. High Schools**

The examples provided herein are just a few of the abuses that happen in U.S. public high school every day. It is essential to examine why these human rights violations occur. Surely there are many factors, but one underlying cause is that U.S. schools, like many of our institutions, have been and are currently being shaped by a dominator model. Conceived by historian Riane Eisler, the dominator model refers to structures, methods, and content that emphasize authoritarian, top-down structures, male-dominance, power over others, use of fear, violence, and abuse to control and “motivate,” and a system of beliefs, stories, and values that makes this way of doing things seem normal and right. More than that, when applied to schools, these practices are said to be helpful to kids, as they allegedly provide a safe educational climate (Miller 2002).

It is well-documented that the content we teach in public schools is more likely to emphasize conflict than peace and to favor those who have dominated—white males—over other groups’ contributions (Finley 2003). It does not generally include examination of fundamental human rights. When students are presented with information about human rights violations, they are typically taught that it is other countries, not the U.S., that are responsible (Loewen, 1994). Lesko (2000) explained, “The ‘permanent war’ mentality can be mobilized through complex, evil portraits of ‘others’ who threaten invasion or the takeover of American institutions or interests” (191). As Eisler (2000) explained, including certain kinds of information in the curriculum—and not including other kinds of information—effectively teaches children what is, and what is not, valuable” (39).

The methods used in many public high schools—both to teach and to punish—are authoritarian and emphasize adults’ repressive power over, not power with, students. Eisler (2000) explained, “Many of our teaching methods also stem from much more authoritarian, inequitable, male-dominated, and violent times. Like childrearing models based on mottoes such as ‘spare the rod and spoil the child,’ these teaching methods were designed to prepare people to accept their place in rigid hierarchies of domination and unquestioningly obey orders from above, whether from their teachers in school, supervisors at work, or rulers in government” (12). As described above, they disproportionately impact some groups while unfairly leaving out or even denigrating others. Casella (2001) discussed this problem in his work on zero tolerance and urban schools. “Some reasons for the persistence of systemic violence can be found in national rhetoric that sanctions forms of discriminatory punishment and policing. These policies create in our society a general feeling that teenagers are no good, out of control, and morally void. They bolster punishment in favor of pedagogy, control in favor of understanding” (35).

Even the structures we put in place—the physical layout of our classrooms, our course offerings, etc.—emphasize some over others. Crews and Tipton (1999) listed many commonalities schools share with prisons, from the uniforms and clothing standards, surveillance cameras to monitor students' behavior, to the increased use of school police officers and more. Not only does this type of hyper-controlled environment stifle individuality and creativity but it also can impair students' intellectual development. This is what some have referred to as systemic violence (Epp 1996; Epp & Watkinson 1997; Finley 2003). Schools in the U.S. typically feature a hierarchical authority structure, and those at the bottom—students—have little or no voice (Finley, 2003). Academic tracking and competition for accolades, according to Sizer and Sizer (1999) are further examples of a dominator structure. As Carlton (2001) explained, "The function of competition...[is] to assign each individual his place in the social system" (p.37). Kohn (1990) argued that competition is far from character building. Rather, a person's value becomes tied to what they have done and whom they have beaten, not to any personal characteristics. Competition is harmful to relationships in that people must inevitably see others as obstacles, not as allies. "Competition leads people to envy winners, to dismiss losers (there's no nastier epithet in our language than "Loser!"), and to be suspicious of just about everyone. Competition makes it difficult to regard others as potential friends or collaborators; even if you're not my rival today, you could be tomorrow" (Kohn, 1990).

This dominator model begins in teacher preparation, where future educators receive little to no education about human rights and how to teach about and for peace (Bey & Turner 1996; Eisler 2000; Finley 2004; Harris, Morrison & Regan 2003; Intrator 2002). Instead, future educators are taught to "control" our classrooms, and never to treat students as "friends" (Kohn 2004). Translation: do not treat them as fellow humans, but as something entirely "other."

Education itself has been commodified. Giroux (2009c) explained that the neoliberal, radical free-market culture no longer sees young people as "at-risk." Rather, "they are the risk," in particular the urban minorities. Youth are raised in an environment of "economic Darwinism" (Giroux 2009c). "Unfettered free-market ideology, a dehumanizing economic system, the rise of the racially skewed punishing state and the attack on public and higher education" are just some of the forces that have come together to create no less than a war on youth (Giroux 2009b).

Although No Child Left Behind and the expansion of a consumerist approach to education were endemic to the administration of George W. Bush, Democrat President Barack Obama's education policies, according to Giroux (2009c) are no better than his predecessor's. The general approach is more standardized testing and a continuation of policies and practices that define the purpose of education in economic terms. Obama's Secretary of Education, Arnie Duncan, "appears unusually illiterate when it comes to being able to pose a democratic vision for education, given his love of the market, testing and his dislike for any mode of knowledge and classroom pedagogy that cannot be measured" (Giroux, 2009b).

## **5. An Alternative Educational Approach**

Education is the most powerful weapon which you can use to change the world  
Nelson Mandela

Surely what has been presented here can leave readers feeling depressed and apathetic. Yet there are many promising ideas and practices that can shape future education in the U.S. Eisler suggested that we do not have to follow a dominator model; instead, a partnership model is possible. This model would involve cooperation, shared power and the institutionalization of mutual honoring, respect, and peaceful means of conflict resolution. Importantly, it would require reconsidering the content we teach, the methods we use, and, more difficult, the structures we create. In addition, moving toward a partnership model would require reconfiguring what is taught and how it is taught to future teachers.

Much like Freire's (1972) conscientization, the idea is to provide students with education that allows them to shape their lives in the ways they wish. This can be accomplished by reconsidering national priorities to make education among the top few. Parents, youth, and other concerned persons must first make visible the fear and distrust of youth, both inside and outside of schools. Further, drawing on Giroux's critiques, education must be removed from the current economic focus and structured such that quality not quantity, empathy not fear, and humanity not repression, are at its roots. As Fischlin and Nadorfy (2006) explained, "educators at all levels of knowledge making and knowledge transmission (from parents on up) must be given the resources and means to introduce critical rights learning into social and curricular structures. All knowledge is essentially futile if the fundamentals of justice, equity, and respect for sustainable life principles do not underpin 'learning' as a key co-creative, social attribute of 'being' human and 'having' meaningful human agency" (216).

Beyond the school system, it is imperative that national leaders begin to provide greater consideration of youth and their human rights. Clearly, it is not just schools that violate the human rights of young people. In sum, "There is much to be done to make compliance with international human rights norms *real*: to move states beyond nominal commitment to authentic commitment; to make the reporting system required by covenants and conventions more meaningful; to enhance the authority of the treaty committee; and to move beyond voluntary reporting by state parties to include international monitoring, investigation, and judicial protection, as some regional human rights systems have done" (Henkin 2000: 30).

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