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Centering Justice: Transforming Paradigms of Approach, Design and Implementation

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Abstract

This concluding article presents visions for future research, prevention, intervention, and policy. This paper positions existing research paradigms against social justice principles, problematizing the ideological underpinnings of the legal system and its disproportionate impact on oppressed groups, including via the persistent overrepresentation of youth of color and/or marginalized genders. Highlighting the areas of challenge suggested by each of the manuscripts within the themed issue, this paper encourages critical shifts in the approach, design and implementation of work with system-involved youth. Recommendations include: strengths-based, rights-based, systems accountability frameworks that account for structural forces and societal issues that produce oppressive contexts, amending and re-defining language to de-stigmatize youth, shifting the targets of this work up the power gradient to avoid victim blaming of youth, engaging participatory methods that provide direct benefit to youth, and critical discourse analysis alongside individual reflexivity to keep ourselves accountable in this work.

Keywords

transformative change; oppression; juvenile justice; gender; race

Youth involved in the juvenile justice system are impacted by a multiplicity of contextual forces and traumas that produce pathways for their system involvement. Yet, these youth are rarely served justice by the ways in which they are moved through the system and continuously re-entangled within it (Hudson, 1987). In addition, the dominant models of research, intervention and policy development directly or indirectly reinforce many of the fundamentally flawed ideological and structural facets of the system. We advance critical areas of consideration for future research, intervention and policy that encourage shifts in the approach, design and implementation of work with system-involved youth – many of which are illustrated throughout this issue.

Firstly, the problematic ideological underpinnings of the juvenile legal system - historical and present day - must be confronted in order to transform it (Prilleltensky, 2003). This begins with clarifying the purpose and intention of the system, its purview, and its

underpinnings based on institutional racism contemporarily manifest as progressive efforts to “protect the vulnerable” (Crenshaw, 1989; DiAngelo, 2011). Critical questions to pose include: what are the historical roots of how the system was created and designed, especially for youth of color and youth it classifies as girls? How does the ideology of accountability permeate despite rehabilitative mandates? To what degree, if any, should the purview of the legal system extend to domestic (e.g., arrest for not following “house rules”) and educational spheres (e.g. police presence in and around schools)?

None of the above questions can be answered without an awareness of the glaringly disparate impact of the system on youth of color, the disproportionate engagement of gender-marginalized youth, and the overrepresentation of LGBTQ youth – patterns delineated by Rosenthal’s examination of national data in this issue. This awareness must then be grounded in comparative contextualization of the legal and social histories of youth confinement, state surveillance, mass incarceration, transphobia and homophobia, misogyny, and patriarchy (see Gager & Schurr, 1976) – arguments that have been advanced by critical scholars (e.g., Alexander, 2012; Crenshaw, 1989). We articulate a set of framework, language, and implementation recommendations toward the aim of centering social justice, especially when it is at odds with the processes and outcomes pursued toward legal justice.

Framework and Language Shifts

Approach

Transformative shifts in the approach to working with system-involved youth necessitate recasting existing frameworks and language. We suggest utilizing a developmental framework that challenges the dominant narrative and re-humanizes these youth, viewing them as children in their formative years, deeply impressionable and profoundly impacted by their proximal environments and the distal social forces that shape their contexts. It is thus necessary to question the expectations placed on them and their behavior in both public and private space; these youth are problematized for exhibiting developmentally appropriate behaviors such as experiencing varying emotional states, engaging in risk-taking behavior, testing the boundaries of themselves and others, challenging authority, and making mistakes. To effectively de-stigmatize these behaviors, the language used to describe these youth (e.g., at-risk, delinquent) and their behaviors (e.g., incorrigible, ungovernable, oppositional, defiant) must be amended. This effort is exemplified by Sichel, Javdani, Ueberall, and Liggett’s paper, which is deliberate about suggesting what the youth in their study are “at risk” *for* (gun violence) instead of labeling without care for specificity.

Existing terminology should be re-defined to expose the ideological paradoxes of the system and the problematic application of this language to youth, particularly youth of color who can be seen and understood as inherently deviant and “criminal” (Rios, 2006). Over time, this problematic framing has become coded into the functioning of the system (e.g. naming a gathering of youth of color as potential gang activity rather than youth hanging out). Disseminated research that uses this language without defining the terms reifies the criminalization of youth, particularly youth of color. Thus, it is critical to be specific about language and re-visit terminology to clarify the behaviors underneath the jargon and trouble the selective application thereof. For example, research and interventions often utilize the

language of “offense” and “offender” in alignment with legal jargon. Some of these “offenses” (e.g. underage drinking, recreational drug usage) are more common in white suburban neighborhoods, where drinking excessively without disruptive consequences (such as arrest and confinement) occurs 20 to 30% more than in comparatively disadvantaged communities (Griffin et al., 2000; Reboussin, Preisser, Song & Wolfson, 2010).

The investigation of this jargon not only exposes its disparate application onto marginalized youth, but also the inherent victim-blaming that problematizes individual youth and directs attention away from their immediate contexts and structural pathways (Ryan, 1976). This is especially pronounced for youth the system classifies as girls, who are described by system actors/enforcers as individually responsible for child sexual exploitation even when they are under legal consenting age (Javdani, 2013). The necessary departure from a victim-blaming framework requires expanding the definition of trauma to include systems-level trauma caused by oppressive social forces that subjugate youth based on race, sexual identity, disability, and gender and to account for historical and intergenerational trauma of communities impacted by mass incarceration, imperialist wars, and genocide. Restrictive definitions of trauma allow the system to avoid culpability for the traumatic effects of system involvement on youth, on both individual and structural levels – an underlying theme in Anderson & Walerych’s study.

Design

We also argue that this work requires an internal assessment of humility, encouraging a type of critical discourse analysis on ourselves (Tervalon & Murray-Garcia, 1998). In this way, reflexivity can render transparent our beliefs around youth, crime, punishment and rehabilitation and position them within a larger sociopolitical context. Careers are made off of the confinement and cyclical traumas of these children, including those dependent on the system’s existence in order to conduct research on it and/or develop interventions and policy around it (Cunneen, 2002). Part of this reflexivity thus involves clarifying the ultimate goal(s) of our work, and whether we aim to end youth incarceration even as that means “putting ourselves out of a job” as articulated by Rosenthal in their bold yet attainable argument for closing all system-identified girls’ detention facilities. This effort is ultimately about the psychopolitical validity of our work (Prilleltensky, 2003).

This reflexivity also involves a skeptical stance on our own work. Central questions in this regard may include: what do we stand to gain, individually and institutionally, and what do the intended beneficiaries of our work stand to gain? Who defines what the benefits are for these youth and where is their voice in cultivating that narrative? What ideologies and values guide this work and how might those ideologies resist transformative change (e.g., white fragility; Flynn, 2015)? Who does it serve, explicitly and implicitly, and in what ways? Of the potential stakeholders, who is prioritized and who is neglected? Who is most vulnerable and what are the potential unintended consequences of this work? How does this work contribute to the redistribution of power and resources for the most vulnerable?

Existing research has established the necessity of considering individual biases in designing and implementing research and intervention; yet, this work can expand to examine dominant cultural narratives that pervade across disciplines. For instance, approaches to helping (e.g.,

Dunst & Trivette, 1994) often center western approaches in which whiteness is valued and reinforced. An example of this is in pushing youth into individual and family therapy, which can, by design, over-privilege adherence to white ways of being and knowing (Matias & Allen, 2013; Sue, 2004). This phenomenon is part of a framework of “care as colonization” (Fine, Michelle; as cited in Javdani et al., in press) and deeply embedded in the inability of psychology and social sciences in general to recognize themselves as intrinsically American and unquestionably individualistic (Sarason, 1986).

Implementation

Targets of Inquiry

Much of the existing literature focuses on youth as the targets of research, intervention and policy. When this work aims to challenge dominant narratives that problematize youth it tends to place the locus of change in individual youth (Javdani, 2013). This reifies the narrative that youth are the problems that requiring fixing and avoids the structural forces and societal issues that produce these problems in the first place. This is distinct from an approach that shifts the target of change up the power gradient. Following the work described by Burson, Godfrey and Singh, efforts should endeavor to understand the ideologies embedded in the system through examining the values and assumptions of system actors and enforcers. How might these ideologies conflict with the mandates of the system and position youth to fail? Another approach is to unpack the social binds in youth’s lives, manifest as conflicting messages provided by systems’ and their actors– “I don’t think you can change. I need you to change. Examining these impossible dilemmas shifts the target of study from whether youth can succeed to whether youth have the option to, and shifts the lens of research from youth compliance to system accountability.

This shift is aligned with a rights-based framework that centers youth’s fundamental liberties such as freedom, education, safety, housing, and food security; and which views legal system involved youth as entitled to any and all things to which their more privileged counterparts are entitled (including fun). The necessary corollary within a rights-based framework is one of systems-accountability: holding the system accountable to fulfilling the obligations it has towards youth, and pushing this beyond basic compliance (such as non-discrimination policies) to ensuring it works to meet its articulated aims (e.g. resource referral and connection). This was part of the difficult yet important endeavor described by Walden, Joseph, and Verona, whose paper underscored the necessity to provide services in short term residential facilities despite the methodological and implementation difficulties inherent in doing so (and indeed, as they describe, this is precisely why such services are rare in these facilities).

Narratives of Empowerment

This framing necessitates research that documents the multitude of strengths inherent in youth’s lives, and unpacks the ways in which youth behaviors are adaptive to survive contexts of oppression. In some ways, youth engaging in behavior that “defies authority” can also be identified and investigated as efforts to reclaim agency and endeavor towards autonomy and self-empowerment (Sherman & Balck, 2015). Such narratives should be

certain to disaggregate externalized attributions to avoid victim blaming the caregivers, families and communities to which these youth are connected—loci that are, like the youth, deeply immersed in structural oppression. Applying this framing would also account for restrictive opportunity structures that limit the real and perceived choices of these youth. Indeed, this youth voice-cultivating process is likely a highly effective one, as suggested by the work described by Trawick, Aber, Allen, and Fitts.

Contextual Competence

Further, future research, policy and intervention can aim to benefit youth beyond distant potentials for localized system reform. Indeed, researchers and interventionists can hold themselves accountable to demonstrating contextual competence (Pedersen et al., 2005). For instance, interventions that aim to provide youth skills should account for the contextual relevance of those skills, such as their experiences of oppression and marginalization (e.g. being stopped by police) as well as behaviors they likely already engage in (e.g. code switching). Practitioners within the system, such as probation officers, can benefit from training on concepts like structural attribution, critical consciousness, oppression as trauma, and systems accountability. Ideally, this training would result in their ability to use their professional role to set youth up for success, such as by setting terms of probation that follow a logic of supporting youth success rather than perpetuating social control and placing undue burden on young people, which often sets them up for technical violations and re-arrest—especially in the case of youth the system classifies as girls.

Centering Youth

Researchers hold a unique position to create direct and indirect benefits for youth in ways that challenge existing hierarchies and power dynamics, such as providing capital benefits to youth through participatory methods. Involving system-involved youth in the investigation of the processes of their marginalization allows for their expertise and proximity to the system to inform research design and implementation; in a collaborative process, youth would also get an introduction to research methods, a form of cultural capital that is strictly guarded within academia. Offering youth the open-ended opportunity to ask questions of and about the system is an invaluable opportunity to affirm their individuality, enhance adaptive strengths and analytical skills as well as identify targets of change with an intimacy that can only come from involvement in the system.

Similarly, providing youth the space to create identity communities around gender and sexuality with other system-involved youth—independent of currently established categories—both resists the violence of the system, its imposed isolation and breaking of community bonds, and also provides greater clarity and information on who the system targets and how it operates on them. Emerging literature is working to shed light on the experiences of those the system classifies as girls, LGBQ, and gender nonconforming youth, but these definitions and applications are inconsistent across studies and not always aligned with queer theory and other theoretical frameworks around gender and sexuality, much less the lived experiences of system-involved youth. Such created communities could allow for previously ignored or unacknowledged experiences and phenomena to become part of a lexicon for youth justice.

To conclude, the power of our positions as researchers cannot be understated; the legal system turns to us for recommendations, analyses, and for information about itself. We have the power to not merely reform, but to revolutionize—to abolish—everything we currently know about incarceration, confinement and social control from naming the unnamed to letting the described do the describing (Bassett, 2015). We can transform structures of power such that we work to provide greater access to power to those who have traditionally wielded it the least. The steps outlined herein are not terminal but rather recursive; we must revisit, re-interrogate and redistribute ad infinitum, until the ideal towards which we strive can be named, without stipulation, as justice. In this way, we might use our radical imaginations to conceive of new ways of being and acting that offer inspiration for engaging research, policy and intervention toward aspirational outcomes. This may start with a deliberate ideological shift captured by Sarason's vision for the educational system, "Salvation....will have to come from within a .. community willing to say we have met the enemy and it is us" (1990).

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