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Restorative Justice From the Margins to the Center: The Emergence of a New Norm in School Discipline

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Changing norms is a difficult process that requires society to discard previously held ideas, morals, and practices. In the case of school discipline, this means abandoning the long accepted practice of zero tolerance and its associated values, identities, and processes of punishment and exclusion. While there has been attention in the literature to changes in school discipline at the local, state, and federal levels—relative to zero tolerance—scholars have not engaged in inquires tracing the emergence of restorative justice, its consequent cascade, and institutionalization as a new norm. This Article aims to do just that. Since the 2000s restorative justice norm entrepreneurs have sought to challenge the social, political, and legal consequences of the school discipline policies grounded in punitive and exclusionary responses to student behavior. Their work has
clarified, socialized, and institutionalized restorative justice in local contexts and led to key changes at the state and federal levels. Within diverse contexts, the identity and practice of restorative justice evolved and with it a “first generation” of research emerged. This early work was both descriptive and prescriptive presenting theoretical constructions and empirical findings. As restorative justice has repositioned from the margins to the center there is a need for a “second generation” of studies asking new questions about outcomes, practices, and implementation, but as importantly, how an ideational and normative shift has occurred to move what was once viewed as a ‘weaker alternative’ in discipline to one that is preferred over zero tolerance and exclusion. It is within this “second generation” of study that this Article is positioned. At its foundation this Article is motivated by and grounded in descriptive analysis that identifies and articulates a more integrated understanding of the evolution of school-based restorative justice in the United States. Thus, rather than focus on a single case study, especially given the limitations of one case study to make general inferences, it explores multiple accounts and sites of school-based restorative justice. Moreover, by presenting a range of examples it seeks to promote new directions in the restorative justice research agenda aimed at refining and improving theoretical and pragmatic propositions of how localized practices have catapulted to become widely accepted, applicable, and desirable nationally.

INTRODUCTION

Over the last thirty years the United States has undergone significant shifts in how it views youth behavior, including the practices and policies used within schools to address behaviors deemed outside socially acceptable constructions. While student misconduct was initially accepted as “within the bounds of healthy development, and manageable via traditional school-based interventions,”1 in the 1980s and 1990s new social, political and legal norms emerged criminalizing once normal youth behaviors and introduced generations of students to exclusionary discipline and...
zero tolerance policies. Since then, a large body of research has developed across multiple disciplines documenting not only the far-reaching negative consequences of zero tolerance and punitive discipline, but also highlighting its flaws and failures. As academics, policymakers, and educators focused their efforts on macro- and micro-level assessments of discipline outcomes, impacted communities organized around the daily-lived experiences of youth attempting to

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3. Pamela A. Fenning & Miranda B. Johnson, Developing Prevention-Oriented Discipline Codes of Conduct, 36 CHILD. LEGAL RTS. J. 107, 107-09 (2016). For example, in 2009 schools, on average, reported an annual suspension rate of 10%, the highest it has ever been. Daniel Losen et al., Are We Closing the School Discipline Gap?, CTR. FOR C.R. REMEDIES 5-7, 19 (2015), https://civilrightspolicy.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/federal-reports/are-we-closing-the-school-discipline-gap/. But in many schools the average exclusion rate is actually much higher. In Pontiac, Michigan, and St. Louis, Missouri nearly a third of students are suspended annually. Id. at 18. When considering rates of exclusion on a statewide level, the data are no better. Florida has a 19% suspension rate, and in Texas, nearly 60% of students have been suspended by the time they graduate high school. Id. at 7. Nationally, African American students are suspended at three times the rate of their white counterparts, creating a “discipline gap,” which researchers argue shows the link between discipline trends and the socioeconomic chasm in academic achievement. Id. at 5. The discipline gap has become so well-documented that the United States Department of Justice and United States Department of Education issued a joint “Dear Colleague” letter in January 2014 urging school systems to fix discriminatory punitive practices. Letter from U.S. Dep’t of Just. & U.S. Dep’t of Educ. 4-5 (Jan. 8, 2014). See also, U.S. DEPT OF EDUC., GUIDING PRINCIPLES: A RESOURCE GUIDE FOR IMPROVING SCHOOL CLIMATE AND DISCIPLINE 9 (2014).

4. See Armour, supra note 1, at 1001-03; LOSEN, supra note 2; Mitchell, supra note 2, at 280-93; Skiba et al., Race Is Not Neutral, supra note 2; SKIBA ET AL., NEW DEVELOPING REPORT, supra note 2, at 2-3, 5; Stinchcomb et al., supra note 2, at 127, 129-30; Stone & Stone, supra note 2; Fenning & Johnson, supra note 3; Losen, supra note 3, at 5-7, 18-19; Letter from U.S. Dep’t of Just., supra note 3; U.S. DEPT OF EDUC. supra note 3; TALKING POINTS: THE SCHOOL-TO-PRISON PIPELINE, ACLU 1, http://www.aclu.org/racial-justice/school-prison-pipeline-talking-points (last visited Sept. 21, 2016).
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thrive in zero tolerance school environments.⁵ In the face of more than a decade of demands for change from multiple constituencies, schools have begun to shift rapidly towards new norms in school discipline.

The first adoption and implementation of restorative practices occurred in the 1990s led by restorative justice norm entrepreneurs in a handful of schools.⁶ Similar to their international counterparts, restorative justice norm entrepreneurs first introduced it as a means to address safety and violence, reconstruct accepted models of discipline, decrease reliance on exclusionary practices, build community capital, and ground principles of human dignity and respect. Initially, school-based restorative justice practices were largely variants of victim-offender mediation, family or group conferencing, and circle conferencing⁷ and often temporally linked to pilot funding sources. While there is no universal definition, restorative justice has been accepted as a diverse multi-layered concept, which requires a philosophical and practical shift away from punitive and retributive control mechanisms. The broad aim of restorative justice⁸ in educational policy and practice is to be more


⁷ Karp & Breslin, supra note 6, at 252; González, Keeping Kids in Schools, supra note 2, at 301–03; Stinchcomb et al., supra note 2, at 124–25, 131–32, 134.

⁸ For purposes of this Article, the term “restorative justice” aims to capture a diverse range of practices, including but not limited to, affective statements, conferences, mediations, and circles, as well as informal restorative-based approaches used by members of the school community (teachers, administrators and other staff, students, and parents). A broad use of the term recognizes dominant findings in the field, that schools most often implement restorative justice practices along a continuum model to address differences across schools based on numerous student, school, and staff-level factors. Further, my use of “restorative justice” also encompasses a variety of terms used in the literature, such as “restorative
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responsive and restorative to the needs and concerns of the school community. Grounded in three core principles of repairing harm, involving stakeholders, and transforming community relationships, restorative justice prioritizes individual and community growth, contributing to an overall safer and healthier school culture.9

As school-based restorative justice evolved in the United States a “first generation” of research emerged. Following the lead of international scholars the work centered on identifying primary outcomes and establishing frameworks for sustained and effective implementation. Initial studies were descriptive and prescriptive, presenting both theoretical constructions and empirical findings. In recognizing the complexity of implementation, scholars sought to generate useful insights to challenges regarding the design and structure of practices and policies that seek to actualize a diverse multi-layered concept that requires a philosophical and practical shift away from punitive and retributive control mechanisms.

While early sites were lauded for their positive outcomes, particularly in the areas of decreased suspensions and expulsions,10 the emergent norm of restorative school discipline had not yet reached a moment of norm cascade or “tipping point.” However, the use of restorative justice in schools has grown exponentially moving it beyond characterizations as an alternative at the margins of educational policy. Restorative justice is no longer limited to a small number of sites, but instead, it is present in schools in more than half the states across the country and institutionalized across diverse social, political, and legal spheres. In fact, restorative justice is now identified as an essential element of discipline reform and is imperative for schools seeking to address some of the most pressing civil and human rights issues associated with zero tolerance. For example, in 2014, the Council of State Governments Justice Center issued its School Discipline Consensus Report based on field-driven and consensus-based recommendations from over 100 advisors and approaches,” “restorative practices,” “restorative processes,” “restorative discipline” and other similar language.


10. See supra Introduction.

11. Id.
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600 contributors to “reduce[e] the millions of youth suspended, expelled, and arrested each year while creating safe and supportive schools for all educators and students” and within the report restorative justice was positioned as essential to positive school climates and the development of productive learning environments. But diffusion of restorative justice as a new norm in school discipline is not limited to recommendations and reports. School boards and other administrative rulemaking bodies have promulgated and passed resolutions and policies recommending and requiring restorative justice. State departments of education provide toolkits and trainings for schools seeking to implement restorative justice practices. Additionally, state legislatures have passed school discipline reform laws requiring alternatives to exclusionary discipline, such as restorative justice. As the former Secretary of the United States Department of Education, Arne Duncan has noted, “States are revising discipline laws to enhance local discretion, curtail zero-tolerance requirements, and encourage the development of alternative disciplinary approaches such as restorative justice.” The movement of restorative justice from a local identity to a widely accepted philosophy and practice is visible not only at the state-level, as national organizations such as the National Association of Educators and the American Federation of Teachers as well as both President Obama and presidential

13. See supra Introduction.  
18. In 2014, the American Federation of Teachers resolution adopted at national convention in support of personnel, training, and resources for implementing restorative justice programs. Resources on Positive Discipline, AM. FED’N TCHR., http://www.aft.org/ae/winter2015-2016/resources (last visited Sept. 21, 2016); see also RESTORATIVE PRACTICES:
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nominee Hillary Clinton have endorsed and supported the expansion of restorative justice in schools.19

Taken as a whole, if restorative justice was once characterized as highly localized and aimed at addressing specific behavioral issues, this construction has transformed. Restorative justice is now understood as a philosophy and practice shown not only to address disproportionality in discipline and dismantle zero tolerance, but as importantly to, “create a climate that promotes healthy relationships, develops social-emotional understanding and skills, increases social and human capital, and enhances teaching and learning.”20

Thus, the purpose of this Article is two-fold: (1) to characterize how restorative justice has moved from the margins of education policy to the center, and (2) to explore the emergence and cascade of restorative justice though the norm life cycle as understood through the lens of theories of normative change.

Inquiry of this nature is important for several reasons. First, there is currently no scholarly work that traces the emergence of school-based restorative justice and its consequent cascade and institutionalization as a new school discipline norm. Second, there is a critical need for new directions in the restorative justice research agenda aimed at understanding how a localized alternative to justice has become a widely accepted, applicable, and desirable mechanism for school discipline nationally. Third, such research—on the acceptance of a non-punitive and non-exclusionary response to individual and group behaviors—may shed light on the potential for other systems in the United States to likewise shift from


20. Armour, supra note 1, at 1018.
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retributive to restorative frameworks.21

This Article proceeds in the following manner. Part I provides a brief description of restorative justice as a philosophy and set of practices in schools. Part II then sets forth theories of norm emergence and diffusion. Part III draws on Finnemore and Sikkink’s norm life cycle theory to illustrate my norm change proposition to argue that the cascade of a new norm in school discipline is underway in the United States.

I. RESTORATIVE JUSTICE IN THEORY AND PRACTICE

The study of restorative justice can be broadly categorized within two areas: theoretical and applied/practice research. While a considerable body of empirical research illustrates the effectiveness of restorative justice in other sectors, such as diversionary practices for youth in the juvenile justice system, a comparable body of research and evaluation on the effectiveness of restorative justice as a mechanism for improving school safety is a relatively new phenomenon. This is particularly true when focusing on its development in the United States.22

Restorative practices first emerged in the context of the juvenile justice and criminal justice systems in the 1970s. But beginning in the 1990s its application and implementation in schools has grown exponentially.23 As a philosophy and set of practices and principles,
restorative justice allows schools to develop balanced responses to a diverse set of issues ranging from safety to climate to the discipline gap to entry into the juvenile and criminal justice systems. Schools as an institution, at the societal level, and as communities, at the micro level, are the cornerstone for youth socialization and the social control of delinquent behavior. In this context, restorative justice is understood as the implementation of theory and practice aimed at sustaining just and safe communities. Thus, the broad aim of school-based restorative justice practices is to prioritize community inclusion and capacity over punitive and exclusionary responses to behaviors to create safer environments. Similar to the expansion internationally, domestic norm entrepreneurs first introduced restorative justice as a means to address safety and violence, reconstruct accepted models of discipline, decrease reliance on exclusionary practices, build community capital, and ground principles of human dignity and respect.

While there is no unified theory, when focused on improving school safety, promoting positive school learning environments and increasing academic achievement, restorative justice is based on three core principles: (1) repairing harm, (2) involving stakeholders, and (3) transforming community relationships. As Riestenberg asserts:

A restorative philosophy emphasizes problem-solving approaches to discipline, attends to the social/emotional as well as the physical/intellectual needs of students, recognizes the importance of the group to establish and practice agreed-upon norms and rules, and emphasizes prevention and early restorative intervention to create safe learning environments.

Thus, as a disciplinary paradigm and norm, restorative justice practices in Pennsylvania, Minnesota and Wisconsin in the late 1990s; see also supra Part I.  
27. Stinchcomb et al., supra note 2, at 134 (citing Nancy Riestenberg, Zero and No: Some Definitions, ROSEVILLE: MINN. DEP’T EDUC. 10 (2003)).
emphasizes the importance of inclusion, relationships, social capital, and the shared values, which promote pro-social behavior learned through modeling, conflict resolution, and mutual support.28

As a relatively new field, researchers have initially focused on connections to socio-emotional learning, school climate, social capital, supportive relationships, pro-social behavior, collective problem solving, and conflict resolution skills. Early scholarship aimed at collecting quantitative data, i.e., reduction in incidents, numbers of suspensions, expulsions, office referrals, and surveys to assess climate and satisfaction with processes, in single school sites.29 This research set forth the framework for school-based

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practices and supported, both theoretically and practically, the idea that restorative justice could positively impact school culture and school safety.30 For example, the first empirical study examined the use of restorative conferences to address serious incidents in schools, such as assaults and found that there was a reduction of repeat offending behavior and participants (victims, offenders, supporters, and administrators) were generally satisfied with the process and outcomes achieved.31 This work was followed by a series of theoretical and evidence-based examinations of restorative justice practices, such as conferencing, to address a wide range of behaviors from property damage, drug-related incidents, persistent class disruption, assaults, and bullying.32 In light of the negative impact of zero tolerance, there has been significant focus on behavioral outcomes such as suspensions, expulsions and restorative justice.33 More recently, there is emerging evidence that restorative justice has an impact on racial disproportionality in discipline.34

Since the late 1990s, restorative justice practices have evolved from victim-offender mediation, family and group conferencing, and circle conferencing to what is characterized as a continuum of restorative approaches. Not surprising, as the continuum model expanded, researchers shifted their study of practice implementation and expansion to reflect “whole-school” approaches.35 Additionally, researchers also began to develop

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33. Armour, supra note 1, at 1019–22; see also infra Part III.

34. Armour, supra note 1, at 1022.

35. Primary practices involve the entire school community and seek to establish a value ethic and skill base. Secondary practices address specific behaviors that disrupt social relations of shared school spaces, such as classrooms, hallways, and playgrounds. Tertiary practices respond to serious harm and involve all those affected uses conferences or circles. Morrison & Vaandering, supra note 9, at 144; see also Armour, supra note 1, at 1017; Morrison, Regulating Safe School Communities, supra note 28, at 696–97.

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preliminary measures and metrics for school-wide behavioral outcomes. The emergence of the whole-school model as a dominant feature in the academic literature represented a clear ideational shift in the acceptance and understanding of restorative justice. No longer simply a theoretical construction, restorative justice’s identity and associated practices were actively moving towards an idea or norm that would become institutionalized in mainstream education policy and practice. As Morrison and Vaandering have argued, restorative justice’s values, skills, and practices establish an institutional space that responds not only to incidents of aggression and harm, but to all relationships that occur in schools, including administrator interactions, policy decisions, teacher pedagogy and curriculum, and professional and institutional development.

Like many of the comparable international studies, the research design of domestic school-based restorative justice has included the collection of qualitative information (observations, interviews, and focus groups) and school- or district-wide quantitative data (capturing changes in the rates of suspensions, expulsions, behavior referrals, and attendance). For example, my earlier longitudinal study of restorative practices in Denver, Colorado found that in the initial one-year pilot at Cole Middle Schools, ninety-five students were referred to restorative justice conferencing or mediation in lieu of suspensions with 84% of the students signing restorative agreements for conflicts ranging from “trash talk” to physical altercation. By the end of the pilot phase in 2004, police citations had declined by 86% and suspensions by over 40% with 11 of 14 cases of fighting referred to restorative intervention and restorative agreements reached in each instance. In 2006, Denver Public Schools began a multi-phased process of implementation across elementary, middle and high schools aimed at whole-school level adoption, which has resulted in positive outcomes across various metrics of school safety, school climate, academic achievement, suspensions and expulsions across elementary, middle and high

36. A whole-school model of restorative practices can include: affective statements, restorative circles, peer mediation, informal and formal conferences, large group circles, restorative questioning, and restorative dialogue.
37. Morrison & Vaandering, supra note 9, at 144–45.
38. González, Socializing Schools, supra note 28, at 158.
39. See supra Part I; see also González, Keeping Kids in Schools, supra note 2, at 323–34.
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In a four-year period at North High School (the first high school where restorative justice was implemented in Denver) fights decreased from more than 50 each year to 10. In addition to impacting disciplinary actions, Baker conducted survey sampling in Denver Public Schools finding that 30% showed improvement in school attendance and tardies.

Similarly, in South St. Paul, Minnesota, Stinchcomb, Bazemore, and Riestenberg’s analysis found that over a three-year period behavior referrals for physical aggression in an elementary school declined from 773 to 153, suspensions in a middle school reduced from 110 to 55, and high school suspensions dropped from 132 to 95.

In addition to resolving individual conflicts, restorative justice was found to positively impact school culture. Additionally, behavior referrals for physical aggression at the same elementary school decreased from 773 to 153 incidents. Riestenberg has conducted subsequent analysis of the Minnesota project noting that after the second round of funding, evaluations showed reductions in behavior-related referrals and suspensions at 45% and 63% respectively.

Retrospective review and analysis of discipline data in 2007–2008 revealed that students who went through a restorative process were also less likely to repeat an incident. Similarly, Karp and Breslin reported, referrals for violent behaviors at Lincoln Center Elementary School decreased by more than half.

In Lansing, Michigan, von der Embse, von der Embse, von der Embse, von der Embse, and Levin reported in 2008–2009, after an initial five year implementation (beginning in one elementary school and expanding to 19 high school, junior high, and elementary schools), restorative

43. Stinchcomb et al., supra note 2, at 135–37.
44. Id.
45. Id. at 136.
47. Id. at 210.
48. Karp & Breslin, supra note 6, at 257.
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justice was used with over 1,500 students, with 507 out of 522 cases resolved, 11 expulsions and more than 1,600 suspensions days avoided. Their long-term surveys indicated almost 90% of the participants learned new skills in conflict resolution.

Utilizing qualitative methodology in a single school case study in Boston, Massachusetts, Knight and Wadhwa examined the use of restorative circles in response to fights, misbehaviors, and gang violence, finding that in addition to addressing school safety, the circles served an important school-level resilience-building strategy for both educators and students. Their project reflected a new area of analysis in the field—the potential for restorative justice to develop resiliency and promote equitable opportunity to participate in the school community. Similarly, Schumacher’s two-year ethnographic study on the use of restorative practices with adolescent girls in public urban high schools provided interesting insights relative to restorative justice and school safety. Employing a modified ethnographic approach, she identified four relational themes and three emotional literacy skills. Key findings were two-fold. One, participants in the restorative circles felt a sense of safety within the school community, and two, the restorative circles promoted refined anger management, active listening and interpersonal sensitivity, all key aspects of pro-social behavior. Such skills have been identified in earlier studies as linked to improved school climate and preventing disruptive behavior.

While the focus of this Article centers on a proposition of norm change, a new area of study in restorative justice, there remains a crucial need to expand current understandings of localized practices and outcomes. As such, I strongly support the continued development of the field across a range of research designs ranging from theoretical analysis to descriptive accounts and from models of

50. Id.
52. Id. at 15–16.
54. Id. at 4.
55. Id. at 5–7.
56. Morrison & Vaandering, supra note 9 at 147.
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practice to quantitative and qualitative studies of individual schools and districts. Such research will not only broaden the identity of restorative justice, but also align with the significant public discourse surrounding racial justice and the goal of ending the school-to-prison pipeline.

II. THEORIES OF NORMATIVE CHANGE

Before one can evaluate a norm change hypothesis, it is important to set forth the guiding theoretical foundations for how normative change takes place. Norms are social regularities that impose informal and formal standards and constraints on human behavior in deference to the preferences of others. They “come in varying strengths” with individual norms commanding different levels of agreement.

Changing a norm is difficult, as it requires developing new meanings as to preconceived ideas and practices. In this manner it finds expression in both individual and collective intentionality. Scholars have engaged in significant discourse considering how, why, and when norms influence state practices (at any level). Broadly speaking this discussion has been divided into theoretical accounts and practice-based approaches to understanding the mechanisms by which norms influence international, national and local actors. When considering change and the emergence of new norms, the literature generally identifies two types of change. The first type is a “process of norm emergence and the dynamics of change from no norm to [a] norm or from one norm to another.” The second is a change in a norms’ effectiveness, how the norm interacts and changes other features in

57. See William K. Jones, A Theory of Social Norms, 1994 U. ILL. L. REV. 545, 546 (1994) (explaining social norms as those rules and standards that define the limits of acceptable behavior); see also Robert Axelrod, An Evolutionary Approach to Norms, 80 AM. POL. SCI. REV. 1095, 1097 (1986) (“A norm exists in a given social setting to the extent that individuals usually act in a certain way and are often punished when seen not to be acting in this way.”).


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a political landscape.\(^6\)

For purposes of this Article the most resonant articulation of norm change is grounded in constructivist theories.\(^5\) Constructivists\(^6\) focus on social “meaning that is constructed from a complex and specific mix of history, ideas, norms, and beliefs” to derive explanations of state behavior.\(^4\) At its foundation, “[c]onstructivism asks how norms evolve and how identities are constituted, analyzing . . . the role of identity in shaping political action and the mutually constitutive relationship between agents and structures.”\(^5\) In their seminal work, Finnemore and Sikkink describe the norm life cycle in three stages (norm emergence, norm acceptance or cascade and norm internalization) and identify the points at which new social meanings emerge.\(^6\)

In first stage—emergence—norm entrepreneurs play a key role

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\(^6\) See generally Sheri Berman, Ideas, Norms, and Culture in Political Analysis, 33 COMP. POL. 231 (2001) (discussing the impact of norms on outcomes); Dionysiss G. Dimitrakopoulos, Norms, Interests and Institutional Change, 53 POL. STUD. 676 (2005) (discussing how norms affect the process of institutional change).

\(^5\) There is a well-established body of work in sociology that addresses the concept of social norms to explain how society shapes individual behavior, and while important to understanding the how of social change, such work is outside the scope of this Article. See, e.g., Richard H. McAdams, The Origin, Development, and Regulation of Norms, 96 Mich. L. Rev. 338, 339 (1997).


\(^5\) E.g., Anne-Marie Slaughter & Thomas Hale, International Relations, Principal Theories, in MAX PLANCK ENCYCLOPEDIA OF PUBLIC INTERNATIONAL LAW 129 (Rüdiger Wolfrum ed., 2013) (citing ALEXANDER WENDT, A SOCIAL THEORY OF INTERNATIONAL POLITICS (2000)).


\(^6\) Finnemore & Sikkink, supra note 59, at 896, 902, 904 (1998) (new social meanings are what they call “agreements” or “shared moral assessments”). Although writing about the phenomenon of international norm dynamics, the authors note parallels to norm dynamics at the domestic level. See id. at 893 (discussing the domestic emergence of the norm of women’s suffrage). In the context of environmental protection, Vandenbergh asserts that social meaning can “shape social norms” by strengthening or modifying existing norms or by encouraging or impeding the emergence of new norms. See Michael P. Vandenbergh, The Social Meaning of Environmental Command and Control, 20 VA. ENVT. L.J. 191, 204 (2001).
in the introduction, creation, and interpretation of a new norm by framing, articulating, and spreading ideas. Sunstein postulates that norm entrepreneurs, individuals who seek to change existing norms, are critical to the emergence of a new norm and to its adoption by others. Norm entrepreneurs highlight pressing social, political and legal issues or create new issues “by using language that names, interprets and dramatizes them.” As Finnemore and Sikkink emphasize, in the first stage these entrepreneurs construct “cognitive frames” and, if they succeed in this effort, “the new frames resonate with broader public understandings and are adopted as new ways of talking about and understanding issues.” During the process of emergence, entrepreneurs use “persuasion” or strategic social construction utilizing varying strategies to secure acceptance or socialization of emerging norms by state actors. Building on these ideas, Risse and Sikkink further define the theoretical framework of norm socialization processes to include three types of socialization processes, which are necessary for enduring change adaptation and strategic bargaining: (1) moral-consciousness raising (shaming, argumentation, dialogue and persuasion), (2) institutionalization, and (3) habitualization. More recent literature has highlighted changes that occur during the norm diffusion and focus on the process of norm localization in which local and global actors change the framing and content of a norm in

67. Finnemore & Sikkink, supra note 59, at 902 (explaining “the primary mechanism for promoting norm cascades is . . . socialization,” which occurs through a process of “emulation . . . praise (for behavior that conforms to group norms”).

68. Sunstein, supra note 63, at 909 (defining “norm entrepreneurs” as people who when successful, produce “norm bandwagons,” which are created when small changes in behavior result in large ones).

69. Finnemore & Sikkink, supra note 59, at 897. Norm entrepreneurs create new norms by blatantly acting in a way that defies or transcends existing norms, signaling others that they should copy the new behavior.

70. Id.

71. Id. at 914 (defining persuasion as “the process by which agent action becomes social structure, ideas become norms”).

72. Id. at 898, 900. As norms emerge, entrepreneurs must deal with “firmly embedded alternative norms and frames that create alternative perceptions of both appropriateness and interest.” Id. at 897. During moments of contestation, norm entrepreneurs may need government endorsement of the new norms and agreement to include the norm in the political agenda. Id. at 900.

order to adapt or incorporate the norm.\textsuperscript{74}

When norms move toward dominant acceptance (or cascade), “institutionalization contributes strongly to the possibility for a norm cascade both by clarifying what . . . the norm is . . . and by spelling out specific procedures by which norm leaders coordinate disapproval and sanctions for norm breaking.”\textsuperscript{75} While there is no precise definition or formula for the second stage of the norm life cycle, Sunstein observes that “[n]orm cascades occur when societies experience rapid shifts toward new norms.”\textsuperscript{76} Similarly, Lutz and Sikkink suggest that, “norms cascades are collections of norm-affirming events. These events are discursive events—that is, they are verbal or written statements asserting the norm.”\textsuperscript{77} Adopting the sociological concept of “tipping points,” Gladwell posits norm cascades are identified by the moment when a social idea or norm crosses a threshold that leads to widespread adoption.\textsuperscript{78} During a norm cascade the key actors are no longer only norm entrepreneurs, but instead majority preferences reflect the new norm across a range of individuals, networks, organizations, and group stakeholders.\textsuperscript{79} As cascade processes occur, the need for pressure from the entrepreneurs lessens.\textsuperscript{80} One notable characteristic of internalization at the end of stage two is repeated behavior and habit.\textsuperscript{81}

In the third stage of internalization\textsuperscript{82}, “norms may become so


\textsuperscript{75} Finnemore & Sikkink, \textit{supra} note 59, at 900.

\textsuperscript{76} Sunstein, \textit{supra} note 63, at 912 (Sunstein presents examples of norm cascade including, “the attack on apartheid in South Africa, the fall of Communism, the election of Ronald Reagan, . . . the rise of the feminist movement, and the current assault on affirmative action.”); see also Lawrence Lessig, Social Meaning and Social Norms, 144 U. PA. L. REV. 2181, 2185 (1996) (explaining “snowball” effect in evolution of norms).

\textsuperscript{77} Lutz & Sikkink, \textit{supra} note 63, at 655.

\textsuperscript{78} MALCOLM GLADWELL, THE TIPPING POINT: HOW LITTLE THINGS CAN MAKE A BIG DIFFERENCE 12 (2002).

\textsuperscript{79} Nick Robinson, Citizens Not Subjects: U.S. Foreign Relations Law and the Decentralization of Foreign Policy, 40 AKRON L. REV. 647, 706 (2007) (discussing how norm cascades created by localities’ actions not only impact the policy they are directed at, but also have a wider impact).


\textsuperscript{81} Id. at 143.

\textsuperscript{82} Norm internalization is the subject of an extensive body of scholarship investigating the social, moral, legal, psychological and philosophical reasons why individuals and society
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widely accepted that they are internalized by actors and achieve a ‘taken-for-granted’ quality that makes conformance with the norm almost automatic.”83 Finnemore and Sikkink suggest the main actors in this final process of internalization are laws, professions, and bureaucracies that achieve normalization through habit and institutionalization.84 Understood more broadly, what constitutes the critical mass to shift from cascade to internalization is a sufficient number of individuals or groups who agree with the new norm to establish broad-based adoption and consensus. As scholars have noted, it is hard to determine the precise moment in which internalization has occurred. For example, Babcock observes “internalization of a new norm also depends upon the type of norm involved and the ‘prominence’ of the norm leaders.”85 Similarly, Koh argues the “precise sequencing among political, legal, and social internalization” will vary from case to case.86 Further, Koh notes a norm could be socially internalized “long before it is politically or legally internalized.”87 While Koh’s work is grounded in studying the internalization of international norms into domestic processes, he provides a helpful framework—that norm internalization can be viewed politically, legally, and socially—for understanding the experience of restorative justice norm emergence. At each of these levels of internalization, the new norms are repeated, interpreted, and concretized. Whether looking to practices, processes, or even policies, changes in school discipline offer examples of the emerging consensus among actors affirming the distinctness of restorative justice.

III. THE NORM CHANGE PROPOSITION: ADVANCING A NEW UNDERSTANDING OF SCHOOL DISCIPLINE IN THE UNITED STATES

Acknowledging that norms are dynamic and emerge through an agreement process, Finnemore and Sikkink’s work set forth a primary question central to this Article, “How do we know a norm

83. Finnemore & Sikkink, supra note 59, at 904.
84. Id. at 905.
85. Babcock, supra note 80, at 143–44.
87. Id.
Applying the norm life cycle theory to analyze the process of norm creation, they argue one can look at “how agreement among a critical mass of actors on some emergent norm can create a tipping point after which agreement becomes widespread in many empirical cases.” While this Article cannot predict the depth of cascade or internalization of restorative justice at this stage, given its rapid and continued growth, it suggests four key indicators that can help measure this: (1) the number of schools with restorative justice practices; (2) changes in exclusionary behavioral outcomes; (3) amendments or revisions to school codes of conduct and/or discipline policies; and (4) state and/or federal laws, guidelines, and policies. Whether viewed at the micro- or macro-levels, the presence of these indicators suggest emergence and subsequent cascade of restorative justice as a norm.

To demonstrate my argument about normative change, this section proceeds as follows. In the first section I present five examples of “established sites” of restorative justice practice within a discussion of stage one of the norm life cycle. These sites were selected for their emergence prior to 2006 and the sustained nature of restorative justice practices. Additionally, these five sites have served as models for new schools seeking to establish a common narrative with those viewed as norm entrepreneurs (“emerging sites”). In the next section, I explore the rapid expansion of school-based restorative justice following the norm life cycle into stage two, cascade. The final section, presents observations regarding the current state of restorative justice in the context of the third stage, internalization.

88. Finnemore & Sikkink, supra note 59, at 892.
89. Id. at 892–93.
90. This Article acknowledges that the results from individual studies are going to reflect diversity in identified indicators depending on whether one looks at different stages to operationalize their application to the norm life cycle and norm change more generally.
91. Given the focus of this Article, the descriptive analysis of each “established site” is not meant to provide comprehensive and individualized exploration, nor does it reflect all sites of restorative justice implemented pre-2010. Rather, this section serves to present salient examples of norm entrepreneurs in tracing the emergence of school-based restorative justice.
92. Such consensus could be a potential measure of the norm life cycle. While it is not the aim of this Article, I urge others to consider study of this nature. Such research would not only help to shape a stronger understanding of the normative identity of restorative justice, but also highlight how norm emergence is not a linear process or pre-determined by entrepreneurs. Instead, it is a dynamic process in which ideas and practices evolve and change.
93. Scholars have found it difficult to establish the specific moment or draw generalized
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A. Stage One: Norm Emergence

There is little doubt that school discipline in the United States is transforming. And the most common causal mechanism that is said to account for the spread of norms is human agency, either as individuals, groups, or government leaders. As Finnemore and Sikkink note:

[n]orms do not appear out of thin air; they are actively built by agents [with] . . . strong notions about appropriate or desirable behavior in their community . . . . Norm entrepreneurs are critical for norm emergence because they call attention to . . . or . . . ‘create’ issues by using language that names, interprets, and dramatizes them.94

Given that institutionalization of any new norm is not an immediate process, the first restorative justice norm entrepreneurs were necessary to frame, articulate, debate, and facilitate the spread of ideas.

Even though individual practices initially emerged locally, commonalities existed among norm entrepreneurs across established sites.95 First, they defined restorative justice as a philosophy and set of practices, not simply an alternative program. Second, they identified and named the bias in highly punitive school cultures and framed the disproportionate impacts of zero tolerance in terms of racial and gender disparities. Third, they articulated the connections between punitive discipline and entry into the juvenile and criminal justice systems. Fourth, they sought policy changes within their schools and districts that internalized not only restorative practices, but also its core guiding principles. Fifth, they connected restorative justice with data reflecting significant decreases in exclusionary behavioral outcomes, i.e., suspensions and expulsions. And a related point, sixth, they adopted whole-school models aimed at realigning values so that relationships and connectedness became the dominant frame for all members of the school community.

Implementation among the early sites of restorative justice was based on a whole-school model and the following examples represent some of the most comprehensive practices presently in

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95. See Part II.
existence. While they are categorized by state for purposes of this Article, implementation has not occurred at the state level with one noteworthy exception discussed in a later section.96 As expected in a process of norm growth and diffusion, variation in initial implementation existed such as, collaborative partnerships with local nonprofits dedicated to restorative solutions in both the criminal and juvenile justice systems or the hiring of district employees as part-time or full-time restorative justice coordinators. But as restorative justice has become increasingly internalized and acculturated these sites have adjusted and a greater intersection of identity, values, practices, and outcomes has emerged.97 For example, an observable trait across each of the established sites is a shared acceptance of the practice. This is evidenced in both written materials—reports, policy papers, practice guides, etc.—and behavioral practices—the use of a whole-school and continuum approach. There is also similarity of language across these sites when articulating the specific goals and values associated with the behavioral practices and related outcomes of restorative justice, as well as its use in discipline policies and codes of conduct. Moreover, whether increased institutionalization occurred as a result of additional funds coming from the local, state and federal or due to significant political and legal attention to the critical civil and human rights issues faced by students in zero-tolerance environments, restorative justice has secured a status of heightened legitimation.

1. California

In 2005, Oakland Unified School District (OUSD) began the implementation of restorative justice at a district-wide scale, in response to a growing consensus that the existing punitive policies were unhealthy for students and contradictory to positive school culture.98 As one of the first sites to adopt restorative practices at a

96. Armour, supra note 1, at 1029–31 (discussing expansion in Texas and how the Texas Education Agency and the Institute of Restorative Justice and Restorative Dialogue at the University of Texas at Austin is using regional education centers to implement sustainable restorative practices in schools).
97. This is not to say that implementation adheres to a set model or practice lifted from one site to another, as this simply does not work.
98. SONIA JAIN ET AL., RESTORATIVE JUSTICE IN OAKLAND SCHOOLS IMPLEMENTATION AND IMPACTS: AN EFFECTIVE STRATEGY TO REDUCE RACIALLY DISPROPORTIONATE DISCIPLINE, SUSPENSIONS AND IMPROVE ACADEMIC OUTCOMES, iv (2014), http://www.ousd.org/cms/
district-wide, whole-school basis, there are several studies in the literature.\textsuperscript{99} While these studies did not formally name OUSD as a norm entrepreneur, it is clear that OUSD shares the characteristics attributed by scholars to norm entrepreneurship.\textsuperscript{100} For example, OUSD’s initial framing of restorative justice sought to establish both a practical and normative consensus regarding the harms of exclusionary discipline, in particular for students of color, and develop a growing interest in restorative justice as an alternative to zero tolerance that could potentially achieve educational, behavioral, and psychological goals.\textsuperscript{101} This framing expanded the status of restorative justice practices beyond a program and elevated its social value. Following the first three years of implementation, norm entrepreneurs inside and outside OUSD were successful in changing the majority preferences from zero tolerance to restorative justice and institutionalizing the restorative justice within the discipline policy.\textsuperscript{102} This was a pivotal moment that helped to firmly embed restorative justice as legitimate and communicate OUSD’s values and interests to other actors. Since 2005, OUSD’s long-term practices have created a social environment by which the norm of restorative justice has not only shaped the local context, but also influenced the social, political and legal meanings of discipline in California.\textsuperscript{103}


\textsuperscript{100} See Part II.

\textsuperscript{101} Interview with Mary Louise Frampton, Adjunct Professor of Law, Former Faculty Dir. of Thelton E. Henderson Ctr. for Soc. Justice, in Berkeley, Cal. (Oct. 23, 2012) (on file with author).

\textsuperscript{102} González, Keeping Kids in Schools, supra note 2, at 306–07.

\textsuperscript{103} See infra note 179. As Babcock notes, “[S]ocial meaning shapes norms especially when that meaning is articulated by some law. ‘[L]aw is expressive in the sense that it can signal, reinforce or change social meaning,’ and ‘the public can receive a message conveyed by law, whether intended or unintended, and . . . this message can have an impact on perceptions about the sources of a problem and on the social norms that develop in response to those perceptions.’” Babcock, supra note 80, at 145–46. In 2015, RJOY became a thought partner with the Restorative Schools Vision Project (RSVP). This collaboration is funded by the California Endowment and aimed at developing state-wide diffusion of restorative justice in schools. For example, RSVP has held stakeholder convenings across California with the aim to “gather feedback to inform the findings of statewide research about restorative justice best practices in the school setting.” As RSVP notes, “[T]he convenings are part of a broader statewide campaign to end the school-to-prison-pipeline and integrate restorative practices throughout the CA public education system.” See E-mail from Alena Marie, Program Manager, Restorative Schs. Vision Project (May 16, 2016) (on file with author); Interview with Fania
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Similar to schools in Illinois, Pennsylvania, and Maryland, the implementation of restorative justice practices in Oakland was based on a collaborative partnership with a local nonprofit, Restorative Justice for Oakland Youth (RJOY). During the pilot phase OUSD reported positive outcomes across a range of measures. Presently, twenty-four schools in OUSD utilize whole-school restorative justice practices. Consistent with other restorative justice norm entrepreneurs, OUSD utilizes a whole-school model with a primary focus on addressing disciplinary disproportionality and the discipline gap.

As the 2014 study by Jain, Bassey, Brown and Kalra emphasized, the impact of restorative justice in these areas is measurable. For example, in addition to incremental decreases (2011–2012 and 2012–2013) in the suspension gap between African American and white students, by 2013, schools had decreased their discipline disproportionality across multiple racial categories, if not eliminated them altogether. Restorative justice has also had a demonstrable impact on school climate and academic achievement. In a comparative analysis of middle schools with and without restorative justice from years 2010 to 2013, the former saw a 24.4% decline in chronic absences, while the latter saw a 62.3% increase. Similarly, four-year graduation rates at restorative high schools increased by 60%, compared to 7% at schools with punitive discipline and restorative justice high schools experienced a 56% decrease in dropout rates compared to 17% in non-restorative justice

Davis, Exec. Dir., Restorative Justice for Oakland Youth, in Oakland, Cal. (May 19, 2016) (on file with author).
104. RJOY has remained the collaborative partner for OUSD providing direct restorative justice services across the district. Telephone Interview with Fania Davis, Exec. Dir., Restorative Justice for Oakland Youth, (Jul. 14, 2016) (on file with author).
106. JAIN ET AL., supra note 98, at 10–12.
107. Id. at 45–46. Moreover, the number of African Americans students suspended in one year decreased by 29%. Id. at 45.
108. Id.
109. For example, approximately 70% of staff surveyed reported that restorative practices improved climate and 67% of students felt that restorative justice improved their emotional and social skills. Id. at 40–41.
110. In another study of OUSD, Kidde and Alfred, found that standardized test scores at Cole Middle School increased 74 points following two years of restorative justice implementation. See KIDDE & ALFRED, supra note 99, at 17.
111. JAIN ET AL., supra note 99, at 49.
112. Id. at 51.
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high schools.\textsuperscript{113} Reading levels in grade 9 doubled in restorative justice high schools from an average of 14\% to 33\%, an increase of 128\% compared to only 11\% for non-restorative justice high schools.\textsuperscript{114}

2. Colorado

Denver Public School (DPS), like OUSD, should be viewed as a restorative justice norm entrepreneur. While other actors were undoubtedly important in Denver, the emergence of restorative justice was largely attributed to a handful of DPS employees and the community-based organization, Padres y Jóvenes Unidos, who sought to call attention to and address the overreliance on punitive discipline and zero tolerance.\textsuperscript{115} Like the norm entrepreneurs identified by Finnemore and Sikkink,\textsuperscript{116} these individuals used their status and position inside and outside DPS to secure initial acceptance of restorative justice.\textsuperscript{117}

In 2003, DPS introduced restorative justice at a single school site.\textsuperscript{118} Given these successes and the positive impact on school culture, restorative justice was integrated into the Cole Middle Schools discipline protocols in fall 2004 and used as an alternative to suspensions and police citations in specific cases.\textsuperscript{119} In 2006, DPS began a multi-school three-year pilot phase with a specific goal to reduce suspensions, expulsions, and police intervention in schools.\textsuperscript{120} This goal was coupled with explicitly naming of the bias

113. Id. at 52.
114. Id. at 50.
115. González, Restoring Justice, supra note 5 at 23–26; Telephone Interview with Ben Cairns, Principal, DSST Cole High Sch., (Jul. 11, 2016) (on file with author); Interview with Daniel Kim, Director of Youth Organizing, Padres y Jóvenes Unidos, in Harrisonburg, Va. (Jun. 19, 2016) (on file with author).
116. See Part II.
117. González, Restoring Justice, supra note 5, at 25–26; Telephone Interview with Ben Cairns, supra note 115. This acceptance was not limited to the local level, as the 2003 Cole Middle School and 2006–2009 multi-school implementation was funded by a Colorado Department of Education grant. See González, Keeping Kids in Schools, supra note 2, at 323–24.
118. The Cole Middle School pilot was a community-based restorative justice initiative implemented by VORP of Metro Denver and funded by the Office of Juvenile Justice and Delinquency Prevention. The selection of the school was simple: Cole Middle School was notorious for having the largest number of suspensions, tickets, and arrests in the district. As a VORP of Metro Denver community organizer noted, “[Cole] was stereotyped as a ‘gang factory’ where teachers would see students fighting in the hall and close their door instead of intervening.” González, Socializing Schools, supra note 28, at 158.
119. Id.
120. González, Keeping Kids in Schools, supra note 2, at 323–24; Interview with Timothy
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of punitive school culture and framing its disproportionate impact in terms of racial disparities.\textsuperscript{121} This change in discourse about punitive discipline connected to the introduction of restorative justice has become a prevailing model for many of the schools and districts. Across all of the “established sites” the norm entrepreneurs have used framing of exclusionary practices and zero tolerance to constitute and legitimize the new norm of restorative justice.

Following the pilot phase (2006–2009), DPS invested significant resources in whole-school and district-wide implementation. Like sites in Illinois and California, DPS focused on multi-school diffusion to strengthen the pragmatic and normative meanings of restorative justice, as well as build deeper acceptance of the practice.\textsuperscript{122} In 2008, with a critical number of people in the district in agreement about restorative justice, DPS passed a revised discipline policy.\textsuperscript{123} With the passage of the new policy, the new discipline norm of restorative justice in DPS became more firmly fixed in behavioral practice. Five years later, this institutionalization was further evidenced in a memorandum of agreement between DPS and the Denver Police Department (DPD).\textsuperscript{124} But institutional acceptance and internalization of restorative justice in Denver has not been limited to the district level. In 2012, the state legislature voted to phase out zero-tolerance policies, and in 2013, increased funding for restorative justice programs.\textsuperscript{125} Moreover, as DPS has

\textsuperscript{121} Telephone Interview with Ben Cairns, supra note 115.

\textsuperscript{122} This work was of course strongly guided by the positive outcomes realized in the pilot and post-pilot phases. See González, \textit{Keeping Kids in Schools}, supra note 2 and González, \textit{Socializing Schools}, supra note 28 for a more detailed discussion of post-pilot phase outcomes.

\textsuperscript{123} González, \textit{Socializing School}, supra note 28, at 161.

\textsuperscript{124} Id. at 163–64.

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clarified, socialized, and institutionalized restorative justice at the local and state levels, other sites across the state have emerged in such cities as Aurora, Colorado Springs, and Manitou Springs.\textsuperscript{126} With this state-level diffusion and acculturation, positive outcomes of restorative justice practices are no longer limited to DPS.\textsuperscript{127}

3. Illinois

In 2006, norm entrepreneurs in Chicago Public Schools (CPS) began a process of introducing a new set of practices and values associated with discipline.\textsuperscript{128} Similar to other early adopters, CPS’s restorative justice practice was grounded in a continuum model. Following positive outcomes after the first three-year pilot period, CPS expanded its practices and schools, and strengthened the position of restorative justice by developing and passing a revised student code of conduct that emphasized the use of restorative practices.\textsuperscript{129} The CPS student code of conduct “embraces the philosophy of restorative justice.”\textsuperscript{130} Such action formally signaled that restorative justice was no longer an abstract idea, but rather a concrete norm with formal standards and constraints on schools. In addition to policy changes within the district, CPS’s “new frames

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\textsuperscript{126} Debbie Kelley, \textit{Three Colorado Springs D-11 Schools to Add Restorative Justice Programs}, GAZETTE (May 7, 2015, 5:31 AM), http://gazette.com/three-colorado-springs-d-11-school-to-add-restorative-justice-programs/article/1551135. As restorative justice has diffused across Colorado the positive outcomes have not been limited to DPS. See PADRES Y JÓVENES UNIDOS AND ADVANCEMENT PROJECT, supra note 125.


\textsuperscript{130} HIGH HOPES CAMPAIGN, FROM POLICY TO STANDARD PRACTICE: RESTORATIVE JUSTICE IN CHICAGO PUBLIC SCHOOLS 7 (2012), http://www.suspensionstories.com/wp-content/uploads/2012/03/FromPolicyToStandardPractice.pdf. The code also “encourages principals and administrators to adopt and implement restorative justice philosophies and practices.” Id.
resonate[d] with broader public understandings131 and were “adopted as new ways of talking about and understanding issues”132 at the city level.133

Over the last ten years, CPS has sought to become increasingly responsive to the negative consequences of zero-tolerance policies and expand restorative practices throughout the district. For example, in 2011, CPS focused additional resources on restorative practices aimed at addressing school safety and school climate.134 With the Culture of Calm initiative, CPS expanded restorative justice in schools by the end of 2010–2011.135 In a 2015 assessment of the program, researchers reported such notable outcomes as out-of-school suspension rates decreasing from 24% to 16% and arrest rates for African-American boys declining from 4.8 to 3.6%.136 Similar to other norm entrepreneurs, advocates in Chicago view their collective work as more than simply “implementing a new program” and instead helping to constitute and advance a new discipline culture in Chicago.137

4. Maryland

In 1998, Baltimore County School District (BCSD) introduced restorative justice practices in response to three central concerns: high rates of suspensions and arrests, the racial disproportionality of youth entering the school-to-prison pipeline, and the development of safe and healthy school climates.138 Like in Oakland and Chicago, the introduction, and subsequent expansion, in BCSD has been grounded in a partnership with a community nonprofit,
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Community Conferencing Center (CCC). The early work of CCC and BCSD broadened the scope of discipline practices and was observed by other schools across the district and city, with attention to the potential application of restorative justice in a wider range of settings. In 2005, the Baltimore Curriculum Project (BCP) followed the lead of BCSD with the goal of whole-school culture transformation. One year later, restorative justice was established at three school sites (City Springs School, Collington Square School and Hampstead Hill Academy). Consistent with Finnemore and Sikkink’s observations of stage one that norm entrepreneurs may need to seek endorsement of the new norms as part of a larger political agenda, the initial support for BCP came from the Open Society Institute and the Goldsmith Family Foundation. This support not only signaled a greater nexus between restorative justice and school discipline, but that norm leadership was expanding outside the initial group of entrepreneurs.

Similar to the other “established sites” of restorative justice already discussed, measurable changes in outcomes for students were realized as restorative justice spread. As a 2014 report noted, at Hampstead Hill, suspensions were reduced by 61% and office referrals by 91% (2008–2009 to 2013–2014) and at Glenmount School there was a 67% overall reduction in suspensions and 77% reduction in number of students with multiple suspensions. In 2007, BCP expanded restorative practices to additional charter schools in Baltimore. While not as well studied as other “established”

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139. González, Keeping Kids in Schools, supra note 2, at 311. CCC provides restorative justice practice services, teacher training, and programmatic support for BCSD. With the support of the CCC, dozens of Baltimore schools implemented informal classroom circles, which termed the Daily Rap, and community conferencing, for more serious offenses. Id.


142. Id.

143. Finnemore and Sikkink, supra note 59, at 900.

144. Wachtel, Baltimore, supra note 141.


146. At City Springs School, where 99% of families live below the poverty line, restorative practices were implemented in 2007 and expanded to a whole-school approach three years
sites. Maryland schools have influenced the development of new social and political norms for school discipline evidenced at the local and state levels. In 2013, Maryland State Board of Education revised the state code for discipline institutionalizing restorative justice as part of the framework for “school systems to use in establishing local codes of conduct and in developing new discipline-related policies.” Three years later, House Bill 1466 was introduced by District 22 Delegate Alonzo Washington to establish a state taskforce to study restorative justice discipline practices in Maryland public schools.

5. Pennsylvania

Since the late 1990s, there have been multiple sites of implementation of school-based restorative justice in Pennsylvania. Rather than through a district-wide process or state-level prompt, restorative justice emerged at individual school sites with autonomy resting in school-level (principals, disciplinarians, teachers, etc.) norm entrepreneurs to determine the best practices for implementation. After release of initial data outcomes, similar to other “established sites,” expansion moved at a rapid pace. For example, following the lead of Palisades School District, the first International Institute of Restorative Practices

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later. MIESKY, supra note 138, at 1–2. Suspensions rates decrease by 88% in one school year, from 2008–2009 to 2009–2010, Maryland state assessment scores increased, and the number of students functioning at grade level tripled. Id. at 3.

147. There is a significant opportunity for study that focuses on changes during the different stages of the norm life cycle in Baltimore, specifically, but Maryland more generally. This is particularly true where the focus is on exploring the dynamic processes by which ideas about and consensus with the norm change.


151. Chmelynski, supra note 6.


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(IIRP) pilot, principals of Palisades Middle School and Springfield Township High School moved away from an adherence to punitive discipline and introduced restorative practices at their respective schools. Given their status, these principals were instrumental to a normalization process of restorative justice among other educators. Further, the prominence of IIRP also served to communicate the importance of restorative justice.

In 2008, restorative justice became even more dominant in the education discourse in Pennsylvania when West Philadelphia High School, a school on the state’s “Persistently Dangerous Schools” list, reduced the “[v]iolent acts and serious incidents by 52% in 2007–2008” and an “additional 40% in 2008–2009.” Similarly, a study of restorative justice implementation at Pottstown High School demonstrated that the number of incidents of fighting decreased from 20 to 9 from 2005–2006 to 2008–2009 and the school was also removed from academic probation. As student test scores and behavior improved the staff also reported feeling “united and inspired to do their work.”

Likewise, at Newtown Middle School, the use of restorative justice led to a decrease in physical altercations from 41 to 9 over the first three years of implementation and at Freedom High School the use of restorative justice was attributed with reductions in serious infractions by 69% over three years and the number of students with multiple suspensions, from 330 to 120 in the same time. While no one sought to make claims of universality, the availability of data from multiple sites allowed norm entrepreneurs to more effectively frame the impacts of restorative justice in quantitative and qualitative terms, and encourage its spread.

Across each of these sites, the adoption, expansion, and

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154. Id.
155. Telephone Interview with Ben Cairns, supra note 115.
158. Id. at 10.
159. Id. at 9.
160. Id. at 11–12.
161. IIRP 2014, supra note 145, at 3.
internalization of restorative practices was not solely driven by concerns of safety and climate. Similar to other established sites, norm entrepreneurs also framed restorative justice within the context of heightened concerns for the failures of exclusionary discipline and the disproportionality of disciplinary referrals. Within this narrative behavioral outcomes were emphasized. Consider Palisades High School, which following multi-year development of whole-school restorative saw administrative detentions decrease from 716 to 282 (1998–1999 to 2001–2002) and out of school suspensions, by almost half in the same timeframe. While one occurrence of restorative justice in Pennsylvania would be an insufficient measure for the emergence or spreading of a norm, the status of Pennsylvania schools as sustained models over time has supported increasing institutionalization at both the local and state levels.

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The first stage of the norm life cycle revolves around the actions of norm entrepreneurs seeking to change a static conceptualization of an accepted idea, practice or policy. In the case of school discipline this is a movement away from educational experiences grounded in zero tolerance and exclusion. If successful, these entrepreneurs are able to alter perceptions of other actors’ “identities, interests and preferences, to transforming their discursive positions, and ultimately [to] changing procedures, policies, and behaviour.” In each of the examples discussed the processes of emergence, diffusion and institutionalization occurred at varying rates with strategies linked to the localized nature of schools. Even with this variance taken into account, shared features of emergence are present. For example, in each site the entrepreneurs framed restorative justice within the context of zero

163. At Springfield Township High School first year analysis revealed 68% fewer incidents of inappropriate behavior and 71% fewer incidents of disrespect to teachers as well as of classroom disruption. LEWIS, supra note 145, at 20. At CSF Buxmont, studies showed a 26% reduction in aggression from 2012–2014, and 20% improved social skills. IIRP 2014, supra note 145, at 3.

164. LEWIS, supra note 153, at 15–16.


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tolerance, thus, simultaneously discounting punitive discipline and
promoting restorative justice, to take advantage of mounting public
attention and political pressures to address discipline
disproportionality, the school-to-prison pipeline, and negative
impacts on education outcomes. They also used the positive
outcomes of restorative justice practices to make increasingly
universalistic claims about restorative justice and to create
alignment with existing normative frameworks. As Keck and
Sikkink note, the connectivity or constructed “linkages” between
norms that are more established and those that are emerging is
pivotal to establishing greater legitimacy and promoting broader
acceptance.167 Whether viewed individually or collectively, the early
work of these entrepreneurs clarified, socialized, and
institutionalized restorative justice at local, state, and federal levels.
Thus, returning to this Article’s norm change proposition, it is
clearly observable that from the mid-1990s to 2010, the restorative
justice norm moved from a moment of emergence to the beginning
stages of widespread acceptance and cascade.

B. Stage Two: Norm Cascade

Scholars acknowledge that while it is not perfectly clear when a
new norm reaches a tipping point, the following cascade is marked
by a “collection of norm-affirming events.”168 For example,
Finnemore and Sikkink suggest that there is an active process of
socialization in which new norm followers emerge and adopt the
norm.169 In the case of school-based restorative justice, one can look
at both the micro- or macro-levels for examples of increasing
adoption of the norm by new actors, i.e., schools, and the heightened
associated processes of socialization and internalizations, i.e,
practice, policy change, etc. To illustrate the current norm cascade
in school discipline this section provides examples of “emerging
sites” of restorative justice practice, as well as changes in social,
political and legal structures that are likely to enhance the norm’s
widespread adoption and application in additional contexts.170 This

167. Finnemore & Sikkink, supra note 59, at 908.
168. See Lutz & Sikkink, supra note 77.
169. Finnemore & Sikkink, supra note 59, at 902.
170. The sites discussed in this section were implemented after 2010 and use models set
forth in “first generation” scholarship and the best practices developed in established schools.
Similar to those discussed earlier these schools have implemented restorative justice to

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section is meant to highlight, not exhaustively inventory, as school-based restorative justice is dynamic and rapidly evolving.\textsuperscript{171} Furthermore, it is also not intended to provide detailed research analysis of the outcomes or practices at each school.\textsuperscript{172} With this being said, these examples are valuable to understanding stage two of the norm life cycle and my norm change proposition.\textsuperscript{173} For example, while timing is not determinative of the direction of causality and the spread of a norm, similarity in practices across multiple sites followed by institutionalization of practices in formal code or policy aligns with the stages of norm cascade.\textsuperscript{174}

As school-based restorative justice expands across the country there are a few sites recently recognized for their role in enhancing the public legitimacy of restorative justice and spreading it as a matter of practice and policy. These include the cities of Los Angeles, New York, and Boston, as well as the state of Texas. In some instances, this notoriety has resulted from a discursive framing process similar to that discussed earlier. In New York City, for example, activists, students, parents, and teachers have collaboratively focused on overhauling punitive disciplinary practices with an aim to change the majority preferences (of school officials and political elites) to restorative justice.\textsuperscript{175} As of 2013, at

\begin{itemize}
\item address safety, climate, academic outcomes, student connectedness, conflict resolution, reliance on suspensions and expulsions, the discipline gap, and negative outcomes of the school-to-prison pipeline, with specific attention to the latter three issues.
\item Telephone Interview with Mara Schiff, Assoc. Professor, Florida Atl. Uni. (Jul. 21, 2016) (on file with author) (noting that over the last three months she has received requests for training in school-based restorative justice by more than fifteen school districts).
\item In fact, given the nature of restorative justice one should not expect a more comprehensive picture of implementation and the associated outcomes until at least year three.
\item For example, they show not only the application of the norm in terms behavioral manifestations by new actors and highlight the rapid rate of diffusion, but also provide a potential benchmark for future analysis of the mechanisms that have influenced the current cascade.
\item See supra Part I.
\end{itemize}
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least fourteen schools in New York City had sustained restorative justice as a strategy for addressing school safety resulting in the Dignity in Schools Campaign to call on the New York Department of Education to recognize the success of restorative schools and to enhance it with investments to ensure sustainability in the future. 

Last year, their efforts helped shape political action when New York City Schools Chancellor Carmen Farina released an updated citywide discipline code, including more than 30 references to restorative justice and outlining the framework for disciplinary responses. For the 2015-2016 school year, New York City schools reported a 10% decrease school-related arrests. That same year, the Brooklyn Community Foundation established the Brooklyn Restorative Justice Project in partnership with the New York City Department of Education and the Mayor’s Leadership Team on School Climate and Discipline to develop a sustainable and effective model for school discipline reform.

The four-year, $1.8 million pilot project will support middle and high schools seeking effective alternatives to punitive disciplinary approaches and are


178. Amy Zimmer, Last School Year Was the Safest on Record, NYPD Chief Says, DNAINFO (Sept. 15, 2016, 4:53 PM), https://www.dnainfo.com/new-york/20160915/financial-district/last-school-year-was-safest-on-record-nypd-chief-says (“[t]he emphasis on restorative justice—where everyone in the building is trained on de-escalation practices, including school safety agents—is also a big part of the work to improve relationship”).

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willing to commit to “culturally responsive and racially just restorative justice practices.”\textsuperscript{180} Such partnerships are an important indicator of cascade, as they signal that the key actors spreading the new norm are no longer simply the initial entrepreneurs, rather they now also include a range of individuals, networks, organizations, and group stakeholders with potentially greater social and political influence.\textsuperscript{181} While reform in New York City and Brooklyn has garnered more national media attention, the institutionalization of restorative justice in the state of New York, in practice and/or policy, is not limited regionally. For example, in 2014, schools in Syracuse, New York, began operating under a revised code of conduct model of restorative discipline.\textsuperscript{182} As restorative justice continues to spread across the state of New York it provides a salient example of norm cascade not only in terms of socialization at the local level (school practices) but, as importantly, formalization or internalization within legal structures and political institutions.

Similar processes of norm cascade are present in California with support from multiple constituencies including, parents, teachers, community-based organizations, school officials, and foundations. In 2013, after a multi-year organizing campaign,\textsuperscript{183} the Los Angeles Unified School District (LAUSD) adopted a new resolution mandating all schools within the district develop and implement restorative justice by 2020.\textsuperscript{184} With the passage of the School Climate Bill of Rights, the norm of restorative justice in school discipline was

\textsuperscript{180} Id.

\textsuperscript{181} Id. Partnerships of this nature have not been isolated to New York. For example, the California Endowment has been a key collaborator across the state supporting the development and growth of restorative practices. See, e.g., Jeff Okey, \textit{The California Endowment to Fund School Discipline Reform in Central Valley School Districts}, CAL. ENDOWMENT, http://tcenews.calendow.org/releases/the-california-endowment-to-fund-school-discipline-reform-in-central-valley-school-districts (last visited Aug. 1, 2016); Interview with Maisie Chin, Exec. Dir., CADRE, in L.A., Cal. (Jul. 26, 2016) (on file with author) (describing the role of the California Endowment in funding restorative justice as an alternative to zero tolerance).


\textsuperscript{183} Interview with Maisie Chin, Executive Director, CADRE, in L.A., Cal. (Jul. 10, 2015) (describing the campaign for the school discipline and school climate bill passage) [hereinafter Interview with Maisie Chin (Jul.)].

formally codified into practice and policy. In LAUSD restorative justice is now viewed as the main framework by which to address not only contemporary issues in school discipline, but to address the prior failures of zero tolerance. LAUSD is not alone in taking such action, as Fresno Unified School District, Berkeley Unified School District, San Francisco Unified School District, and San Diego Unified School District have also passed similar resolutions in support of restorative justice. In 2016, California Assembly member Kevin McCarty introduced AB 2489, aimed at providing state-level support for school districts seeking to implement restorative justice.

Since cascade requires widespread agreement with the norm, manifested as critical mass of leaders adopting the norm, examples in two states would be likely insufficient to support a norm change proposition and align closely with the norm life cycle. But expansion of restorative justice has not been isolated to two cases nor is it regionally bound. In 2012, the Massachusetts legislature passed Chapter 222, which required alternatives to expulsion, such as restorative justice and, the following year, Boston Public Schools (BPS) became the first district in the state to adopt a new Chapter 222-aligned code of conduct. In 2014, schools in Falls River, Massachusetts also developed and passed a new code of conduct reflecting a specific ideational content change—the inclusion of restorative justice. The growth in restorative practices across multiple districts in Massachusetts in response to the state’s actions has contributed strongly to the continued development and

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185. Interview with Maisie Chin (Jul.), supra note 183 (discussing the new norm of restorative justice in LAUSD).
186. Id.
188. Kamisugi, supra note 13.
acceptance of restorative justice in other areas across the country. But the dynamic interplay between various institutional and governmental levels during cascade is not necessarily linear or unidirectional—local to state or state to national. For example, in Colorado it was the emergence of established localized practices that influenced diffusion of restorative justice to the state-level, and subsequent institutionalization with the adoption of new laws.

As a norm expands during stage two, Babcock suggests one feature contributing to its internalization is repeated behavior. These changes should be observable across multiple examples over time to support a theory of norm emergence. Consider the following, from 2013 to 2016 at least sixteen districts changed either their student code of conduct or school discipline policy to include restorative justice. In some instances, this internalization into formal legal structures was also paired with the introduction of new or expansion of existing restorative practices. In 2013, the Bridgeport Connecticut School District changed its code of conduct to include restorative justice, and the Buffalo Public Schools amended its community-wide conduct and intervention support to include restorative justice. Effective in August 2014, the amended Minnesota Public Schools code of conduct provided, “[e]ffective discipline is educational, not punitive. Effective discipline includes building relationships, repair of harm and restoring relationships and restorative practices to reengage students in their learning community.” The same year, in addition to the passage of a revised code of conduct, Dayton Public Schools committed to the adoption of restorative justice district-wide by 2017 (pending funding), following its initial pilot in 2012 and expansion to eight schools in 2014–2015. Similarly, the Duval County School Board

191. Interview with Maisie Chi (Aug.) (discussing the school discipline reform at the national level); Interview with Maisie Chin (Jul.), supra note 183 (noting that restorative justice is not just the new norm for discipline in Los Angeles, but the new norm across the country).
192. Interview with Ben Cairns, supra note 115; Interview with Daniel Kim, supra note 115.
193. Babcock, supra note 80, at 143.
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and Pittsburg Public Schools amended their respective codes of conduct to integrate restorative justice.197 Pittsburg Public Schools also received $3 million in funding from the U.S. Department of Justice to begin implementation of restorative justice in twenty-two participating elementary, middle and high schools.198

In 2015, even though restorative practices had long been present in Chicago schools, CPS amended its code of conduct and its statement of purpose specifically to articulate a commitment to a restorative approach to behavior. 199 Chicago was not alone in 2015 as the Schenectady City School Board of Education also implemented a new code of conduct that formalized restorative justice and restorative practices in discipline.200 In August 2016, the Tucson Unified School District proposed a new code of conduct aimed at moving the district from zero tolerance and prioritizing “equitable practices” such as restorative justice.201 Similarly, the 2016–2017 revised code of conduct in Lee County School District formalizes the shift from zero tolerance and exclusionary practices to restorative practices.202

Since cascade is not a “one size fits all” process conformance with a new norm can also be presented as behavioral changes in practice. Therefore, in cities and states, where school-based restorative justice is in a nascent stage, the primary focus is on developing practices and increasing access to training.203

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Madison, Wisconsin, circle practice is being used to teach problem-solving skills and address school climate in schools in the Madison Metropolitan, Middleton-Cross Plains, Morona Grove, Oregon, Sun Prairie, and Verona districts. Similarly, Connecticut and Washington, DC, schools are piloting restorative justice as model for creating safe and respectful learning environments. In Orange County, a restorative justice behavior leaders consortium was established in eleven high schools and seventeen middle schools. Beginning in summer 2016, assistant principals and principals in the Lee County School District will be trained in restorative justice and twenty schools will compose the district’s initial pilot.

Unlike the single school or even whole-district model that many sites have utilized, the Institute for Restorative Justice and Restorative Dialogue (IRJRD) at University of Texas School of Social Work and the Texas Education Agency (TEA) have sought to introduce restorative justice and change traditional mindsets in a different way. In Texas, IRJRD and TEA are using the twenty regional education service centers to provide training to all 1266 school districts across the state. The aim of the training is to “educat[e] the critical constituencies for successfully implementing sustainable restorative practices in schools.”

http://www.cqcs.org/cms/lib/DC00001581/Centricity/Domain/202/Suspension%20and%20Discipline.pdf (noting sites across the country, such as Louisville where district-wide restorative justice training is being implemented).


206. COUNCIL OF THE GREAT CITY SCHOOLS, supra note 203; Interview with Mara Schiff, supra note 171 (noting Orange County as an example).

207. McCabe, supra note 203.

208. Armour, supra note 1, at 1029.

209. Id.; As Armour describes,

A two-day Administrator Readiness Training is offered to administrative teams to equip them with a long-term overview of what is involved in executing a whole-school approach so their planning is realistic, contextualized, and grounded in restorative principles. A five-day Restorative Coordinator Training is offered to persons who are or will be guiding their districts or schools in the process of whole school implementation over time.

Id.
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work, IRJRD has developed a set of thirteen best practices in support of the Texas model of implementation\textsuperscript{210} and it has released preliminary data outcomes (2012 to 2015) for Ed White Middle School in San Antonio.\textsuperscript{211} These best practices and initial reports are aimed at reaching a tipping point in Texas to secure widespread legitimation of school-based restorative justice.\textsuperscript{212}

It is clear that the key actors in school-based restorative justice are no longer the norm entrepreneurs associated with the “established sites” discussed supra. Instead, restorative justice has spread across the country and become accepted in a diverse range of local settings, as well as manifested in formal political and legal systems. This rapid change has not gone unnoticed by the scholarly community as new studies are conducted regarding the outcomes of restorative justice.\textsuperscript{213} Nor, has school-based restorative justice been ignored at the national level. Whether included in the political platforms by presidential candidates,\textsuperscript{214} promoted by national advocacy organizations,\textsuperscript{215} or institutionalized in federal education guidelines\textsuperscript{216} school-based restorative justice has experienced a rapid transformation in normative identity. When all of these examples are viewed as a whole, this expansion strongly supports an argument for the presence of a norm cascade.

\begin{itemize}
\item \textsuperscript{210} Id. at 1030.
\item \textsuperscript{212} Interview with Marilyn Armour, Director, the Institute for Restorative Justice and Restorative Dialogue, University of Texas School of Social Work, in Harrisonburg, Va. (Jun. 18, 2015) (on file with author).
\item \textsuperscript{213} See supra notes 22–29.
\item \textsuperscript{214} See supra note 19.
\item \textsuperscript{215} See id.; supra notes 175–77;.
\item \textsuperscript{216} See supra note 17.
\end{itemize}
C. Stage Three: Norm Internalization

In considering the third stage of Finnemore and Sikkink’s norm life cycle theory, it is pertinent to clarify that a linear approach to the progression of norm development is consistent with the literature, but cannot capture all of the variant expressions and processes of norm entrepreneurship, cascade or internalization. Further, it is simpler to identify a transition from the first stage of the norm life cycle (introduction of the norm by entrepreneurs) to stage two (cascade), than stage three (internalization). This is true for two reasons, one, there are not necessarily fixed precise markers and definitions, and two, not all norms need to be internalized to be followed. Posner, for example, argues that internalization of social norms unnecessary because of the phenomenon of “signaling.” 217 According to Posner, change will occur when signaling by others of their intention to cooperate in some behavior is sufficiently commonplace. 218 Geisinger also posits that internalization of norms is not important for them to be effective. 219 Even Koh, who sets forth an explanation of internalization that allows for variance in norms—social, legal, and political—acknowledges the limitations of determining the precise sequence 220 and testing whether a norm has been fully internalized.

Thus, while I conclude that the norm of restorative justice in school discipline has achieved the essential qualities of norm emergence and cascade, it is presently unclear to what extent it has been internalized at a national level. But there are certainly examples at the local and state levels that align with a proposition of norm internalization. For example, as institutionalization has occurred, rules and shared meanings regarding restorative justice have moved from abstractions to specific expectations. Goodman and Jinks provide one explanation of this process as “institutional isomorphism” by which a “mimesis by organizations that purposively model themselves on other similar organizations by adopting similar or identical decisions and structures.” 221

220. Koh, supra note 86, at 643.
221. RYAN GOODMAN & DEREK JINKS, SOCIALIZING STATES: PROMOTING HUMAN RIGHTS
While the presence of isomorphism does not conclusively evidence internalization, it does however, allow one to draw inferences regarding patterns of behavior. In the case of restorative justice, the significant rise in the number of schools implementing restorative justice since 2010 is quite suggestive of the presence of an institutional isomorphism and the presence of internalization. But isomorphism is not limited to institutions. In the legal context, outcomes can result when in order to resolve a pervasive or perhaps universal problem, such as zero tolerance, several systems independent of each other reach a similar conclusion.\textsuperscript{222} Considering the current trend of schools rapidly adopting revised discipline and conduct codes, there is a strong likelihood that legal isomorphism is also occurring. And, while more nascent in its development than the local level, the complementary movement by states to incorporate school-based restorative justice into multiple forms of codes and laws also suggests the presence of internalization. Even though it is difficult to argue that internalization has occurred at the federal level, one cannot simply discount the role of the federal government in normalizing and institutionalizing school-based restorative justice. At present, at least three government agencies have provided substantial funding to implement and study school-based restorative justice at multiple sites and it has received endorsement from a range of political actors, including President Obama. Further, the continued dismantling of zero tolerance and exclusionary discipline at the federal level will open new avenues for restorative justice to disseminate.

Therefore, rather than view the challenges of differentiating between cascade and internalization (or taken one step further partial versus full internalization) as a limitation of analysis, this provides a unique and exciting opportunity for future empirical and theoretical study aimed at actively building a deeper understanding of the social, political, and legal environments that have (or have not) internalized restorative justice. Moreover, there will be a multitude of productive lines of normative inquiry for projects concerning the directionality, strength, mechanisms, and sustainability of school-based restorative justice. From an empirical

\textsuperscript{THROUGH INTERNATIONAL LAW 42–43 (2013).}

\textsuperscript{222. Id. at 66.}
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standpoint, there are ripe questions to be asked regarding the nonlinear nature of norm diffusion in the United States, as well as the effects that the form and content of school-based restorative justice have on institutionalization at various levels and the engagement of each of these levels with each other. Similarly, a “second generation” research agenda could consider not only the effects of adopting school-based restorative justice, but also the motivations that influence the adoption. Such work would be influential for a larger restorative justice research agenda aimed at diffusion of justice policies into other systems.

CONCLUSION

This Article argues that the cascade of a new norm of restorative justice in school discipline is currently underway in the United States. In schools, restorative justice has been marked by its flexibility and adaptability—while still maintaining a foundation marked by core values and principles—thus allowing its expansion into more settings than previously imagined. Given rapid and continued expansion of school-based restorative justice, this Article is limited in its ability to draw full conclusions regarding the third stage of the norm life cycle, the internalization process of a new norm. Irrespective of this, it argues that the emergence and cascade of restorative justice is significant on its own and that given its current trajectory, partial or complete internalization is likely to occur at the local, state, and perhaps even the national levels. Whether through practice, codes of conduct, discipline policies, state or federal laws and guidelines, restorative justice has reconstructed accepted models of discipline, decreased reliance on exclusionary practices, and grounded school communities in principles of human dignity and respect. While it is foreseeable that criticism and skepticism will remain regarding the impacts and outcomes of school-based restorative justice, the continued growth in practices coupled with its institutionalization at local, state and federal levels signals that restorative justice is no longer viewed as an alternative program at the margins of school discipline. Rather, it is at the center of critical educational and legal policy reform.