

# Paternalistic aims and (mis) attributions of agency: What the over-punishment of Black girls in US classrooms teaches us about just school discipline

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## Abstract

In this article, we explore the interrelated phenomena of teachers' paternalistic aims and their misattributions of the agency of their students within particular schooling contexts of systemic racial injustice in the United States. We argue that, because teachers in these contexts assess agency in patterned, predictable ways that stem from – and reify – preexisting unjust patterns of oppression, teachers are unreliable evaluators of the conditions necessary for just punishment. To build this argument, we explore a complex case in which authorities regularly fail to meet these conditions: the punishment of Black girls in low-income, urban, predominantly non-White primary and secondary schools in the United States. Through our analysis, we offer a new concept, *agency misattribution*, which raises serious questions about subjective justifications for punishment in contexts of entrenched injustice. By delineating how the perceptions of teachers influence both the putative justifying aims and targeted recipients of punishment, we demonstrate how the existing terrain of school punishment practices ought to affect our normative reasoning about the fairness of punishment in these contexts.

## Keywords

Agency, Black girls, discipline, just schools, non-ideal, punishment

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## Introduction

In primary and secondary schools throughout the United States, it is generally understood that teachers and administrators possess the power to manage student behavior. Because students are still developing, schools exist in part to help them learn to behave and interact well with others. While educators have many tools at their disposal for managing student behavior – including role modeling, positive reinforcement, and collective determination and discussion of rules – they also impose punishments. In this schooling context, we hold that three conditions must be met for a punishment to be considered just: (a) if a person is administering punishment on the basis of culpability, the person must be able to accurately assess and attribute agency to the person being punished, correctly inferring that they could have acted otherwise and chose to commit the relevant action;<sup>1</sup> (b) the punishment itself must have a legitimate purpose behind it; and (c) the punishment cannot result or consist in long-term physical, psychological, academic, or social harm. When the punishing authority fails to meet one or more of these conditions, punishment is unjust.

Here we argue that, when teachers assess agency in patterned, predictable ways that stem from – and reify – preexisting unjust patterns of oppression, they are unreliable evaluators of individual competency to intentionally perform a contravening action (a *sine qua non* for just punishment). In such cases, punishment cannot be justified. To build this argument, we explore a complex case in which punishing authorities fail to meet these conditions: the punishment of Black girls in low-income, urban, predominantly non-White primary and secondary schools in the United States. Not only are Black girls in these schools punished more frequently and more harshly than their White and Latinx girl peers, they are also punished according to more subjective criteria steeped in educators' racialized and gendered perceptions. We examine this pattern of disproportionate punishment in order to arrive at more refined normative conclusions about the status and justifiability of school punishment in an unjust world. By delineating how the perceptions of teachers (and other persons within schools) influence both the putative justifying aims and targeted recipients of punishment, we demonstrate how the existing terrain of school punishment practices ought to affect our normative reasoning about the fairness of punishment in these contexts. Finally, while we recognize – and hope – that individual teachers will resist these patterns of punishment, our argument seeks to identify and address the *structural* conditions that give rise to a particular epistemological context in which teachers make punishment decisions.

In section 'Unjust circumstances and the punishment of Black girls', we outline the specific case of the punishment of Black girls in US low-income, urban primary and secondary school classrooms and explain why Black girls are punished disproportionately. In section 'Misattributing agency', we show that teachers who operate in these contexts of White supremacy are not good at assessing agency and therefore cannot reliably assess culpability. Drawing on the case material presented in section 'Unjust circumstances and the punishment of Black girls', we argue that teachers tend to attribute excess culpability to Black girls because they interpret Black girls' agency through complex intersectional stereotypes. They do so because they perceive Black girls as simultaneously less capable of scholastic achievement but more capable of 'bad' behavior,

therefore interpreting Black girls' actions and agency through a different lens than their White counterparts' identical actions. Yet if teachers cannot reliably assess agency and therefore culpability, they are not justified in punishing students on the grounds of culpability.

In section 'New requirements for just school punishment', we argue that teachers' perceptions of their reasons for punishing are not in fact centered on locating culpability but rather in classroom management and moral development. However, while they do not *aim* to locate individual moral culpability in the student being punished, teachers' punishing practices in the contexts we describe in sections 'Unjust circumstances and the punishment of Black girls' and 'Misattributing agency' result in situations where students experience themselves as morally bad and where the cumulative consequences of punishment are often excessively harmful to the individual being punished, thus undermining an intention to avoid locating culpability in the student. From this mismatch between the aims and outcomes of punishment, we derive a new standard for just punishment in schools involving two requirements that teachers must meet before punishing: (a) a reliable assessment of agency and (b) a reliable assessment of benefit.

In section 'Normative diagnosis', we offer a number of potential punishment and non-punishment frameworks that might help teachers, administrators, and policymakers create schooling environments in which students are treated fairly, even against the backdrop of oppressive and unjust circumstances.

## **Unjust circumstances and the punishment of Black girls**

Black girls are subject to disproportionate punishment practices within US schools. Here, we present situated ethnographic data and aggregate statistical data to examine these trends both *within* specific schools (how teachers treat students from different backgrounds differently in the same school) and *across* schools at the district level (how teachers, as a group, treat students across different schools).

Many readers may be aware that Black boys are three times more likely to be suspended than their White boy peers (Crenshaw et al., 2015). Far less noticed is the fact that Black girls exist at an intersection of identities (i.e. race and gender), which finds them *six times more likely* to be suspended from school than their White girl counterparts (intra-gender comparisons report 12% of suspensions are issued to Black girls versus 2% for their White girl peers). With a view to all instances of discipline (rather than only suspensions), the same 2015 report by the *African American Policy Forum* finds that Black girls are disciplined a staggering 10 times more often than White girls in New York City, and 11 times more often than White girls in Boston. Furthermore, the researchers find that Black girls are 53 times more likely than their White girl peers to be permanently expelled from New York City schools (Crenshaw et al., 2015). Examining how Black girls are disciplined relative to White and Hispanic girls, Blake et al. (2011) found that Black girls were twice as likely to experience in-school and out-of-school penalties than other female students in the same school, and were particularly overrepresented in comparison with White girls.

In addition to being punished more frequently, Black girls are also punished more harshly for the *same* offenses committed by peers of the same gender (Crenshaw et al.,

2015). Furthermore, they are punished for behavior that is assessed more subjectively, such as infractions of disobedience, defiance, improper dress, cursing/profanity, and threatening other students (Annamma et al., 2016; Blake et al., 2011; Morris, 2016; Wun, 2016). Contraventions of norms of femininity were particularly salient in the subjective discipline practices Black girls faced (Blake et al., 2011: 98).

The disproportionality between Black and White girls is further visible when dis/ability is factored in as a category of analysis. Labeled Black girls and other girls of color face more frequent and more severe punishment practices both because of their intersecting race and gender positionality *and* in virtue of their intersecting ability status. Thus, special education labels and practices, while they may appear to function as protective processes (and often do for White girls), in fact often enable disciplinary schemes that push Black students of any gender to the margins of schools (Annamma, 2018; Artilles, 2011; Ferri and Connor, 2005). According to the U.S. Department of Education Office for Civil Rights (2014), 20% of labeled Black girls will be suspended in a given school year compared to 6% of White girls. Disciplined Black girls are twice as likely to be labeled with an emotional disability as White girls (Annamma et al., 2016). Baglieri (2017) points out that emotional and psychiatric labels like Emotional and Behavioral Disturbance (EBD) and Emotional Disturbance (ED) are ‘soft disabilities’, meaning that their diagnosis relies on subjective measures like ‘Inappropriate types of behavior or feelings under normal circumstances’ (Individuals with Disabilities Education Improvement Act).

Taken in sum, these statistics demonstrate that the intersecting race, gender, and ability identities of Black girls significantly affects their vulnerability to disparate disciplinary treatment. Black girls are punished at rates – and for reasons – that fall outside the realm of reasonable punishment within schools. And, as we show in the subsequent sections, Black girls’ behavior is attributed to malicious intent at much higher rates than their White counterparts, even though this attribution does not reflect appropriate understanding of developmental trajectory or social circumstance. Such perceptions mirror patterns in the law enforcement and judicial system in which Black women receive harsher prison sentences for the same infractions as White women (Crenshaw et al., 2015), demonstrating the inappropriate but well-documented discursive entanglement of schools with the police and courts.<sup>2</sup>

### *Why does this occur?*

In their study of Black girls’ subjection to discipline in a large urban district in Colorado, Annamma et al. (2016) argue that school teachers and administrators draw on subjective assessments in punishment practices, inviting opportunities for dominant racialized and gendered narratives about Black girls to affect school discipline decision-making. These narratives, which, as a product of various patterns of social attitudes are by no means limited to only teachers, include the construction of Black women as pathological. Decades of sociological literature has documented the particular stereotypes constructed by dominant groups and applied to Black women in multiple contexts. Patricia Hill Collins (2000), for example, describes how racist stereotypes of Black Americans are distinctly gendered, documenting the depiction of Black women as ‘mammies, tragic

mulattos, or Jezebels' – stereotypes that have a lingering effect on population imagination. These stereotypes 'have been refined and updated to reflect socio-political and cultural changes' (Wingfield, 2007: 198).

Today, images of Black women 'are class-specific and reflect a global economy, unprecedented media reach, and transnational racial inequality as well as the economic, legal, and social changes that have affected Blacks over the last 50–60 years' (Wingfield, 2007: 198). According to Wingfield (2007), stereotypes of working class Black women take two dominant forms: the

'Bad Black Mother' [often depicted as the manipulative 'welfare queen' who is simultaneously non-agential in her incompetence at traditional [White] motherhood and highly-agential in her manipulation of the social safety net] and the 'Bitch' [a 'materialistic, hypersexual, manipulative figure prevalent in hip-hop culture']. (p. 198; see also Morris, 2016)

These racialized narratives manifest across persons and professions, affecting how Black girls are perceived in various roles and locations; and educators are not exempt from this pattern of perception. Says Cox (2015), 'Black girls are nascent dangerous Black women. They emerge as the partially hidden fulcrum at the center of spectacular Black urban tragedies, and their failures are corporeally located and inscribed' (p. 18). Black girls' bodies – their corporeal beings – become the perceived locations of social failure. As Blake et al. (2011) point out, qualities like assertiveness, which are often expressed through corporeal movement or speech, are regarded as improperly feminine and 'unladylike' in Black girls even while they may be qualities that are beneficial for learning (p. 94). Furthermore, Black women and girls' expressions of agency are often pathologized as 'crazy', or 'aggressive' and this discourse functions as a way to dismiss their credibility and contributions to knowledge-making (Collins, 2000; Fricker, 2007).

Oddly, these and similar attributions of disabled-mindedness function alongside discursive moves to position Black girls, in particular, as being more mature than their peers; they are regarded as both overly adult and improperly adult, as able-minded (adultified) and disabled-minded (prone to pathological expressions of emotion or will). This self-contradictory conceptualization of Black girls' agency sets a complex foundation for the punishment patterns reflected above and presents essential questions at the core of our inquiry. The view that Black girls are trouble, whether oriented toward a problematized future or as a judgment about their contemporary status, perpetuates a deviance model of Black girlhood, one that is easily entangled within perceptions of Black girls' agency in schools.

## Misattributing agency

In this section, we argue that educators within the contexts described not only perceive Black girls through particular racialized and gendered meanings of agency, but they also take these misreadings of agency as evidence of culpability.<sup>3</sup> Agency can be defined as the ability to act otherwise – that is, to act in accordance with more than one possible route. We understand agency to be relational, meaning that the extent of one's ability to act otherwise is constrained by social conditions as well as by one's relationship

to others. Moreover, there are important differences between *experienced* agency and *perceived* agency (the latter being others' perceptions of one's agency, not a form of agency itself). *Experienced* agency might consist in, for example, one's experiences of being able to act, having the freedom, opportunity, and ability to act in any given condition; importantly, this ability is structured by relations of power, intimate relations, and discursive practices (Cushing and Lewis, 2002). Thus, experienced agency is *materially* relational insofar as our ability to act depends on the circumstances in which we act and our relationships to others. Importantly, one's experience of agency is constrained by their social circumstances, such that actions meant to express agency may be misperceived by authority figures. For example, Annamma (2018) describes 'Strategies of Resistance' that incarcerated girls of color employ to 'recreate independence (e.g. mental, emotional, physical) in a space that encourage[s] dependence' (p. 126). Such strategies include practices that are academically beneficial for girls but penalized by institutions (such as listening to music in order to focus), or that are psychologically beneficial (such as expressing anger) (Annamma, 2018: 127; see also Morris, 2016). Such expressions of agency frequently go unrecognized and are misinterpreted as defiance or disrespect.<sup>4</sup>

Experienced agency may (or may not) influence an educator's *perceptions* about a student's ability to do otherwise. Thus, we separate these categories out from what we call *perceived* agency, which involves evaluative judgments about the content of another's mental state, opportunities, and decision-making abilities. While it may be the case that there is something like real or actual agency that is distinct from experienced or perceived agency, we set aside such a distinction in order to focus on *perceptions* of agency.

### *Agency misattribution as agency excess*

An evaluation of agency consists in the view that a student has *chosen* not to follow the rules; in choosing to contravene them, the student renders herself punishable. Yet some students are attributed higher levels (i.e. excess) agency than their peers, a phenomenon enabled by the fact that perceived agency is discursively constructed within classrooms and across the administrator/teacher–student relationship. In a study of the disparate disciplinary outcomes experienced by Black girls in a Denver school, Annamma et al. (2016) found that Black girls were more likely than their White counterparts to be punished on the basis of educators' subjective assessments about disobedience or defiance rather than for instances of objective violation of school rules such as drug and alcohol possession. As Annamma et al. (2016) note, 'The dominant discourses that frame Black girls as less innocent and feminine than all other girls likely influence these exclusionary discipline outcomes' (p. 22), because Black girls are understood to be capable of taking a different course of action in their school behavior. By comparison, White girls in the study were more likely to face punishment for objective violations like drug and alcohol possession than they were to face subjective punishments. This shows that the attribution of agency with respect to White girls is reserved for those cases in which it is relatively clear that the student could have acted otherwise – that is, cases in which there is concrete evidence that the student *chose* to contravene school rules.

One way to understand the phenomena above is that these students (i.e. Black girls) are ascribed an *excess of agency* in virtue of their intersecting gender and racial positionalities. While misattributions of agency can happen in multiple ways, we are particularly interested in teachers' attribution of excess (i.e. too much) agency to particular students. Using the language of excess here is intended to evoke the notions of excess regularly ascribed to Black women's bodies and modes of comportment. Black girls are frequently read as excessive in their presentation, including their exhibition of intellectual assertiveness in the classroom. Says one stakeholder in Crenshaw et al.'s (2015) study:

Women of color are more likely to push back on things or they are going to talk a certain way and you have to understand what they are saying. You have to know how to deal with and not be upset with or be offended by it . . . [The girls] are going to question you. It's not that they are being disrespectful. It's that they just want to know. (p. 30)

Cox says (2015), 'visible pregnancies, large breasts, exposed midriffs, and wide hips in tight jeans' come to represent laziness, unkemptness, and, ultimately, a kind of moral failure (p. 90). Describing an incident in which her supervisor chose not to hire a woman on the basis of her size, Cox (2015) writes,

The corporeal readings and assessment that Camille and certain members of the board made about the staff and residents of the shelter were rooted in race and given credence through long-standing assumptions about the dangerous visibility of Black female bodies as always already representing material excess in addition to excess flesh. (p. 90)

Excess agency misattribution functions to position the student as one who has the capacity to choose to do otherwise, and therefore as a student whose 'bad' behavior stems from an intentional decision to act 'incorrectly'. Agency excess takes place when it is clear that a person's expressions of agency are being regarded as *excessive* because of who they are. The reason that identity is salient for analyses of agency excess, in our view, is that the ascription of blame or responsibility takes place relative to the features of both parties' identities *and* the context of the assessment.

### *Agency excess and competence*

There is a strange connection between agency excess and competence.<sup>5</sup> In one sense, those who are ascribed agency excess are ascribed competence that is greater than their same-aged peers. But this competence is domain-specific. For example, as members of a society in which such forms of bias are present across persons, professions, and populations, teachers may ascribe more competence around sexuality (Black girls are ascribed more competence as displayers of sexuality and sexualized gender expression) but not academic competence or behavioral comportment. This perception plays out, for example, as an ascribed lack of innocence. In Annamma's (2018) study, a teacher's view of girls as possessing a 'criminal mentality' (p. 65) demonstrates this ascribed lack of innocence and reveals a view of these youth as fully developed – at least in regard to their criminality. This phenomenon of adultification (Ferguson, 2000) is a strikingly clear example of agency excess as it occurs in various contexts. According to Morris (2016):

Black girls are treated as if they are supposed to ‘know better’ or at least ‘act like’ they know. The assignment of more adultlike characteristics to the expressions of young Black girls is a form of age compression. Along this truncated age continuum, Black girls are likened more to adults than to children and are treated as if they are willfully engaging in behaviors typically expected of Black women . . . This compression is both a reflection of deeply entrenched biases that have stripped Black girls of their childhood freedoms and a function of an opportunity-starved social landscape that makes Black girlhood interchangeable with Black womanhood. (p. 34)

These examples illustrate that perceptions of competence based on attributions of agency are distributed within schools in ways that unfairly disadvantage Black girls.<sup>6</sup>

## **New requirements for just school punishment**

School punishment is a distinct realm of punishment because it pertains to children and youth who are in the process of formation, learning how to act in relation to others.<sup>7</sup> In order to home in on the kinds of cases in which Black girls are particularly vulnerable to over-punishment, we focus on subjective punishments and nonviolent contravention of school rules, which also constitute the majority of school punishment cases. This would include issues of classroom management such as not sitting in one’s seat, not following a dress code, not showing up to school on time, talking to another student during class when forbidden to do so, using rude language, talking back to a teacher, not bringing the correct supplies, and so on.<sup>8</sup>

### *Why teachers punish*

Educators typically justify punishment along two primary lines: classroom management and individual moral development. In the first case, teachers enforce classroom norms that allow for order; disciplinary action is intended to facilitate whole-class learning. In the second case, teachers punish children as a means for teaching an individual child a lesson about what is right and wrong in terms of conduct toward self and others. Thus, in the majority of cases, teachers punish students – at least to their minds – in order to prevent other undesirable consequences, such as a loss of learning time or disruption of moral development.

*Classroom management punishment.* According to the American Psychological Association, ‘classroom management is the process by which teachers and schools create and maintain appropriate behavior of students in classroom settings. The purpose of implementing classroom management strategies is to enhance prosocial behavior and increase student academic engagement’ (Emmer and Sabornie, 2014; Evertson and Weinstein, 2006). On this view, teachers enforce classroom norms via disciplinary tactics. For example, a teacher might send a student out of the classroom because she or he is causing a disruption by talking loudly during instruction. This teacher is likely thinking, ‘We need to keep the class together and this is a distraction that makes it difficult for others to learn’.



Teachers and administrators care about classroom management because it ‘establishes and sustains an orderly environment in the classroom, increases meaningful academic learning and facilitates social and emotional growth, [and] decreases negative behaviors and increases time spent academically engaged’ (Emmer and Sabornie, 2014). The APA reports that

chaotic classroom environments are a large issue for teachers and can contribute to high teacher stress and burnout rates. Therefore, it is important to use effective classroom management strategies at the universal level in a tiered model, as they serve as both prevention and intervention methods that promote positive outcomes for students. (Emmer and Sabornie, 2014)

In cases like these, the child who is sent out of the room need not be considered culpable in order to be punished; the reason for punishing is grounded in the wellbeing and needs of the other students, and not necessarily in the personal responsibility of the child in question. Yet the *consequences* of being sent out of the room are deleterious, both in terms of subjective wellbeing and objective learning and social outcomes.<sup>9</sup> Even if it is the teacher’s intention to merely keep order for the sake of whole-class and individual learning, there is a risk that a child will internalize a punishment as if it is a judgment about their individual worth and intentionality. This risk is exacerbated for students who experience frequent reprisals in the classroom; indeed such internalized judgments may contribute to children’s globalized sense of decreased self-worth and competence (Broderick and Leonardo, 2016; Collins, 2013).

Thus, even if teachers issue punishments for reasons that simply have to do with maintaining order and nothing to do with a child’s individual culpability for choosing to act in a certain way, the *effects* of the punishment can leave the student with the subjective impression that they are *bad*, and often carry *extraordinarily harmful consequences* (i.e. loss of instructional time, outright exclusion from school, the inability to access gainful employment, etc.). Furthermore, persistent punishment can take on a criminal valence when a child comes to be regarded as a repeat offender in the schooling contexts (Adams and Meiners, 2014; Annamma, 2018), a phenomenon that partly constitutes the ‘school to prison pipeline’. And as we explain above, these consequences fall primarily on students of color, thus reifying existing injustice. Given all this, we urge schools and teachers to rethink punitive practices that have these compounding harmful effects, even if in any given case it may seem reasonable to administer a particular punishment.

**Paternalistic punishment.** The other primary reason why teachers punish has to do with moral education. This is a paternalistic justification that grounds punishment in the good of the child. A teacher punishing along these lines may be thinking something like, ‘We need to teach this child that this kind of behavior is not acceptable’. Situating paternalistic punishment in our focus context, namely, schools serving low-income, primarily non-White students, and operating within an unjust society, we hypothesize that teachers sometimes intentionally over-punish students from already-oppressed backgrounds with the intention of preparing them for the harsh world beyond school. Justifications that follow the paternalistic logic are grounded in the educator’s view that the oppressed child

must learn to successfully navigate their unjust society: ‘this child will suffer even more greatly outside of school if they continue to behave this way’. Importantly, such justifications for punishment regard punishment as morally educative, but do not require students to experience, express, or be perceived as having, agency.

Data support this conclusion, especially in the context of low-income, majority non-White ‘no excuses’-style schools in the United States.<sup>10</sup> As Lopez Kershen et al. (2018) find in their qualitative study of teachers’ perceptions of punishment in these school settings, teachers may understand their punitive behavior as ‘exemplifying caring behavior’, yet ‘[p]articipants’ words indicated they believed they showed “caring” through surveillance of student behavior and enforcing compliance to discipline systems’. The authors argue that these justifications exemplify ‘soft caring’ (Antrop-González and De Jesús, 2006) and ‘aesthetic caring’ (Valenzuela, 1999):

in which teachers often pull on discourses of social justice and care to rearticulate and enact market-based reforms [e.g. charter schools, no excuses frameworks]. Moreover, teachers’ emphasis on compliance may serve to further mitigate teachers’ development of trusting interpersonal relationships with students, even as teachers explicitly work to establish such relationships. (Lopez Kershen et al., 2018)

These encounters with school discipline are presented as just, with the implied claim that the criteria for punishment are fairly applied to all persons under the jurisdiction of the school. Yet as the data above show, this claim does not go through. In short, while teachers’ reasons for punishing are often justified in terms of preventing undesirable outcomes, regardless of the child’s specific individual culpability, school punishments of Black girls are often described, *ex post*, within a narrative that highlights the culpability of the recipients.

### *Normative requirements for punishing students in an unjust society*

In the sections above, we made two primary observations: (a) that teachers in contexts of White supremacy do not assess experienced agency consistently across students and that their evaluations of experienced agency are influenced by intersectional stereotypes that situate Black girls more capable of criminal behavior and (b) second, teachers tend to have good intentions when they punish, but the *effects* of punishing frequently fail to line up with the intended reason for punishing. Based on these observations, we outline here two normative requirements for just punishment in primary and secondary schools operating in unjust circumstances.

**Requirement 1: Reliable determination of agency.** As an educator moves to potentially punish a student within the current order, she would be well served by a set of evaluative resources that allow her consistent discernment in determining the experienced agency of the student/s in question. That is, if the educator’s method for determining agency in the case of Black girls leads to different conclusions than White girls, despite circumstances being identical in all morally relevant ways, this educator can have little warranted confidence that the punishments issued have indeed been fairly distributed. Each

instance of punishment might be justifiably regarded with suspicion with respect to its connection to true desert (rather than morally arbitrary factors) by its recipient.

To justifiably issue most forms of punishment, we need to accurately attribute experienced agency to the person being punished. Take, for example, how we'd react if we found a 2-year-old urinating on a rug in our home. We would most likely find this behavior indicative of a lack of full understanding around potty training, and provide assistance to the child. By contrast, if we found our usually continent 35-year-old friend Jeff urinating on the same rug, we would be justified in being frustrated or angry and it would likely be appropriate to censure him or ask him to leave. Our intuitions around this case might change if we found out that Jeff had recently experienced a surgery that impaired his continence. This case illuminates the relationship between agency and censure: that we hold people responsible – and therefore, in some sense, blameworthy – *only if* we believe them to possess the agency to change their behavior via choice.

Thus, an educator who wishes to punish a student will also need to be very clear about the types of capacities held by his student/s. If an educator endeavors to determine culpability on the basis of a student's action, yet invariably conflates the specific action with a clear expression of competency, he might have a fully *reliable* process for determining culpability (i.e. identical observations of specific actions will lead to identical judgments of desert), but nonetheless fall short of a *fair* process of discipline as instances of punishment might be justifiably regarded with suspicion as to their connection to true desert (rather than some conflation of salient and irrelevant capacities) by their recipients.

Not all cases of discipline require the attribution of agency; in some cases, discipline is used as a tool to condition certain norms. This, we have argued, is what many teachers are actually up to when they punish students; they are aiming to condition them into a set of mindsets, beliefs, habits, and behaviors that become automatic over time (such as listening while someone speaks and sitting still during work periods). Certainly, teachers do use disciplinary measures to nudge students toward moral behaviors when they can fairly ascertain that those moral powers are not-yet-formed. Yet, very few of these circumstances can and should attribute agency as ill intent (or unjustifiable indifference along the lines of negligence), because the child is still in formation. One problem for just school punishment, then, may stem from the entire paradigm of locating the justification for punishment in individual action/inaction and therefore intent.

**Requirement 2: Reliable determination of benefit.** As we established above, many teachers paternalistically punish with the intention of benefiting their students by helping them develop into people who can handle the realities of the real world. This is not necessarily problematic, but becomes especially fraught when teachers are educating children subject to the deeply unjust circumstances that we described in earlier sections. In these cases, many teachers believe it is their task to 'train' their students for the real and mightily unjust world, and this can lead teachers to over-punish students in schools who they deem likely to be over-punished 'on the outside', in order to help them internalize this reality (Lopez Kershen et al., 2018). Let's consider the case of Lily, who was a kindergarten teacher in Newark, NJ. She was often told by administrators that 'if they don't learn the realities of being Black here [in school], they'll be punished out there'. Like many schools serving low-income students of color, this

school emphasized respectability and assimilation to White upper middle class norms in order to help students survive in a White supremacist world (Levinson, 2011). This pattern may be understandable, but may also lead teachers to perform disciplinary and punitive actions that are only loosely tied to the goal of helping students in the longer term and may, by reducing their agency and failing to recognize their developmental needs, impede their growth (Lambooy and Lu, 2017); Ben-Porath, 2013; Golann, 2015).

Furthermore, if a determination of benefit is steeped in, say, culturally and structurally biased assessments of rightness and wrongness, then this educator can have little confidence that their contingent assessment of academic or social benefit is fair or justified given the range of possible alternative forms of behavior that could benefit a student. Stated differently, punishments justified on the basis of an appeal to student benefit might be justifiably regarded with suspicion as they might represent little more than cultural preferences that stand independent of a desired type of benefit.

We hold that these two requirements, taken in unison, are necessary (though we make no argument here for their sufficiency) meta-criteria for defending claims regarding the fairness of current practices of punishment in schools.

## **Normative diagnosis**

To proceed, we showcase how (mis)attributions of excess agency frustrate aims of justice in relation to punishment. In particular, they are likely to prevent educators from securing the normative standards of punishment that we delineated in section ‘New requirements for just school punishment’, namely, a reliable determination of agency and a reliable determination of benefit.

### *Reliable determination of agency requirement*

We have shown that educators are unreliable assessors in contexts of institutionalized intersectional racial and gender injustice. In particular, teachers attribute agency inconsistently and in ways that draw on racialized and gendered stereotypes of Black girlhood, and, through their punishment practices, reinforce internalized culpability experienced by Black girls and perceptions of culpability by peers, teachers, and administrators. This shortcoming might have reverberating effects; if an educator endeavors to determine the likely impact of a punishment on the basis of a student’s competency but conflates the competency of the student with their intention, they may also fall short of issuing fair punishment.

Returning to our earlier discussions of agency misattribution, it is clear that teachers ascribe agency differentially on the basis of intersecting race, gender, and ability status. Black girls’ agency is determined in relation to, among other things, pathologization and racially feminized adultification. Although a full description and analysis of the particular psychological, representational, or discursive mechanisms by which teachers make such assessments is beyond the scope of this article, it is nevertheless clear that there is a hermeneutical disconnection between the perceptions that motivate teachers’ actions and the actual reality of Black girls’ experienced agency, competence, and intentionality.

### *Reliable determination of benefit requirement*

Disproportionate punishment of Black girls can certainly result from educators' antagonistic or adjudicative motivations, such as a desire to hold culpable students accountable or to apply a fixed (albeit colorblind) standard to all students. But, they might also be motivated by expressively altruistic reasons, namely, to prepare students to navigate an unjust world. Might teachers, despite the undesirable and unjust outcomes of current punishment practices, nevertheless have good, benefit-contingent reasons to punish given unjust circumstances? In this section, we analyze altruistic motivations in order to assess whether teachers incapable of assessing agency accurately may nonetheless justify differential punishment on the grounds of benefit to the student.

Educators with altruistic motivations for attributing excesses of agency to Black girls include those who view such attributions to justify otherwise desirable ends for these girls. They may believe that Black girls will likely encounter difficult futures, and that harsh experiences of punishment will appropriately prepare them to more successfully navigate those circumstances; this punishment might require treating these Black girls as if they have more agency than they do. Moreover, under this altruistic motivation,<sup>11</sup> an educator need not consciously endorse the agency attributions act upon. That is, they might not consciously assess that the student is sufficiently agential to choose otherwise, but regardless choose to punish as a 'means' to an 'end' with primary importance: helping them internalize the costs of misbehavior in the real world. An honest educator within this category might say to a Black girl:

Regardless of whether or not I believe you to have this degree of agency, I will nonetheless attribute it to you in order to justifiably issue a punishment [as a response to your actions] that braces you for the harsh 'real world' treatment that likely awaits you.

As we have shown, the altruistically motivated teacher engages in paternalistic punishment practices driven by their desire to benefit the student in the preparation for a harsh world. Indeed, Black girls do face dire consequences (much graver than going to the principal's office) if they fail to internalize certain key lessons about conformity to norms, politeness, and so on; such consequences can range from denial of educational and employment opportunities to physical and state violence. Moreover, these key lessons reflect White, able-bodied/minded norms of behavior and moral development, rendering them contingent lessons based on the Whiteness and able-bodiedness/mindedness of schooling systems (Broderick and Leonardo, 2016; Delpit, 2006; Ferri and Connor, 2005). Such schooling contexts not only hold Black students and students with disability labels (categories that disproportionately overlap, as we discussed above) accountable to standards that fail to reflect their embodied, cultural experiences, they also reinforce and justify educators' biased perceptions of contravening behavior when it is exhibited by Black students in contrast to their White counterparts (Annamma et al., 2016; Collins, 2013).

Thus, teachers often face an ambiguous and uncertain ethical terrain of judgment when faced with the question of whether punishment should be guided by preparing students for the world as it is, however unjust that may be, or for preparing them for the world as it ought to be. In practice, there is no clear answer to such a question and, thus,

teachers so motivated have reason to doubt whether their discipline practice will ultimately benefit or harm the student/s. Given this ethical ambiguity, it would seem that teachers do not have good reason to engage in paternalistic practices of excess agency attribution in the name of student benefit.

## Conclusion

We have shown here that Black girls are punished at rates – and for reasons – that fall outside the realm of reasonable punishment within schools. Their behavior is attributed to malicious intent at much higher rates, and in ways that do not reflect their present competencies, social circumstances, or developmental trajectories. These patterns shed light on what we have called excess agency misattribution and raises serious questions about punishment in contexts of entrenched injustice.

Specifically, we have argued that teachers in these contexts are not justified in punishing because they can neither reliably make sense of culpability or agency, nor ensure that their practices of punishment will benefit the student. This does not mean, however, that teachers should abandon their ultimate goal of preparing students for the world(s) that they are going to inhabit. Instead, we need to furnish teachers with thoughtful alternatives that pursue the valued aims of preparing students morally, developmentally, socially, and academically. These alternatives might take the form of both punishment and non-punishment routes.

### *Small alterations to punishment*

A first option would be that teachers accept that punishment must occur and proceed by seeking out a punishment strategy that is the most educative and least disruptive to the students' academic, social, or developmental pathway. This is an attractive option, but one that fails to address agency misattribution. To address this problem, schools might therefore focus on changing educators' biased perceptions of Black girls in order to undermine agency misattribution. Addressing this cognitive bias is important, but insufficient given the existing terrain of educational policies in the United States that lead to exclusion and over-punishment of Black girls (e.g. zero tolerance policies). Indeed, because we concur with the work of Alexander (2012) and others that shows an intentional, patterned strategy of incarceration of Black Americans, we argue that the over-punishment of Black girls will not be solved only by targeting perceptual lenses.

A second option, then, might consist in teachers over-correcting their perceptions of Black girl students so as to intervene in the phenomenon of agency misattribution and the consequences it has for students. This would involve attributing less criminal competence (i.e. deviance) to correct for this existing imbalance. This option takes the form of an intervention within a patterned process, but it requires that teachers regard their practices as in need of over-correction and that they see themselves as agents of change in this way. Furthermore, and perhaps most importantly, it requires the support of administrators to allow teachers to perform this practice of differential treatment that may lead to questions from parents and other stakeholders.

### *Moderate alterations to punishment*

Educators may regard the act of punishment to be beneficial to students but find the consequences of punishment practices for students' educational trajectories and experiences to be undesirable. They might therefore decide to engage a practice of mock or faux punishment. Call this the punishment-esque route. In this case, the punishment is not intended to disparage the student but meant to draw the student's and their peers' attention to the *potential* consequences of this action in the future. This is another attractive option; however, it is unclear how it would address agency misattribution that might seep into who is regarded as the target of faux punishment. Thus, it may avoid the deleterious consequences of over-punishment but fail to address classroom and school dynamics that arise from perceptions of Black girls' agency.

### *Beyond punishment*

A final option moves us beyond punishment by accepting that within the particular context of injustice toward Black girls and women, punishment practices are sufficiently unfair as to be untenable. While we do not have space to detail what non-punishment routes might look like, it is clear that they would require significant disinvestment in existing practices. It is our hope that others will be convinced by our skepticism and pursue the development of comprehensive strategies for supporting all students' intellectual, moral, and social development outside of punishment.


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### **Notes**

1. This, we contend, is a sine qua non of all just punishment: if the person who committed an action did not experience the ability or conditions to do otherwise, they cannot be held liable for the consequences. Educators may nevertheless have reasons to act in ways that have *consequences* for students (i.e. removing a child from a room who is consistently shrieking in order to help others hear), but not on the basis that they *chose* to act in the way they did. Of course, as we show, determinations regarding choice and agency are fraught.
2. Some commentators might claim that disparities in punishment are not, by necessity, unfair. To identify an inequality is not, necessarily, to identify an unfairness or an injustice; it might be wholly appropriate and fully fair to have one population (say, those students who often

and maliciously commit infractions) receive more school punishment than another. However, the pattern we are describing is not justified along these lines. As we demonstrate in the next section, the documented inequality is unjust because similar cases are not treated similarly. Unjustly oppressive forces – rather than good reasons – account for this difference in treatment.

3. In this, our analysis responds to an account of culpability that takes agency to be a necessary condition for moral blameworthiness (and, therefore, punishment). Although we recognize within the field debates about the specific features of compelling accounts of culpability, our present work aims to be accessible to the vast majority of these views which prominently feature agency. Our present analysis is largely agnostic about *how* agency might feature in these accounts; see Alexander et al. (2009), Berman (2012), and Shoemaker (2015).
4. Both Cox (2015) and Morris (2016) describe such strategies and voicing of resistance. For example, as one young girl (Janice) explains to Cox, the adults she encounters in her daily life are always ‘missing the middle’ by failing to see Black girls through their own complex self-perceptions (p. 10). It is this sense of agency that is most precarious in the context of schools, because its celebration or rejection depends so greatly on educators’ perceptions. Cox beautifully demonstrates the extent of Black girls’ expressions of agency that nevertheless go unrecognized.
5. The entanglement of agency, competence, and intention faces an additional complication when we consider how such capacities are affected by trauma. Young people’s experiences of witnessing or being in proximity to sexual, physical, or environmental violence affect their socio-emotional development and reasoning capabilities, including how they make sense of appropriate ways of acting. If, as we have argued, fair punishment consists in punishing those who are culpable for their actions, then such cases of being penalized for behavior stemming from trauma is likely to be unjust as trauma complicates culpability. Furthermore, while it may be possible that a traumatized student will accrue some kind of educational benefit from punishment for her behavior, this course of action will likely strike many as simply the wrong way to proceed with respect to students struggling with mental health. Even if one were to argue that the punishment of a traumatized student may benefit her peers and might be justified on utilitarian grounds, there are significant questions about whether it is permissible to use the unfair treatment of one student as a means to the end of others’ education.
6. As we have made clear, agency excess involves the unfair attribution of the capacity to plan and act. Agency *deficit*, then, might involve the attribution of *too little* ability to act otherwise for students on the basis of some aspect of their identity. An example might be a student being regarded as being incapable of acting otherwise, because they are acting in accordance with a disability. This is an important phenomenon to analyze in general, but specifically because of the ways that perceptions of race and ability intersect, as we outlined above. Although we have chosen to focus here on the specific case of agency excess, we hope to return to this in future work.
7. We acknowledge that school punishment may overlap with legal punishment for some youth and, indeed, the disturbing relationship between schools and the legal system in the United States is a central backdrop of this article. However, a full account of the distinction between school punishment and legal punishment is beyond the scope of this article.
8. We recognize that this distinction leaves a gap, namely, the category of illegal-but-possibly-morally justifiable actions such as bringing a knife to school to protect against gang violence or bringing drugs onto campus. We hope to explore cases like these in future work.
9. For more on the deleterious effects of school exclusion, see Morris (2016) and Sanders et al. (2018).



10. See also Whitman (2008), Goodman and Uzun (2013), and Sondel (2016).
11. While the term ‘altruistic motivation’ has a rich history in the psychological literature, suggestive of the drive to act in the interest of another at a cost to oneself, we use this terminology in an unrelated sense. We aim to identify a conceptual category characterized by the drive to act in prosocial ways, supportive of long-term advantage for the recipient of such actions. Although costs may be incurred by the actor or the recipient (as is the case in the example we provide), this is incidental, rather than essential, to our categorization.

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