

Breaking School Rules: The Permissibility of Student Noncompliance in an Unjust Educational System

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Rule violations are expected in schools, and assessments of the severity of those violations and the appropriate disciplinary responses are a significant aspect of educators' responsibilities. While most educators and policy makers reject rule violation as a permissible behavior in schools, is such a categorical rejection always a suitable response, and are there circumstances that might merit an alternative response? In this article, A. C. Nikolaidis and Winston C. Thompson argue that under unjust circumstances, noncompliance with school rules may be permissible and even desirable. Building on a contractual framework placing systemic injustice at the center of inquiry, they show that under unjust conditions schools forfeit their ability to hold students accountable for role-dependent violations.

Keywords: noncompliance, rule violations, discipline, punishment, education policy, philosophy

It is, perhaps, inevitable that some students will break school rules. Rule violations happen regularly in the classrooms, hallways, and shared spaces that define educational institutions. The substance of these rebellions spans a range between matters large and small and represents abiding patterns of action or unique occurrences. Educators' judgments of these infractions—and responses to them—determine significantly standard school procedure.

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The appropriate judgment and response tied to such noncompliance with school rules might seem obvious (Coverdale, 2020; Hand, 2020). Though the causes of individual instances of noncompliance may well be as varied as the many contexts in which they occur, surely students should not be permitted to break school rules, and it may seem right to think that any response to student noncompliance should reflect this view of the impermissibility of such action.

Yet, is that judgment always appropriate? Are there circumstances that might yield alternative judgments? Might educators and others have reason to adopt a more nuanced view of the permissibility of student noncompliance?

In this article we engage these important questions by offering and exploring a set of circumstances supporting the permissibility of student noncompliance with school rules. We focus on students of color within the specific context of unjust educational systems in the United States, arguing that systems which fail to fulfill their obligations toward students forfeit much of their right to be obeyed, thereby justifying some student noncompliance with school rules. We address competing approaches to structural and systemic analyses of social phenomena, suggesting that the application of these analyses to the circumstances of schools obscures or reveals specific features of that context. Our focus on a systemic analysis allows us to recognize how schools forfeit their claims to student obedience such that student noncompliance with some, but not all, rules is permissible. In outlining the permissibility of noncompliance across various rule categories, we provide evidence for the moral and political value of such student behavior. Through this we acknowledge both immediate and long-term transformative goals and offer educators some general guidance for formulating a thoughtful response to student behavior.

Our core claims regarding the permissibility of certain instances of noncompliance with school rules require a broad framing of the analyses that motivate standard responses to student noncompliance. We begin by considering the need for a systemic injustice model of social analysis, focusing on the specific contexts of people marginalized by race and class identities.

Structural Concerns and the Need for a Systemic Injustice Model

In his book *Dark Ghettos*, Tommie Shelby (2016) invites reconsideration of the framework through which “ghetto” neighborhoods and their residents are understood. According to Shelby, the dominant framework for philosophizing about and developing policies that address the problems of marginalized (specifically black and poor) populations is the medical model. Research and policy based on the medical model typically identify interventions that help overcome those problems, while ignoring the conditions from which those problems arise. In many ways analogous to physicians’ (justified) presumptions regarding the anatomical standards of the human body when trying to treat a patient, researchers and policy makers presume “facts” about a society when trying to determine how to address the problems of marginalized pop-

ulations. However, because of its emphasis on deviation from (and restoration of) the presumed normalcy, the medical model tends to treat symptoms rather than address underlying causes. In the case of ghetto neighborhoods, the medical model does not adequately address the underlying cause; namely, it does not attend to the unjust character of the basic structure of society's systems—the social institutions and processes that distribute benefits and burdens to members of society (Rawls, 1971, 1993)—and the morally arbitrary role played in restricting the options of some and expanding those of others.

The medical model is unsatisfying for three reasons (Shelby, 2016). First, it exhibits a status quo bias by considering the basic structure to be just and acceptable and thus operates under the assumption that we should work within that structure to make changes. Second, it downgrades the agency of those it aims to help by refusing to acknowledge their autonomy and willingness to resist injustices committed against them. Finally, it obscures the advantages that privileged members of society stand to gain from the plight of marginalized groups. As such, adherents of the medical model tend to pathologize members of marginalized groups and intervene in their lives in ways that perpetuate the disadvantages inflicted on them by the unjust basic structure of society.

To address the problem of the unjust basic structure, Shelby (2016) suggests abandoning the medical model for a *systemic injustice model*, which emphasizes our collective duty to develop and maintain a just society (e.g., as assessed by analysis of its basic structure) and thereby foregrounds everyone's right, regardless of their social position, to be treated justly and to participate in this collective pursuit of justice. A systemic injustice model foregrounds the structural nature of the problems experienced by marginalized members of society. Their burdens are not the result of unfortunate circumstances that those who are more fortunate can benevolently choose to allay, but, rather, they are the result of an unjust system designed to unfairly allocate benefits and burdens. Once the structural nature of injustice is recognized, it becomes clear that just outcomes do not require simple interventionist tactics that mitigate social burdens. Instead, a restructuring of society is required such that the privileged relinquish their unjust advantages and the marginalized, as moral equals, receive their fair share of social benefits. For structural change of such magnitude to occur, the marginalized need to be treated as equal participants in conversations of justice rather than mere objects in need of benevolent paternalistic intervention. More importantly, the privileged need to acknowledge that their advantages are inextricably tied to the disadvantages of the marginalized and that, insofar as they choose to support the pursuit of justice, they must relinquish their unjust advantages.¹

The medical model decontextualizes human conduct, separating it from social, cultural, and material conditions. As a result, structural factors that restrain action and perpetuate oppression are rendered invisible and remain unchallenged. Shelby (2016) demonstrates the need for an account that

addresses these structural issues that perpetuate existing outcomes. A systemic injustice model provides such an account. It draws attention to the underlying cause of social behaviors: the unjust basic structure. It privileges interpretations of behaviors that account for the structures in place over individualistic interpretations that exaggerate a person's ability to control their circumstances. More importantly, it reveals the reasonableness of such behaviors under unjust conditions. Our aim here is to reinterpret rule violations in schools in light of a bounded systemic injustice analysis and outline the implications that follow.

The Unjust Basic Educational Structure in America

To understand the relevance of a systemic injustice model as an analytic tool for making sense of US educational institutions, we establish that schools operate under a particular form of unjust basic structure.

We follow Shelby (2016) in his invocation of political philosopher John Rawls's (1977) "basic structure" as a suitable subject of analysis in matters of justice. For Rawls, the basic structure of a society comprises the arrangement of the various institutions and processes that determine the allocations of burdens and benefits to those who live therein. Such institutions and processes may include, but are not limited to, the political regime and constitution, the economic organization of society, the legal order and procedures, and, of course, the educational system, including the policy schemes that shape it. The basic structure of a society is critically important in setting up the conditions under which free and equal moral people—those capable of self-determination and social cooperation—might come to construct and recognize some appropriate reasons to consent to a social contract.

In our analysis, we address a particular dimension of unjust basic structure and focus on the context of an *unjust basic educational structure*. While we readily acknowledge that educational institutions might be analyzed as part of a broader Rawlsian focus on basic social structures, in concentrating on the basic educational structure, we aim to recognize that benefits and burdens are structured in particular ways internal to these educational institutions and their standard practices.² In the case of the US system, we find the basic educational structure to be unjust, thereby frustrating the possibility of a fair social-educational contract.

The US educational system is inherently unjust for many marginalized and vulnerable populations. In its current form, it privileges students on the basis of class, race, gender, ability, ethnicity, and religion, among other demographic characteristics. We focus our analysis here on race and its intersection with class. The unjust basic educational structure has both micro- and macro-level foundations. While patterns of injustice observed in particular types of schools directly impact academic success and, in turn, life prospects of students of color, not all schools are complicit in micro-level structural injustices,

only those schools associated with the particular micro structures that cause these sorts of injustices. Given that schooling is built on an unjust basic educational structure, the institution itself is implicated in macro-level structural injustices, and all schools are complicit by virtue of their membership in this unjust educational network. In practice, this means that *all* schools perpetuate injustices intentionally or unintentionally by virtue of contributing to the preservation of this network. The macro-level foundations of the unjust basic educational structure are of greater significance to our analysis.

At the micro level, the emphasis is on particular types of schools, micro-structures, and the unjust practices they employ. Such practices can be employed on a large scale (within school networks) or on a small scale (within individual schools). Disciplinary practices are a case in point. Public schools disproportionately discipline and give harsher punishments to students of color than to white students for similar infractions (Fabelo et al., 2011; Lewis et al., 2010; Skiba et al., 2011). Increased rates of punishment can negatively impact the academic performance of students of color (Gregory et al., 2016), impeding their ability to succeed. These disciplinary patterns can be a result of teachers' implicit biases (Girvan et al., 2017) accentuated by structural factors like "cultural mismatch or insufficient training in culturally responsive classroom management practices" (Skiba et al., 2009, p. 1089); school-, district-, or networkwide policies, such as the "no excuses" policies employed in some charter schools (Goodman, 2013); or even such systemwide policies as federal mandates affecting all traditional public schools nationwide (Lewis et al., 2018). Schools that engage in such practices, either independently or as part of a larger network, contribute to the unjust basic educational structure at the micro level. Given the size of the traditional US public school system, policies that affect all traditional public schools can also be regarded as part of the macro-level educational structure. Still, we prefer to include them in the micro level, since traditional public schools are only one, albeit the largest, segment of the US educational system, which includes charter schools, private schools, and homeschools.

At the macro level, the unjust basic educational structure implicates any school that is part of the broader US system. School funding is a good example of how this occurs. Public schools in the US are primarily funded by local property taxes, even though the funding is distributed unequally because of racial segregation. As a result, wealthy (usually predominantly white) neighborhoods have better funded schools than do poor (usually predominantly nonwhite) neighborhoods. Notwithstanding desegregation efforts following the 1954 *Brown v. Board of Education* Supreme Court decision, segregation persists, as do its well-documented insidious effects on black student resources and achievement (Owens, 2018; Reardon & Owens, 2014). Macro-level structural injustice in education is apparent in the mechanisms that keep segregation in place. For instance, in *Millikin v. Bradley* in 1974, the Supreme Court foreclosed the possibility of interdistrict desegregation, which led to an

increase in between-district segregation (Fiel, 2013; Stroub & Richards, 2013). More recently, in 2007, *Parents Involved in Community Schools v. Seattle School District No. 1* declared race-based voluntary integration unconstitutional, hindering voluntary desegregation and facilitating resegregation (Thompson Dorsey, 2013). In addition to the legal climate, white parents have exploited the structure of the educational system and abandoned desegregated schools for different districts, thus contributing to the reversal of desegregation (Reber, 2005). Charter schools and private schools have further contributed to this “white flight” by providing another avenue for white parents to avoid desegregated public schools (Clotfelter, 2004; Frankenberg et al., 2011; Reardon & Yun, 2003).

All schools in the US, regardless of whether they are part of the public system or fully independent, are complicit in the unjust basic educational structure because they contribute to this unequal distribution of burdens and benefits, a system that privileges some and disadvantages others. This occurs regardless of educational actors’ intentions or their willingness to provide students with necessary resources to succeed. As such, school complicity in this injustice cannot be absolved. Private schools enable this structure despite concerted efforts to disrupt it. And while some private schools may want to provide opportunities to disadvantaged students, to the extent that those more advantaged are better positioned to access these opportunities, they still contribute to the preservation of the unjust structure.³

Just Schools and the Educational Contract

Toward a Standard of Reasonableness

Against this unjust institutional backdrop, a curious set of questions emerges regarding student behavior. Namely, how should student noncompliance with school rules, norms, and standards be interpreted? What kinds of responses to such noncompliance might be appropriate? What evidence might suggest that particular types of responses are inappropriate? Toward engaging these concerns, we offer a social-educational contractual framing of expectations within schools.

Rawls’s (1993) influential work theorizing the concept of justice in an ideal society suggests that much of what makes a set of rules and norms legitimate (rather than arbitrary) is that people bound by those rules endorse them as reasonable and allow themselves to be restricted by these structures because they recognize that such restriction contributes to the collective good. The legitimacy of the structure rests on an implicit social contractual agreement by those governed. And because the structure creates a context in which people come to deliberate and agree with other free and equal moral people, the structure must be just in order for the contractual agreement to be freely entered. To be clear, Rawls does not claim that all people must actually deliberate about or formally endorse these rules before they are held accountable

for their content. Rather, he suggests a hypothetical scenario in which people consider a structure in which they might be placed without knowing the specifics of their placement. Since people choose a structure that most likely provides equal and just treatment to all individuals, irrespective of the specific characteristics and identities of these free and equal moral people, this scenario serves as a test of sorts, establishing that a well-designed system produces the sort of structures, laws, or rules that all people can endorse on the basis of reasonableness.

Shelby (2016) extends this idea when he focuses his systemic injustice analysis on matters of crime and punishment. In attending to the nonideal circumstances of ghettos, he argues that many of the structures and rules imposed on people living under these specific conditions fail to meet a standard of reasonableness. In essence, the presumption of the legitimacy of these structures represents a flawed contract, an unjust basic social structure, asking far too much in exchange for too little. The authority of the state in issuing the laws is called into question, and thus the compliance of the citizens in observing the laws does not necessarily follow. As such, noncompliance with the structures of the social and political landscape is a reasonable response to the flawed social contract of a poorly designed system.

We take specific notice of how Shelby's systemic injustice approach focuses attention on a special context within a broader collection of institutions and systems, even while that focus (law and crime) can also be analyzed relative to its role in that larger social context. Additionally, this focus on the contractual nature of the criminal justice system within an unjust basic social structure serves as a fine model for why our own attention to contractual elements in school rules within an unjust basic educational structure avoids the pitfalls of the medical model and other similarly superficial attempts to address deeply structured injustices. Attending to matters of basic structure (especially prospects for reasonable contractual arrangements impacting the structure itself) of a specific context is a fine first step toward analyzing and addressing systemic injustices.

With these political analyses in mind, we consider the special context of schools, exploring whether the concept of an *educational contract* might helpfully guide behavioral expectations.⁴

Normative Elements of an Educational Contract

Schools serve as a particularly appropriate example of a context in which standards of reasonableness, rather than explicit endorsement by those "governed," should guide expectations of behavioral compliance. Very few school settings require that students fully legislate the standards to which they are accountable (Conroy, 2006). In most instances, students are expected to comply with structures and rules they have not created or formally endorsed. However, students are not expected to comply with just *any* school rule. Schools are held to public forms of accountability such that the rules are (supposed to

be) standards students endorse if they are sufficiently developed to recognize that the limitations support educational aims the students endorse. In part, the activities and rules of the school serve to develop students into persons for whom the reasonableness and legitimacy of the structures of schools are apparent.

Under ideal circumstances in which schools might pursue their current missions, broadly defined, the educational contract that guides student behavior in schools has two important normative elements (among others) that bind students and their schools in a transactional relationship: moral rules and conventional rules.

Moral rules reflect general moral standards as they are applied to the specific circumstances of schools. Both school representatives and students are expected to abide by these norms as moral agents when interacting with others. As such, general prohibitions against causing harm to or mistreating others might be enacted through explicit rules. Failure to comply with these rules compromises the moral community within the school.

Conventional rules reflect school-specific standards that hold instrumental value (Goodman, 2006; Hand, 2020). Compliance with them allows the work of schools to proceed without undue interruption or complication (e.g., raising one's hand to speak in class, completing assignments by their due dates). Failure to comply with these rules compromises the educational activity of the school community.

Given these elements, we define the illustrative and clarifying thought experiment of the educational contract as a set of mutually binding expectations or obligations that are endorsed by reasonable individuals in the service of constraining the behavior of participants within educational settings, thereby enabling students to achieve their appropriate moral and educational aims.⁵

Unjust Schools Fall Short of the Standard of Reasonableness

We note two significant ways schools fail to abide by the standards of reasonableness that rest at the core of the educational contract: equal treatment and just punishment.

— Equal Treatment

It is reasonable to expect that, to the extent possible, schools ought to treat students equally.⁶ It would be *unreasonable* for a person to want to participate within a school that might treat them poorly or well on the basis of arbitrary factors like racial and/or class identities. Sadly, this seems to be the case in much of the US (Losen et al, 2015). That students receive unequal treatment of this sort represents a failure of schools to abide by the moral and conventional standards of the educational contract. This is a moral failing, as it expresses a flawed privileging of some students over others that runs counter to general standards of fairness.

— Just Punishment

If it must exist at all within school settings (Hand, 2020), it is reasonable to expect that punishment be meted out in accordance with general moral requirements of justice. This complex claim, which generates much disagreement (Shelby, 2007), requires that punishment be proportional to the infraction and not be imposed in a manner that suggests unequal treatment. Add to this the reasonable expectation that schools not use punishment in a way that obscures or frustrates the educational work of the institution, and it becomes clear that unjust punishments might break the conventional rules of schooling and engender diminished academic outcomes, among other things (Gregory et al., 2010). These moral and conventional failings of schools underserve the interests of students and position them poorly for success.

As schools fail to meet the standards of the educational contract, students are justified in understanding themselves to be free from the binding power of the relationship. Stated plainly, since schools do not perform in accord with the educational contract, students see compliance with school rules as optional. This is the case for all schools in the US to the extent that they remain complicit in, at the very least, macro-level structural injustice. Nonetheless, the force of justifiable noncompliance is contingent on additional considerations, which might include the school's level of complicity in micro-level structural injustice in addition to macro-level complicity, the severity of the harm of structural injustice that is inflicted on a noncompliant student, or the nature of the rule violation. The justifiability of noncompliance does not imply an unconditional "free pass" for all rule violations that occur in schools around the US.

It might be argued that schools' broad roles override concerns related to a breach of the educational contract, and even if schools have not maintained their end of the educational contract, students should still abide by the terms of the contract and comply with school rules. We resist this objection, however, because schools have a moral educational role to teach students about their responsibilities and rights. Though, arguably, there is much efficiency to be gained by holding students to their compliance responsibilities within this broken educational contract, doing so has ripple effects across the current and future lives of these students who do not properly learn their relationship to their own moral rights in schools and, by extension, society at large (Goodman & Uzun, 2013).

Forfeiting Compliance on the Basis of Role Authority

In suggesting that an educational contract might guide behavioral expectations for school representatives and their students, we propose that the legitimacy of schools' rules be evaluated via a standard of reasonableness. Reasonableness, in this case, loosely refers to a willingness to endorse a structure that is considered fair and endorsable by others regardless of their social posi-

tions, especially in light of constraints the structure imposes on the benefit of a collective project. Observing schools' failure to uphold the expectations of the educational contract, we suggest that schools relinquish the legitimacy of their authority to hold students accountable for breaches of school rules. Yet, institutional authority is a complex element of evaluation (Thompson et al., 2020). In asserting that schools have forfeited their authority relative to student compliance, we identify *compliance on the basis of role authority*. Students are released from obligations to comply that depend on the relationship of authority, or role authority, that, under ideal circumstances, they share with the school. School failures, however, do not necessarily discharge the students' obligations to comply with moral standards that exist independent from the school's role authority, or the authority to expect compliance on the basis of role relationships between school and student.

Permissible Noncompliance

Distinctions among various types of noncompliance allow for a finer degree of attention to instances of noncompliance, isolating the various features that might drive a more nuanced assessment of its permissibility, as opposed to a wholesale evaluation. For instance, should a classroom teacher view the noncompliance of one student who continually speaks without raising a hand the same as the noncompliance of another student who often takes items from nearby unattended backpacks? Why might these cases strike us as different in some meaningful way?

In a framework of distinctions that is valuable for determining the permissibility of infractions and/or the disciplinary measures that might follow, Joan Goodman (2006) distinguishes between "moral" and "conventional" violations. Violations that carry moral significance are universally condemnable (e.g., physically harming a fellow student), while conventional violations carry no moral weight and may differ between contexts, depending on the values of a school (e.g., chewing gum during class). This distinction proves useful in reviewing intuitions around types of noncompliance and appropriate responses. Punishing both types of violations on equal terms—using similar types of punishment for each—obscures the differences in moral weight between the two. At best, it symbolically imputes equal moral weightiness to both serious moral offenses *and* minor conventional infractions. At worst, it voids the moral significance of *all* infractions. Yet, assigning different types of punishment based on the moral weightiness of the infraction can be tricky, as the distinction between the moral and conventional category is not always clear. Certain violations may be differently interpreted among reasonable people and, accordingly, may carry different moral weight between people who disagree. Goodman refers to these violations as "derivatively moral" and suggests they should be evaluated on a "case by case" basis (pp. 220–221).

Determining the Permissibility of Noncompliance

Instances of noncompliance that are moral infractions are impermissible regardless of whether the school upholds its end of the educational contract, since they are violations of obligations that we hold in our capacity as moral agents. Instances of noncompliance that are conventional infractions, however, constitute violations of contractual obligations, which render their permissibility contingent on the legitimacy of the contract by which they are purportedly bound. Under just conditions, contractual obligations justify compliance on the basis of role authority of a particular school and its acting agents; the school (in its role as a school) can make justified claims for the behavioral compliance of its students. Under unjust conditions, however, the contract becomes illegitimate, thereby rendering contractual obligations void and justifying the permissibility of noncompliance on the basis of role authority.

For instances of noncompliance that are derivatively moral infractions, the analysis is more complex. Though the basis of derivatively moral obligations is contractual, which might suggest a weak hold on students within an unjust basic educational structure, their violation potentially holds moral weightiness for other school members. In these situations, the school can serve as a procedural authority—an arbitrator of sorts—in protecting the claims of others by making space for moral disagreements between students without advancing a particular moral position.

Consider Chidi, a student who is often off task, disengaged from the instructional content and expected activities of the class. While a conventional violation that doesn't necessarily hold moral weight, being off task can distract otherwise attentive fellow students, thereby inflicting some educational harm on them. If being off task does, in fact, deal harm, this conventional violation takes on moral weight relative to the educational experiences of the classroom, rendering it impermissible on the basis of role-independent moral standards. Such a conventional violation may or may not be permissible depending on the circumstances under which the violation takes place. If Chidi is talking to fellow students who are trying to remain on task, this conventional violation carries moral weight. But if in being off task Chidi keeps to himself, daydreaming or drawing in his notebook, it does not.⁷

If a conventional violation carries no moral weight, it remains conventional, and, under unjust conditions, related noncompliance on the basis of role authority is permissible. To the extent that a conventional violation carries moral weight, it becomes derivatively moral and, depending on the severity and impact of the violation, even under unjust conditions, noncompliance might be impermissible. Nonetheless, given that derivatively moral violations are, on their face, violations of conventional rules, in unjust basic educational structures their moral significance should be weighed against the reasonableness of the expectation to follow that rule under unjust schooling conditions. If Chidi falls behind in class due to no fault of his own, and despite knowing this the teacher is unable to assist him in understanding the material, then it is

unreasonable to expect Chidi to pay attention and remain on task with deeply confusing course material.

Of course, this complex case requires a determination of the relative weight of the potential harm to others when Chidi is off task, and this needs to be considered alongside the unreasonableness of expecting Chidi to be on task while his own educational needs are unmet. The standard of proof for designating both the violation to be derivatively moral and the noncompliance to be impermissible on the basis of role authority is met when the moral significance outweighs the unreasonableness inherent in abiding by an unjust rule. For instance, if in being off task Chidi is distracting a fellow student sitting next to him (a derivatively moral violation), yet that student is more advanced in their studies, then the minimal harm to that student likely does not outweigh the unreasonableness of the demand that Chidi remain on task with confusing material, thus rendering his noncompliance permissible. If in being off task Chidi is distracting a student who has fallen behind and in doing so is impeding the student from participating in a remedial lesson that could help close important learning gaps, then the significant harm to that student likely outweighs the unreasonableness of the demand that Chidi remain on task, thus rendering his noncompliance impermissible. The burden of proof falls on faculty to demonstrate to all parties involved that this moral significance outweighs considerations of injustice.

There is much nuance and few easy conclusions as faculty attempt sober and unbiased analyses. Though many conventional violations seem to be derivatively moral in nature, we provide a framework process for determining the status of these difficult cases. The moral complexity of this challenging work should not dissuade faculty from this process. Instead, acknowledgment of the moral stakes of these matters can provide motivation for their efforts. In the case of Chidi, for example, faculty must demonstrate that the harm to the distracted student is significant enough to outweigh the unreasonableness of the expectation that Chidi stay on task with confusing material.

Noncompliance as Political and Restorative

Strengthening our belief in the permissibility of noncompliance on the basis of role authority are the notions that rule violations can have political bearing and can serve the purpose of restoring justice.

A student who suffers educational injustice because they are not treated fairly or are unjustly punished for arbitrary reasons may choose to violate conventional rules as an act of resistance against the oppressive power embodied by the school. For instance, Dionne may choose to disobey a teacher's instructions in full knowledge of the consequences that will follow. Dionne recognizes at least two important truths: the perceived benefit of obeying the teacher is relatively minimal within the unjust school environment, and the act of resistance can be critical in preserving a sense of agency and self-respect. If Dionne's case is examined from a medical model perspective, her choice

to disobey can be interpreted as an undesirable behavior that should be corrected perhaps through disciplinary intervention. From a systemic injustice perspective, however, her response is a reasonable one that preserves her fundamental human capacities (Shelby, 2016). Furthermore, even if a student has not been directly impacted by the unjust school environment, that student may still choose to violate a rule as an act of solidarity with their friends who are unjustly treated. Such an act may allow a relatively privileged student to demonstrate their solidarity with those who are disadvantaged within an unjust environment, symbolically (if not also materially) rejecting the undeserved advantages conferred on them by the unjust system (Shelby, 2016). Insofar as an act of noncompliance pursued for this or a similarly motivated reason takes on political bearing, this is an additional salient factor to consider when weighing the permissibility of noncompliance of derivatively moral violations. For instance, if Dionne's increase in self-respect or political empowerment is more substantive (politically and/or educationally) than the academic gain (and related projected professional gain) of a student who avoids the distraction that accompanies Dionne's noncompliance, then breaking the rules may be permissible.

A response to this argument might claim that it is not reasonable to consider every misbehavior that occurs in schools an act of political dissent. After all, school-aged children have not fully formed their intellectual capacities and are generally unable to exercise full agency. Even if we grant the truth of this contested claim, we note that school-aged children are not entirely lacking in these capacities or exercises of agency. Students are able to form and also express through their actions political views related to their circumstances. To the extent that a rule violation entails a conscious rejection of what the student perceives to be unreasonable, morally weightless norms of an unjust basic educational structure as enforced by an illegitimate source of authority, the act can be considered one of political dissent, even if less refined than might be possible for a similarly frustrated adult.

Acts of noncompliance can also be viewed as means of restoring justice. If the educational contract is just, then it is morally binding, and the participants have an obligation to abide by standards of justice. This primarily refers to treating other participants fairly and justly when distributing any potential punishments for contract violations. However, should some participants violate the norms of fairness essential to the legitimacy of the educational contract, these misdeeds (even if unintentional) might release mistreated participants from contractual obligations to abide by school rules. Should some participants violate norms of fairness while still using their institutional power (role authority) to hold other participants to educational contractual obligations, then this contract becomes unjust, and on the basis of reasonableness, no participant should be expected to abide by its obligations. Yet, within our current unjust basic educational structure, students are expected to do just that—to abide by unfair rules set by an unjust educational contract that is

presumed binding only by virtue of an illegitimate authority's enforcement power. Under such conditions, students' rule violations may have the potential to restore the very justice that the unjust educational contract has violated.

If sustaining an unjust relationship—passively or actively—contributes to the existence of injustice, then disrupting it is an active repudiation of injustice and consequently an act of (at least partially) restoring justice. And for someone committed to justice, violating rules developed within an unjust basic educational structure may itself be considered an imperative of justice.⁸ A caveat is that rule violation restores justice only to the extent that the violation is conventional. Moral violations yield further injustice and therefore cannot be justified on the basis of restoring justice. Conventional rules hold their legitimacy only when the conditions under which one is expected to abide by them are just. So those who have been unjustly treated are thus released from these contractual obligations. In unjust situations, injustice is maintained when those unjustly treated abide by illegitimate contractual constraints, and justice is restored when they refuse to abide by them. It is worth repeating that derivatively moral violations must be assessed on a case by case basis.

Dissent as Educational Aim and the Value of Noncompliance

Given the political dimensions and restorative possibilities of noncompliance, a strong case is made for its permissibility. Encouraging noncompliance, under appropriate circumstances, can be a worthwhile educational endeavor.⁹ Rather than merely permissible, noncompliance can also be desirable, and this permissible practice should be responsibly encouraged and developed.¹⁰

A vein of scholarship praises contestation or dissent as an important component of democratic education (Allen, 2016; Hess & McAvoy, 2015; Zimmerman & Robertson, 2017). Indeed, Sarah Stitzlein (2012) goes so far as to argue that children “should have the right to an education for dissent” (p. 43), designating it a “positive” right, as distinguished from the “negative” right to express dissent without fear of retribution. We contend that the value and desirability of students practicing noncompliance on the basis of role authority in an unjust basic educational structure can be supported if the practice is both accessible and effective.

In observing a practice's accessibility, we call attention to the minimal barriers to participation. Unlike more demanding forms of dissent, such as Stitzlein's (2012) “cultural critique” or “consciousness-raising” (p. 45), noncompliance does not require students to have particular skill sets (e.g., analytic, expressive). Having such skills is useful, but since most school-aged students are still developing in these areas, noncompliance is a far more accessible means for expressing dissent. Furthermore, unlike other forms of dissent that require greater (individual or collective) organization and/or an appropriate platform, noncompliance requires relatively little even as it potentially communicates very much.

In observing its effectiveness, we note the ability of noncompliance to suc-

cessfully communicate dissent relative to unjust school norms and resistance to illegitimate institutional authority. Indeed, few modes of action communicate dissent and resistance more clearly than noncompliance. We need only look to the role and goals of civil disobedience in the US and elsewhere to identify powerful cases in point. While verbally expressing dissent from the status quo in a school can certainly be effective if done skillfully, it cannot communicate dissent in as immediate and symbolically powerful a manner as does an act of noncompliance. Additionally, noncompliance goes further than verbal dissent by instantiating active resistance to illegitimate authority; it is resistance in both communication and action.

These two observations support the view that if educating for dissent is a desirable educational endeavor, noncompliance may be a useful tool in such activities as undertaken by students. Educators with an eye toward developing responsible practices of dissent among their students would do well to consider noncompliance anew.

Justifiable Responses to Noncompliance

Unlike other philosophical accounts of school discipline (e.g., Goodman & Cook, 2019; Warnick & Scribner, 2020), we do not argue for particular systems or forms of punishment. Rather, we highlight here the types of violations and circumstances that offer both fewer and greater reasons to reject punishment as a justifiable response to noncompliance. In line with Goodman's (2006) distinctions, we contend that, even under an unjust basic educational structure, there are few reasons to reject punishment as a response to moral violations and more reasons to reject punishment for conventional violations. Derivatively moral violations are to be evaluated on the basis of their severity and reasonableness.

Moral Violations

Regardless of whether a school operates within an unjust basic educational structure, there are few reasons to reject punishment as a response to moral violations. Even illegitimate educational authorities might punish for moral infractions, as such punishments are distributed on a nonarbitrary role-independent basis and solely for the purpose of enforcing the moral obligations of students toward others. The purpose of the punishment is not to hold students accountable to the (illegitimate) authority represented by the school; rather, it is to protect other persons (students, teachers, etc.) from undue harm or fundamental rights violations. The role of the school as arbiter of this sort of punishment might be especially important for protecting vulnerable students. This means that schools serving overrepresented poor and nonwhite populations must not overpunish or criminalize their students. Yet, insofar as rule violations in said schools harm other vulnerable students, such actions can compound the injustices suffered by the victims. This prospect charges

schools with the obligation to ensure that their most vulnerable students are protected from many kinds of injustices, including ones inflicted on them by other students, and may afford schools the right to punish moral violations. However, in instances when these violations are committed by vulnerable students, punishments must not unduly burden or further victimize the perpetrators. This suggests that certain types of punishment (e.g., exclusionary or references to law enforcement) may be unjustified regardless of the infraction or the status of the harmed party. More severe punishments may still be justifiable (even in unjust conditions) in cases of infractions that cause severe physical and/or mental harm to the victim.

Conventional Violations

To determine the appropriateness of punishment for conventional violations in situations with an unjust basic educational structure, one must first analyze the violation. When a violation is purely conventional in character, punishment is unjustifiable. Since the weight of conventional rules is based on role authority and its legitimacy, punishment of conventional violations can never be justified under an unjust basic educational structure. Hairstyle violations are an example of this. Similarly, dress code violations occupy this category, to the extent that the violations are not threatening to other students' well-being.¹¹ Under conditions where the relevant rules depend only on custom or the whim of school leaders, punishment for their violation is without merit. Such is the case with being off task. Should a student simply be daydreaming and not harming other students with their inattentiveness, punishments (e.g., moving the student to an undesired position at the front of the class) or unreasonable requests (e.g., pursuing student compliance through fear of punishment) are inappropriate responses.

However, when a conventional violation takes on moral weight and becomes derivatively moral, then the significance of the violation needs to be carefully examined and weighed against the reasonableness of the demand that the student abide by the conventional rule. Tardiness is such a violation, given its context-dependent infraction status and its situation-dependent moral weight. Tardiness could take on moral weight when it disrupts regular classroom procedures to the extent that it impedes other students' learning or when punctual students feel like they are treated unfairly, which likely decreases student morale. Such circumstances could provide justifiable grounds for punishment of the violation. However, having moral weight (and thus being derivatively moral) does not alone provide sufficient grounds for designating a rule violation impermissible and, relatedly, a punitive response to the violation permissible. For instance, if it is unreasonable to expect a student to be on time given their living circumstances or to punish a student for tardiness when more serious moral breaches of contract by teachers go unpunished (e.g., the conscious or unconscious unfair treatment of students on the basis of race and/or class), then there is reason to consider punishment for tardiness unjustifiable despite

its apparent moral weight. In cases where the harm of the violation is morally severe enough that punishment might be considered justifiable, the degree of severity of the punishment must be weighed against the reasonableness of the infraction. Moreover, the accumulated patterns of injustice experienced by the student committing the violation must be taken into account to avoid their further victimization.

One objection to our analysis might be that we overlook the possibility of moral self-harm. That is, even if a conventional violation carries no moral implications for other students, it may still have important and morally relevant consequences for the student committing the violation. For example, habitual tardiness may leave a student ill-prepared to adequately participate in a society that expects punctuality. Following this objection, punishment might seem warranted as a paternalistic measure enacted for the “benefit” of the student, even if others are not spared harm. We resist the force of this objection on the grounds that evaluations of perceived benefit to students are insufficiently reliable (Lambooy et al., 2020) and are difficult to weigh against important moral and educational benefits that may accompany an infraction (e.g., the preservation of the student’s self-respect or the reclamation of the disempowered student’s agency).

Permissible responses to noncompliance are, of course, bound by context-dependent considerations, such as the type and aims of a school and its degree of complicity in micro- and/or macro-level structural injustice. Should some schools be less complicit in structural injustice or make conscious efforts to discharge their responsibility for justice, their faculty may be justified in responding to permissible rule violations. For instance, schools that make conscious efforts to empower their most disadvantaged students and assist them in gaining a strong sense of self-respect despite adverse circumstances may be more justified in meting out paternalistic punishments. However, no school in the US is completely absolved of responsibility for (at least macro-level) structural injustice. Given that the disciplinary authority of all schools is at least partially illegitimate, no school can unconditionally punish its students for paternalistic reasons, and all schools should make conscious efforts to include the communities they serve in discussions around appropriate responses to rule violations.

Some Final Considerations

We argue that all schools in the US operate within an unjust basic educational structure and are complicit in facilitating its operation. This is the case even when facilitation is done unwittingly or goes against the desires, intentions, or ethical principles of schools’ actors. Complicity in systemic injustice further suggests that all schools are in violation of an educational contract by which, on the basis of a standard of reasonableness, every participant in the educational system is expected to abide. Violation of the educational contract’s

basic tenets on behalf of educational authorities compromises the legitimacy of these authorities' expectations of obedience and releases students from role-related compliance obligations. This renders conventional rule violations permissible and potentially desirable.

Since noncompliance is permissible under certain conditions, a reevaluation of responses to rule violations is prudent—namely, educators may find that, under certain conditions, student punishments are unjustifiable. To determine the permissibility of specific rule violations and/or justifiability of responses, we provide a guidance-oriented analytic framework that can be used as a reference by educators and policy makers who agree that the unjust basic educational structure should be considered when evaluating disadvantaged students' acts of noncompliance.

Revisiting assessments of rule violations under unjust conditions is important and necessary work. However, on its own it is an insufficient response, because it merely enables us to treat students more fairly within an unjust basic educational structure. A move away from the medical model and toward a systemic injustice model further compels us to challenge and disrupt the very structure that disadvantages students of color in the first place. It compels us to consider solutions that foreground our collective duty to change the basic educational structure in ways that make it more just and to ensure that we all are able to participate in and contribute to the development of an educational system that serves everyone's needs and treats all students fairly. We outline some responses that might assist in this shift.

- Educators and policy makers can provide students with additional channels for political empowerment that are more productive in the long run. Students should be allowed to protest and formulate student organizations or activist groups to express their indignation and willingness to resist systemic injustice. Such organized action empowers students, amplifies their message, and builds their sense of self-respect even more than ad hoc acts of noncompliance do. More importantly, this action has the potential to galvanize the public into collective action or even instigate the development of a new civil rights movement that advocates for the removal of policies which privilege those already advantaged and for investment in poor communities of color without damaging their social fabric or jeopardizing residents' ability to maintain their homes.
- Students can be encouraged to embrace their own educational aims and norms rather than simply be expected to follow externally prescribed norms that impose heavy burdens for minimal gain. For example, they might choose to reject white middle-class individualistic norms of academic success and instead build social ties and bonds of solidarity within their communities that allow them to prosper and flourish as a group. This likely requires schools to stop following strict standards and structure their instruction around the priorities of those they serve and to hire teachers

and administrators from within the communities they serve who are thus better able to meet their students' needs and advocate for their rights.

- Schools can be more transparent about their aims and policies and allow students and parents to weigh in and challenge whatever it is they find objectionable. Doing so would increase students' trust toward schools as well as schools' legitimacy. To that end, schools need to work closely with school-based organizations (e.g., parent-teacher associations, student governments) to restructure the foundations in ways that disrupt the mechanisms that maintain systemic injustice and then exert concerted pressure on local and state governments to challenge unjust policies and encourage local control.
- Schools can work with community-based organizations to help build and support structures that benefit disenfranchised students, their families, and their communities or help improve their homes and neighborhoods. These goals may take priority for students, so having such options available allows them to exercise their agency for their own benefit in ways that the current disempowering educational system does not. Moreover, in doing so, students are able to concentrate their educational efforts on learning things that are pertinent to their own concerns and lived experiences and to help repair the damages caused by racially unjust policies and disinvestment in neighborhoods where communities of color reside.

These suggestions are neither exhaustive nor greatly detailed. Rather, they are intended to point toward possible directions for further research that might be necessary for dismantling structural injustice in American education. Each of these suggestions marks a move away from the medical model of diagnosis and remedy of symptoms and toward a systemic injustice model that foregrounds the restructuring of education to meet standards of justice. This restructuring involves a rejection of the current aims and outcomes of education for new collectively generated ones and a reimagining of the use of an extant educational apparatus to serve those new aims and facilitate those new outcomes. It entails reconceptualizing education as a means of social transformation rather than preservation. For justice to be actualized in education, concerted efforts need to be made along these lines with the potential to restructure the educational system based on standards developed by communities themselves. Such efforts would respect the agency of those communities and provide them with the institutional means to create an educational system that serves them well and treats them fairly.

The unjust basic educational structure that all schools support has led to grave injustices for disenfranchised populations, particularly for students of color. In general, the approach that most educators and policy makers take in addressing the numerous problems that students face adheres to a medical model of diagnosis and remedy. This presumes student behaviors to be unduly disruptive, disorderly, or violent while propagating narratives of pathology and

deficiency. The systemic injustice model rejects such discourse and treats students as agents who choose to resist the injustices inflicted on them. It allows educators, policy makers, and researchers to take seriously the implications of mandating that students of color participate in an unjust educational setting that makes unreasonable demands on them. It compels us to reject deficit interpretations of rule violations and understand them as often reasonable, morally permissible, and legitimate forms of resistance—and perhaps as even desirable under current circumstances and as something to be cultivated as productive means of challenging an unjust status quo.

Notes

1. Sally Haslanger (2015) has advanced a similar critique of the recent emphasis on implicit bias interventions. Like the medical model, the implicit bias model treats the symptoms of the injustices rather than the underlying structural causes. The difference is the target of the intervention: the medical model targets those who suffer from injustices and the implicit bias model those who commit injustices. While an improvement, the implicit bias model is similarly limited in its ability to disrupt structural injustices.
2. Given the focus of this article, we do not enumerate specific constituent elements of the basic educational structure. Instead, we provide examples that suggest the justice or injustice of the structure.
3. We acknowledge that there may be independent schools whose aim is to help marginalized students and rectify injustices and that such schools are likely not complicit in educational injustice.
4. We do not suggest that schools have had, currently have, or should have a literal or legal contract. We use the language of contract to analyze the reciprocal relationship of obligations between schools and students.
5. While we focus on the contract between schools and students, the educational contract as an analytic tool can also be applied to different educational settings (e.g., homeschooling or parenting).
6. Equal treatment suggests a duty to treat all students as moral equals and avoid subjecting them to differential treatment on the basis of morally irrelevant or arbitrary factors. Equal treatment does not imply treating all students in the same way regardless of their circumstances. We understand that some might prefer the term *equitable treatment* over *equal treatment* to avoid the implication that students must be treated the same way irrespective of their morally relevant differences. We avoid *equitable* because its usage is suggestive of various conceptually distinct notions, such as equality of opportunity, equality of outcome, or benefit to the least advantaged.
7. One might object here that even in keeping to themselves a student might be distracting others who curiously observe them instead of staying on task. While it might certainly be the case that students are distracted by anything out of the ordinary, it is unreasonable to reduce all conventional violations to derivatively moral ones given that this places the bar for meeting moral standards too high for reasonable expectations of compliance. For instance, a student might also be distracted by a fellow student's facial tic, nervous twitching, hair texture, or facial characteristics—things over which that student has no reasonable control. Insofar as a student is not unduly distracting someone, then it is safe to consider their being off task a purely conventional violation.
8. Consider Rawls's (1971) reference to a natural duty "to assist in the establishment of just arrangements when they do not exist" (p. 334).

9. In presenting this support, we do not argue in full for the desirability of dissent. Such arguments extend beyond the boundaries of this article. For detailed discussions see Mordechai (2009).
10. Although we argue for the permissibility of noncompliance, our earlier discussion suggests its desirability in light of potential benefits for disempowered students—namely, access to tangible moral and civic goods (such as a renewed sense of self-respect and empowerment) that could enable the preservation or restoration of justice.
11. If a student, for example, wears a shirt with a swastika or other Nazi symbol on it, punishment is an appropriate response given the moral harm that such symbolism does to students whose dignity and humanity are challenged due to their racial, ethnic, and/or gender identities. Such attire also raises questions about student safety given the history of physical violence embedded in such symbols.

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