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ONTARIO SAFE SCHOOLS ACT AND ITS EFFECTS ON RACIALIZED IMMIGRANT YOUTH:

'SCHOOL TO PRISON PIPELINE'

by

Sofiya Kovalenko, BA, Ryerson University, 2011

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Sofiya Kovalenko

Ontario Safe schools Act and its Effects on Racialized Immigrant youth:
'School-to-Prison Pipeline'

Sofiya Kovalenko
Master of Arts 2012
Immigration and Settlement Studies
Ryerson University

ABSTRACT

It is recognized that racialized youth are significantly over-represented in the Canadian Criminal

Justice System relative to their population percentages. Research also determined that similar

disproportion exists with respect to school discipline. Similar to US research, a number of

Canadian studies found that racialized youth are being disproportionately affected by zero-

tolerance school disciplinary policies, such as the Ontario Safe Schools Act. Such research also

hypothesized about a "school-to-prison pipeline" for minority youth. This MRP explores the link

between immigration, policing, and school disciplinary policies in Ontario, Canada. In particular,

the MRP investigates the racialization of school disciplinary procedures that largely affect

immigrant youth, and the criminalization of certain behaviors that may lead visible minority

youth, including immigrant youth, to having disproportionate police contact. The findings

suggest that there is a relation between racial disproportion of school suspensions and expulsions

and the racial disproportion in the likelihood of youth- police contact.

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Key words:

racialized immigrant youth, institutional discrimination; Ontario Safe Schools Act; Canadian

Criminal Justice System; "school-to-prison pipeline".

ACKNOWLEDGEMENTS

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INTRODUCTION

Immigration has added to Canada's racialized and ethnicized populations. Since the 1960s, when overtly racist selection policies were eliminated, questions about immigration's impact on the inter-racial tensions within the Canadian society have become more prominent (Reitz and Banerjee, 2006). Concerns about racial tensions have been expressed from a variety of political standpoints by a number of social groups, including advocates for minority rights. This paper suggests that racial inequality is still a significant issue in Canada, and that "the extent of discrimination is a point of dispute between racial groups" (Reitz and Banerjee, 2006, pg. 2). This creates a potentially significant racial divide and prompts us to ask whether existing social policies, specifically educational and criminal justice policies, contribute towards bridging this gap.

According to Citizenship and Immigration Canada (2005), immigrant children and youth in the 0-24 age group are the second largest group of permanent residents, accounting for an average of 37.3%. A significant proportion of young immigrants are of school age, and comprise the largest and fastest growing segment of the youth population in Canada (Gluszynski and Dhawan-Biswal, 2008; Areepattamannil, 2011). While most racial minorities in Canada are immigrants, a Canadian-born generation is emerging: by 2001, it constituted 29.4 percent of the racial minority population. This new generation of racialized Canadians is also very young: 63.3 percent are under 16 while only 16.2 percent are over 25 (Reitz and Banerjee, 2006).

In Canada education is offered to children from kindergarten to grade 12 at no cost through the public education system. The mandatory school age varies across the country but generally ranges between the ages of 5-7 to 16-18. Therefore, it is safe to assume that in Canada a significant proportion of school age racialized youth are immigrants or children of immigrants.

It has recently come to public attention – through media coverage, voiced academic debates, and reports from the non-governmental organizations - that racialized youth encounter discrimination from two Canadian state systems - in particular, school boards and the police. In 2003 the Ontario Human Rights Commission launched an investigation into the effects of the Ontario Safe Schools Act – a zero tolerance school disciplinary policy – on racialized youth. Below are some of the individual stories that were included in the public report *The Ontario Safe Schools Act: School discipline and discrimination* (2003)[1]:

- Two Black female students were suspended for possessing weapons after they brought nail files to school.

- A Black male student who was accused of stealing money was handcuffed by the police and led out of the school in front of other students, even though the alleged offence (theft) was non-violent.

- An Iraqi student was suspended for three days after a note with profanities that was signed "Iraq" was found. He was the only Iraqi student in the school. He knew, in fact, that one of his friends had written the note. The student and his father offered to show the vice-principal proof that the handwriting in the note did not match his handwriting, but the vice-principal said that the decision had already been made.

- A Vietnamese student was suspended after a White student complained to a teacher that the Vietnamese student had threatened him. The Vietnamese student said that the White student had been bullying him. The teacher believed the White student and alleged that the Vietnamese student and his older brother were part of a gang. The student and his

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[1]

http://www.ohrc.on.ca/sites/default/files/attachments/The_Ontario_Safe_Schools_Act%3A_School_discipline_and_discrimination.pdf; see pages 3-5.

older brother – who went to a different school and had never met the teacher – both denied the allegation. After the student retained legal counsel, the superintendent and principal backtracked and said that there had been a misunderstanding due to language issues.

- A Tamil student, who had an overall average of about 90%, was suspended and threatened with expulsion on the basis that he had falsified his marks for university entrance. The grade for one course on the student's transcript had been changed from 79% to 80%. The student claimed that his girlfriend had picked up his transcript and changed the grade without his knowledge. The school administrators told the student's father that his son's education was over. After a community organization applied pressure, including asking for the police to be brought in, the school decided to limit the student's suspension to five days.

The Ontario Human Rights Commission has also produced reports on racial profiling by the police. In 2003 the Commission released its report on racial profiling, titled *Paying the Price: The Human Cost of Racial Profiling*. The report details the experiences of individuals and families across a broad range of public and private sector institutions and found evidence of racial profiling within:

- police services across the province (including the OPP and RCMP)
- all levels of the criminal justice system including crown counsel, justices of the peace, judges, prison guards and officials and those involved in parole and probation;
- all levels of the education system, particularly those involved with the Safe Schools Act and zero tolerance policies such as school board officials, school administrators, principals, teachers, guidance counselors, Ministry of Education officials.

Racial profiling by the police in particular has generated much public debate. In 2005, the Kingston police completed a controversial study showing officers were more likely to stop black people over other races (CTV News, 2005). The police union later disclaimed the validity of the report and sought a second opinion (CBC News, 2005). In 2005, an Ottawa man (then 18 years of age) claimed he was subject to a traffic stop and police harassment solely due to his race. As a result, in the summer of 2010 the Ottawa police and the Ontario Human Rights Commission reached a partial settlement which included police collection of race-based data on traffic stops for a two year period starting in 2012 (CBC News, 2012).

On March 9th, 2012, the Toronto Star reported that Toronto police stop and document black and brown youth far more than whites, suggesting discriminatory policing practices (The Star online, March 9, 2012). The police are a critical part of the juvenile justice decision making process. They are afforded a great deal of discretion and act as gatekeepers to the Criminal Justice System – police contact may lead to court contact, which in turn may lead to a prison sentence.

This MRP posits a connection between racial discrimination resulting from zero tolerance school disciplinary practices and racial profiling by the police: the "school-to-prison pipeline", to use the term employed in US studies (Fenning and Rose, 2007; Nicholson-Crotty et al, 2009). The existing educational and policing policies and practices contribute to the overrepresentation of visible minority youths as subjects of schools' disciplinary actions as well as subjects of police contact, carding, stopping, and questioning. This is a social justice concern and as such the question is not whether the state needs to do something to remedy the problem but rather when and how it will undertake to correct the problem. Given that the percentage of racialized youth will increase due to immigration, and that a sizeable and increasing proportion of young

immigrants are of school age (Gluszynski and Dhawan-Biswal, 2008; Areepattamannil, 2011), it should be of great interest to the Canadian government to ensure successful integration of immigrant children in order to secure the growth of national human capital. Therefore, when concerns rise regarding the discrimination of the racialized youth in Canada by the state agents, it becomes a national issue of social equity. Diminishing positive learning experiences of racialized youth and criminalizing this growing segment of the Canadian population may lead to devastating consequences in all aspects of those individual's lives – ranging from self-identity and self-perception to economic hardship, criminal behavior - and the lives of future generations.

Based on a thorough review of the available literature, I argue that due to the challenges of immigration and integration, discriminatory institutional practices and the lack of appropriate support structures for immigrant youth and their families with respect to the Canadian educational system, racialized immigrant youth experience more hurdles to attaining education than their non-racialized Canadian born counterparts, and, in addition, are more likely to be linked to the Canadian Criminal Justice System.

School is a main site for the youths' experiences of justice and injustice (Mosher, 2008). This is the case not only because youths spend a considerable portion of time in school, but it is also the main source of their education (Mosher, 2008). With this in mind, this paper will look at the possible lessons racialized youth may be learning about justice in Canadian society, particularly in the context of school practices.

My main focus in this MRP is the Ontario Safe Schools Act and Zero Tolerance disciplinary policies which, I argue, have the potential to pipeline racialized immigrant youth into the Canadian criminal justice system. For the analytical purposes this paper will specifically look at the city of Toronto and the Toronto District School Board (TDSB).

The first two sections of the paper introduce and define key terms and establish a theoretical framework. The third section of the paper contains a literature review of the most relevant and recently published (2000-2011) research findings. I found a lack of reliable research and statistics on the effects of the Ontario Safe Schools Act and other Zero Tolerance Schools Disciplinary Policies on racialized minority immigrant groups in Ontario. There is thus a great need for research in this area to bring about more supporting and pertinent evidence to the discussions of the discriminatory impacts of Canadian school policies on racialized and immigrant youth. The MRP concludes with a discussion of some policy recommendations.

KEY TERMS

This section includes an introduction and analytical description of the key terms that are used in the MRP and enables a better understanding of the literature review that follows.

Definition of Racialized Immigrant Youth

This MRP concentrates on the demographic that is racialized, immigrant or of an immigrant background, of school age, at risk of academic underachievement, experiencing behavioral and attitudinal challenges, and qualified to be processed within the criminal justice system[2] in Canada.

At this point, it is important to define my use of the term 'racialized immigrant youth' and discuss why I focus on this specific demographic.

According to Anthias and Yuval-Davis (1993), racialization is a process that lengthens racial meanings often based on the biological characteristics and social practices of groups to maintain group boundaries; the process goes beyond race to include ethnic groups and other groups that are perceived undesirable. Statistics Canada uses the *Employment Equity Act* definition of visible minorities as a reference point in data collection on visible minority population characteristics. The *Employment Equity Act* defines visible minorities as 'persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in color' (Statistics Canada, 2006 Community Profiles).

Taking into account the definition of racialization by Anthias and Yuval-Davis (1993) and the *Employment Equity Act* definition of visible minorities, racialized youth will refer to ethnic minority, or visible minority youth, and will include all non-white and non-Aboriginal

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[2] In accordance with the Youth Criminal Justice Act of Canada, youth aged from 12 to 17 are eligible to being officially arrested and processed by the justice system (Sprott, 2001).

youth. In terms of 'youth', I mean children and young people who are attending elementary and secondary school and are between the ages of twelve and eighteen.

The focus of this paper will fall on the investigation of the effects of school disciplinary policies on racialized youth, in particular *immigrant* racialized youth. Since much of the scholarly research does not single out youth's immigrant status as a unit of analysis, instead concentrating on race as the main factor that contributes to experiences of discrimination, it is important to demonstrate the links between the immigrant and racialized status of Ontario students. Though the focus of attention is on the intersection of immigration and racialization it is nonetheless important to highlight that these are in fact two different processes - one does not automatically imply the other; however in the context of Toronto, Canada the processes may be interlinked.

The cosmopolitan and international population of Ontario, especially when looking at Toronto, reflects its position as an important destination for immigrants to Canada. Since 2001, up to 50% of all immigrants to Canada have been arriving in the Toronto area alone each year (CIC, 2006). Toronto is one of the world's most diverse cities by percentage of non-native-born residents. According to the 2006 Census, slightly over 50% of the population was born outside Canada. The 2006 Census also established that a little under 50% of the population in Toronto are second or third (or more) generation Canadians, the offspring of parents who immigrated to Canada in the past. In terms of visible minority population characteristics, over 46% of the total Toronto population is characterized as 'non-Caucasian in race or non-white in color' (Statistics Canada, 2006 Census). Statistics Canada projects the numbers of racial minority groups to grow with the years to come.

As mentioned above, immigrant children and youth in the 0-24 age group are the second largest group of permanent residents, accounting for an average of 37.3% (CIC, 2005). Looking at the Census data on the proportion of visible minority population in Toronto, it is reasonable to assume that a number of the immigrant children and youth are of a racial minority status. It has been found that already at some schools in Toronto more than 90% of students report their first language to be other than English (Scholfield, 2008). Additionally, in 2006 the Toronto District School Board released the numbers of visible minority youth attending grades 7 to 12; in that year racialized students constituted over 67% of the total student body (Yau & O'Reilly, 2007).

Keeping in mind all the statistical information mentioned above, it is safe to assume that many of the racialized students in Toronto schools are first- or second-generation Canadians, the offspring of parents who emigrated to Canada over the past couple of decades.

The fact that a number of racialized Ontario students may also be immigrants, or children of immigrants, adds a number of factors that may disadvantage them within the school system. Such factors largely revolve around the challenges of immigration and integration and include, but are not limited to: economic hardships, language and cultural barriers, and lack of appropriate support structures for immigrant youth and their families within Canadian society with respect to the educational system.

A commonly recognized difficulty immigrant youth face in the new host country and schools is the validation or identification of self- identity – cultural and otherwise (Codjoe, 2006; Berry et al, 2006; Cooper, 2008). Studies have shown that teenage years are critical in identity formation as individuals' transition from childhood to adulthood. The process is characterized by the increased value of peers, and an increase in autonomy (Berry at al, 2006). If an adolescent experiences the transition from childhood to adulthood parallel to the process of immigration and

integration – s/he may face additional difficulties in identity formation due to the change in cultural environment, friendship networks, etc. (Berry at al, 2006). Teen youth may have hard time making new friends, adjusting to the new schooling system (Cooper, 2008; Anisef et al, 2010), and developing an adult identity because of their increased dependency on their family caused by immigration (Berry at al, 2006). Cooper (2008) also pointed out that a number of immigrant youth are struggling with racial stereotyping and discrimination in Canada – a barrier that likely was not present in their country of birth. Therefore, it is easy to see that racialized immigrant youth may face extra difficulties in their identity formation in comparison to native-born, which may influence their behavior, attitudes, and academic performance.

Ontario Safe Schools Act - Background

In addition to defining 'racialized immigrant youth', it is also important to define zero tolerance and offer some background on Ontario's Safe Schools Act. Broadly speaking, zero tolerance refers to policies that are developed based on a standardized punishment system with little to no regard to the severity and the circumstances of the transgression that is committed (Lewis et al, 2010). Zero tolerance policies are built upon a principle that a consistent set of guidelines must be designed to settle on what constitutes unacceptable behavior. A set of predetermined rules are then applied to establish appropriate punishments for such behaviors (Daniel and Bondy, 2008).

The Ontario Safe Schools Act was introduced in 2000 within a discourse of zero tolerance as the solution to publicly perceived problems of violence and other behavioral issues in schools such as bullying and bringing weapons and drugs to school. Thus, the Safe Schools Act was meant to provide a safe school environment best suited for learning (Bhattacharjee, 2003; Safe Schools Action Team, 2006; Daniel and Bondy, 2008). The Act gives principals,

teachers, and school boards more authority than hitherto to suspend and expel students and involve the police in school disciplinary matters. Prior to these reforms, the power to suspend a student rested with school boards and could be imposed only if the students' continuous presence in school was "injurious to other pupils or person" (Education Act, R.S.O., c. E.2., as amended by S.O. 1993, c. 11, in Bhattacharjee, 2003). The Safe Schools Act introduced infractions which require mandatory suspensions, expulsions and police involvement. The Act also permits school board policies to insert infractions for which suspensions or expulsions are either mandatory or discretionary (Ontario Human Rights Commission, 2004). Expulsion or suspension is not mandatory in circumstances in which "the pupil did not have the ability to control his/her behavior, the pupil did not have the ability to understand the foreseeable consequences of that behavior, or the pupil's continuing presence in the school did not create an unacceptable risk to the safety of any other person" (Daniel and Bondy, 2008, pg. 6).

The discretionary suspension or expulsion is left up to the school board policies. This 'mitigating clause' precludes the Ontario Safe Schools Act from being categorized as strictly 'zero tolerance'. The main concern is whether there is a practice of 'zero tolerance', keeping in mind that principals and teachers are receiving two conflicting messages – one promoting 'zero tolerance' and advising 'mandatory' action, and the other directing them to apply mitigating factors (Bhattacharjee, 2003).

Only basic data on a student is collected following a suspension or expulsion. Data regarding race or immigrant status of the student is not collected - due to the Toronto District School Board's (TDSB) concern regarding unnecessary stereotyping and labeling of racialized students, as well as that race statistics will be misused and interpreted in isolation, which may

reinforce racial prejudices (Ontario Human Rights Commission, 2004[3]; TDSB official website:

Safe Schools, questions and answers[4]). The Act states that the Minister may require school

boards to establish and maintain specified courses and services for students who are suspended

or expelled (Bill 81, Education Act, ss. 312(1,2)). While the minister did not implement this

requirement a few programs and services of this sort were created (Mosher, 2008; Bhattacharjee,

2003).

Since this paper focuses on the Toronto area, I looked at TDSB policies adopted after the

passing of the Ontario Safe Schools Act. The TDSB adopted a Code of Conduct and Appropriate

Dress policy in 2002 (Mosher, 2008), noting that the second "should lead to a safer and more

respectful learning and teaching environment" (Toronto District School Board, Policy P.042

SCH, "Appropriate Dress, 4.0, 2002, revised 2006). Additionally, as permitted by the Ontario

Safe Schools Act, the TDSB Code of Conduct expanded "the number of infractions for which

suspension is mandatory and created several infractions for which suspension or expulsion is

discretionary" (Mosher, 2008, pg. 822).

It is also important to mention two other TDSB policies: the Police-School Board

Protocol and the Video Surveillance Policy. The first policy introduced a co-operative working

relationship between schools and police and required schools to report all criminal offences to

the police (Toronto District School Board, Operational Procedure, PR. 698 SCH, "Police-School

Board Protocol", 2003, revised 2006). The second policy was designed to facilitate the use of

surveillance cameras and hall monitors for the purposes of detecting behavioral misconduct

(Toronto District School Board, Operational Procedure, PR. 694 SCH, "Video Surveillance",

2005).

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[3] http://www.ohrc.on.ca/en/book/export/html/2959
[4] http://www.tdsb.on.ca/parents/safe_schools/questionsanswers.asp?t=78

Given the number of expanded infractions, the increased authority for principals with regards to school discipline, increased surveillance, the implementation of mandatory consequences, the use of the police, and the pervasive use of 'zero tolerance' language, it does not come as a great surprise that the number of expulsions and suspensions increased dramatically after the Ontario Safe Schools Act was implemented (Mosher, 2008). According to the data released by the McGuinty Government on School Discipline (Ministry of Education, News Release, 2005), in the 2000-01 school year (prior to the reforms) in the Toronto District 113,778 students were suspended, and 106 students were reported expelled. In 2003-04 school year (a year after the Ontario Safe Schools Act was implemented) the number of suspended students was 152,626 and the number of expelled students was 1,909. The statistics showed not just an increase in the number of suspensions and expulsions after the implementation of the school disciplinary reform but also demonstrated a large variance in the rate of suspensions – from 0.5% in some schools boards to 36% in others (Mosher, 2008).

In 2005 the Ontario Human Rights Commission filed a formal complaint against the TDSB stating that the Ontario Safe Schools Act and the relevant TDSB disciplinary policies were allegedly having a disproportionate effect on racialized students and students with disabilities, and that the Board failed to meet its legal obligations in the application of discipline partially because it provided inadequate education support services for suspended or expelled students (Mosher, 2008). In 2008 the TDSB passed reforms to address these concerns, including training TDSB staff on how to recognize and avoid racial profiling and stereotyping, cross-cultural training, and recruitment from racialized groups (Mosher, 2008).

THEORETICAL AND CONCEPTUAL FRAMEWORKS:

Critical Race Theory, Racialization, and Criminalization

This section of the MRP provides a theoretical and conceptual framework that is beneficial for greater understanding of issues and patterns that will be discussed in the literature review.

Critical Race Theory

Critical race theory (CRT) argues that race is central in the making of our world (Parker and Stovall, 2004). Race has played a key role in the making of an empire state that includes a system of conquest and enslavement, the creation of capital, and "the shaping of culture and identity, especially in the creation of subordinate racialized groups" (Winant, 2002 in Parker and Stovall, 2004, pg. 170). Scholars of race developed CRT as a critical response to the 'problem of the color line' (Trevino et al, 2008, pg, 7).

The theory was first developed in the area of legal and justice studies, but soon after spread into other fields including sociology and education. CRT looks at the social construction of race as central to the way visible minority groups are constrained and controlled in North American society (Trevino et al, 2008). The theory looks to expose and analyze the ways in which institutional practices and structural arrangements inhibit and disadvantage some more than others in our society. CRT also challenges notions of neutrality, objectivity and color blindness (Schneider, 2003; Parker and Stovall, 2004). A number of scholars (Schneider, 2003; Parker and Stovall, 2004; Trevino et al, 2008) have also advanced the principles of CRT by stating that 'race problem' should be considered in conjunction with gender, class, sexual orientation, immigrant status and other factors that may contribute to marginalization and discrimination: the concept of intersectionality.

When discussing the issues of systemic discrimination that resulted from zero tolerance school disciplinary policies, CRT becomes a prism though which relevant institutional practices are analyzed. All of the major tenants of the CRT theory mentioned above are relevant to the analysis of the Safe Schools Act. This MRP explores the ways in which the social construction of race contributes to the numerous, and coercive, controls forced onto a visible minority group. The MRP also exposes and analyzes the ways in which institutional practices of schools and police services disadvantage racialized youth more than white youth in Canadian society. It is important to note that a number of arguments that surface in this paper are in accordance with the principle of intersectionality. The issue of youths' race is considered in conjunction with other factors, in particular socioeconomic class and immigrant status, which contribute to further marginalization and discrimination.

Keeping in mind all the central tenets of the Critical Race Theory, for the purposes of this paper the related concepts of racialization and criminalization will be looked at in a greater detail.

Racialization

The concept of racialization has many variables in its definition. In recent years, there has been a shift towards understanding race as a process rather than a biological trait; therefore, the discourse shifted from discussing 'race' to discussing 'racialization' (Chan and Mirchandani, 2002). Robert Miles (1989) defines racialization as a "process of categorization through which social relations between people are structured by the signification of human biological characteristics in such a way as to define and construct differentiated social collectivities" (in Anthias, Yuval-Davis, Nira, 1993, pg. 75). Chan and Mirachandani (2002) also emphasize that racialization is a process; it is fluid and ongoing, in that racial meanings change depending on the

political, economic, and social context within a society. Discussing racialization as a process also allows for an analysis of how "privilege and oppression are often not absolute categories but, rather, shift in relation to different axes of power and powerlessness" (Friedman, 1995, pg. 114 in Chan and Mirchandani, 2002). The process of racialization is not strictly confined in terms of race. It can include ethnic groups and others perceived as undesirable. Issues of racialization may be related to immigrant status, ethnicity, class, and gender (Anthias, Yuval-Davis, Nira, 1993). This refers back to the CRT concept of intersectionality mentioned earlier. Chan and Mirchandani (2002) and Anthias, Yuval-Davis and Nira, (1993) argue that racialization as a process is effected by historical influences of colonization and conquest that shaped and developed racial categories, which continue to produce differences and hierarchy within a society. As Miles (1989) stated, racialization may be referred to as the "historical emergence of 'race' and its subsequent reproduction and application" (in Yuval-Davis and Nira, 1993, pg. 8). Tanovich (2006) argues that the process of racialization contributed to systemic racism, which is the "social production of racial inequality in decisions about people and the treatment they receive" (Ontario Systemic Racism Report, in Tanovich, 2006, pg. 14).

In its 2003 report on racial profiling in education and the police, among other state institutions, the Ontario Human Rights Commission separated out racist intent/attitudes from systemic forms of discrimination. The Commission observed that for the most part, racialization is unintentional; anyone can stereotype, even people who are well meaning and not openly biased. While it may be 'natural' for humans to stereotype, it is still wrong, especially when people act out on their stereotypical beliefs and views in ways that negatively affect others (Ontario Human Rights Commission, 2003). When discussing systemic racism or institutional discrimination, it is important to note that it does not mean that every member of an organization

discriminates, or that it is an intentional policy of that organization. While racialization can be deliberate, it can also be unintended. Even if an institution is staffed with well-meaning professionals, it still may function in subtle and unfair ways that have adverse impacts on racial minorities (Ontario Systemic Racism Report, 1995).

Discrimination in education and the police is not for the most part attributed to the presence of large numbers of racist school officials or police officers. Most teachers and school officials do not even realize that they are engaging in discrimination when they discipline racialized students more harshly or at a higher rate; and most police officers do not recognize that they engage in inappropriate conduct when they conduct race-based stops and searches (Tanovich, 2004, 2006). Racial profiling in schools and by the police is due more to systemic factors, a 'common-sense racism' that pervades settler and colonial states.

Criminalization

Criminalization is introduced as one of the conceptual frameworks of this MRP due to the specific analytical focus the discussion will have on the school zero tolerance disciplinary policies and practices and their potential for criminalizing racialized youth, including immigrant youth. The literature review section will demonstrate that in the context of school discipline, school violence and disobedience is constructed as a problem of the individual student rather than a problem resultant of the intersection of poverty, racism, migration, economic marginalization, age, etc. School disobedience has been framed as a criminal offence which requires punishment and a response from the justice system, and the students themselves have been criminalized.

The concept of criminalization emerged from the fields of sociology and criminology – in particular from studies of socio-legal aspects of human lives. The Sage Dictionary of

Criminology (2001) defines criminalization as the institutionalized process through which certain acts and behaviors are labeled as `crimes' and `outlawed'. It reflects the state's decision to regulate, control and punish selectively. In simpler form, it is a process by which behaviors and individuals are transformed into crime and criminals through legislation, judicial decisions, new laws or regulations, and the interpretation of these laws by the executive branch.

The above is the most simplistic and straightforward way of understanding the concept of criminalization. Deconstruction of the concept, however, allows one to see its multi-dimensionality. Douglas Housak (2008) deconstructed the architecture of a theory of criminalization. He suggests that there are multiple constrains of criminalization: "1) the criminalized conduct must be harmful or evil; 2) the conduct must be wrong; 3) the criminalized conduct must warrant punishment; 4) the burden of proof falls on those justifying criminalization; 5) the state must have a substantial interest in pursuing the objective that the legislation is designed to pursue; and 6) the statute must be no more extensive than necessary to achieve its purpose" (in Tadros, 2009, pg. 75).

Criminalization might reduce the risk of harm for some individuals but for others it will increase the risk of investigations, prosecutions, and convictions by the criminal justice system – the agent of the criminalization process. These risks tend to be unevenly distributed within the population, with poor, racialized, immigrant, and marginalized communities being at the highest risk of investigation, prosecution, and conviction (Tadros, 2009). Mosher and Brockman (2010) argue that criminalization processes can be theorized in three different but overlapping ways: "(1) as a result of the formal legislative categorization of unwanted behavior as crime; (2) as an example of "law in action" in which conduct is criminalized as a result of the kinds of enforcement, detection, and surveillance strategies that surround its occurrence; and (3) as an act

of governance through which the state identifies, predicts, and ultimately governs the marginalized and vulnerable populations that threaten its practices" (in Way, 2011, pg. 366).

To continue with this discussion, Chan and Mirchandani (2002) argue that the process of criminalization is inherently tied to the "material and symbolic relationship between power, social control, and actions which resist control" (pg. 14). Criminalization contributes to the process of labeling the activities and groups that the authorities deem in need of control. The authors continue to state that the definitions of crime and categories of criminality are "neither fixed nor natural" (Chan and Mirchandani, 2002, pg. 14) – they change depending on the political, economic climates, as well as societal sentiments regarding the undesirable groups and racial and ethnic hierarchies. The Sage Dictionary of Criminology nicely summarizes the above by stating that criminalization is influenced by contemporary politics, economic conditions and dominant ideologies and is contextualized by the determining contexts of social class, gender, sexuality, `race' and age (2001, pg. 68).

The processes of criminalization and racialization are two inter-connected processes that negatively affect the marginalized and disadvantaged in society. They both depend on the historical and political context within which they exist. The concepts of racialization and criminalization will help in understanding the deeper issues and trends that are resulting from the school zero tolerance disciplinary policies.

The following discussions will focus on the issues related to the criminalization of race and racialization of crime with respect to immigrant youth in Canada and their position vis-à-vis the educational and criminal justice systems.

THE REVIEW OF SCOLARLY LITERATURE

There is sufficient evidence that suggests systemic discrimination in the educational

sector in terms of student discipline under the Ontario Safe Schools Act. The extant research also

suggest a connection between the disproportionate effects on racialized youth of school zero

tolerance and the probability of those youth to be apprehended by the police. Following US

based studies, the numerous discriminatory activities by schools that might cause youth to spend

more time on the streets and come into contact with the justice system may be termed the

"school-to-prison pipeline".

Ontario Safe Schools Act and its general impact on racialized immigrant youth

Overall, the scholarly research on the topic of zero tolerance policies in Canada and the

US contributed greatly to the discourse on the effects of school disciplinary policies on students.

In many cases the US literature is stronger due to the inclusion of a quantitative component in its

supporting evidence.

Since statistical data on the disproportionate effect of zero tolerance school disciplinary

policy on racialized youth in Toronto and Canada more generally is lacking, Canadian scholars

have drawn on US data to discuss the implications of zero-tolerance disciplinary policies (see

Ruck and Wortley, 2002; Bhattacharjee, 2003; Mosher, 2008; Daniel and Bondi, 2008; Winton,

2011). This data, however, should be used with caution. While there are a number of similarities

between Canada and the US in terms of their educational system and zero tolerance disciplinary

policies, there are also differences with respect to the immigrant composition in schools, political

and social environment, and the criminal justice system. Nonetheless, for Canadian scholars the

US research remains the closest available source of statistics on race. Consequently, the use of

such data helps in the construction of discourses on the effects of Canadian zero tolerance school disciplinary policies on racialized youth, where race statistics are necessary in the creation of a valid argument.

In the report for the Ontario Human Rights Commission Bhattacharjee (2003) referred to the US data and statistics regarding the gross overrepresentation of racialized youth as subjects of zero-tolerance disciplinary policies. In the comparative analysis of safe school policies in Toronto, Canada and Buffalo, USA, Winton (2011) drew parallels between the zero-tolerance school disciplinary policies of the two countries pointing to the similarities in the educational system, the zero tolerance disciplinary policy structure and school practices. Winton (2011) also pointed out that in both districts the policy was influenced by similar beliefs about unsafe schools and youth violence, affected by local, social, economic, and historical contexts.

The US Department of Education Office for Civil Rights found that suspension rates for black students were 2-3 times higher than suspension rates for white students at all the school levels (Krezmien et al, 2006). Mendez and Knoff (2003) found that black children account for 17% of the student population but constitute about 33% of all suspensions (in Lewis et al, 2010). Gregory and Weinstein (2008) found that even though black students comprised 30% of the total student enrollment, they made up 58% of students who "were sent to the office for defiance related infractions" (in Lewis et al, 2010, pg. 10). This is compared to the 5% of white students who were sent to the office for defiance infractions, even though they made up about 37% of the student body (Gregory and Weinstein, 2008, in Lewis et al, 2010). Fenning and Rose (2007) and Skiba et al (2002) found that even though racialized students are over-represented in the numbers of suspensions and expulsions, there is no suggestion that these students engage in more severe misbehaviors or misbehave more often than white students. In fact, racialized students received

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disproportionately more disciplinary referrals for subjective and non-violent offenses, such as disrespect and excessive noise (Skiba et al, 2002; Fenning and Rose, 2007).

In the United States, the most comprehensive national report on 'zero tolerance' and disciplinary policies in the education system is the Harvard University report based on multiple research methods and large scale sampling (Bhattacharjee, 2003; Ontario Human Rights Commission, 2004). The report found that racialized and economically marginalized students as well as children with special needs are disproportionately impacted by school discipline and zero tolerance policies. According to the report: zero tolerance policies conflict with "the healthy developmental needs of children, particularly students at risk; there are long-term detrimental consequences for the child; there is a need for high quality alternative education programs; there is increased criminalization of children; the policies have not reduced violence or increased safety in schools"; and some schools manage to create a safe learning environment without adhering to zero tolerance disciplinary policies (Bhattacharjee, 2003, pg iv). While discussing the Harvard report, Daniel and Bondy (2008) stated that zero tolerance policy measures also have negative effects on the emotional health of students, their school completion rates, and their life chances.

One of the most prominent implications of the zero tolerance disciplinary policies is its negative impact on students' academic performance – students are essentially rendered incapacitated when they are suspended from the classroom setting (Bhattacharjee, 2003; Mattison and Aber, 2007; American Psychological Association Zero Task Force, 2008; Estidge, 2009). Therefore, one of the main criticisms of the zero tolerance policy is that it not only contributes to the loss of important classroom instructional time but also intrinsically gives ways to unsupervised activities that students engage in out of school setting (Mattison and Aber, 2007;

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American Psychological Association Zero Task Force, 2008). Skiba et al (2002; 2011) also noted that removing students from the positive aspects of schooling may act as risk factor for poor academic performance, school drop-out, and involvement with the criminal justice system.

Pandjiris (2003) and Rossiter and Rossiter (2009) argue that school acts as a protective factor for youth who are at risk of engaging in criminal activity. Pandjiris (2003) points out that when young people are in school they may have fewer opportunities to commit crime. Additionally, Pandjiris (2003) looked at the relationship between school education, which is partially achieved through consistent school attendance, and juvenile crime from an economic standpoint. Education improves students' future opportunities by allowing them to develop better human capital. Better opportunities in the legal sector "translate into higher future wages, which lower the net benefits of crime for a young person today" (Pandjiris, 2003, pg. 2). Rossiter and Rossiter (2009) looked at the risk and protective factors that are at play for racialized immigrant youth and crime. The authors linked the lack of education and integration into the mainstream school system and release from the controlling forces of schools to youth's involvement in the Criminal Justice System.

Nicholson-Crotty et al (2009) provide a theoretical framework that may add to our understanding of the link between the school disciplinary practices and the subsequent involvement with the criminal justice system. The researchers use 'labeling theory' to examine the possible consequences of school disciplinary practices. The theory suggests that crime is that which comes to be defined as such. Most people engage in deviance but it is relatively innocuous and harmless. Labeling a person 'criminal' and 'offender' may alter their self-concept and influence subsequent deviance (Bernburg and Krohn, 2003). The theory points out that labeling youth in particular as 'bad' and 'criminal' can have a negative impact on their self-identity which

in turns amplifies their deviant behavior. Bernburg and Krohn (2003) argue that deviance amplification occurs when the labeled person conforms to stereotypical expectations that others hold about that given label. The theory is well illustrated by this statement from a young person: "When you're a young person and people think you're bad, what is the point of behaving well anyway, if they are going to treat you like a criminal...?" (Colour of Poverty Campaign, Fact sheet #7, 2007).

Nicholson-Crotty et al (2009) suggest that according to 'labeling theory' youth who are disciplined at school can become delinquent as a result. Students who are being disciplined may become stigmatized in the eyes of peers and the community and in consequence be more likely to associate with other students who may be antisocial. The authors also point out that children who are disciplined unfairly at young ages may develop problematic styles of thinking about structure and authority. Therefore, though not explicitly concerned with racial disproportion, labeling theory suggests that schools that discipline racialized youth disproportionately can create a "self-fulfilling prophecy where those youth become delinquent at higher rates than their white counterparts" (Nicholson-Crotty et al, 2009, pg. 1008).

Lewis et al. (2010) and Nicholson-Crotty et al. (2009) have independently conducted a qualitative study examining the impacts of zero tolerance school disciplinary measures on black youth. The study revealed that African Americans, as a group, receive harsher punishments, in terms of suspensions and expulsions than their White counterparts for comparable acts of disobedience. As a result, Black students are being suspended at rates higher than that of their peers leading to missed school days and missed opportunities to learn.

Unfortunately, in the Canadian context the absence of statistics on race and the inaccessibility to statistics on disability make it impossible to determine with any certainty

whether the application of discipline policies in Canadian schools is having a disproportionate impact on racial minority students and students with disabilities. However, there is some empirical evidence based on qualitative data analysis - either through self-report surveys or interviews with the students, their parents, communities, and education system workers - that point in that direction.

The study by Ruck and Wortley (2002) examined the perceptions of differential treatment relating to school disciplinary practices among a racially and ethnically diverse sample (Black, South Asian, Asian, White, and Other) of high schools students in the Toronto metropolitan area. The results of the study indicated that racial and ethnic minority students are much more likely than White students to "perceive discrimination with respect to teacher treatment, school suspension, use of police by school authorities, and police treatment in school" (Ruck and Wortley, 2002, pg. 190). The study also provided a few additional findings that are worth mentioning: in general, Black students were most likely to perceive discriminatory treatment followed by South Asians, students from 'other' category, and Asians; students from lower socio economic status were more likely to perceive that students from their ethnic/racial groups will be treated worse by the police in schools than respondents of a higher socio economic status; and lastly, students that viewed their school as being racially segregated were more likely to perceive that members of their racial/ethnic group would be treated worse by teachers, police, and face suspension (Ruck and Wortley, 2002).

The studies that were based on interviews with members of the Black community and others in the GTA found that there is a strong perception that the Ontario Safe Schools Act and related zero tolerance disciplinary policies disproportionately impact Black, Tamil, Aboriginal and Latino students. In addition, the demand for services from community legal clinics which

serve the Latino, East Asian and Southeast Asian, Aboriginal, and disability communities has increased since the Safe Schools Act came into effect in 2001 (Bhattacharjee, 2003). Several trustees at a school board in the GTA who adjudicate expulsion and suspension appeal hearings reported that they see a disproportionate number of racialized students at the hearings. One trustee, who sat on 15-20 hearings between 2000 and 2003 stated that based on his experience and talking with his colleagues, the Board was expelling boys of colour – Black, Indian, and other visible minority boys - at a higher rate than White kids (Bhattacharjee, 2003). Another trustee stated that members of visible minorities would be the subject of every five out of six expulsion hearings he was present on (Bhattacharjee, 2003). These reports were supported by the CBC radio program on school discipline and racial profiling. After interviewing over eleven trustees, the CBC report found that all of the contacted trustees reported a disproportionate number of visible minorities being subjects of expulsion hearings (Ontario Human Rights Commission, 2004).

Through the qualitative interviews with front line workers, such as teachers, service providers, and counselors in Toronto schools, Daniel and Bondi (2008) found that considerably higher numbers of racialized students and student with disabilities are being suspended and expelled. The front line workers also state that students affected by the Safe Schools Act have many special needs. Most often children who act out have social, socio economic, psychological and behavioral issues that prevent them from doing well in school (Daniel and Bondi, 2008). Daniel and Bondi (2008) have reviewed suspension documents from one of the schools where they were doing the interviews in and found that 35% of the students suspended had multiple suspensions (2 or more) indicating that suspensions did not deter the students they were designed

to discipline. Once removed from school, those who require the greatest assistance are then placed in a direct link to the criminal justice system (Fenning and Rose, 2007).

It might be hypothesized that this overrepresentation of racialized students in the school disciplinary action is due to the fact that they simply misbehave more than other students (Skiba et al, 2002). However, researchers have found that the disproportionate impact on racialized students is the result of being suspended for more 'subjective' offences, where there is greater margin for racial stereotyping and bias to enter into the decision-making process (Ontario Human Rights Commission, 2004). The Harvard report mentioned earlier (in Bhattacharjee, 2003; Daniel and Bondi, 2008) shows that students of color are mostly disciplined within subjective categories such as "disturbing school" or "defiance or disrespect of authority". In addition, Skiba et al (2002) found that African American youth did not receive more referrals for disciplinary action for severe behaviors; these youth did, however, receive substantially more referrals for subjective and non-violent offences, such as disrespect and excessive noise. Thus such research concludes that Black students are overrepresented in school disciplinary consequences not because they misbehave more than White students or engage in more severe offences but because of racism and other forms of systemic discrimination.

The common thread in most of the studies on the zero tolerance disciplinary policies in schools and their effects on students is the recognized importance of factors such as race, socio-economic status and poverty; in addition immigrant or refugee status may further compound the effect of the school disciplinary policies (Ontario Human Rights Commission, 2004; Nicholson-Crotty et al, 2009). We can assume that many of the racialized students (as outlined in the afore-mentioned studies - Black, East Asian, South Asian, Tamil, Asian and other) that are disproportionately affected by the Safe Schools Act or other zero tolerance disciplinary policies

are first- or second-generations Canadians, the offspring of parents who emigrated to Canada over the past couple of decades.

It is also important to mention a few studies that look at the socio-economic status and poverty, its relation to racialization and immigrant status, and their effects on students. A number of studies have shown that the socioeconomic position of the family affects the educational achievement of children and youth (Bushnik et al, 2004; Gluszynski and Dhawan-Biswal, 2008; Anisef et al, 2010) as well, as mentioned previously, the chances of being disciplined in accordance with zero tolerance school policies through suspension or expulsion (Bhattacharjee, 2003; Daniel and Bondi, 2008). Newcomers to Canada experience a number of obstacles to success that translate into lower incomes and higher poverty rates. The issue is extremely apparent in case of racialized immigrant families (Block and Galabuzi, 2011). It has been further documented that youth brought-up in low income conditions often live in neighborhoods characterized by concentrated poverty levels and a racialized immigrant demographic (Anisef et al, 2010). Given the data that racialized immigrants are more likely to experience poverty and live in disadvantaged neighborhoods, which are also important contributing variables in the likelihood of being suspended or expelled under the school disciplinary act, it is plausible to conclude that the racialized immigrant youth may be at a greater risk of being subjected to suspension or expulsion under the Safe Schools Act or other zero tolerance disciplinary policies and subsequent educational underachievement. Researchers assessing the relative importance of different variables in predicting disproportionate disciplinary outcomes for students have found race to be the main predictor, even after controlling for poverty (Skiba et al, 2002; Skiba et al, 2011).

Despite the growing amount of evidence that point to school discriminatory practices, zero tolerance school disciplinary policies are commonplace in North America. In Canada, the case of Nova Scotia generates great interest, mainly because the province ruled against the popularity of school zero-tolerance policies and referred to research and statistics in the building of school disciplinary policies. In Nova Scotia, as in Ontario, the Conservative Party promised zero tolerance disciplinary policy for violence and misbehavior in schools, which led to the 1999 provincial elections (Bhattacharjee, 2003). Yet Nova Scotia was the only province in Canada that collected and analyzed schools board's statistics on race and the application of discipline which showed that racialized students were disproportionately affected by the use of suspensions and expulsions (Nova Scotia Department of Education, 2000; Bhattacharjee, 2003). Consequently, the Nova Scotia School Conduct Committee recommended that zero tolerance policy not to be adopted by Nova Scotia public schools due to the specific concern of its disproportionate affect on poor, marginalized, racialized, and special needs youth (Nova Scotia Department of Education, 2000; Recommendation #3). The government accepted the recommendation.

Many believe that increased suspensions and expulsions of students are having an extensive, negative impact not only on the student but also on his or her family, community, and society at large. The most frequently recognized effects are negative psychological impact, heightened feelings of isolation and abandonment at a time of a critical developmental stage (transition from youth and adulthood), loss of education, marginalization, limiting life opportunities, higher dropout rates, and increased criminalization and anti-social behavior (Skiba et al, 2002; Bhattacharjee, 2003; Ontario Human Rights Commission, 2004; Daniel and Bondi, 2008; Estidge, 2009; Lewis, et al, 2010).

How does Ontario Safe Schools Act contribute to the criminalization of racialized youth?

Scholarly research identifies two avenues through which zero tolerance school disciplinary policies may criminalize and pipeline racialized youth, including immigrant youth into the Canadian criminal justice system: increased engagement of police officers with students in schools and lack of sufficient programs and services that would support students while they are out of school. Both avenues are discussed separately below.

Policing racialized youth

The first avenue is the Ontario Safe Schools Act's introduction of criminal justice agents, specifically the police, into schools. Prior to the adaptation of the Ontario Safe Schools Act, school officials in partnership with parents and youth themselves would address student misconduct, including behaviors that could be categorized as criminal - such as theft, bringing alcohol or drugs to school, fighting with other youth, etc. In 2003, the TDSB introduced the Police-School Board Protocol Policy in light of the Ontario Safe Schools Act, which promoted a co-operative working relationship between schools and police and required schools to report all criminal offences to the police (Toronto District School Board, Operational Procedure, PR. 698 SCH, "Police-School Board Protocol", 2003, revised 2006). The outcome of such initiative was an increase of police involvement in addressing infractions (which could include criminal charges) that used to be handled by schools officials (Bhattacharjee, 2003; Daniel and Bondi, 2008; American Psychological Association Zero Tolerance Task Force, 2008). Through interviews and focus groups with Toronto youth, Mosher (2008) revealed that racialized youth faced discrimination in their interactions with police officers present in schools. The youths in the study stated that the treatment they got from school officials and police was harsh and inappropriate, and the police were "overly aggressive, belittling, and discriminatory" (Mosher,

2008, pg. 834). Youths believed that they were stereotyped by their race, who their friends were, the neighborhoods their lived in, and the clothes they wore (Mosher, 2008). It is also important to note that the youths in the study pointed out two barriers that they perceived to be most important to finishing school: "harassment of school discipline" and "poverty" (Mosher, 2008, pg. 834).

Ruck and Wortley (2002) provided some statistical support for the data gathered by Mosher (2008). The authors found that in GTA schools, racialized youth were more likely to perceive that students from their racial or ethnic group were treated worse by the police at school and have police called on them more often. Ruck and Wortley (2002) also found that Black students were about 32 times more likely than White students to perceive discrimination regarding the use of the police at school and 27 times more likely to perceive that they would be treated worse by the police at school. These findings are consistent with the studies done in United States that also found that racialized groups are more likely to perceive discrimination in the criminal justice system. The majority of studies on race and perceptions of the police have explored differences between Blacks and Whites, usually summarizing that Blacks are less satisfied with the police than are Whites. Hurst and Frank (2000) found that youths generally hold a less favorable perception of police then adults. The authors found that, among other variables, previous contact with police and race of an individual were the two main factors indicative of the attitudes the youth held about the police. Weitzer and Tuch (2004) looked at African American and Hispanic views on four types of police misconduct—verbal abuse, excessive force, unwarranted stops, and corruption. The researchers analyzed how these perceptions may be shaped by race and other factors, including personal and vicarious experiences with police officers, exposure to mass media coverage of police behavior, and

neighborhood conditions. Results showed that race remains a key factor in structuring attitudes toward police misconduct even after controlling for other variables. Lurigio et al. (2009) stated that race is one of the most powerful variables explaining public attitudes toward the police. Lurigio et al. (2009) found that, when looking at school-aged youth, Latino and Black youth are comparable groups in terms of their negative attitudes towards the police.

It is also important to note that in the research report submitted to the U.S. Department of Justice, Davis (2000) discussed some differences in the perceptions of the police held by immigrants and native born citizens. Davis (2000) found that respondents who were from communities that were less efficacious and less well integrated into the local political structure held less favorable views of the police than respondents from more powerful communities. Respondents who were born in the US held more positive attitudes toward the police than respondents who had been born abroad. Davis (2000) suggested that confidence in the police is partially generated by the attitudes of one's peers and by prejudices about law enforcement formed in immigrants' countries of origin. Even though the above is a valid study worthy our attention, the results may not necessary be applicable to the Canadian context. Ruck and Wortley (2002) found that in Toronto schools, immigrant youth actually were less likely to perceive discrimination and bias towards members of their racial/ethnic group. However, the researchers also found that the longer the respondents have lived in Canada, the more likely they perceived bias towards their ethnic group from school officials as well as the police. More research is needed to provide valid and conclusive results about the immigrant racialized youths' perceptions of police in Canada.

One could argue that minority youth have good reasons to be somewhat skeptical of police and other criminal justice agents and to feel that they are being discriminated against as a

group. Due to the absence of race-based statistics in Canada, it is difficult to conclude with

certainty that racialized youth are discriminated against and over-represented in the Canadian

Criminal Justice System. Nevertheless, there are a number of independent studies and small scale

police records data analysis that points to that direction. In 2000 a survey of Toronto high school

students revealed that Black students who were not involved in any criminal or deviant behavior

that would attract police attention were nevertheless four times more likely to report being

stopped and six times more likely to report being searched then a comparable group of White

students (Wortley and Tanner, 2005; Tanovich, 2006). In October 2002 the Toronto Star began a

series of articles on the topic of 'Race and Crime' claiming that 'justice is different for Blacks

than Whites', 'Blacks arrested by the Toronto police are treated more harshly then Whites' and

that 'police target Black drivers' (Melchers, 2003; Wortley and Tanner, 2005; Fitzgerald and

Carrington, 2011). The subsequent stories suggested that police were disproportionately singling

out racialized individuals and that this may constitute racial profiling (Smith, 2007). The claims

by the Toronto Star were based on the newspaper's own analysis, under the supervision of Dr.

Michael Friendly (a professor of psychology and director of consulting services of York

University Institute for Social Research) of arrest data from the Toronto Police's Criminal

Information Processing System (CIPS) (Melchers, 2003). It is important to note that, although

the beginning of the wide public debate on racial profiling in Ontario can be attributed to the

research articles published by Toronto Star in 2002, there is an academic methodological debate

over the accuracy of the police data interpretation by the Toronto Star research team and

subsequent validity of the findings (Melchers, 2003; Gabor, 2004; Wortley and Tanner, 2005).

In addition to the Toronto Star research, in May 2005, the Kingston police released a

study, findings of which showed that young Black and Aboriginal men were more likely to be

stopped than other groups. The data showed that police in the predominantly white city were 3.7

times more likely to stop a Black as a Caucasian, and 1.4 times more likely to stop an Aboriginal

person than a White person (CBC News Online, 2005).

In Toronto and Kingston the police service responded by denying that they engage in

racial profiling. In Toronto, all levels of the bureaucratic and political leadership - including the

Chief of Police, the Police Service Board, the Ontario Minister for Public Safety and Security,

the Mayor of Toronto, and the President of the Toronto Police Association denied racial

profiling, calling Toronto Star research 'bogus' and based on 'junk science' (Tanovich, 2004;

Smith, 2007). Additionally, the Toronto Police Service Association launched a lawsuit against

the Toronto Star for libel. The action was dismissed by the courts (Smith, 2007). At the same

time, the former Chief of the Toronto Police Services commissioned research by Professor

Harvey of the University of Toronto to challenge the Star research (Smith, 2007). The Kingston

police union has also disclaimed the validity of the report and sought a second opinion (CBC

News, 2005).

Some commentators argued that differential police treatment of racialized individuals is

simply the product of good, proactive policing (Tanovich, 2004). Fast-forward a few years later,

Fitzgerald and Carrington (2011) analyzed the common reasons given for the disproportionate

minority contact (DMC) between the police and racialized youth in Canada. The two dominant

explanations for DMC with the police are 1) differential involvement with crime – some

racialized groups commit more crime then other groups; and 2) differential treatment by the

police. The latter can be broken down into: a) differential treatment of some racialized youth by

the police due to disproportionate possession by minorities of risk factors for police contact such

as delinquent friends, neighborhood characteristics, gender, etc, or b) differential treatment of

some racialized youth by the police due to discriminatory policing (Fitzgerald and Carrington, 2011). What the authors found is that there was a disproportionate minority youth contact with the police but there was no support found for explanations of DMC due to either differential involvement with crime or differential treatment owing to risk factors. In fact, DCM was found only for non-violent youth. By eliminating the first two explanations, results of the study suggest that racially discriminatory policing practices may be one rationalization for DMC in Canada (Fitzgerald and Carrington, 2011).

In March 2012, the Toronto Star conducted another independent study on police practices in Toronto and racial discrimination. The study found that Toronto police stop and document Black and Brown youth far more than White youth. The analysis of Toronto police stop data from 2008 to mid-2011 by the Toronto Star research team shows that the number of young Black and Brown males aged 15 to 24 documented in each of the city's 72 patrol zones is greater than the actual number of young men of color living in those areas (The Star online, March 9, 2012). While Blacks make up 8.3 per cent of Toronto's population, they accounted for 25 per cent of the contact cards filled out by the police officers between 2008 and mid-2011. In each of the city's 72 patrol zones, Blacks are more likely than Whites to be stopped and carded. The likelihood increases in areas that are predominantly White (The Star online, March 9, 2012).

Increase in police contact can propel youth into the criminal justice system in two ways. Firstly, police contact increases the chances of: charges being laid, appearing before court, and receiving a prison term (Bell, 2012). If, in addition to police discriminatory practices targeting racialized youth, the Ontario Safe Schools Act causes racialized youth to come into contact with the police at a rate higher than that for white youth, then this may increase the odds that racialized youth will be processed by the official justice system and sentenced to a prison term.

Due to the lack of race-based statistics in Canada, it is impossible to state with any certainty whether racialized youth are over-represented in the Ontario courts system or correctional institutions. Nonetheless, a number of sources point to that direction[5].

Secondly, police contact begins the road to formal processing of youth within the juvenile justice system, which contributes to stigmatization and labeling, which in turn influences future offending behavior. Labeling theory argues that formal societal responses to an offence (i.e. police contact, processing within the justice system) produce stigma and a certain label that influences a person's self-concept (Bell, 2012). When a youth is apprehended by the police, s/he may develop a self-concept as a deviant and act accordingly. If the case is that racialized youth have greater chances of coming into contact with the police and being processed within the justice system, then it is plausible that they begin to see themselves as a deviant and become involved in criminal activities at a higher rate. Such behavior in turn can be a reason for more police attention, which can lead to further arrests, charges, and prison sentences, resulting in a cycle of further stigmatization and offending.

In summary, the research and literature to date suggest that police services in Ontario may be engaging in racial profiling, which may affect the likelihood and frequency of police contact with racialized youth, including immigrant youth in various settings, including school.

Mosher (2008) highlights how racialized youth perceive access to justice in the school environment, but not how youth perceive justice itself. From the discussion above it is safe to assume that racialized youth learn that justice is done through racial profiling, and it is done selectively. Justice is done for some groups (white, middle class, etc) against other groups (racialized, immigrant, etc). The Canadian educational system and the Criminal Justice System

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[5] Refer to: Stenning and Roberts (2001), Trevethan and Rastin (2004), Interim Report of the Commission on Systemic Racism in the Ontario Criminal justice System (1994).

are a microcosm of a broader society. The public confidence in social justice will be undermined if youth are learning that justice in Canada is biased and selective from such an early age. The lack of public trust in social justice has an impact on the ability of the relevant institutions to carry out their mandate, as many institutions in society (i.e. police, schools, etc) rely on public confidence to function effectively (Ontario Human Rights Commission, 2003). Racial discrimination and the consequent public mistrust in social justice may also result in strained relations between racialized groups and the authority, tense relations between various ethno-cultural groups, as well as negative self-perceptions and self-esteem racialized persons hold.

The lack of sufficient out-of-school programming and its effects on suspended and expelled students

The second avenue results from zero-tolerance disciplinary policy suspension and expulsion practices and the lack of sufficient programs and services that would support students while they are out of school (Bhattacharjee, 2003; Daniel and Bondi, 2008). Until the TDSB reforms were introduced in 2008, school boards had no obligation to provide learning programs or lesson plans for the suspended or expelled students (Mosher, 2008). Currently, alternative education programs and other related support services are unable to successfully accommodate all the applicants, creating huge backlog and long waitlists (Bhattacharjee, 2003; Daniel and Bondi, 2008). Kids who are out of school are more likely to have more free time for unsupervised activities, be bored, meet anti-social children and learn to engage in disruptive behaviors (Ontario Human Rights Commission, 2004; Lewis et al, 2010), hang out on the streets during the school day and, therefore, to come into contact with the police (Nicholson-Crotty et al, 2009). Other researchers support the findings above. Wortley and Tanner (2005) found some evidence that suggests that youth who spend more time unsupervised by their parents and 'hang

out' in public spaces are more likely to come into contact with the police. Additionally, Fitzgerald and Carrington (2011) stated that youth who have delinquent friends are at a higher risk of police attention and contact for at least three reasons: 1) groups of anti-social youth may be perceived as gangs, and many police divisions have pro-active anti-gang policies (i.e. Project Post police anti-gang initiative after the shooting in Toronto Eaton Center on June 2, 2012 (Rush, 2012); 2) young people encountered by the police while in the company of their delinquent friends may be peer pressured to act in a disrespectful manner towards the officers, which may provoke police action; and 3) police may agree with the 'birds of a feather' theory and apprehend youth because they believe that they share same interests and opinions as their delinquent friends.

During an interview, the director of Canadian Centre for Studies of Children At-Risk from McMaster University stated that "Once kids are out of the mainline and expelled, then they are on a different path.... First, they don't have much to do during the day. They make contact with older kids or other kids who are having difficulties....some literature points out if you put anti-social kids together it escalates their anti-social behavior...it can have impact on community...and, of course, it contributes to further violent and non-violent anti-social behavior" (Ontario Human Rights Commission, 2004, pg. 8). In the study by Mosher (2008) youths were clear that suspensions are counter-productive, often increasing the chances of involvement with the criminal justice system: "...it made more criminals on the streets than actually helping people because all these youths being kicked out and they had nothing to do...", "I wasn't doing nothing... I was bored... I want to go outside and do something on the streets" (pg. 835).

It is important to note that a number of researchers do not think that racialized youth, including immigrant youth, commit more crime. Tanovich (2004, 2006) and Rossiter and

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Rossiter (2009) argue that racialized youth do not engage in delinquent behaviors more than Whites, stating that in some circumstances racialized youth, in particular immigrant youth, commit less crime than their White counterparts. Rossiter and Rossiter (2009) refer to the study that found that newly arrived immigrant youth commit less crime then Canadian born or youth that immigrated to Canada at a young age. But Rossiter and Rossiter (2009) also acknowledge that school acts as a protective factor from crime involvement in youth's life; and if the youth are, for whatever reason, out of school, they are at a greater risk of gang recruitment and engagement in delinquent behaviors. Furthermore, Tanovich (2004) refers to USA data to support his argument about the ineffectiveness of racial profiling. The data shows that even though stopped at a lesser rate, the likelihood of finding drugs or other contraband on White drivers is higher than for Black drivers. Tanovich (2004, 2006) and Rossiter and Rossiter (2009) argue that the only reason that the racialized youth are being pipelined into the Criminal Justice System is because of the institutional racism entrenched in the Canadian society – at the school level in terms of zero-tolerance disciplinary policies and within the Criminal Justice System in terms of racial profiling and differential treatment of racialized youth.

In summary, potential differential involvement in delinquent behaviors of racialized youth on suspension or expulsion due to the lack of alternative programming and the racial profiling practiced in the police culture (Tanovich, 2004, 2006; Smith, 2007; Tator and Henry, 2007) contribute to overrepresentation of racialized youth at all levels of the Canadian Criminal Justice System (Tator and Henry, 2006; Tanovich, 2006, Smith, 2007).

When combining the research findings above with the earlier discussed facts that racialized youth, including immigrant youth are most affected by the zero tolerance disciplinary practices, it is safe to stipulate that the Ontario Safe Schools Act and other zero tolerance

disciplinary policies may potentially contribute to further marginalization and criminalization of racialized youth, including immigrant youth and direct them into the Canadian Criminal Justice System.

CONCLUSION

Future Research

Even though Ontario lacks statistical data on racialized youth and schools disciplinary action, there is still a substantial amount of evidence that supports the main argument of this MRP - that the Ontario Safe Schools Act and related zero tolerance school disciplinary policies disproportionately affect racialized youth, including immigrant youth, and may potentially pipeline them into the Canadian Criminal Justice System. Further research is needed to better understand and analyze the links between racialization, zero tolerance school disciplinary policies and criminalization of high school students.

When analyzing the Canadian literature, the obvious weaknesses that stand out are the complete absence of statistics on race and the dominance of qualitative interview-style research, which relies on small sampling sizes which may not represent the whole population of interest. The strengths of the Canadian literature are: 1) it more accurately represents the circumstances, beliefs and values specific to the communities of the country. However, in case of this literature review, most of the sources were Toronto based, therefore solely focused on the Ontario Safe Schools Act and its effects on local GTA communities; 2) it seems that since there is a lack of statistical data that would look at the race of the expelled and suspended students, and consequent limitation on quantitative data collection in terms of racialized discourse in relation to the Ontario Safe Schools Act, the qualitative data that is available is diverse and comprehensive.

What is missing in the current literature on the Canadian zero tolerance disciplinary school policies is a statistical component which would either support or contradict the current theories surrounding the schools and the youth criminal justice discriminatory practices in terms

of treatment of racialized youth, including immigrant youth. Quantitative data would give the public a better grasp of the degree of seriousness and the magnitude of the issues discussed. Such data will show levels of correlation between youths' race and the likelihood of being disciplined under the zero tolerance policy. Quantitative research in this field would be complementary to qualitative research that speaks not only to the relation between race and discipline in school and race and policing but the causal link between the variables.

Future research should aim to develop a statistical database that scholars may refer to. Ideally, the database would include the race of children suspended and expelled under the school disciplinary policy, their immigrant status, and whether they have come in contact with the criminal justice agents while out of school. The data on race and immigrant status of the youth processed through the criminal justice system would be beneficial as well.

It would also be beneficial to conduct a self-report questionnaire-based study which would explore the race of a student, immigrant status of the student and his/her parents, possible suspensions and/or expulsions, and involvement with the criminal justice system through the two pathways created through the Safe Schools Act identified above. It is important to highlight both- the student immigration status and ethnic background, since these are two different processes and statuses in the Canadian society. Nevertheless, the processes could also be inter-related in the context of school discipline and policing in Toronto.

In addition, it would be beneficial to research how youth themselves perceive what is going on (i.e. why they were the ones suspended or expelled, or why they were the ones that had negative contact with the police) and how that affects their understanding of justice in the context of the school system.

Policy

This section includes some suggestions that could improve the issues stemming from school zero tolerance disciplinary policies as well as police practices. All of the suggestions are supported by existing research and analysis.

The three main suggestions I advance are 1) abolish zero tolerance school disciplinary policies and focus more on the alternatives to suspension and expulsions, such as in-school youth support programs, and 2) continue to work towards diversifying school staff by hiring more racialized teachers and administrators and promoting anti-racism education in schools, and 3) require police officers to record the race, age, immigration status, and circumstances of the individuals they come into contact with on a periodical basis; make the collection of data a subject of a special study that would focus on the functioning of the criminal justice system.

1. The first approach was adopted by the province of Nova Scotia. The province was the only one in Canada that collected and analyzed school board's statistics on race and the application of discipline which showed that black students were disproportionately affected by the use of suspensions and expulsions (Bhattacharjee, 2003). As a result, the Nova Scotia School Conduct Committee recommended that zero tolerance policy not to be adopted by the province due to the specific concern of its disproportionate affect on poor, marginalized, racialized, and special needs youth (Nova Scotia Department of Education, 2000). Instead of strict zero tolerance disciplinary policy I propose for schools to engage more social workers and psychologists that would provide services for troubled youth. Trained school staff could help those youth with analysis of the causes of misbehavior, which usually lie at the intersection of relations of power, racism, poverty, etc., and work with youth towards strengthening their ability to overcome obstacles without acting out in school.

Such a suggestion was also proposed by Rossiter and Rossiter (2009). The authors argued that responses to misbehaviors in school should be "immediate and restorative, in contrast to existing zero tolerance policies, which emphasize exclusion and punishment" (Rossiter and Rossiter, 2009, pg. 15). This argument can be tied back to labeling theory discussed earlier in the literature review.

Zero tolerance policies label students as deviant through punishment and segregation, which in turn may affect their self-concept, which may lead to further deviance. It would be interesting to study and analyze the potential effects of labels on student's self-concepts in the context of the school zero-tolerance policy. The U.S. study mentioned previously is very limited in its scope and relevance to the Canadian context in terms of the differences in youth demographics. Future research can look into how school disciplinary policies may affect youth's self-identity.

It is important to acknowledge that the engagement of social service workers and psychologists in schools may be jeopardized by the new 2012 budget cuts. The Commission on the Reform of Ontario's Public Services (aka The Drummond Report) (2012) proposes to phase out 70% of the non-teaching staff in Ontario schools by 2018.

2. To address the issues of systemic racism perpetuated by schools and ensure that learning environment is more hospitable for racialized students, schools can work towards hiring more racialized staff as well as promote anti-racist education.

The presence of racialized staff in schools is a step towards lessening racial discrimination and cultural misunderstandings among teachers, administrators and students. Carr and Klassen (1996) state that racialized teachers can better connect with racialized students and communities: they can relate to and validate students' lived experiences, serve as positive role

models, and are able to modify student's racial identity. Carr and Klassen (1996) acknowledged the efforts of the Toronto District School board to promote and evaluate the issue of the disproportionally low numbers of racialized teachers in Toronto schools but said more efforts should be under way.

In addition, Carr and Klassen (1996) argued that racial minority teachers play an important role in anti-racist education, which is of a great importance in our increasingly diverse society. The authors point out that in anti-racist education teachers are expected to "instill critical thinking skills and openly discuss tensions and contradictions in society as well as validate the needs, concerns and experiences of students, whatever their background" (pg. 127). Anti-racist education starts with the view that racism is part of the daily, institutional and school reality. Anti-racist education links together various sources of oppression, including gender, class and sexual orientation, in addition to racial origin (Carr and Klassen, 1996). The principles of anti-racist education should be understood by and adopted by all of the school teaching staff.

According to Statistics Canada, in 2006 the percentage of total visible minority population in Canada was 16.2%, at the same time the percentage of visible minority teachers was 6.9% (Ryan et al, 2009). The authors of the study arrived at the percentage of visible minority teachers by comparing their number to the total number of teachers in a given area. In Toronto, in 2006, there were 42.4% of visible minority population and only 18.6% of racial minority teachers (Ryan et al, 2009). The study does not provide us with the numbers of visible minority students per school – partially due to the schools' reluctance to collect and release race-based statistics. But the authors looked at the statistics of the total population of youth in Canada under the age of 15 and found that in 2006 the proportion of visible minority children was 23.6% - the number is greater in comparison to the total number of children under 15 in Canada which

is 19.4% (Ryan at al, 2009). As mentioned previously, in 2006 racialized students constituted 67% of the total TDSB's student body (Yau & O'Reilly, 2007 in Ryan at al, 2009), and as stated above, the proportion of visible minority teachers in Toronto at that time constituted only 18.6%. What we may conclude from these numbers is that there are proportionally many more visible minority students than there are visible minority teachers. This data should be of concern also due to the fact that Canada is expecting an increase in ethnic minority immigrant populations in years to come, which may cause the proportional gap between racialized teachers and racialized students to widen. And even though the TDSB measures introduced in 2008 specified the hiring of more racialized staff, the gap is too significant to stop being a concern 3-4 years after the 2008 reforms. Additionally, the recent announcement of 85 million dollars budget cut may not only prevent the Board from hiring and diversifying, but may cause staff cuts altogether (CBC News, March 21, 2012).

3. Police officers should record the race, age, and the immigration status of the individual they come into contact with and the circumstances of that contact. Both the Ontario Human Rights Commission report on racial profiling (2003: suggestions #9 and #10) and Tanovich (2004), in his discussions about racial profiling in Canada, made a similar proposal. Tanovich (2004) argued that the police should be compelled to record the circumstances surrounding all stops including "the race and ethnic background, age and gender of the person stopped, the reasons, and the results of the stop" (pg. 910). The availability of this kind of information would serve a number of functions:

- It would permit the courts to monitor police performance.
- It would reveal whether racialized communities/immigrant communities are being over-policed.

- It would reveal whether the individual's age, immigrant status, or other circumstances (i.e. being stopped during the school hours) are a significant variable in the likelihood of being apprehended by the police.

- It could make racialized communities more confident in the police and improve the perception certain communities hold about the police force.

- Lastly, it could act as a deterrent and prevent police officers from conducting unwarranted stops. A U.K. study found that a recording obligation for all stops made some officers to at least 'think twice' about stops and searches, and provide more explanation and information during encounters (Bland, Miller, and Quinton, 2000).

Currently in Canada there is a debate about whether race statistics should be collected in the context of criminal justice. Johnston (1994), Gabor (1994), and Roberts (1994) outlined some issues with the collection of race-based statistical data. For example, such data may be misinterpreted and consequently encourage discriminatory treatment of minorities and justify discriminatory practices harmful to minorities. The opponents of the routine collection of crime statistics on race also argue that it is unfair and impractical to collect information on the race of suspects, largely due to inability to create a valid, consistent, and agreed upon classification of races and ethnic backgrounds. Gabor (1994) argued that collecting and publishing race-based crime data can potentially lead to a crackdown on certain racial minorities by the criminal justice system and create conflict among ethnic groups as well as between racial groups and the police. In addition, race-based crime statistics may misrepresent the true involvement in crime of diverse groups due to racial and ethnic biases in official crime data (Gabor, 1994). Despite all the dangers of collecting race-based crime statistics, it has been acknowledged that such data may

also be greatly beneficial for the purposes of research and academic analyses of criminal justice issues. Roberts (1994) proposed to collects race-based crime statistics by using special studies of limited scope and duration. Such studies would be conducted periodically and released to the public. Special studies released by Statistics Canada should include a detailed explanation of exactly what the statistics do and do not mean: for example - the data does not represent the ethnic group's actual involvement in crime but the contact with the criminal justice agents. The focus of such studies is not about attributed characteristics of offenders (racial, ethnic, or immigrant status) but rather it is on the functioning of the criminal justice system (Roberts, 1994). Johnston (1994) also argues that "the collection of race-crime statistics should be used as an indicator of discrimination in the criminal justice system rather than as an indicator of criminal activity among various racial groups" (pg. 168).

Concurring with the arguments above, the race-based data collected by the police should be in a form of special studies, with limited scope and time frame. The data should be treated as a representation of the discriminatory practices within the police rather than a representation of youth criminal activity among various ethnic groups. The statistical data should be published and analyzed by the senior police officials on a periodical basis.

All of the above suggestions may minimize the negative effects of school disciplinary policies on racialized youth, in particular immigrant youth, and prevent those students from falling onto the path of "school-to-prison pipeline". But, unfortunately, the current conservative political climate and the common 'zero tolerance' and 'tough on crime' rhetoric that dominates the Canadian policy along with a reluctance to collect race-based statistics and a lack of funding may prevent these suggestions to be considered.

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