

Enhancing Youths' Ability to Learn: Addressing Exposure to Violence through Yoga in Public Schools

By Amy Gilbert

I. INTRODUCTION

Nationally, it is estimated that over 60% of youth have been exposed to violence within the past year.¹ Such exposure is likely to have deleterious short- and long-term effects on children, resulting in considerable emotional, physical, social, and economic consequences,² including a child's ability to learn.³ While many proposals have been suggested to prevent or respond to youth violence,⁴ one approach to limit the impact of youth violence is to minimize the effects of trauma on children, "support[ing] the transformation of traumatic helplessness into learned helpfulness."⁵ This Note argues that in addition to preventative and responsive interventions, widespread implementation of the practice of yoga within public middle and high

¹ David Finkelhor et al., *Violence, Abuse, and Crime Exposure in a National Sample of Children and Youth*, 124 PEDIATRICS 1411, 1413 (2009). This number includes children and youth under the age of eighteen who had experienced a physical assault, property offense, child maltreatment, sexual victimization, or witnessed intrafamilial or community violence. *Id.*

² AM. PUBLIC HEALTH ASS'N, APHA POLICY STATEMENT 200914: BUILDING PUBLIC HEALTH INFRASTRUCTURE FOR YOUTH VIOLENCE PREVENTION 1 (Nov. 2009), available at <http://www.apha.org/advocacy/policy/policysearch/default.htm?id=1392> [hereinafter APHA POLICY STATEMENT]. Costs include immediate and long-term medical costs, lost future earnings, victims' assistance, and public program costs. *Id.* at 17. "In addition, childhood stress can lead to health problems later in life including alcoholism, depression, eating disorders, heart disease, cancer, and other chronic diseases." JENNIFER MIDDLEBROOKS & NATALIE AUDAGE, THE EFFECTS OF CHILDHOOD STRESS ON HEALTH ACROSS THE LIFESPAN, CTRS. FOR DISEASE CONTROL AND PREVENTION, NAT'L CTR. FOR INJURY PREVENTION AND CONTROL 3 (2008).

³ See *infra* Part II.

⁴ Many programs aimed at curbing youth violence focus on reducing the onset or prevalence of violent or delinquent behavior. OFFICE OF THE SURGEON GENERAL, NAT'L CTR. FOR INJURY PREVENTION AND CONTROL, CH. 5- YOUTH VIOLENCE: A REPORT OF THE SURGEON GENERAL (2001), available at <http://www.ncbi.nlm.nih.gov/books/NBK44295/> [hereinafter A REPORT OF THE SURGEON GENERAL]. For example, in their best practices for youth violence prevention, the Center for Disease Control and Prevention (CDC) identified parents and families, home visiting, social and conflict resolution skills, and mentoring as four key areas of preventing youth violence. APHA POLICY STATEMENT, *supra* note 2, at 20. Similarly, many interventions focus on relationship building and facilitating supportive families and communities to change cultural norms about violence. See Etienne Krug et al., *The World Report on Violence and Health*, 360 LANCET 1083, 1085 (2002).

⁵ Carl C. Bell, *Cultivating Resiliency in Youth*, 29 J. ADOLESCENT HEALTH 375, 376 (2001).

schools is a cost-effective and constitutional approach to reduce student violence and aggressive behaviors, thereby enhancing youths ability to learn and become productive members of society.

Part II of this Note discusses the pervasive effects of youths' exposure to violence, and the beneficial outcomes that yoga can have on the mental and physical being of traumatized children. Part III examines the constitutionality of yoga under the Establishment Clause of the First Amendment, arguing that the practice does not violate the constitutional guarantee to freedom of religion. Part IV discusses policy implications of widespread implementation of the practice of yoga within public middle and high schools, providing a healthy outlet for students to express and cope with the emotional and physical consequences of their exposure to traumatic violence and stress, and provides examples of such programs.

II. TRAUMATIC EXPOSURE TO VIOLENCE AND BUILDING RESILIENCY IN YOUTH THROUGH YOGA

It is estimated that between 50% and 95% of urban youth have witnessed community violence in their lifetime.⁶ A youth's exposure to violence is "associated with significant levels of distress including symptoms of posttraumatic stress disorder, depression, . . . anxiety,"⁷ and risky sexual behavior.⁸ This exposure also leads to poor school performance, impacting structural and functional changes on the developing brain, thereby affecting a youth's ability to learn,

⁶ Deborah Gorman-Smith et al., *Exposure to Community Violence and Violence Perpetration: The Protective Effects of Family Functioning*, 33 J. CLINICAL CHILD & ADOLESCENT PSYCHOL. 439, 439 (2010). One study estimates that 87% of adolescents aged 15 to 17 years old report ever being exposed to violence, with 64% reporting exposure within the past year. ROSEANNA ANDER ET AL., THE UNIVERSITY OF CHICAGO CRIME LAB: GUN VIOLENCE AMONG SCHOOL-AGE YOUTH IN CHICAGO 3 (Mar. 2009), available at http://crimelab.uchicago.edu/sites/crimelab.uchicago.edu/files/uploads/Gun_Violence_Report.pdf.

⁷ Deborah Gorman-Smith & Patrick Tolan, *The Role of Exposure to Community Violence and Developmental Problems Among Inner-City Youth*, 10 DEV. & PSYCHOPATHOLOGY 101, 101-02 (1998); William R. Saltzman et al., *Trauma- and Grief-Focused Intervention for Adolescents Exposed to Community Violence: Results of a School-Based Screening and Group Treatment Protocol*, 5 GROUP DYNAMICS: THEORY, RESEARCH, & PRAC. 291, 291 (2001); see Jennifer Delima & Graham Vimpani, *The Neurobiological Effects of Childhood Maltreatment, An Often Overlooked Narrative Related to the Effects of Early Childhood Trauma?*, 82 FAM. MATTERS 42, 45-46 (2011) (explaining that exposure to violence results in behavioral and emotional responses such as impulsiveness, dissociation, depression, anxiety, and aggression).

⁸ CITY OF CHICAGO YOUTH VIOLENCE PREVENTION PLAN: NATIONAL FORUM ON YOUTH VIOLENCE PREVENTION 10 (2012), available at http://www.cityofchicago.org/dam/city/depts/mayor/supp_info/ylpFINAL.pdf; see Julia Burdick-Will, *School Violent Crime and Academic Achievement in Chicago*, 86 SOC. EDUC. 343, 343-44 (2013).

concentrate, and retain information.⁹ Youth who are exposed to higher levels of violence are at significant increased risk of becoming aggressive, violent, or delinquent.¹⁰ Additionally, exposure to violence increases children's response to trauma, resulting in behavioral impulsivity and cognitive distortions.¹¹

Despite these neurobiological, behavioral, and emotional responses to trauma, “[s]ocial constraints reflect the perception among those who have been exposed to a traumatic event that they must inhibit themselves from expressing trauma-related thought and feelings to others[.]”¹² Consequently, youth struggle to cope with their exposure to violence “in ways that reduce their opportunities to learn in the classroom.”¹³

A. Responding to Youths Exposure to Violence

Youth who have been exposed to violence often do not communicate their distress in words, but rather “respond[] to the world as a dangerous place.”¹⁴ In addition to structural and functional changes in the brain, manifestations of posttraumatic coping or distress are often expressed in ways that are misdiagnosed as conduct or personality disorders.¹⁵ These stigmatizing labels, in turn, lead to further aggression and exclusion, and do not address the

⁹ Delima & Vimpani, *supra* note 7, at 47-48. Research demonstrates that these changes lead to “deficit[s] in executive function ability and sustained attention and focus, a limited verbal response ability, and poor short-term memory, . . . a decreased ability to learn through both motor and non-motor means, . . . difficulty sleeping, poor concentration, and general irritability.” *Id.*

¹⁰ Gorman-Smith & Tolan, *supra* note 7, at 102; Gorman-Smith et al., *supra* note 6, at 439; *see also* Justin Patchin et al., *Exposure to Community Violence and Childhood Delinquency*, 52 *CRIME & DELINQUENCY* 307, 317 (2006) (finding youth who are exposed “to neighborhood violence reported lower levels of parental supervision and school attachment and were more likely to associate with delinquent peers”).

¹¹ Bell, *supra* note 5, at 376.

¹² Övgü Kaynak et al., *Social Support and Social Constraints Moderate the Relation between Community Violence Exposure and Depressive Symptoms in an Urban Adolescent Sample*, 30 *J. SOC. & CLINICAL PSYCHOL.* 250, 252 (2011).

¹³ Burdick-Will, *supra* note 8, at 343-44.

¹⁴ Joseph Spinazzola et al., *Application of Yoga in Residential Treatment of Traumatized Youth*, 17 *J. AM. PSYCH. NURSES ASS'N* 431, 432 (2011).

¹⁵ *Id.*

underlying cause of their mental health problems.¹⁶ Furthermore, failure to accurately treat these symptoms leads to inappropriate treatment,¹⁷ and can even lead to the suspension or expulsion of traumatized students.¹⁸

While research suggests that youth with social support and social constraints may be less likely to develop adverse symptoms later in life,¹⁹ another important factor in helping youth cope with their exposure to violence is responding to their traumatic experience by building resiliency.²⁰ Building youths' resiliency allows youth to utilize their own internal strengths to improve their mental state and self-esteem through a sense of connectedness, uniqueness, and competence.²¹ One way of building resiliency is through the breathing and meditative practice of yoga.²² Due to the beneficial outcomes that yoga has on the mind and body, and its effectiveness

¹⁶ *Id.* at 433.

¹⁷ “[T]he complexity of youth adaptation to chronic trauma can also lead to misdiagnosis of what in fact are expressions of posttraumatic coping or distress as signs of conduct problems, personality deficits, or else as independent manifestations of other . . . disorders.” *Id.* at 432.

¹⁸ Research consistently reveals that exposure to violence is greater among males and ethnic minorities. Steven L. Buka et al., *Youth Exposure to Violence: Prevalence, Risks, and Consequences*, 71 AM. J. ORTHOPSYCHIATRY 298, 301 (2001). Additionally, in a nationwide sample during the 2009-2010 school year, although male and female students each made up about half the student population, 74% of the students expelled were males. U.S. DEP’T OF EDUC., OFFICE FOR CIVIL RIGHTS: THE TRANSFORMED CIVIL RIGHTS DATA COLLECTION (CRDC) 3 (Mar. 2012), available at <http://www2.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>. Furthermore, African-American students across all districts “are over 3½ times more likely to be suspended or expelled than their white peers.” *Id.* at 2. African-American students represent 18% of the students sampled nationwide, “but 35% of students suspended once, 46% of those suspended more than once, and 39% of students expelled.” *Id.* at 2.

¹⁹ Kaynak et al., *supra* note 12, at 264. Nevertheless, “[t]he security and coping assistance provided by supportive others may not always be adequate to deal with very high levels of threats caused by violence exposure.” *Id.*

²⁰ Bell, *supra* note 5, at 375.

²¹ *Id.* at 376, 379.

²² *Id.* at 378. Although there are over one hundred different types of yoga, this Note will primarily focus on Ashtanga Yoga, as it is a rigorous style of yoga, and links movement to breath. Kate Hanley, *A Beginner’s Guide to 8 Major Styles of Yoga*, GAIAMlife <http://life.gaiam.com/article/beginners-guide-8-major-styles-yoga> (last visited May 7, 2014). Additionally, Ashtanga Yoga performs the same poses in the same order, and “slowly acclimates the body to more difficult poses through progressive endurance.” Annie Woods, *Fueling the Fire Within: Heat Up with Ashtanga Yoga*, GAIAMlife, <http://life.gaiam.com/article/fueling-fire-within-heat-ashtanga-yoga> (last visited May 7, 2014).

in reducing traumatic symptomology,²³ yoga would be a more beneficial way for academic institutions²⁴ to respond to youths' traumatic exposure to violence.

B. Understanding the Practice of Yoga

Although now a common practice in the United States,²⁵ the word “yoga” derives from the Sanskrit root yuj, meaning “to join” or “yoke.”²⁶ Yoga is defined as “a Hindu philosophy that teaches a person to experience inner peace by controlling the body and mind.”²⁷ While not itself a religion, the origins of yoga date back more than 5,000 years ago, to an Indian school of thought holding that the cycles of birth and rebirth are “brought about by discerning the duality between purusa (consciousness) and prakrti (materiality).”²⁸ The practice of yoga seeks to break out of the cycles of birth and rebirth and achieve a desired state of awareness.²⁹ Over time, yoga has come to be viewed as any type of “disciplined practice,” including meditation,³⁰ that brings the body and mind together.³¹

Yoga focuses on three main structures: exercise, breathing, and meditation.³² Research shows that exercise not only increases one's mood in the short-term, but also can help alleviate

²³ Spinazzola et al., *supra* note 14, at 433.

²⁴ Although this Note focuses primarily on the practice of yoga within middle and high schools, *see infra* Part IV, yoga has beneficial outcomes with students of any age. *See, e.g.*, Tamar Mendelson et al., *Feasibility and Preliminary Outcomes of a School-Based Mindfulness Intervention for Urban Youth*, 38 J. ABNORM. CHILD. PSYCHOL. 985, 992 (2010) (finding mindfulness and yoga to have beneficial outcomes on chronically stressed and disadvantaged youth in a study of inner-city fourth and fifth graders).

²⁵ It is estimated that thirty million Americans practice yoga today. Matthew Moriarty et al., *Yoga and the First Amendment: Does Yoga Promote Religion?*, 60 FED. L. 68, 68 (2013).

²⁶ *Id.* at 72; *Definition of Yoga*, YOGA ONLINE, http://yoga.org.nz/what-is-yoga/yoga_definition.htm (last visited Apr. 29, 2014).

²⁷ *Yoga*, MERRIAM-WEBSTER DICTIONARY, <http://www.merriam-webster.com/dictionary/yoga> (last visited May 7, 2014).

²⁸ Moriarty et al., *supra* note 25, at 72.

²⁹ *Id.*

³⁰ *Id.*

³¹ *General Yoga Information*, AM. OGA ASSOC. <http://www.americanyogaassociation.org/general.html> (last visited May 7, 2014),

³² *Id.*

symptoms of anxiety and depression.³³ By controlling the breath, one is able “to improve the health and function of both body and mind,”³⁴ and improve emotional regulation.³⁵ Focusing on the sensations of breathing helps to cultivate thoughts, sensations, or emotions in a way that relieves distress without acting on it.³⁶ This meditative practice allows one to further explore their thoughts and feelings, thereby gaining clarity,³⁷ and has been proven to decrease stress, anxiety, and depression.³⁸ By practicing these techniques, yoga strives for a holistic approach to living, cultivating the “mind, body, and action to mutually support and explain each other.”³⁹

Because of the healing benefits of yoga, the practice has recognizable implications for youth exposed to violence. Oftentimes, the physical movement of yoga poses can “provide a present-moment somatic focal point that feels safe to trauma survivors who are often overwhelmed by body sensations.”⁴⁰ By providing a safe space to perceive thoughts, sensations, and emotions precisely,⁴¹ yoga reduces a youth’s aggression, anxiety, depression, and distress.⁴² The meditative practice allows youth to “inoculate against the potentially negative effects of stress and trauma,”⁴³ thereby allowing them to focus and learn in the classroom. Despite such beneficial outcomes for youth exposed to violence, the practice of yoga in public schools is not without challenge.

III. CONSTITUTIONAL CHALLENGES TO YOGA IN PUBLIC SCHOOLS

³³ Kirsten Weir, *The Exercise Effect*, 42 AM. PSYCHOL. ASS’N 48 (2011), available at <http://www.apa.org/monitor/2011/12/exercise.aspx>. “Exercise in many ways is like exposure treatment . . . [p]eople learn to associate symptoms [such as increased heart rate, heavy perspiration] with safety instead of danger.” *Id.*

³⁴ *General Yoga Information*, *supra* note 31.

³⁵ Spinazzola et al., *supra* note 14, at 433; Mendelson et al., *supra* note 24, at 986.

³⁶ Bell, *supra* note 5, at 378.

³⁷ *Id.*

³⁸ Spinazzola et al., *supra* note 14, at 433.

³⁹ Morriarty et al., *supra* note 25, at 73.

⁴⁰ *Id.*

⁴¹ Bell, *supra* note 5, at 378.

⁴² Spinazzola et al., *supra* note 14, at 433.

⁴³ Bell, *supra* note 5, at 378.

In July 2013, San Diego became the first school district in the United States to allow the practice of yoga be taught in public schools, finding it to be “a secular way to promote strength, flexibility and balance.”⁴⁴ Opponents, however, argue that the practice of yoga in public schools is “inherently and pervasively religious” and violates the Establishment Clause of the First Amendment.⁴⁵ Despite particular criticism, this section argues that yoga is not inherently religious, and even if it were, it passes the three tests designated to determine whether a state action is constitutional: the *Lemon* Test, the Coercion Test, and the Establishment Test.

A. Examination of Yoga Under the *Lemon* Test

The First Amendment was adopted to prohibit Congress from “interfere[ing] with the individual’s freedom to believe, to worship, and to express himself in accordance with the dictates of his own conscience.”⁴⁶ The Establishment Clause of the First Amendment provides that there should be “no law respecting an establishment of religion.”⁴⁷ In *Lemon v. Kurtzman* the Supreme Court developed a three-part test to determine whether a state action violates the Establishment Clause of the First Amendment.⁴⁸ To survive a constitutional challenge, the state action must: 1) have a secular legislative purpose; 2) its principal or primary effect must be one

⁴⁴ Elliot Spagat, *California Judge Allows Yoga in Public Schools*, ASSOCIATED PRESS (Jul. 2, 2013), <http://bigstory.ap.org/article/calif-judge-says-public-school-yoga-not-religious>. The court held that because of the increasing presence and evidence of yoga’s positive health benefits, the practice serves a secular purpose, separate from promoting or inhibiting any religion. Damon Huss, *Rights, Responsibility, and Respect* 11 CA. THREE RS 1 (Oct. 2013), available at http://ca3rsproject.org/pdfs/3RsBulletin_oct_2013.pdf. Although other schools around the country may include yoga classes, “[t]he district is believed to be the first in the country to have full-time yoga teachers at every one of its schools.” Spagat, *supra*.

⁴⁵ Rebecca Klein, *School is Violating Separation of Church and State*, HUFF. POST (May 23, 2013), http://www.huffingtonpost.com/2013/05/23/encinitas-yoga-trial-religion-in-school_n_3327247.html. “[S]ome parents heard the chanting, saw the Sanskrit and objected . . . claiming the classes are being used to indoctrinate children and ‘spread the gospel’ of Ashtanga yoga.” Rory Devine & R. Stickney, *San Diego Judge Oks Yoga in Schools, Denies Religious Component*, NBC SAN DIEGO (Jul. 1, 2013), <http://www.nbcsandiego.com/news/local/Yoga-Lawsuit-Encinitas-Judgment-Ruling-School-Class-Controversy-213853341.html>.

⁴⁶ *Wallace v. Jaffree*, 472 U.S. 38, 49 (1985). The First Amendment’s restraints on freedom of religion were made applicable to the states by the Fourteenth Amendment. *Id.*

⁴⁷ U.S. CONST. amend. I.

⁴⁸ *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971).

that neither advances nor inhibits religion; and 3) it must not foster excessive government entanglement with religion.⁴⁹

Under the first prong of the *Lemon* test, “[s]imply having religious content or promoting a message consistent with a religious doctrine does not run afoul of the Establishment Clause.”⁵⁰ A state action may have both a genuine secular and religious purpose,⁵¹ however, the primary purpose of the state action must not be to “endorse or disapprove of religion.”⁵² Consequently, although the tenants of Hinduism may be reflected in the practice of yoga,⁵³ the purpose of yoga in public schools is not primarily religious. Rather, the primary purpose is to encourage exercise, breathing, and meditation, allowing traumatized students to understand and express their thoughts and feelings in healthy, positive ways. Further, by effectively responding to youths’ needs, rather than misdiagnosing their behavior as problematic, traumatized youth are less likely to be suspended or expelled, and can devote a deeper concentration to their academic success. Any religious implications in yoga can therefore be removed from the practice.⁵⁴

Under the second prong of the *Lemon* test, courts look to whether the state action’s “purpose is to endorse religion and whether the statute actually . . . convey[s] or attempt[s] to convey a message that religion or a particular religious belief is favored or preferred.”⁵⁵ As this

⁴⁹ *Id.* at 612-13.

⁵⁰ *Van Orden v. Perry*, 545 U.S. 677, 690 (2005); *see also McGowen v. State of Md.*, 366 U.S. 420, 442 (1961). (finding state actions “whose conduct or effect merely happens to coincide or harmonize with the tenants of some or all religions” are not inherently unconstitutional). “For example, the State could not criminalize murder for fear that it would thereby promote the Biblical command against killing.” *Wallace*, 472 U.S. at 70 (O’Connor, J., concurring).

⁵¹ *Edwards v. Aguillard*, 482 U.S. 578, 634 (1987).

⁵² *Lynch v. Donnelly*, 465 U.S. 668, 690 (1984) (O’Connor, J., concurring); *see also Aguillard*, 482 U.S. at 599 (explaining “[t]he religious purpose must predominate” to violate the Establishment Clause). When a state action has a plausible secular purpose, courts are reluctant to attribute an unconstitutional motive to the State. *Mueller v. Allen*, 463 U.S. 388, 394-95 (1983).

⁵³ *See supra* note 28 and accompanying text.

⁵⁴ *See County of Allegheny v. ACLU Greater Pittsburgh Chapter*, 492 U.S. 573, 616 (1989) (noting that a symbol that “once carried religious connotations” can become secular over time).

⁵⁵ *Wallace*, 472 U.S. at 69, 70.

inquiry requires an interpretation of the context in which the action appears,⁵⁶ the relevant question becomes “whether an objective observer, acquainted with the text, legislative history, and implementation of the statute, would perceive it as a state endorsement of prayer in public schools.”⁵⁷ Under this analysis, courts have found moments of silence in public schools to pass this test, as such action is intended to permit silent prayer, meditation, and individual reflection, without endorsing one over the other.⁵⁸ Similarly, skills such as “independent thought, tolerance of diverse views, self-respect, maturity, self-reliance and logical decision-making” have been found not to advance any religion, but to instill fundamental values in school children.⁵⁹

Accordingly, yoga in public schools also passes this test. The purpose of yoga is not to endorse the Hindu religion, or any other religion, but rather to strengthen focus and internal reflection, thereby improving academic achievement. Research demonstrates that the meditation, breath work, and rhythmic movements of yoga are particularly effective for treating certain clinical conditions, including emotional regulation, and reducing symptoms of anxiety, depression, and stress.⁶⁰ These clinical conditions also coincide with many of the mental health problems youth develop as a result of their exposure to violence.⁶¹ As many of these benefits have already been found to serve the secular purpose of instilling fundamental values in children, no objective observer could reasonably interpret this practice as the state’s endorsement of a particular religion.

⁵⁶ *Newdow v. Rio Linda Union Sch. Dist.*, 597 F.3d 1007, 1019 (9th Cir. 2010).

⁵⁷ *Santa Fe. Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308 (2000) (citing *Wallace*, 472 U.S. at 76 (O’Connor, J., concurring)).

⁵⁸ *Id.*; see *Brown v. Gilmore*, 258 F.3d 265, 281 (4th Cir. 2001) (finding a moment of silence in public schools to be constitutional as a “quiet reflection” rather than “prayer”).

⁵⁹ *Smith v. Bd. of Sch. Comm’rs of Mobile Cnty.*, 827 F.2d 684 (11th Cir. 1987); see also *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 683 (1986) (“[O]ne of the major objectives of public education is the inculcat[ion of] fundamental values necessary to the maintenance of a democratic political system.”).

⁶⁰ *Spinazzola et al.*, *supra* note 14, at 433.

⁶¹ *Id.* at 434.

The entanglement test in the third prong of the *Lemon* test involves an examination of the entire context of the state action.⁶² This test reflects the “concern that secular and religious authorities must not interfere with each other’s respective spheres of choice and influence,”⁶³ either openly or secretly.⁶⁴ While some amount of involvement may be unavoidable, the question is “whether the involvement is *excessive*.”⁶⁵ Although the practice of yoga has ties to Hinduism, the religious involvement within public schools is minimal, and certainly not excessive. In San Diego, for example, the school district eliminated all cultural references in the practice, and even renamed certain yoga poses to more common English phrases or words.⁶⁶ Furthermore, although a nonprofit group that promotes Ashtanga yoga sponsored the program in San Diego, because of the secular purpose and effect of the program, the judge rejected the argument that the organization’s involvement “amounted to a stealth attempt to guide students to Eastern religion.”⁶⁷ As there are ways to strip the practice of its religious affiliations, however attenuated, yoga in public schools does not foster excessive government entanglement with religion.

B. The Endorsement and Coercion Tests

Over time, courts have struggled to apply the *Lemon* test, reasoning that it “serve[s] as ‘no more than helpful signposts.’”⁶⁸ Some courts have ceased to apply *Lemon* altogether, but rather apply an abridged version of the test.⁶⁹ Recently, however, courts have reaffirmed the vitality of the *Lemon* test, applying it concurrently with two additional tests when evaluating an

⁶² Morriarty et al., *supra* note 25, at 70.

⁶³ Lee v. Weisman, 505 U.S. 577, 646 n. 3 (1992).

⁶⁴ Everson v. Bd. of Educ. of Ewing Tp., 330 U.S. 1, 16 (1947).

⁶⁵ Walz v. Tax Comm’n of City of New York, 397 U.S. 664, 675 (1970) (emphasis added).

⁶⁶ Spagat, *supra* note 44. For example, the “lotus” position was renamed “criss-cross applesauce.” Huss, *supra* note 44.

⁶⁷ Spagat, *supra* note 44.

⁶⁸ Van Orden v. Perry, 545 U.S. 677, 686 (2005) (citing Hunt v. McNair, 413 U.S. 734, 741 (1973))

⁶⁹ See, e.g., Zelman v. Simmons-Harris, 536 U.S. 639 (2002) (following a line of cases qualifying a governmental program that incidentally results in aid going to religious schools “one of true private choice,” and thus constitutional).

Establishment Clause claim.⁷⁰ In *Lynch v. Donnelly*, Justice O'Connor's concurring opinion forms what is now known as the Endorsement Test.⁷¹ The Test was formally adopted in *County of Allegheny*, and looks to determine whether the challenged state action has the purpose or effect of endorsing, favoring, or promoting religion.⁷² Turning to the context in which the display occurs, the Court is concerned with whether one in society would be viewed as an outsider.⁷³

Alternatively, the Coercion Test articulated in *Lee v. Weisman*, looks to whether the state action "coerce[s] anyone to support or participate in religion or its exercise."⁷⁴ The Court in *Lee* recognized that in schools, children are coerced into all kinds of activities, such as learning, but that under the constitution, children must not be coerced into participating or supporting a religion, or engaging in a religious exercise.⁷⁵ Religious activities carry "a particular indirect risk of coercion"⁷⁶ to outsiders or nonbelievers, which the state must be careful to avoid.

The practice of yoga in public schools passes both the Endorsement and Coercion Tests. As previously discussed, the practice does not have the purpose or effect to endorse, promote, or favor a particular religion. Yoga, similar to meditation, is used as a time of personal reflection and mindfulness. The practice does not support religious beliefs or ideals, but focuses on fundamental values to help children cope with their stress and adjust to an academic environment. Additionally, the practice of yoga within public schools is not coercive. The practice would be voluntary to ensure that those who did not wish to practice would not feel coerced to do so.⁷⁷

⁷⁰ See *Newdow v. Rio Linda Union Sch. Dist.*, 597 F.3d 1007, 1017 (9th Cir. 2010).

⁷¹ *Lynch v. Donnelly*, 465 U.S. 668, 693-94 (1984).

⁷² *County of Allegheny v. American Civil Liberties Union, Greater Pittsburgh Chapter*, 492 U.S. 573, 593-94 (1989); see also *Newdow*, 597 F.3d at 1037 (explaining the Establishment Test is particularly concerned with whether the state action "has the effect of endorsing one religion over another").

⁷³ See *Lynch*, 465 U.S. at 688 (O'Connor, J., concurring); *County of Allegheny*, 492 U.S. at 595.

⁷⁴ *Lee v. Weisman*, 505 U.S. 577, 587 (1992).

⁷⁵ *Id.* at 592; *Newdow*, 597 F.3d at 1038-39.

⁷⁶ *Lee*, 505 U.S. at 592.

⁷⁷ In San Diego, for example, of the 5,600 students that participate in "[t]he twice-weekly, 30-minute classes . . . [a]bout 30 families have opted out of the classes." Spagat, *supra* note 44. In contrast to cases in which coercion

Furthermore, there would be no punishment or repercussions for those who did not participate,⁷⁸ but rather students could participate in an alternative class or study hall.

IV. POLICY IMPLICATIONS FOR YOGA IN PUBLIC SCHOOLS

Violence costs the United States an estimated \$425 billion each year.⁷⁹ Accordingly, many programs focus on preventing violence altogether, and intervening when violence occurs.⁸⁰ While these programs are necessary to curb overall rates of violence, it is also necessary to rehabilitate the youth exposed to this violence, ending the cycles of delinquent and violent behavior that exposure to violence facilitates.⁸¹ By addressing the mental and behavioral problems caused by this exposure, youth will gain effective skills to enhance their ability to learn as well as control their behavior, thereby increasing academic success, productivity, and quality of life. Further, improving academic performance correlates with a decreased prevalence of delinquent behavior.⁸²

Since there is no constitutional prohibition on yoga within public schools, the practice should be implemented in middle and high schools throughout the nation, and especially in communities with high social disorganization.⁸³ Although young children are also affected by

occurred, students would not feel “psychologically coerced,” either directly or indirectly, to participating in yoga classes, as there would be other options for students who opt-out, *see Lee*, 505 U.S. at 638, and students’ participation would be voluntary, and not, in a “fair and real sense obligatory,” such as a graduation. *Id.* at 586, 595.⁷⁸ *See, e.g.,* *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 629-30 (1943) (finding coercion where schoolchildren who refused to recite the Pledge of Allegiance were expelled, threatened with institutionalization, and subjected parents to prosecution and possible incarceration).

⁷⁹ A REPORT OF THE SURGEON GENERAL, *supra* note 4. “Of these costs, approximately \$90 billion is spent on the criminal justice system, \$65 billion on security, \$5 billion on the treatment of victims, and \$170 billion on lost productivity and quality of life.” *Id.*

⁸⁰ *See id.*; *supra* note 4 and accompanying text.

⁸¹ *See* Patchin et al., *supra* note 10, at 324 (discussing “the need for a more comprehensive notion of victimization, . . . extend[ing] beyond the immediate victim to others in the community who witness the incidents”).

⁸² Alan McEvoy & Robert Welker, *Antisocial Behavior, Academic Failure, and School Climate: A Critical Review*, 8 J. EMOTIONAL & BEHAV. DISORDERS 130, 131 (2000).

⁸³ Social disorganization has been used to describe communities that are “disadvantaged, disorderly, and decaying . . . foster[ing] an environment in which deviance becomes widespread. In addition, these characteristics preclude the development of social networks within the neighborhood that could potentially reduce the maladies associated with crime and deviance.” Patchin et al., *supra* note 10, at 308.

exposure to violence, because adolescents have the ability to process their feelings and thoughts more clearly,⁸⁴ the discipline and meditative benefits of yoga would be most effectively implemented with adolescents. Additionally, adolescents are “embedded in the neighborhood culture” of their community, and are therefore more affected by contextual factors and neighborhood disorganization resulting in direct or indirect exposure to violence.⁸⁵

Utilizing yoga as a response to violence would also reduce overall costs of crime in the long-term. In San Diego, for example, schools were able to hire teachers and provide twice-weekly yoga classes to students through a grant from a nonprofit organization.⁸⁶ If a grant is not available, yoga teachers and studios could volunteer at local schools, offering free classes to students.⁸⁷ Namaste Charter School in Chicago is another example of effectively introducing yoga into a school’s curriculum. Namaste provides a holistic education to underserved students, integrating health and wellness with academics.⁸⁸ Each day, students engage in sixty minutes of physical education in addition to a twenty-minute recess, as well as morning stretching and breathing exercises.⁸⁹ As a result of these movement breaks, teachers report that students are more calm and able to focus better during classes.⁹⁰ Because of the therapeutic impact, yoga is

⁸⁴ See generally Robert Roeser et al., *School as a Context of Early Adolescents’ Academic and Social-Emotional Development: A Summary of research Findings*, 100 ELEMENTARY SCH. J. 443 (2000) (describing adolescence as a time of “developing biological and psychological capacities in conjunction with the evolving social, cultural, and historical circumstances of their lives”).

⁸⁵ Patchin et al., *supra* note 10, at 309.

⁸⁶ See *supra* note 67 and accompanying text.

⁸⁷ For example, Bent On Learning, a nonprofit organization, uses donations from supporters to provide free yoga classes to sixteen public schools throughout New York City. See *About*, BENTONLEARNING, <http://bentonlearning.org/about-us/> (last visited May 13, 2014).

⁸⁸ *The Namaste Way*, NAMASTE CHARTER SCH., <http://www.namastecharterschool.org/the-namaste-way/> (last visited May 11, 2014). More than 85% of students come from low-income households, and a majority (90%) are Latino or African American. *Id.*

⁸⁹ *Our School Model*, NAMASTE CHARTER SCH., <http://www.namastecharterschool.org/the-namaste-way/our-school-model/> (last visited May 11, 2014).

⁹⁰ Telephone interview with Lola Reese Pittenger, Teacher, Namaste Charter School (May 13, 2014).

also utilized in residential treatment facilities for traumatized youth, decreasing posttraumatic symptoms, building self-esteem, and enhancing a youth's capacity to feel safe and grounded.⁹¹

V. CONCLUSION

As previously discussed, yoga is not a religious practice, and even if it were, it survives the *Lemon* Test, the Endorsement Test, and the Coercion Test, making it a constitutional state action under the First Amendment. Incorporating yoga classes into a public school curriculum would reduce aggression, depression, anxiety, and stress in youth exposed to violence. By reducing the emotional and behavioral manifestations of traumatic stress, students will be better able to pay attention and learn in the classroom. By improving academic success, students will be less inclined to engage in delinquent behaviors, thereby ending the cycle of violence. These benefits outweigh any minimal costs associated with the program, as reducing delinquency and mental health problems will increase youths' productivity and quality of life in the long-term. In addition to preventing and responding to youth violence, public schools should therefore also address youths' exposure to violence through the exercise, meditation, and breath work of yoga.

⁹¹ Spinazzola et al., *supra* note 14, at 434.