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Exhibitions at the Harvard Radcliffe Institute are free and open to the public.

FRONT COVER: Tomashi Jackson, *Pauli and Ruth in Two Blues*, 2020.

INSIDE FRONT COVER (LEFT TO RIGHT): Tomashi Jackson, *1924 Schoolchild in Violet*, 2020; Tomashi Jackson, *1974 Bussed Black Schoolchildren in Magenta*, 2020; Tomashi Jackson, *There Is No Data: 2014 Boston Public School Transportation Hearing I*, 2014.

INSIDE BACK COVER (LEFT TO RIGHT): Tomashi Jackson, *There Is No Data: 2014 Boston Public School Transportation Hearing II*, 2014; Martha Schnee, "There is no such thing as neutral" — Meredith Whittaker on the school to prison pipeline and racist AI, 2020.

BACK COVER: Boston University Mental Health Center Consultation and Education Program event, ca. 1973. Ruth Batson Papers, Schlesinger Library, Harvard Radcliffe Institute. (Photographer: William M. Dain)

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TOMASHI JACKSON: BROWN II

The Radcliffe Institute for Advanced Study at Harvard University is one of the world's leading centers for interdisciplinary exploration. We bring students, scholars, artists, and practitioners together to pursue curiosity-driven research, expand human understanding, and grapple with questions that demand insight from across disciplines.

The Institute's work is shaped by its history as the former Radcliffe College—a school founded to ensure that the standard of education embodied in Harvard was accessible to women, who were then excluded from the University. Radcliffe's defining commitment to women and the study of gender endures in the Institute's programs and the world-class collections of its Schlesinger Library. But the legacy of Radcliffe College is not simply coeducation at Harvard; it is the recognition that universities will always be greater when they draw wisdom and talent from the widest possible pool. This principle has guided Radcliffe's work for nearly a century and a half. Among the many distinguished schools of Harvard, the Institute is unique: interdisciplinary by design and animated by a legacy of promoting inclusion.

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HARVARD RADCLIFFE INSTITUTE

BOSTON UJIMA PROJECT

Tomashi Jackson: Brown II

Radcliffe Institute for Advanced Study
at Harvard University

Boston Ujima Project Ashé Ashé Cultural Assembly

1974 Bussed Black Schoolchildren in Magenta
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Tomashi Jackson: Brown II

Radcliffe Institute for Advanced Study, Harvard University
Boston Ujima Project Ashé Ashé Cultural Assembly

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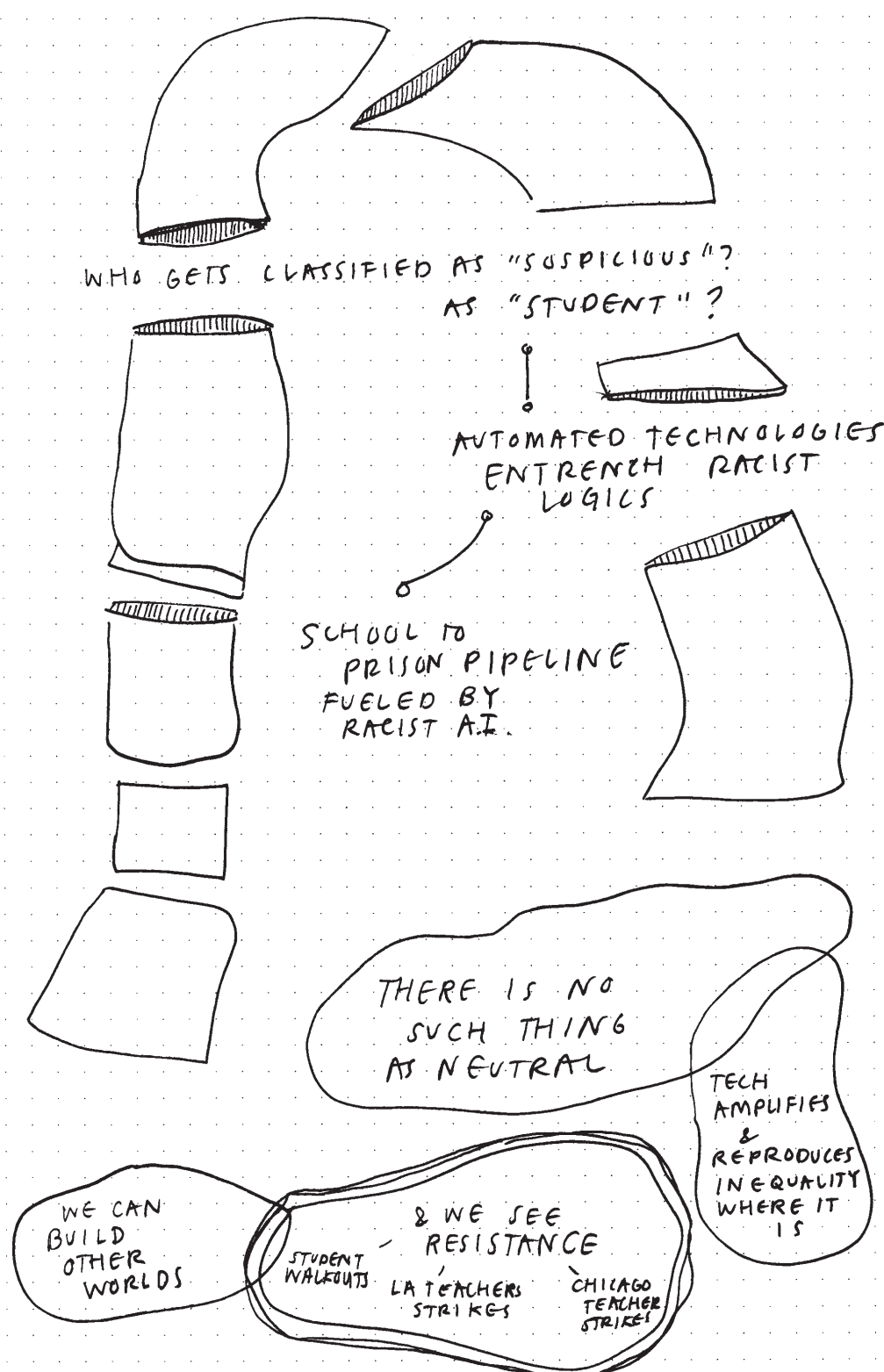
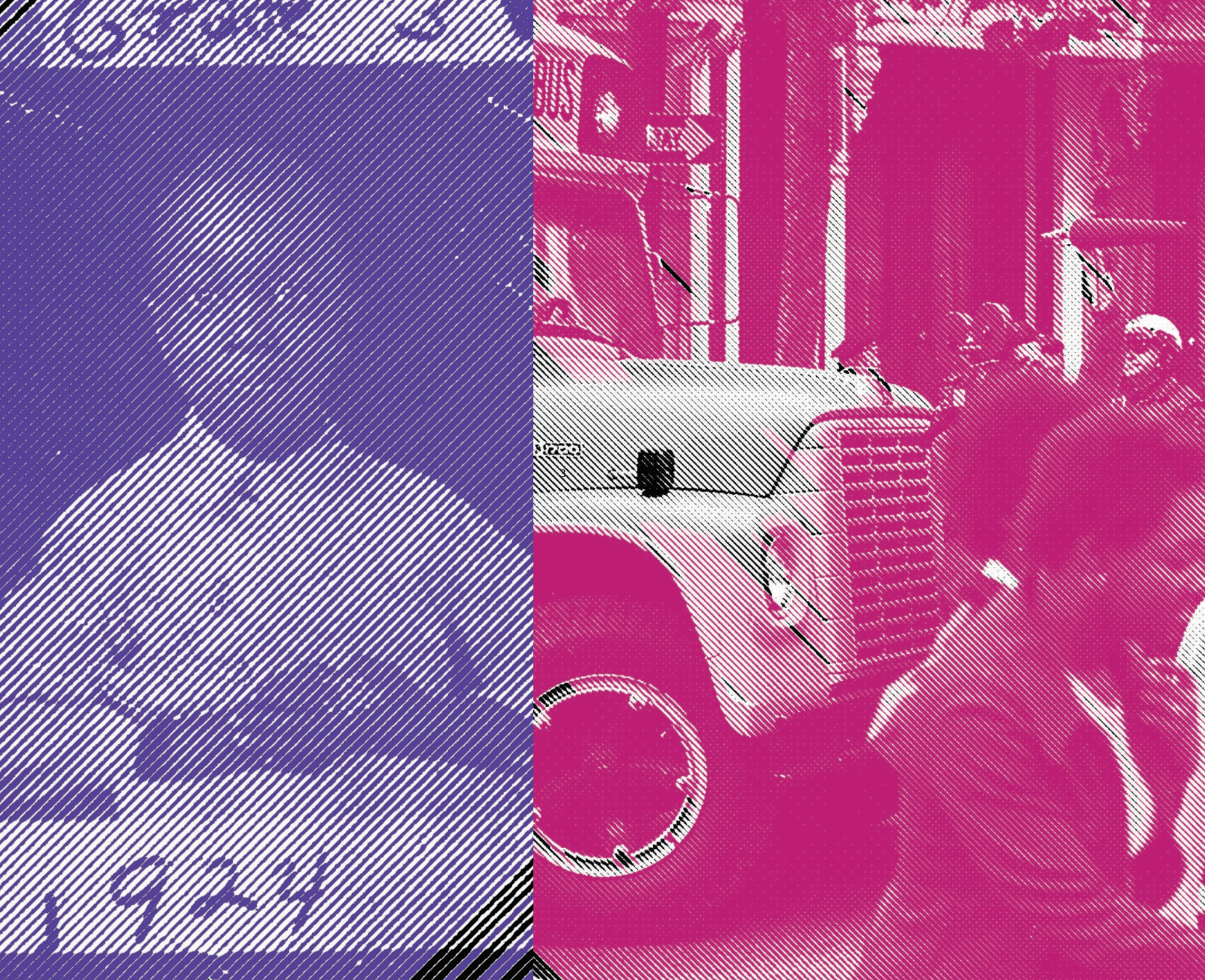
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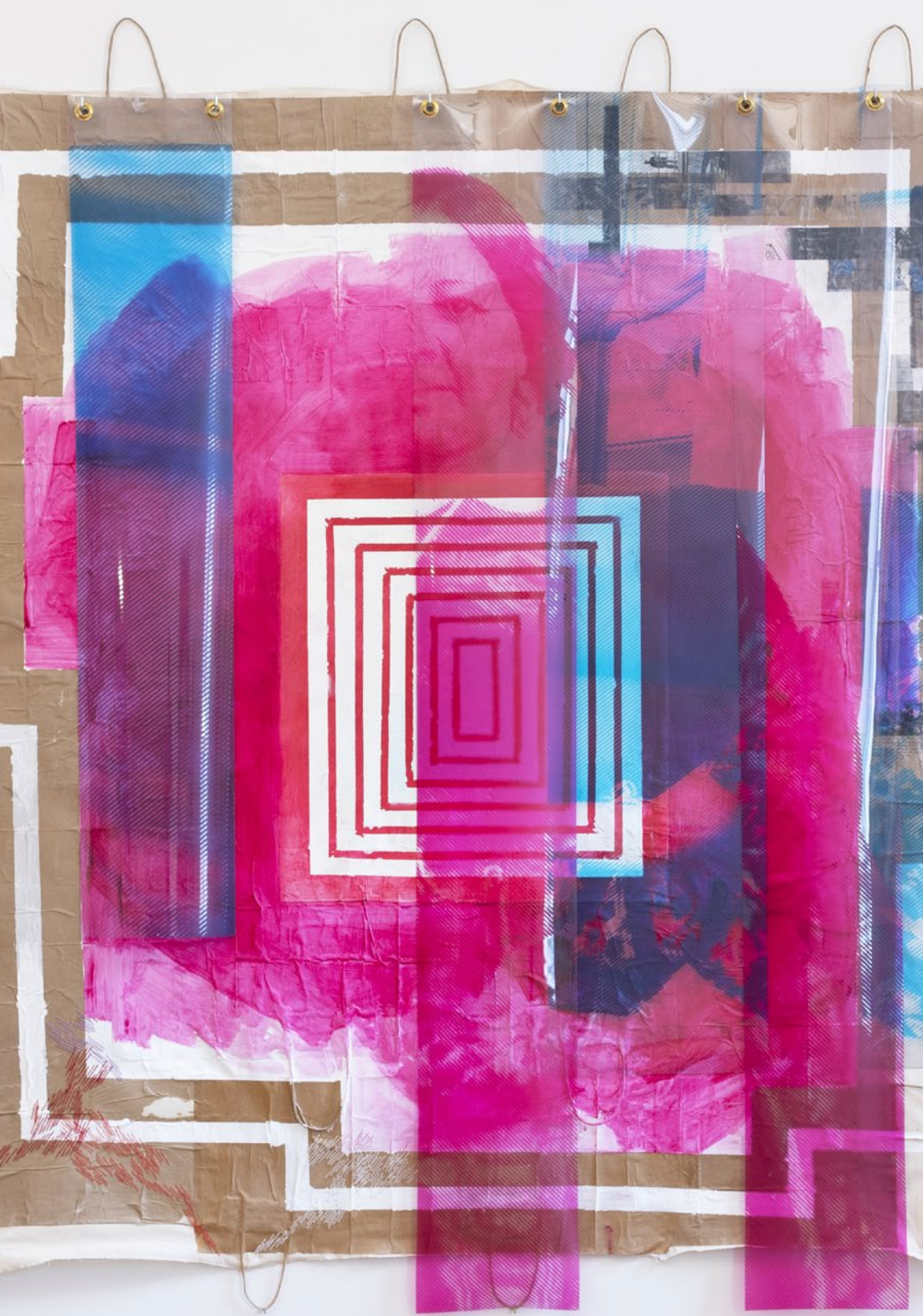


Tomashi Jackson earned an MFA in painting and printmaking from Yale School of Art in 2016; an MS in art, culture, and technology from the Massachusetts Institute of Technology School of Architecture + Planning in 2012; a BFA from the Cooper Union for the Advancement of Science and Art in 2010; and is an alumna of the Skowhegan School of Painting & Sculpture. Her solo exhibitions include *Forever My Lady*, at Night Gallery, Los Angeles (2020); *Time Out of Mind*, at Tilton Gallery, New York City (2019); *Interstate Love Song*, at the Zuckerman Museum of Art, Kennesaw, Georgia (2018); and *The Subliminal is Now*, at Tilton Gallery, New York City (2016). Her work was included in the 2019 Whitney Biennial and has been featured in group exhibitions at the Bakalar & Paine Galleries at the Massachusetts College of Art, Boston; the Contemporary Art Center, New Orleans; the Contemporary Arts Museum Houston; the Massachusetts Museum of Contemporary Art; and the Museum of Contemporary Art in Los Angeles. Her work is included in the public collections of the Baltimore Museum of Art, the Museum of Contemporary Art in Los Angeles, and the Whitney Museum of American Art. Jackson was the 2019 artist in residence at the ARCAthens Residency Program, Athens, Greece. She has taught at the Cooper Union School of Art, Lesley University, the Massachusetts College of Art and Design, and Rhode Island School of Design, and she has been a visiting artist lecturer at Boston University, Harvard Graduate School of Design, New York University, the School of Visual Arts, UMass Dartmouth, Williams College, and Yale School of Art. Jackson lives and works in Cambridge, Massachusetts and New York City. Her work is represented by Tilton Gallery in New York City and Night Gallery in Los Angeles.

ARTIST'S ACKNOWLEDGMENTS

I would like to thank all our discussants for sharing their knowledge and experience with us with such clarity and generosity. I would especially like to thank Nia K. Evans, Matthew Gregor, and Donna Bivens for inspiring this inquiry for me in 2014, continuing to be available for my questions, and helping to structure my interrogation of this history. Thank you to Natalie Z. Wang (Harvard GSD '19) for advising us to be active in ethical visual storytelling and preparing now for our memories of the future. Thanks to Connie Tilton (Harvard '74), Meagan Bartsch, and the team at Tilton Gallery, NYC for your tireless support. Thank you to Elizabeth "Betsy" Moore and Harrison Moore (Harvard '69) for your kindness and the stability you provide. Thank you, Jane Panetta, for your unwavering encouragement. Finally, I would like to thank my team of research assistants and editor Rachel Vogel and the entire team at the Radcliffe Institute for Advanced Study for your investment in this project and your agility during times of great change.





Tomashi Jackson at the Radcliffe Institute

JENNIFER L. ROBERTS

Johnson-Kulukundis Family Faculty Director for the Arts

TOMASHI JACKSON'S WORK teaches us what it means to commit to art as a form of advanced study and engagement. Bringing social, material, formal, and historical intelligence together in an intricate but powerful suspension, Jackson fuses the histories of painting and printmaking to the histories of law and urbanism. Her work explores color, composition, and layering both as methods of visual interaction in art and as metaphors for racial interaction in politics. By excavating and activating these shared motifs of art and policy, her work brings the full power of both traditions to bear on political engagement and critical action.

Commissioned by the Radcliffe Institute, Jackson's *Brown II* project explores the history and legacy of school desegregation in the United States, with a special focus on Boston. The landmark 1954 *Brown v. Board of Education* Supreme Court decision declared racial segregation in schools unconstitutional. But that was just the beginning of a long and painful struggle to actually implement the law, on the ground, in every state of the Union, in the face of systemic racism. In 1955, a year after the first *Brown* decision, the Supreme Court specifically addressed this problem of implementation in the case known as *Brown II*, asserting that the desegregation of schools was to be undertaken with "all deliberate speed." Today, more than 60 years later, the struggle continues.

Tomashi Jackson, *Mary Lyons, Yudy Ventura & the Co-op Women (Red Line/Red Scare)*, 2019. (detail)
Acrylic, oil, and image transfer on paper and muslin with digital prints on vinyl on paper and muslin.
76¾ x 75¾ in. ©Tomashi Jackson, courtesy Tilton Gallery, New York.

JACKSON'S SOLO EXHIBITION at the Radcliffe Institute was originally scheduled for the spring of 2020. When the COVID-19 pandemic shut down the Radcliffe campus (along with so much else) in March, Jackson and her close-knit team of graduate-student collaborators, with both studio and gallery access interrupted, turned their time in isolation toward a greatly intensified program of research. Having already begun a series of interviews about the history and future of the *Brown II* decision with prominent experts in law, advocacy, policy, ethics, and technology, the team completed the interviews online and committed to preserving them for posterity in printed format. Edited transcripts from those interviews, along with drawings and photographs that capture the collaborative milieu of their recording, are the focus of the pages that follow.

The processes of archival research and collaborative discussion exemplified here are fully integrated with Jackson's visual practice, in both content and form. Throughout the interviews in these pages, there is an attention to the complex *relationality* that characterizes the history of segregation—to the way that the value of Black lives has tended to be calibrated through patterns of juxtaposition, contrast, and interaction with Whiteness. Jackson has famously linked the language of the artist Josef Albers's classic 1963 book *Interaction of Color* to the language that Thurgood Marshall used in his arguments for desegregation. She has shown that Marshall and Albers were making similar claims, inasmuch as both were insisting on the contingency of color against those who would delineate race (or color) as an essential or stable category. As Jackson has said, she realized that color phenomena such as Albers's "vibrating boundaries" were aligned with political phenomena such as "residential redistricting and redlining." The color combinations in her work explore this link between visual perception and racial perception in American history.

The interviews also reveal an abiding concern with the shape of the *historical* perception of the fight for racial justice in education. Every interview confronts, in some way, the nonlinear complexity of the link between past and future struggles. Seemingly transformative legal decisions can be followed by years of inaction and retrenchment. Current policy decisions can simultaneously obscure and reproduce past inequalities. Recurring themes run aground of institutional amnesia. And, too, progressive transformation can suddenly emerge from years of apparent stagnation. Jackson's visual art is also fluent in its engagement with these processes of complex historical stratification. Her work often includes overlapping layers of paint and print in various levels of transparency and opacity, combining in surprising ways to render a series of historical interconnections.

A good example is her 2019 screenprint *New Money (Mary had a plot of land & so did Ms. Marlene)*. Part of a body of work that explored the government seizure of Black property in New York City, this print overlays archival photographs of two Black women, one in the 19th century and one in the 21st, who were dispossessed of their property by racist urban planning laws. Jackson rendered each photograph in a linear halftone and printed them in sequence, one atop the other. When the



Tomashi Jackson, *New Money (Mary had a plot of land & so did Ms. Marlene)*, 2019. Silkscreen on paper. 19 × 25 in. ©Tomashi Jackson, courtesy Tilton Gallery, New York.

two photographs overlap, the angles of each halftone meet to form a crosshatch: a linear pattern that has long been an essential method of suggesting depth and volume in the graphic arts. These women come together across history in an interlocked body of representation. Complex printed images always have a depth structure: Colors and forms must be separated onto different matrices and then layered sequentially in the final print. All manner of effects can ensue from this layering: Inks can mix unpredictably, colors layer in intricate ways, moiré effects can erupt along with depth effects from the angular interaction of halftone patterns. Layered color imagery, like the history of resistance to injustice, is a precarious structure that requires care, design, and attention to become coherent. In the subtlety and acuity that Jackson brings to the formal interactions in her work, she mirrors what she calls the "care, love, and coalition" that so many generations of brilliant civil rights strategists have brought to their work on desegregation. All have been working to construct an image of equality that does justice to the struggles of the past.

Jackson's use of archival sources and documents re-visualizes these histories, bringing to the surface events, actors, and stories that have so often been sidelined or overlooked. Jackson found a particularly fruitful archival resource in Radcliffe's Schlesinger Library for the History of Women in America, the world's preeminent archive of American women's lives. The Library holds the papers of Pauli Murray and Ruth Batson, two brilliant civil rights leaders whose work was

pivotal to desegregation efforts. (See pages 31–35 for more on Murray and Batson.) Archival photographs of Murray and Batson from the Schlesinger collections appear throughout this publication and form the source material for Jackson’s vivid transformations on the cover and at the head of each section. By illustrating this account of *Brown II* and its legacy with photos of these remarkable civil rights activists, Jackson establishes a historical narrative of desegregation that privileges images of courage and coalition rather than depictions of hatred and violence.

There is also a fortuitous alignment between the goals of Jackson’s project and those of the Schlesinger Library: Both seek to reframe the prevailing accounts of the past. The Schlesinger’s collections grew rapidly during the women’s movement in the 1960s and 1970s — evidence of the significance that feminist activists ascribed to creating their own documents and publications in order to record the history of their movement. Under our own unprecedented current circumstances, Jackson’s work responded to that same urgency. This publication lives now and in the future as an object of curricular and community reference about *Brown II*; it puts in the hands of students, educators, and community members a historical narrative that is commonly omitted from accounts of segregation and desegregation in Boston.

I AM WRITING THESE WORDS in July of 2020. It is a moment of extraordinary national upheaval around racism and police brutality in this country; a moment in which Jackson’s project is more urgent than ever. This is also a moment of great uncertainty about the future course of the coronavirus pandemic and its implications for community building in the art world and elsewhere. The project has transformed in the face of these uncertainties, and this publication serves as a lasting testament to the power and intricacy of Jackson’s work at the Radcliffe Institute.



Pauli Murray, ca. 1976–77. Pauli Murray Papers, Schlesinger Library, Radcliffe Institute, Harvard University. (Photographer: Milton Williams)



Ruth Batson with Judge W. Arthur Garrity, 1986. Ruth Batson Papers, Schlesinger Library, Radcliffe Institute, Harvard University. (Photographer: Ellen Shub)



Foreword

TOMASHI JACKSON

I MAKE WORK that places formal and material investigations in dialogue with historical narratives of governance and policy, which I view as areas of public space and shared implication. Using properties of color perception as an aesthetic strategy, I investigate historical events that illustrate the selective valuation of human life based on how color is seen and interpreted. The work bridges gaps between geometric experimentation and the systematization of injustice, incorporating printed and hand-painted images from photographs with archival materials chosen for their relevance into formalist compositions. My visual interrogation of the shared language around societal and chromatic color offers a narrative framework from which I have constructed my own language of abstraction.

Visualizing the history of the *Brown v. Board of Education* litigation and legislation became a focus for me after I watched a coalition of attorneys, educators, and advocates come together in 2014 to save what remained of yellow school bus service for Boston Public Schools (BPS) students. The newly elected mayor Marty Walsh's first budget included the defunding of public-education transportation just two months before the fall semester began. The coalition's efforts involved testifying at multiple public-school transportation hearings held at Boston City Hall, which I documented with video and photography.

Community members told stories about children having to travel long distances to get to and from well-resourced schools outside their own neighborhoods. The city had no plan for inclement weather, no current information about children's experiences of violence during journeys to and from school, and no data-driven justification for the move that would quietly end neighborhood busing for BPS middle school students, undoing the 1974 Garrity decision. I realized then that I did not understand the landmark *Brown v. Board of Education* school desegregation cases of 1954 and 1955, nor did I understand one of their core outcomes that was being rolled back before my eyes: school transportation. I was moved to begin properly learning about the Supreme Court cases that transformed all the public space I had experienced in my lifetime. The school transportation hearings revealed



Tomashi Jackson, *Girls Just Want To Have Fun (Pavane for a Dead Princess) (Aiyanna, Tschabalala, and Delaware Girls)*, 2015. Print on paper. 22 × 30½ in. © Tomashi Jackson, courtesy Tilton Gallery, New York.

disturbing similarities between the present and the past, as they coincided with many ongoing national discourses around further disinvesting in public education, along with almost monthly occasions of extreme violence between armed police or vigilantes and Black and Brown children and adults across the country—often resulting in the deaths of victims while their killers and brutalizers were declared unaccountable.

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Tomashi Jackson, *Limited Value Exercise III (Brown, et. al. v. Board of Education of Topeka, et. al.)*, 2014. Acrylic and silkscreen on gauze with copper support. 24¾ × 23¾ in. © Tomashi Jackson, courtesy Tilton Gallery, New York.

I turned to the documentary photography that the NAACP Legal Defense and Educational Fund (LDF) attorneys used to support their sociological arguments as source material to reflect upon my questions about the historical treatment of Black children in public space. I used painting, printmaking, video, and sculpture to place them in collision with images from the present day. That body of work, titled *The Subliminal is Now*, debuted in New York City at Tilton Gallery in 2016. The invitation to create a new body of work for a 2020 exhibition at the Radcliffe Institute for Advanced Study at Harvard University presented an opportunity to return to my visual research on the *Brown* cases, with a new focus on *Brown II*—the 1955 case that ruled on the implementation of the 1954 Supreme Court decision—with an emphasis on experiences in Greater Boston.

Brown II was intended to be a solo exhibition of new work opening in April with a public program series of three teach-in conversations that would bring together lawyers, advocates, policy researchers, scholars, and specialists in human rights, ethics, and technology to share their experiences of school desegregation history, the strategies employed for creating access to well-resourced primary and higher education, and the present-day landscape of education and public space. Three



graduate research assistants (RAs)—Kéla B. Jackson, K. Anthony Jones, and Martha Schnee—have worked with me since late January 2020 to find relevant archival images, documents, and poetry for the creation of a new body of painted photolithographs on paper.

We began our work together by meeting in person biweekly at Wallach House, on the Radcliffe campus. Over five weeks, we met with special guests Matt Cregor, Nia K. Evans, and Sabelo Sethu Mhlambi, with whom we discussed the chronology of *Brown v. Board of Education (I and II)*, contemporary implications of the dismantling of *Brown* policies nationwide, notions of humanism, education as essential to democracy, the reproduction of inhumane policies in technological algorithms



Screenshot of interview with David J. Harris, April 4, 2020.

and infrastructure, and actions taken by communities past and present to affirm and strengthen themselves via networks for resource creation, stewardship, and education in resistance to entrenched systemic disruption.

We learned about major cases beginning with *Plessy v. Ferguson* (1896), *Sweatt v. Painter* (1949), *Brown v. Board of Education I and II* (1954 and 1955), and significant legal decisions that followed them, such as *Green v. New Kent County* (1968) and Boston's *Morgan v. Hennigan* (1974). The RAs explored collections of photographs and documents held at the Radcliffe Institute's Schlesinger Library on the History of Women in America, Northeastern University's Boston Public Schools Desegregation Collection, and WGBH's Open Vault as sources of material for the new work.

During our last in-person meeting before the COVID-19 lockdown, we visited the archive of the Boston educator and advocate Ruth Batson in the Schlesinger's Carol K. Pforzheimer Reading Room. We saw and touched personal photographs of family, friends, and community members that told a visual story of Boston school desegregation. These images reflected tenderness, self-possession, and unity rather than the notoriously belligerent segregationist violence of that time. As sunshine beamed through the windows, we sat beneath a framed portrait of Pauli Murray and reconsidered what we thought we knew about how this history looked.

We asked ourselves, "What would visualizing this history look like through a lens of Black love, care, and coalition?"

With the onset of the COVID-19 global public health crisis, we were forced to stop, reassess, and adapt the project. On March 13, 2020, as the Harvard campus was being evacuated for the first time since 1775 and a temporary statewide mandatory quarantine began, our first video conference call took place with Professor David J. Harris, director of the Charles Hamilton Houston Institute for Race & Justice at Harvard Law School. Professor Harris's generosity inspired us to continue our work as we sheltered in place. We asked ourselves, "How can the project be of meaningful service at this time? How can this work be of use to learners displaced by the abrupt closures of their schools? How can we share the teach-ins and our findings when people cannot gather safely in large numbers? What is access without exhibition space? What is our archival impulse?"

As a group, we created a plan to redirect our efforts, prioritizing creating access to the material through the exhibition publication and digital platforms before the rescheduled spring 2021 exhibition. During the three months that followed the closure of campus, we designed a creative research methodology grounded in our focus on eight intimate conversations with people we intended to host for the teach-in series. That produced an expanded archive of *Brown II*-related material that consists of video recordings of our discussions, transcriptions of each conversation, photo documentation, original drawings produced during each conversation, selections of archival images, ephemera, a social media strategy for sharing the material in welcoming ways, and interview preparatory documents of questions and archival images that offer a curricular outline for displaced learners and educators. In the interview documents and in this publication, we've centered imagery from personal photographs of Pauli Murray and Ruth Batson, drawn from the Radcliffe Institute archives. Every conversation informed the question structure, image selection, and poetry chosen for the following one. Now, after months of work, the manuscript feels as if we were somehow all in the room together.

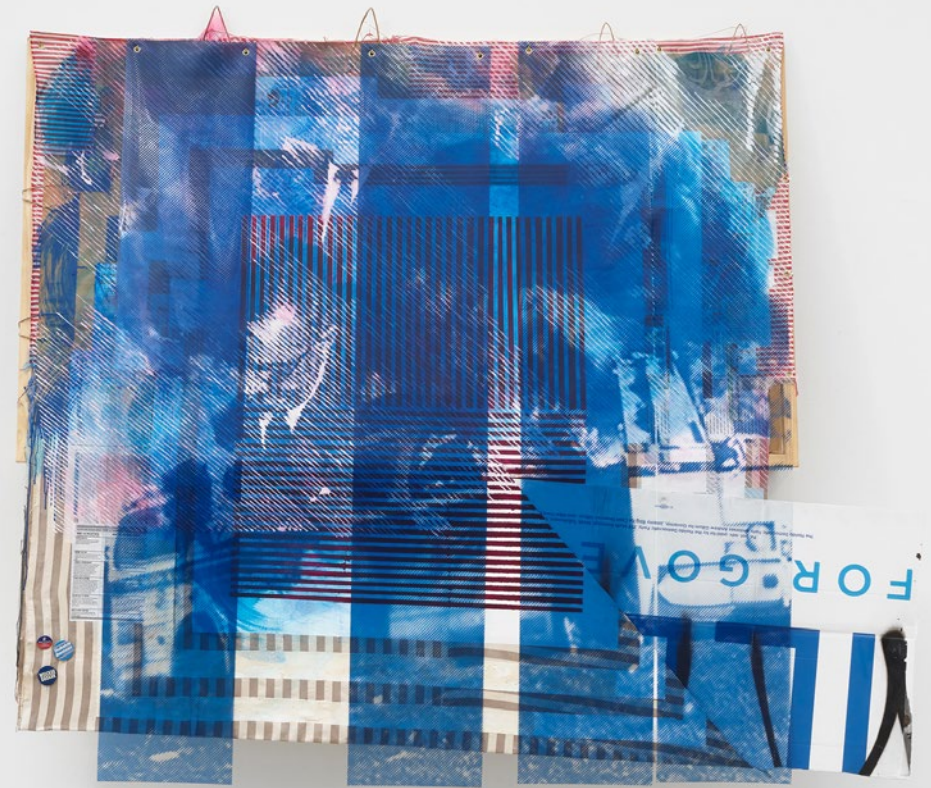
MATT CREGOR BEGINS with a history of relevant case law, tracing how personhood and equality have been defined by the courts. In our earlier conversations at Wallach House, Cregor described the law as an ant farm, carving out many tunnels over long periods of time until calcified injustice is destabilized from within. Dean Tomiko Brown-Nagin links the legacies of four Black women whose lives were committed to strategically advancing human rights in the realms of journalism, law, theology, and community-based advocacy: Ida B. Wells, Pauli Murray, Constance Baker-Motley, and Ruth Batson. Brown-Nagin also reflects on the impact of the years-long closures of schools in jurisdictions that refused to desegregate public schools after the *Brown II* decision of 1955, instead creating private schools with public funds for White children only. Professor Harris describes the *Brown I* decision as aspirational in its cultural value: It put a radical notion of human equality into public discourse, even if the work to achieve it continues to this day. Harris

notes the interrelationship of housing segregation and school segregation, challenging what became a common presumption of the deficiency of Black communities as they remained under-resourced compared with well-funded schools in majority-White school districts.

Donna Bivens shares how she developed a method for collecting the stories of Boston community members whose contemporary issues around criminal offender record information (CORI) reform could be traced back to the busing and desegregation of the 1970s. Nia K. Evans clarifies that the *Brown* cases are often misperceived as being about social interaction rather than a material fight. She argues that the issue at the heart of the *Brown* cases—and all battles for educational equity—is resources. The tech policy specialists Rashida Richardson, Meredith Whittaker, and Sabelo Sethu Mhlambi talk about how histories of racial disparity are reproduced in contemporary artificial intelligence algorithms employed for contemporary education and law enforcement policies. Although technological advancement is often mythologized as neutral, new technologies are often the product of narrow worldviews in terms of both design and implementation. We conclude with a discussion of personhood and the assertion that other worlds—and other philosophies of humanism in action—have been and are indeed possible.

14 The *Brown v. Board of Education* cases and the expansive policies that arose from those legal battles—including major funding for the arts, humanities, and cultural education—are keys to understanding the “backlashing” policies that have shaped the public domain we now occupy: A contemporary segregated space in which well-resourced education is more and more difficult for working-class and poor families to secure, and a place in which narratives of societal development omit crucial human rights efforts that have pushed United States public policies closer to the democracy that it rhetorically mythologizes. The inhumane violence that precipitates those efforts is often missing from what becomes historicized national collective memory, leaving many of us ill-equipped to recognize the parallels between the past and the present. *Brown II* at the Radcliffe Institute for Advanced Study returns to the chronology of American school desegregation, creating new imagery and discourse to understand what happened after *Brown I*. Communities that endure systemic economic disruption, biased income disparity, and targeted state violence are now experiencing the worst effects of COVID-19–related school closures and financial fallout. The history of schools shuttered by white supremacist segregationists in defiance of the *Brown* mandate and the ideal of “education as the cornerstone of citizenship” have become even more important for us to re-enter now. I am interested in the strategists’ visions of value, humanism, personhood, collective work, and responsibility that exist counter to brutal deprivation policies and the presumed inevitability of powerlessness. Our work together for *Brown II* has become something amazing—much more than we could have imagined.

Cambridge, Massachusetts—2020



Tomashi Jackson, *Ecology of Fear (Gillum for Governor of Florida) (Freedom Riders bus bombed by KKK)*, 2020. Archival prints on PVC marine vinyl, acrylic paint, American campaign materials, Greek ballot papers, Andrew Gillum campaign sign, paper bags, Greek canvas, Pentelic marble dust. 91 × 100 in.
©Tomashi Jackson, courtesy Night Gallery.



On the
case history
before and after
*Brown v. Board
of Education*

MATT CREGOR



MATT CREGOR has served as the education project director for the Lawyers' Committee for Civil Rights and Economic Justice, assistant counsel for the NAACP Legal Defense and Educational Fund, Inc. (LDF), and a staff attorney at the Southern Poverty Law Center. He is currently the staff attorney at Mental Health Legal Advisors Committee.

Gregor provides an overview of the case law leading up to and following *Brown v. Board of Education*. His commentary lends insight into the legal strategy of the NAACP attorneys, the massive resistance and failures of implementation following the 1955 *Brown II* decision, and how enduring educational inequalities forced another round of legal contests in the 1960s and 1970s, which Gregor refers to here as “basically *Brown III*.” This history makes clear that the legal fight to end segregation did not begin or end with *Brown v. Board of Education*.

The following text has been edited and condensed from an interview with Matt Gregor. Court case summaries have been added.

Before Brown (1896–1950)

PLESSY V. FERGUSON, 163 U.S. 537 (1896)

This Supreme Court decision upheld racial segregation through the “separate but equal” doctrine, ruling that Louisiana’s segregated railway carriages did not violate the Equal Protection Clause of the Fourteenth Amendment because “separate but equal” facilities were available for Black travelers.

This was the first challenge under the Equal Protection Clause to segregated facilities. Quite sadly, it was a full-throated victory for the segregationist Jim Crow efforts that were pervasive not just across the Deep South but across the entire country. The US Supreme Court basically declared segregation fully constitutional under the same amendment that had been designed to protect the rights of Black people and all people in this country. The justice system, as it had done so many times, talked itself out of following our own laws in a way that would actually give them the meaning intended. A lot of distance and reflection came after *Plessy v. Ferguson*: Was the law even an option to address this, and if so, how could the words of the Constitution be used, after they’d been eviscerated by this case, in a way that would secure equality under law for Black people in the United States?

MURRAY V. PEARSON, 169 MD. 478, 182 A. 590 (1936)

The Maryland Court of Appeals ordered the University of Maryland School of Law to immediately integrate its student population, since no comparable law school existed for Black students.

You have two generations of legal thinkers trying to draw on the lessons from *Plessy v. Ferguson* and construct a legal attack on segregation. It was believed that *Plessy* failed in part because racism in and of itself is designed to make White people immune to feeling the harms of it. So part of the strategy in attacking segregation through the courts was to position the segregation as close as possible to the experiences of the sitting judges themselves. You have this wave of cases involving white-collar work—access to law school, access to medical school, access to graduate schools of education—to try to get the judges to understand the context of segregation, because it’s in those “professional class” situations that the judges might be willing to give more credit to the concept of stigma, to the notion of intangibles, the very things they’ve used to succeed in their own lives.



Pauli Murray (far right) and others in a discussion for a television program, led by Muriel Snowden (center), ca. 1970–1974. Pauli Murray Papers, Schlesinger Library, Radcliffe Institute, Harvard University. Source: Daly Associates, Weymouth Heights, Massachusetts, United States

Murray was the first of those cases, predating the victories of *Sweatt v. Painter* and *McLaurin v. Oklahoma State Regents* by fourteen years. It was the first time a state court ruled that the separate but equal doctrine was unequal. Thurgood Marshall and Charles Hamilton Houston and the other NAACP lawyers were trying out these theories in a state court that ultimately ended up being friendly to them. The success was a watershed, but the question remained of how to translate it from one Maryland Court of Appeals decision to the entirety of the Deep South, the entirety of the nation. The NAACP attorneys and the attorneys who cooperated with them knew that to get this to work, the cases would have to be filed in the Deep South; they would have to lose in the Deep South; and they would have to do it in federal court so that they could build up cases that would reach the US Supreme Court and thus affect the whole nation. The target became schools of higher education. They knew that they needed to start with the doctors, the lawyers, and the educators before they could reach the children.

SWEATT V. PAINTER, 339 U.S. 629 (1950)

The Supreme Court ruled that the University of Texas Law School violated the Equal Protection Clause when rejecting an applicant on the basis of his race. The Court also ruled that the newly created Texas State University for Negroes was not substantially

equal, not only because it had inferior resources, but also on the basis of less objective measures, such as the experience and reputation of the faculty, the prestige of the instruction and its alumni, and its connectedness to the broader legal profession.

In *Sweatt v. Painter*, Mr. Sweatt, a Black man, successfully challenged a Texas state law on segregation by saying, “I want to go to law school, and the state provides no law school for Black students, so you’ve got to let me into the University of Texas at Austin Law School.” Sweatt’s attack was successful, but rather than let him in, the judge said we’re going to just pause this litigation and let Texas go ahead and build a law school for Black students. A separate law school for Black students was built, and the NAACP took it on further appeal.

In the momentous year of 1950, the US Supreme Court was suddenly successfully applying the NAACP’s conception of equal protection to get rid of the notion of separate but equal. The judges could see themselves in that place in law school, and they knew the harm that comes from being the student isolated and on the outside—not benefiting from all the intangibles that come from being in an institution of power, where students could learn from and leverage one another. Thus they were more willing to declare that the notion of separate but equal violated the Fourteenth Amendment’s Equal Protection Clause.

MCLAURIN V. OKLAHOMA STATE REGENTS, 339 U.S. 637 (1950)

The Supreme Court ruled that the University of Oklahoma could not provide different treatment to students on the basis of their race. This case, together with *Sweatt v. Painter*, overturned the “separate but equal” doctrine in graduate and professional education.

Mr. McLaurin was a Black man who wanted to attend a graduate school of education. No such school existed for Black students in Oklahoma. The school admitted him in response to a lawsuit, but gave him a separate table in the cafeteria and a cordoned-off place for him to sit alone just outside the classroom. This basically enforced, through boundaries both very visible and invisible, the racial hierarchy of Oklahoma and of our country, and the segregation that was fully ensconced in the law, even when Black students were in the same setting as Whites.

These wins in the US Supreme Court were huge, because the NAACP got the Court to say it was not enough to simply build facilities for Black students. The settings had to be desegregated. And it was with those wins that the NAACP and its league of cooperating attorneys throughout the South developed the cases that became *Brown v. Board of Education* and its companion cases.

After Brown

BROWN V. BOARD OF EDUCATION II, 349 U.S. 294 (1955)

In *Brown II*, rather than specify a deadline or particular models for school desegregation, the Court ruled that school districts should desegregate “with all deliberate speed,” using localized plans to be monitored by federal district courts.

Brown II came about because in the momentous unanimous 1954 *Brown* decision, the Court finally said separate but equal is inherently unequal and we have to eliminate segregation in the public education of our students. The Court did a somewhat novel thing in saying we’ve made this decision as to liability; we want to have you back in front of us next year to hear how we’re going to implement it. What are we going to ask schools to do when it comes to actually desegregating our schools?

Brown II, the 1955 decision, was after arguments in which the NAACP and every state solicitor general or attorney general argued to the Court what desegregation was going to look like in the context of the *Brown I* decision. *Brown II* reaffirmed the harm of segregation but left things wide open for schools to figure out how they would desegregate, just noting that it had to be done “with all deliberate speed.”

That language in some ways haunted implementation thereafter, because as soon as *Brown II* was decided, all sorts of terrible new things started happening. Alabama removed the right to an education from its constitution; Mississippi did the same. Rather than actually integrate schools, places in Virginia and in Mississippi closed not just a school but an entire public school system. Georgia adopted a constitutional amendment to deny funding to any district that desegregated. Academies and private schools that were designed to be White only popped up across the Deep South. And in many cases, including those that were later legally challenged, they were funded directly by the state, or subsidized by the state, to sponsor the segregated education of its students.

In places where at least some lip service was paid to an effort to desegregate schools, most of it was through “freedom of choice” plans. The idea essentially was, “Okay Black families, your kids can go to a White school now—you just have to choose it. You just have to be the one to do it. You just have to say it’s going to be fine for your daughter and your son to go to this building where they will be mocked, vilified, and terrorized. And don’t worry, we’ll do that to you parents, too.” So although brave Black families stood up, and some brave White allies stood up as well, efforts to seriously implement the constitutional mandate that came about with *Brown I* and was reflected as “all deliberate speed” in *Brown II* met with abject failure.



Sit-in at a Boston School Committee meeting, 1963. Boston Public Schools Desegregation Project, Northeastern University. (Source: *Christian Science Monitor*)

“Brown III” (1968–1974)

GREEN V. COUNTY SCHOOL BOARD OF NEW KENT COUNTY, VIRGINIA, 391 US 430 (1968)

The Supreme Court ruled that New Kent County’s “freedom of choice” plan did not sufficiently desegregate the school system and established a set of factors to judge desegregation in New Kent County and beyond using (1) student assignments; (2) faculty; (3) staff; (4) transportation; (5) extracurricular activities; and (6) facilities.

Thirteen years later, the US Supreme Court was completely fed up with this failure to implement *Brown*. In *Green v. County School Board of New Kent County*, the Court finally said, “Enough!” Desegregation must mean there are no racially identifiable schools. The schools should reflect in their student enrollment the approximate racial proportionality of the neighborhood and the city in which they are set. Similarly, it shouldn’t be possible to identify the race of a school by looking at its teaching corps; the faculty needs to be desegregated. And desegregation has not been accomplished until there’s greater parity in terms of physical plants: If 90% of the White kids are in a really nice new school with a nice new gym and nice new facilities but nothing has been done to upgrade the other facilities, you’re never

going to have any freedom of choice that you've been saying is what will be effective in desegregating schools. The Court developed a list of "Green factors," which became the litmus test for a school district's desegregation. It's in this rush after 1968 that meaningful desegregation began to take place in the South.

MORGAN V. HENNIGAN, 379 F. SUPP. 410 (D. MASS. 1974)

Judge W. Arthur Garrity Jr. ruled that Boston's School Committee was enforcing "de facto" segregation through policies that supported racial imbalance in public schools. So he enforced an implementation plan based on redistricting and busing.

To me, the law review article by Derek Bell called "Serving Two Masters" is a profound text, because it shapes the central tension between civil rights attorneys—who were trying to extend the fight and the victory from *Brown* across the South into the North and into its more racially isolated urban districts—and Black community members who had lost faith in the notion that ending segregation would secure a quality education for their children.

Bell sets this discussion up around the desegregation effort in Boston. By the time *Morgan v. Hennigan* was filed, in 1972, it was quite clear that racially discriminatory practices were at play in Boston's education system, whether the segregation was de jure (by law) or de facto. The Court found it either way in 1974, but implementing desegregation in Boston, or in any other major northern or western city, produced the same White flight and hostile pushback as in the South: violence, threats, and harassment. That was perfectly captured in images from Southie. All this occurred at the same time that some of the healthiest and most restorative and communal things about Black schooling were being lost, such as a Black teaching corps, so Black students lost the opportunity to be educated by Black teachers.

Most of us read the Bell article to mean that we had to stop thinking "I'm going to just file that perfect case and solve all our problems." Lawyers needed to think about how to support movement work. They have an ethical obligation as lawyers to listen to their clients and put power in their hands—not to win the perfect case.

The conflict was between relying and expanding on the NAACP strategy that had emerged over the past 40 years and losing the ability to listen and respond directly to the needs of the Black community. That felt a lot like shuffling deck chairs on the *Titanic* rather than addressing the central concerns about educational equality.


If we rely on the courts to be a primary vehicle for social change, momentous decisions like *Brown v. Board of Education* can be achieved, but it can still be thirteen years before people actually take the Court seriously. ■■■

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atthew/Downloads/Interview%20Prep%20for%20Matt%20Cregor_%20Brown%20II%20Research%20Group.pdf

Brown II Research Group, The Radcliffe Institute for Advanced Study
Interview Questions and Images for Matthew Cregor, Esq., (April 14, 2020)
Cambridge, MA, April 10, 2020

A) Tomashi -



Matt, please tell us about these attorneys.

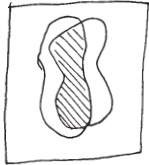
- Legal history /big history of Brown I and Brown II, how it relates to Boston' school desegregation, and how these relate to now.
- Please tell us about the following cases
 - **Before Brown**
 - *Homer A. Plessy v. John H. Ferguson* (Louisiana, 1890/1896)
 - *The University of Maryland v. Murray* (Maryland, 1936)
 - *Sweatt v. Painter* (Texas, 1950)
 - *McLaurin v. Oklahoma State Regents* (Oklahoma, 1950)
 - **Brown I**
(Preliminary Cases -> Supreme Court Case 1954)
 - *Brown v. Board of Education of Topeka* (Kansas, 1951)

JEWISH LAWYERS & PHILANTH.

. IN 1930'S WORKING TO COUNTER STATE-SANCTIONED LYNCHING
THURGOOD MARSHALL & NAACP TAKING ON TRIALS IN SOUTH TO CALL NATL. ATTN. TO ABUSE
- @ DEVIL IN THE GROVE



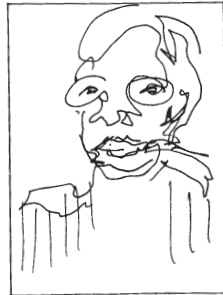
. JEWISH PHILANTH. ASK TO FUND, TO TAKE ON ED. -> PHILANTH. IDEALS ALIGNED W/ THE WORK - WIN-WIN



MAKES YOU WONDER ABT/ REFLECT ON HOW THIS CHANGED IMPACT & EFFICACY - WHAT IF IT WAS NOT JUST AN ED. FOCUS?

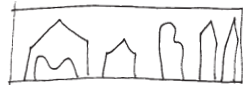
PAULI MURRAY WAS A SHARP RENAISSANCE WOMAN, NATL. WOMEN'S LAW CENTER

PAULI CHALLENGED CLASSMATES, TO TAKE ON SEG. HEAD ON



RUTH BATSON - TIES TO BELL ARTICLE

EMBODIED DESEG WHILE HOLDING UP BLACK VOICES "DESEG. IS NOT THE ONLY MEANS TO A QUALITY EDUCATION"

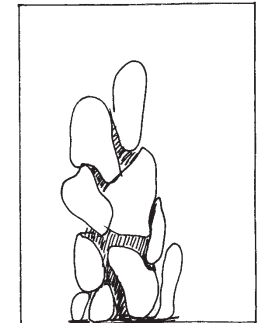


WITH IMPLEMENTATION, LOTS OF LOSSES

- i.e. LOSS OF BLACK TEACHERS VIOLENCE & BACKLASH

LOSING ABILITY TO LISTEN & RESPOND TO DIRECT NEEDS OF BLACK COMMUNITY, ESP. IN URBAN SETTINGS -

"FELT A LOT LIKE SHUFFLING DECK CHAIRS ON THE TITANIC"



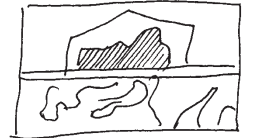
LAW AS ANT FARM

THIS IS THE PROB W/ PRECEDENT, IT CAN TAKE 13 YRS FOR THE ACTUAL WORK TO BE IMPLEMENTED

BTWN PLESSY & BROWN II

"COURTS TOLD TO JUDGE WHAT'S AHEAD BY WHAT'S BEHIND IT"

NAACP IS SLOWLY, BIT BY BIT, UNDOING PLESSY




STARTING W/ DR.S & LAWYERS BEFORE THEY CLD REACH THE CHILDREN LORDE. "MASTER'S TOOLS..."

THEY SURE KNOCKED DOWN A WING OF THE HOUSE

Martha Schnee, ABOVE: "Desegregation is not the only means to a quality education" — Matt Cregor on philanthropy, Ruth Batson, and Pauli Murray, 2020. OPPOSITE: "Law as ant farm" — Matt Cregor on legal precedent and structural change, 2020.

The illustrations included throughout this publication are a form of experimental documentation produced during each video interview by research collaborator Martha Schnee. The drawings, from Schnee's notebooks, work to creatively render each speaker, their ideas, and their words in real time, mapping the trajectory of each conversation.



On the legacy
and leadership
of Ida B. Wells,
Pauli Murray,
Constance Baker
Motley, and
Ruth Batson

TOMIKO BROWN-NAGIN

Brown II Research Group, The Radcliffe Institute for Advanced Study
Interview Questions and Images for Dean Tomiko Brown-Nagin, (May 8, 2020)
Cambridge, MA, April 30, 2020

A. Dean Brown-Nagin, please view the following photographs. Share with us what you know about these women and their advocacy strategizing for human rights on behalf of Black people in the United States in the face of constant white supremacist terror that manifests as physical violence and resource deprivation policies. How are their trajectories of focus linked?

1. Ida B. Wells
2. Pauli Murray
3. Constance Baker Motley
4. Ruth Batson



TOMIKO BROWN-NAGIN is the dean of the Radcliffe Institute for Advanced Study, an award-winning legal historian, and an expert in constitutional law and education law and policy. She is also the Daniel P.S. Paul Professor of Constitutional Law at Harvard Law School and a professor of history in the Harvard Faculty of Arts and Sciences. Brown-Nagin has served as faculty director of Harvard Law School's Charles Hamilton Houston Institute and as codirector of Harvard Law School's law and history program. Her current book project is on the life and times of Constance Baker Motley.

Brown-Nagin shares the stories of four women whose leadership, intellect, and courage helped advance the causes of racial justice, civil rights, and educational equality. In connecting the work of these activist leaders, she situates *Brown v. Board of Education* within larger and more enduring patterns of inequality that structure access to resources, knowledge, and power.

The following text has been edited and condensed from an interview with Tomiko Brown-Nagin.

Ida B. Wells, Pauli Murray, Constance Baker Motley, and Ruth Batson were women of great courage who took personal risks to advance the cause of Black freedom and civil rights, and each did that in a particular professional role.

Ida B. Wells was essentially a traveling investigative journalist who became enraged about the horror of lynching in the South and set out to document the lynchings, their circumstances, the violence to Black bodies at the hands of vigilantes. She was a crusader for justice and for African Americans who were subject to tremendous cruelty and suffering. Like these other women, Wells understood what we now call intersectionality; she understood the multiple ways in which oppression is experienced by women and by people of color. She was not only a founder of the NAACP and a crusading journalist but also an advocate for women's suffrage. She famously joined the 1913 Suffrage March in Washington, DC, and she did it on her own terms. As you may know, some women's suffrage proponents were overtly racist; they did not like it when Wells and some sixty other Black women came to the march. The Black women were actually told to go to the back—that they were not proper representatives of the cause of women's suffrage. Wells refused. She marched with the Illinois delegation alongside White women who supported her, and she took a stand. She took her place in history in so many ways: raising her voice, being courageous, using her intellect—and the same can be said for all of these women.

Pauli Murray was a civil rights lawyer. She wrote a book called *States' Laws on Race and Color*, which was a survey of all the laws that in 1950 mandated segregation. Think about how useful that would have been to the NAACP lawyers who were setting out at the time to build a legal case against segregation. This was before Google, before any of the resources that would have made assembling a list of segregation laws much easier. She came up with this indispensable resource for the NAACP and was appreciated for it. She went on to use her brilliant legal mind to devise the idea of "Jane Crow," which was Murray's way of insisting that both racial discrimination and gender or sex discrimination needed to be understood as harming Black women. She was a lawyer who aided the civil rights struggle,

B. Precedents for Sudden Mass Closures of Schools Through the Lens of Brown v. Board of Education Resistance.

1. In the 2004 report, *"Beyond Brown v. Board: The Final Battle for Excellence in American Education"*, author Ellis Cose describes the following:

"After the Supreme Court ordered desegregation with "all deliberate speed," Prince Edward officials swore to use "every legal honorable means to continue the high type of education we proposed to give the children of both races in Prince Edward County." Following the precedent set in Clarendon County, a three- judge federal panel approved a delay in the implementation of desegregation. When delay was no longer an option, Prince Edward County closed its public schools altogether.

From fall of 1959 through much of 1964 the schools were shuttered. "We underestimated the resolve of the white population of Prince Edward County. No one ever thought that they would rather close the schools. And no one ever thought that the United States of America would let it go on so long," observed John Stokes.

If you were White, that was not necessarily a tragedy. Those whose parents had a little money could go to the Prince Edward Academy, the newly established "private" school. But Blacks, who were barred from the (state-subsidized) segregation academies, were not so fortunate. Most saw their education hopes wither - until so-called free schools were finally opened in fall of 1963. The lucky ones managed to go to school elsewhere. Many were helped by the American Friends Service Committee, which set up the Emergency Student Placement Program in 1960 to send students out of the county to get an education. Some parents developed their own ad hoc relocation plans.

Vonita Foster was preparing to enter the fourth grade when the schools were shut down. "Most of my friends did not go anywhere." They languished in Farmville. When schools finally opened, they were so far behind that college seemed an unattainable dream. "They did not think they could do the work," recalled Foster. "I think that we lost a lot of the doctors we could have had, a lot of teachers who could have helped. I think it's had an impact on their children and in some cases, their grandchildren."

Dean Brown-Nagin, can you share your thoughts about the backlash to Brown v. Board of Education (I and II) and the historic precedent of rapid, sudden, and brutal closure of schools in the United States? What understanding can be gained by fully acknowledging this history and those directly impacted by it when considering the current global public health crisis, the subsequent closure of school campuses, and the mass displacement of an entire generation of students?

C. Dean Brown-Nagin, please read this poem written by Pauli Murray. How does it illustrate the historic humanist impulses of Well, Murray, Baker-Motley, and Batson?

Psalm of Deliverance

To The Negro School Children Of The American South in The Year 1959

*Children of courage, we greet you!
Gentle warriors, we salute you!*

*Youthful veterans of upheaval,
Victims of mindless resistance,*

*We, the wounded and dead of former campaigns,
Unknown, unheralded, unribboned,*

*The nameless millions, native and migrant,
We are legion and we support you!*

*From restless graves in swamps and bayous,
From slave ships, slave pens, chain gangs and prisons,*

*From ruined churches and blazing lynch-trees,
From gas chambers and mass crematoriums,*

*From foxholes, ghettos, detention camps,
From lonely outposts of exclusion,*

*We hear your marching feet and rise,
Silently we walk beside you!*

*We have returned from a place beyond hope;
We have returned from wastelands of despair;
We have come to reclaim our heritage;
We have come to redeem our honor!*

The documents seen here and in screen shots throughout the publication provided a guiding structure for each video interview. As amalgamations of questions, poetry, prior interview notes and illustrations, legal documents, and archival images, they were created collaboratively by the research team ahead of each conversation and enabled interviewees to be in dialogue with both historical material and one another.



Portrait of Pauli Murray, 1941. Pauli Murray Papers, Schlesinger Library, Radcliffe Institute, Harvard University.

the Black freedom struggle. She also laid the groundwork for the recognition of sex discrimination as a form of disadvantage that should be prescribed under law (and was so credited by Ruth Bader Ginsburg, who is better known as a champion of women's rights), and she was a cofounder of the National Organization for Women. She used her voice on behalf of others in a very powerful way.

Constance Baker Motley was often the only woman in the courtroom. She was a civil rights lawyer who helped make the field of civil rights law. Motley built on the knowledge and strategy that Thurgood Marshall and Charles Hamilton Houston had devised (based in part on the work that Pauli Murray did), and she helped litigate hundreds of cases that ended legal racial segregation in

this country. She helped kill Jim Crow by being a fierce advocate in the courtroom. She was known for her ability to cross-examine the many White men who were in positions of power over school systems in the South. She made them look foolish by so clearly undermining and exposing the lies they were telling about segregation. She was an amazing lawyer, a person of incredible courage. Her life was so much under threat that when she traveled to southern cities, men would guard her and her colleagues at night with machine guns. There was such a threat of violence against the NAACP lawyers who were simply trying to advance the principles articulated in the Constitution of the United States. Motley was a fantastic warrior for justice. After working for 20 years with the NAACP Legal Defense Fund as Thurgood Marshall's protégé, she moved into politics. She served as Manhattan borough president and as a New York senator, and she used her voice to push for equality in education and social supports for all people, certainly for working-class people. Then she went on to the courtroom and had a long career as the first Black woman appointed to the federal judiciary. In my work about Motley, I describe her as someone who both made change and personified the change she was making. She went from being an outsider who was agitating to being an insider at the pinnacle of the justice system in this country.

Ruth Batson is the person I would say is best identified with, and perhaps most responsible for and instrumental in, the desegregation of the Boston schools. She accomplished that through advocacy in the NAACP. She started her fight in the 1950s and was unable to get those in power to side with her perspective until 1974, when Judge Garrity famously ordered the Boston schools to desegregate. It was deeply controversial because, unlike in the South, where laws mandated

segregation, in the city of Boston and in Massachusetts at that time, there was not segregation by law. Through her advocacy, calling out the disparities in terms of resources, teachers, and facilities, Batson laid the groundwork for this amazing development in law, which is to say that discrimination takes many forms. It doesn't have to be only on the books; it can be shown by examining the actions of school district officials in Boston. She was another one of these women who used her voice. She was incredibly courageous and made social change.

We have moved, and we should move, beyond thinking about struggle in terms of great men. In the context of the civil rights movement, Martin Luther King Jr. and Thurgood Marshall were incredible leaders, but they were not alone. Ida B. Wells, Pauli Murray, Constance Baker Motley, and Ruth Batson—who are not as well-known as they should be—represent the fact that struggles against oppression have been advanced by individuals known and unknown across time.

One of the things that linking the histories of these women reveals is that violence as a form of resistance to change is not aberrational; it's consistent across history. It's a pattern that one sees over and over again. In the struggles for justice there is law, there is oppression through politics, there is oppression in the home, there is oppression of the body, and there is out-and-out violence, and they're all of a piece.

You asked about the public health crisis of today. Again, it's all of a piece. The crisis in public health reflects, in part, all the ways in which opportunity determines health status, determines whether one can be healthy, live a healthy lifestyle.

The communities where one sees educational disadvantage are also places where there's less access to healthcare, to quality food, to unpolluted air, to water that's clean instead of poisonous. These are patterns of disadvantage.



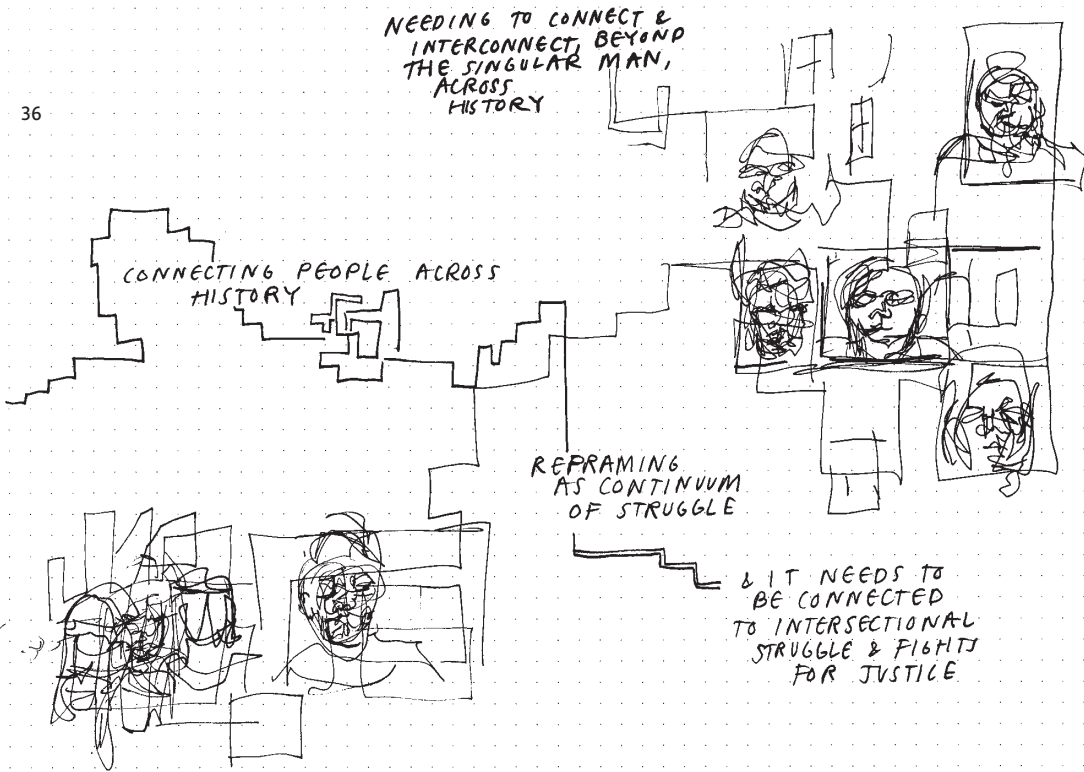
Batson family celebration, 1980. Ruth Batson Papers, Schlesinger Library, Radcliffe Institute, Harvard University.

Among civil rights scholars, what we've come to understand is just a continuum of struggle. It used to be that scholars would look at particular moments in time and talk about the significance of those moments. For instance, you might consider *Brown v. Board of Education* an important moment. We've in some ways moved toward doing precisely what you're doing: connecting the anti-lynching struggle to the suffrage struggle to the civil rights movement to

Black Lives Matter to the fight against mass incarceration. It's all of a piece. And it's a movement that seeks to bring allies together. So the struggle of people who are in bondage on account of race has similarities to and needs to be understood as connected to the struggle of people who find themselves oppressed because of sexual orientation, who find themselves dehumanized and thrown away by society because they may or may not have committed some kind of crime. It's a way of saying we need to struggle together—all these people are struggling together. And there's power in appreciating the struggle of humanity for justice.

This is pushing back against a particular understanding of *Brown v. Board of Education*, which is that it's about the deficits of Black children, bringing them into White spaces in order to improve them. No. Really, it's about power. It's about our access to power—being able to gain the knowledge that helps one fully be a part of society—and access to funding. There's a saying in the community of civil rights leaders that green (meaning money) follows white. That's a very different

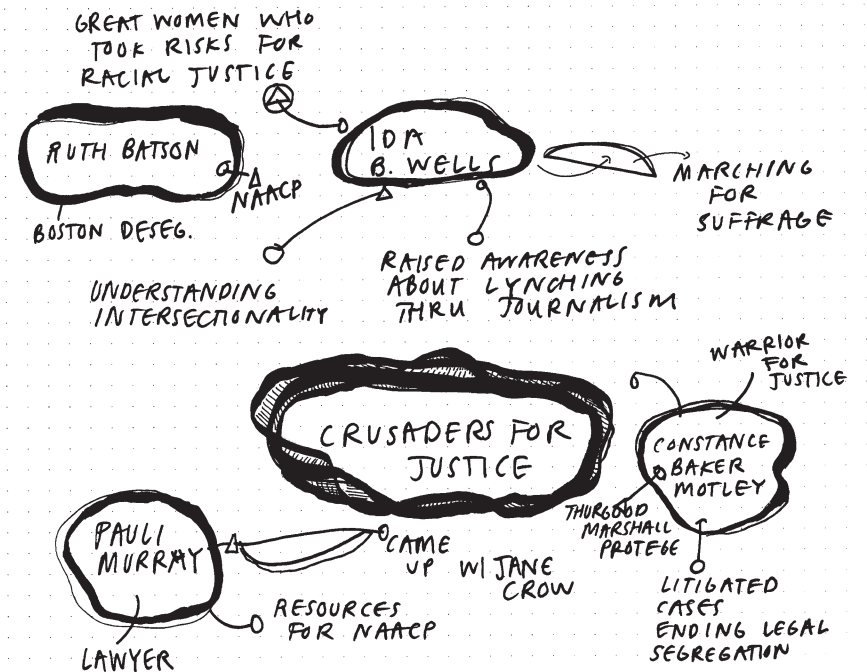
understanding of what the struggle for school desegregation was about than one that emphasizes Black kids sitting in a classroom beside White kids. That emphasis on resources is good—although I believe in social integration, it is just one strand of what those lawyers hoped to achieve. What they were seeking was power: Knowledge is power; resources are power. And the lawyers were coming from a place of just incredible fortitude, courage, intellect—all in search of power and justice. ■



Martha Schnee, ABOVE: "Connecting and interconnecting, across history"—Tomiko Brown-Nagin on the intersectional fight for justice, 2020. OPPOSITE: "Crusaders for justice"—Tomiko Brown-Nagin on Ida B. Wells, Pauli Murray, Constance Baker Motley, and Ruth Batson, 2020.



TOMIKO BROWN-NAGIN 5.14.20





On the
history
of school
desegregation
efforts
in Boston

DAVID J. HARRIS

4. In talking about the University, you also mentioned "institutional amnesia & a complete upside downness".

5. Policy researcher Rashida Richardson spoke with us about imagining and calculating the long term harm of prolonged inadequate access to education. This made Tomashi think of the documented testimonies of the "lost generations" of the post-Brown II era after non-compliant states shut down public school systems to refuse integrated education. Many described experiences of arrested development that influenced their entire lives. Do you have any thoughts about the shuttering of schools in response to the COVID-19 pandemic and how these mass closures may affect displaced students?

-fatima

Brown v. Board of Education

judged that the education system we had was illegal and unconstitutional but didn't necessarily require action. *Brown II* effectively said we have to dismantle it "with all deliberate speed," which, we have come to know, left an unbelievable amount of flexibility for people to determine "What's deliberate?" and "What's speed?" All over the country things proceeded slowly.

But it's also true that in some places, states and jurisdictions did take it seriously, at least on a rhetorical level. In Boston, the Racial Imbalance Act—which passed in 1965—sought to finally make *Brown's* mandate real and eliminate the racial imbalance that characterized our schools. As people started to organize and mobilize and then litigate the failure to eliminate the imbalances, it became a catalyst for activism.

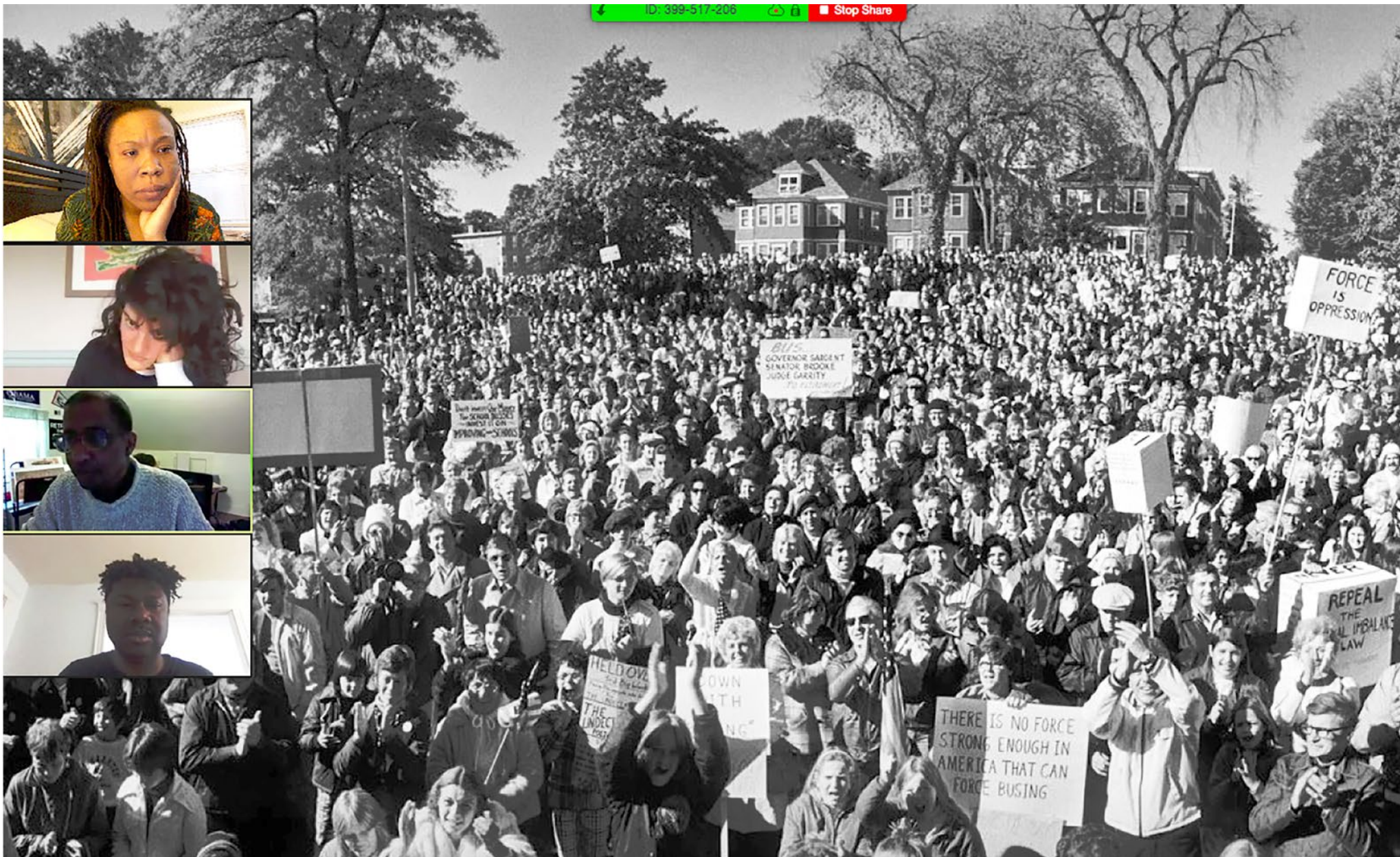
Morgan v. Hennigan (1974) was the result of considerable activism, with Ruth Batson and others central to this effort, which traces back to the 1850 court case *Roberts v. City of Boston*. More than 100 years before *Morgan v. Hennigan*, a Black father tried to enroll his five-year-old daughter in a school that was closer by and that he thought would give her a better education. Although he lost that case, Massachusetts banned segregated schools in 1855. So even before *Plessy v. Ferguson* (1896), before *Brown v. Board of Education*, segregated schools were illegal in the State of Massachusetts. It's an important thing for us to raise, because we too often forget just how long and how deep the struggle has been, and that Black people throughout history have sought their rights and recognized the structure of inequality. Can you imagine having a five-year-old daughter and seeing what is being withheld from her because of her race?

Part of the legacy of *Morgan v. Hennigan* is the mechanisms of hatred that arose in response to school integration in Boston, one of which was the South Boston Betterment Trust. To me, it was similar to the White Citizens' Councils of the South. These were the holders and protectors of White privilege and White power. Even as the formal battle over integration of the Boston public schools started to die off, the South Boston Betterment Trust endured, and its poisons continued to

DAVID J. HARRIS is the managing director of the Charles Hamilton Houston Institute for Race & Justice at Harvard Law School. He previously served as founding executive director of the Fair Housing Center of Greater Boston. He has served on many boards, including Mass Humanities (as president, 2006–2008), and is currently the chair of the Massachusetts Advisory Committee to the U.S. Commission on Civil Rights.

Harris provides an overview of the history of school desegregation efforts in Boston and shows how racial inequalities were maintained through housing policies. He also warns of the dangers of allowing these systemic inequalities to shape narratives around Black communities.

The following text has been edited and condensed from an interview with David J. Harris.



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VIDEO INTERVIEW SHARED SCREEN: Anti-busing rally at Thomas Park, Boston, 1975. Spencer Grant Collection, Boston Public Library. (Photographer: Spencer Grant)



Portrait of Pauli Murray, 1931. Pauli Murray Papers, Schlesinger Library, Radcliffe Institute, Harvard University.

spread to public housing through the development of tenant councils and public housing developments. These organizations were dominated by people from the South Boston Betterment Trust.

There's this received knowledge that if we had desegregated housing first, we might have avoided some of the violence and vitriol that accompanied desegregating schools. I personally wonder about that. But one thing it would have done is diminish the need to use transportation to achieve the ends of integration. If residential segregation had been dismantled first, busing wouldn't have been necessary.

In Boston, residential segregation was maintained by state action. Public housing was segregated along neighborhood lines: Most neighborhoods in Boston had a public housing development, and that development was populated by the dominant racial group of that neighborhood. What happened was that each development had a separate waiting list, so the South Boston development would have a waiting list made up entirely of White people. Some of the same activists who fought school segregation had to fight the discriminatory practices of

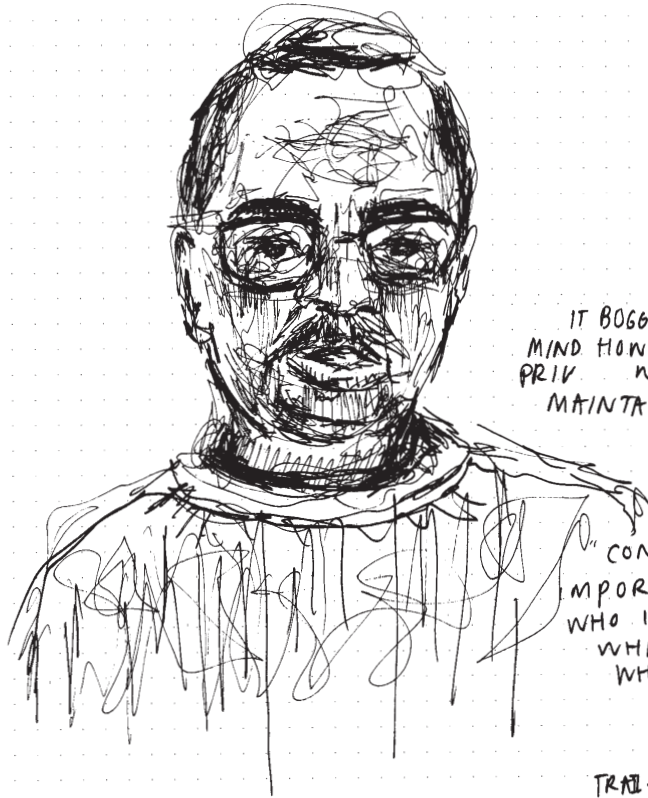


Ruth Batson (standing), 1955. Ruth Batson Papers, Schlesinger Library, Radcliffe Institute, Harvard University.

public housing and had to get the courts to aggressively order the creation of a single waiting list. But then, of course, what happened was White flight to the suburbs, and the waiting list for Boston public housing became predominantly people of color.

One of my most basic points is that segregation itself is not the problem. The problem dates back to the founding of this country and before: a refusal to recognize the humanity and value and worth of Black people and people of color, and the notion that to escape these conditions of disadvantage, you have to be near White people.

We need to start from a point of equality and not perpetuate the notion that there's something about Black people or Black culture that is inadequate, problematic, or needs to be fixed. You read it all the time: Black neighborhoods are so disadvantaged that we have to tear them up, dismantle them, put people out, get them out of them. That's a problematic narrative. It's been destructive of the notion of Black community. The emphasis on integration feeds the notion of Black deficit, which rewrites the narrative of Black excellence in such a way that we



IT BOGGLES THE MIND HOW FAR POWER & PRIVILEGE WILL GO TO MAINTAIN THEMSELVES

"CONTEXT, IMPORTANCE — WHO IS DOING WHAT FOR WHOM?"

TRAILERS OUTSIDE SCHOOLS, SEPARATE SCHOOLS TO EXCLUDE, MADE BY WHITE PEOPLE

YOU CAN'T SEPARATE EDUCATION FROM FOOD, HEALTH, SOCIAL LIFE

THE IMPORTANCE OF BROWN IS NOT LEGAL, IT'S CULTURAL

IT ARTICULATED & GAVE VOICE TO NOTIONS & THE PROMISE OF EQUALITY

IT HAS ALSO MESSED WITH THE NOTION OF BLACK COMMUNITY

THIS GETS CONFUSED WITH HAVING ACCOMPLISHED IT

"JANE CROW"

"THERE ARE UNBELIEVABLE ASSETS IN OUR COMMUNITY, BEAUTY, POWER"

BROWN DISRUPTS BLACK COMMUNITY, FOCUSES ON DEFICITS, NOT ASSETS

THE ARCHIVE SHOWS THE IMPORTANCE OF BLACK WOMEN

FANNIE LOU HAMER

PAULI MURRAY

RUTH BATSON

forget the 1850 Boston school desegregation case. How can we change our understanding or conception of who has value and how we show care for that value in our community?

In the narrative we tell about *Brown*, there's a missing clause. In this country, separate but equal is not possible because of racism. Integration is not a path to racial justice; rather, it is an outcome of racial justice. It can only occur once we have dismantled the structures of inequality. Instead of opening the door, we need to tear down the door and the walls. This is the difference between an American ideology of individual opportunity and the reality of structures of inequality.

Brown exists as an aspirational text in that it joins the Declaration of Independence and the Constitution as formulations of ideals. The importance of *Brown* is not legal, it is cultural. It's the articulation of this notion of equality that we have to hold on to and try to make real. ■■■

Martha Schnee, OPPOSITE: "The importance of Brown is not legal, it is cultural" — David J. Harris on the interconnected impact of *Brown II*, 2020. ABOVE: "There are unbelievable assets in our community" — David J. Harris on the importance of Fannie Lou Hamer, Pauli Murray, and Ruth Batson, 2020.



On the origins and methodology of the Boston Busing/ Desegregation Project

DONNA BIVENS



DONNA BIVENS is a diversity, inclusion, and equity consultant and trainer. As director of the Boston Busing/Desegregation Project, she worked with the Union of Minority Neighborhoods to collect stories from community members about Boston in the 1970s and 1980s and members' own experiences of school desegregation for the film *Can We Talk? Learning from Boston's Busing Desegregation Crisis* (2011).

Bivens discusses the origins and methodology of the Boston Busing/Desegregation Project. She reflects on some of the lessons revealed by the project and how this history comes to bear on the present.

The following text has been edited and condensed from an interview with Donna Bivens.

After 20 years as codirector of the Women's Theological Center, I was asked to work on the Union of Minority Neighborhoods (UMN) project, which was to look at busing and desegregation in Boston. The way UMN got into that was through the criminal records (CORI) reform work they were doing, and a lot of stories started coming out about people's trauma around segregation.

There's this link: The incarceration rates started going up in the 1970s in Boston, which was the same time as the desegregation crisis. So after CORI reform the UNM started organizing around school issues.

The Boston Busing/Desegregation Project story collection started with the film *Can We Talk?* In the film were people we met through our organizing, in either the courts or the schools. I continue to think that we made a good decision to start with the people we knew, because they had a view of this that most people did not see. And in many ways, what they saw and where they stood in the system tells you a lot about where we are today.

We used that film to go around and ask people, "Is it important to visit this history, and if so, why?" Even before the film we started asking people that, and they would say, "Yes, it's important to visit the history, but not as a history lesson. Do it to see what it means for today." We were clear that we needed to really look at this as a history that was living. We used the film to talk to people in a lot of Boston suburbs to get a sense of how this history is alive. We looked to see what the recurring themes were. It taught me a lot about where we are right now. The stories were amazing.

After that, we produced the report "Unfinished Business: 7 Questions, 7 Lessons." In that we took those stories and looked for patterns. I tried not to bring my lens of systemic racism so directly; I really tried to listen to people and not impose something on them. I was constantly trying to see what was happening systemically, looking for similarities, differences, and exchanges—ways of looking at how information is shared. If you're dealing with a system, you can't really "change the system." You can influence it, but you can't really change it, because it's active. That's how I think about White supremacy. You go back and forth to move it

2010-2014 - PROJECT BEGAN TO
PETER, CRA
PROUGHT
ANNIV. OF
MORGAN V. HENNIGAN

MOVED TO BOSTON
IN 1974 - FIRST
YEAR OF DESEG.



MYTH OF BOSTON AS
LIBERAL CITY -
CLASS BASED CITY

THERE
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FAMILY GOT
LOST ONCE
& SCARED
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BOSTON

CLASS IS SO IMPT. TO
THIS CITY



BITTER RIVALRIES,
RISK MANAGEMENT
ANALYST @
GILLETTE

THE HISTORY OF
WHO OWNS THE
CITY IS ALIVE
HERE

STORY TELLING & ORGANIZING,

HOW IS
THIS
HISTORY
ALIVE?



GROUNDING IN
SPECIFIC
STORIES OF
PEOPLE,
THAT WAS
THE PLACE TO
START

to something different, to try to influence it. But if it's there and it hasn't been destroyed, it continues to mutate; it continues to change and move.

What were the questions that were coming up then that are still relevant now? That's how the report was organized. People would ask questions like, "Why don't people just get over it?" That became one of the questions, and it brought up an exchange about who gets to get over it. Or the question "Whose city is it?" — whom does a city belong to? This issue has been going on since the beginning of the city. Talking to some people in South Boston, they've been pretty much taken over, but it wasn't by Black people or people of color. It's class. It has been gentrified.

In the report we started out with the question "Whose story is it?" But as we started using the questions, we refined it to "Whose story counts?" Another question: "Was Boston's desegregation crisis about racism or was it about classism?" Because there was a Black story. There was a White story. There was also a Latinx story, an Asian story, and it was much more complicated when you got into some of that. It was a much more nuanced story about what happened: You had cross-racial conflict, racism, and they were all interacting.

Another question was "What is excellence?" Excellence wasn't just about the schools. It was also about who gets to decide what excellence is. Who gets to decide what's important in terms of education and those other issues?

Martha Schnee, ABOVE: "There are a lot of lines here"—Donna Bivens on the history of racism and classism in Boston, 2020. OPPOSITE: "How is this history alive?"—Donna Bivens on storytelling and organizing in Boston, 2020.



Members of the Boston University Mental Health Center Consultation and Education Program, ca. 1973. Ruth Batson Papers, Schlesinger Library, Radcliffe Institute, Harvard University.

It changed my own understanding and clarified it a lot, too: how racism is so central and keeps people in this country from seeing so many things. It makes people sort of stupid. Racism is real. I was born in the South and raised in the Midwest, and Boston is the first place I lived where I was called the n-word by people driving down the street. My sister and I were walking and had a bottle thrown at us; it was all over the city. It was strange, because Boston has this reputation with a lot of people—but not with Black people—for being a very liberal city. That whole myth was being punctured in the late 1970s, because the response to desegregation was so violent. I see the way that people don't even want to talk about it. I think I'm more perplexed now than I was back then about how it plays out, especially within the education system. Racism is so foundational to understanding so many things in this country. And you have this whole White supremacist fear-based energy building. There's a lot more enlightenment on one hand, and a lot more pushback, and even violence, on the other hand.

Often people my age or older who got into desegregation, or who brought about desegregation, had their own view of racism and could see patterns, and that was really important. People who've grown up in this era, younger people we talked to, were upset that they didn't know this history and were piecing it together with their experience. If you're older and have gone through all this, you see patterns. But if you are growing up in this time, you see that it's not back then, and things have changed a lot. Sometimes, the intergenerational struggle I see—especially among Black people—is holding both of those. Yes, there are repeating patterns, and this time is totally different from that time. What you are centering in your life is very different. How can you have that conversation in a way that is respectful of both? We have a very complex situation right now. You have to understand the whole thing. You need the diversity and difference to figure out where you are together. Where do we stand? What do we see based on where we stand?

I feel that society with this virus is so exposed. It's just as much about the problems with the society. In a lot of ways, we're going to have some hard lessons. Instead of learning something, we seem to be going in the total opposite direction. The opposite of love is self-centeredness. ■■■



Pauli Murray standing on a rock cliff in Central Park, ca. 1928–1941. Pauli Murray Papers, Schlesinger Library, Radcliffe Institute, Harvard University.



On *Brown v. Board of Education*
and the legacy
of resource
deprivation

NIA K. EVANS



NIA K. EVANS is the director of the Boston Ujima Project, which is working to organize Greater Boston area neighbors, workers, business owners, and investors to create a community-controlled economy. Evans has an educational background in labor relations, education leadership, and policy. Her advocacy work focuses on eliminating barriers between analysts and people with lived experiences while also increasing acknowledgment of the value of diverse types of expertise in policy.

Evans frames *Brown v. Board of Education* and its legacy as primarily an issue of resource deprivation rather than a purely social issue. This perspective informs her work in advocacy, organizing, and policy and drives the mission of the Boston Ujima Project.

The following text has been edited and condensed from an interview with Nia K. Evans.

When I think about organizing, an important part is for like-minded people in the fields of law and policy to think about what their role is in making some of the rules work in our favor. What's their role in setting up the parameters such that they are not as constraining as they are today? It's easy to dismiss some of these fields, because they can be seen as establishment and within the system. But our lives, whether we like it or not, are constrained by the system we're operating in. Some important work — not the only work — is to change that very context.

For me, education is less about credentialing, formal education, skill building, or job seeking. It's more about its function as a shaper of worldviews and of what people see as possibilities for how they can move through the world, how they should move through the world, and how to be.

A lot of educational history contains legal history, because it is such fraught territory. When I think about why it is so contested, it makes sense. It makes sense if you understand the role of education as a shaper of people's worldviews and if you think about the history in this country of the struggle for power. It makes sense that different parties would understand that part of their struggle for power is controlling the realm of education.

For Black people and other people of color, the history is one of wanting to either disrupt the education we've tried to provide for ourselves or lock us out of a process that's supposed to be universal. There's this misperception that the fight for integration was a purely social fight and not a material fight. It was largely a material fight. The context being, we had schools; we had our own methods of providing education. There were various ways in which they were disrupted. We know that some schools didn't have heat when there needed to be heat, and some schools couldn't be cooled. We know that there were shortages of books in some schools. Some schools were far away, so people had to travel far to get to them. This was a function of those communities' being under-resourced. We would figure it out, but then there's the added dimension of intentional disruption. You have



Members of the Boston University Mental Health Center Consultation and Education Program, ca. 1973. Ruth Batson Papers, Schlesinger Library, Radcliffe Institute, Harvard University.

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this school that is far away, and now we're going to do something to endanger that school. Now you have to go even farther, or there is no school for you, because you're not going to this White school. It's already been established that it's not for you. There's this intentional malicious robbing of opportunity for education. There's no illusion about what's driving this.

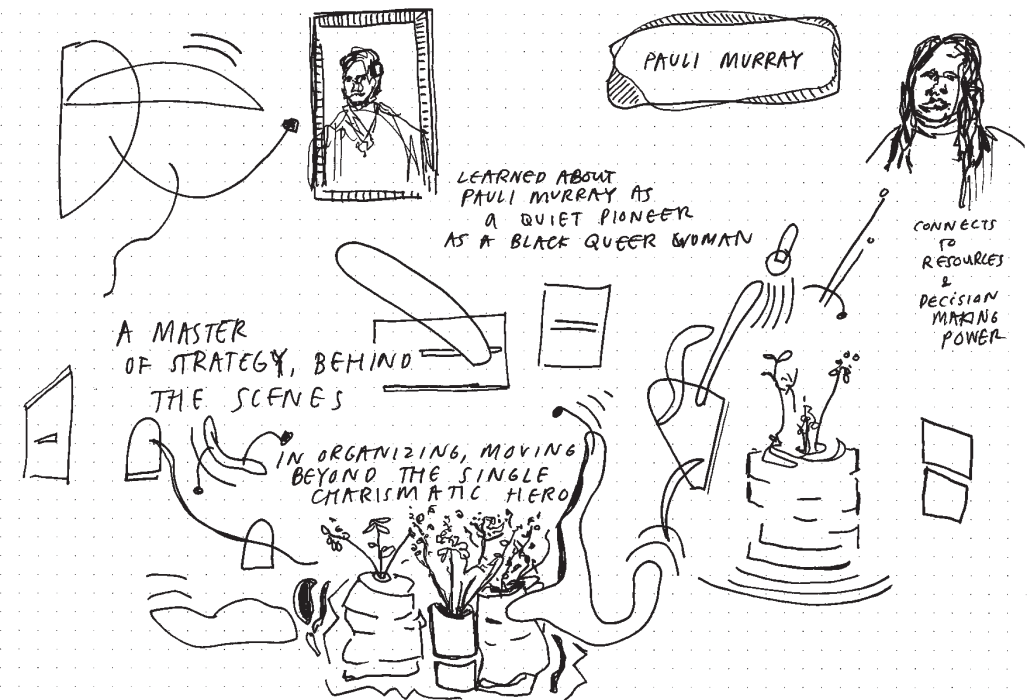
The largest motivation behind integration was the question of how to get the resources you are owed from people who are maliciously, intentionally robbing you of resources. One thought is, if you are in their school, because they're resourcing the whole school, you get those resources too. They certainly would not intentionally rob themselves of their resources—that would be crazy. That would be crazy, but we see that they figured out a way to do this.

What I take from *Brown* is the question of strategy and tools to get us the resources we need to be healthy, functioning human beings. A lot of that has dropped out in the narrative of what the strategy was. Now, a lot of us think the strategy was to integrate for purely social reasons. That was never the case. That is all to provide the backdrop to say that we are talking about resources.

Garrity looked for busing to do what it cannot do, and the fallout was infamous. A lot of school funding comes from property taxes. We know that we grew up in communities that were intentionally and maliciously disinvested from, so property tax bases were different in different communities. We know that inequity is essentially baked in throughout the entire process.

There would be one of two things to do. The thought process was that to equalize resources across neighborhoods, our neighborhoods had to not be segregated. Then you have more-equal income bases that are underlying neighborhoods. Then you're seeing equality in the resources that schools have across neighborhoods. That would be the ideal thing to do.

The second thing, which doesn't get talked about as much, is that people could just not be racist, could not interfere in communities, and could not set about to disrupt our efforts to provide education for ourselves. I used the word "malicious" earlier on purpose, because I think that this gets dropped out a lot. We sometimes talk about racism as if it's an accident. A lot of it just isn't. A lot of it is very intentional, and it's not okay, and we should be clear that it's not okay. We should not be treating racism or racist people as benign. They're not. We know the narratives of Black families moving into historically White communities and how they were terrorized in those instances. Such occurrences are a function of acculturation, not natural fact—the result of having been taught to regard others hatefully. It is not a natural state of being. We know this because these messages are enconced in racist redlining laws. When we say that it's automatic, we are ignoring the history of how we got here.



Martha Schnee, ABOVE: "Moving beyond the single charismatic hero"—Nia K. Evans on Pauli Murray, 2020. OVERLEAF: "We're talking about resources"—Nia K. Evans on *Brown II* as a strategy to fight for material equity, 2020.

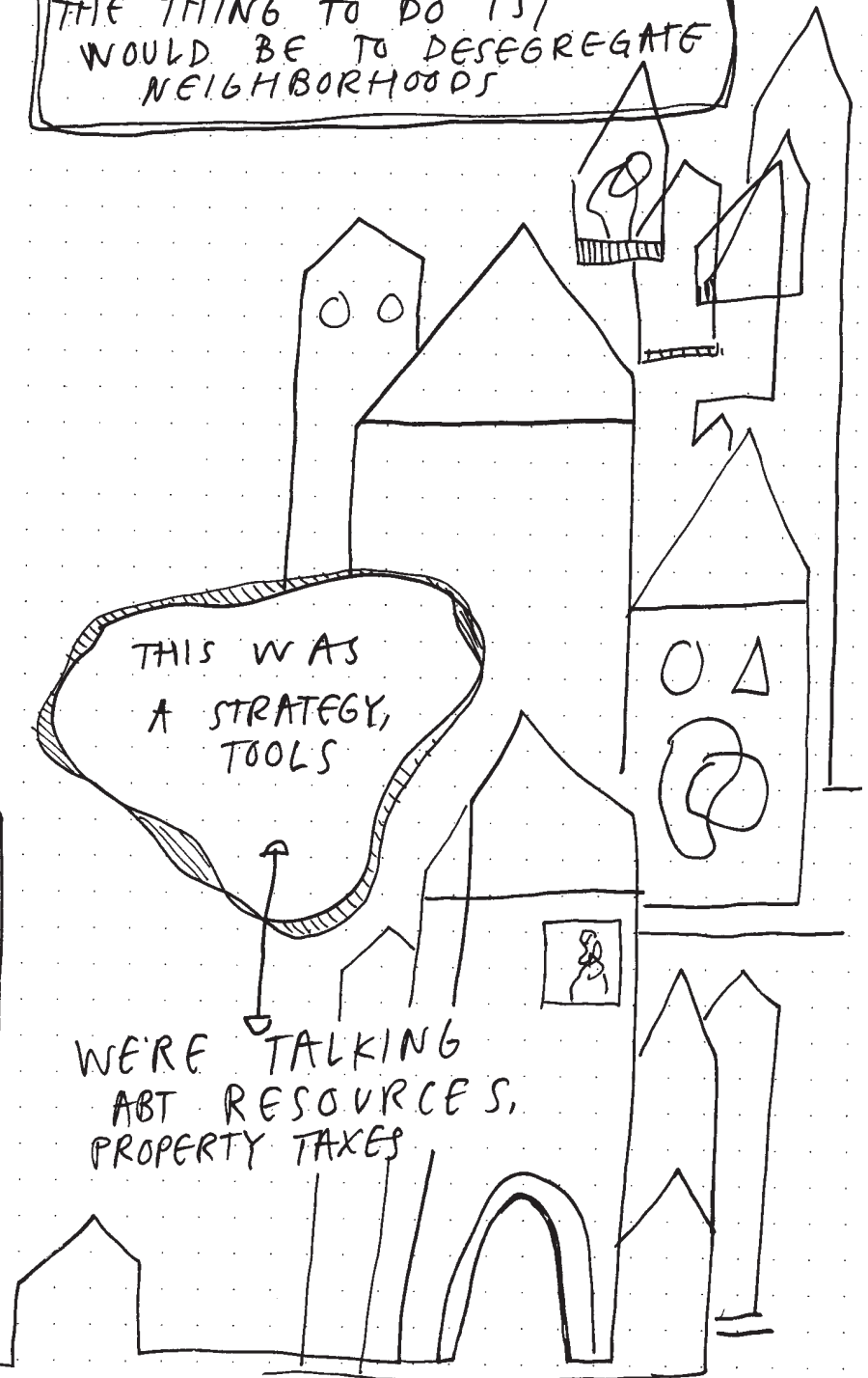
PEOPLE MISPERCEIVE THE
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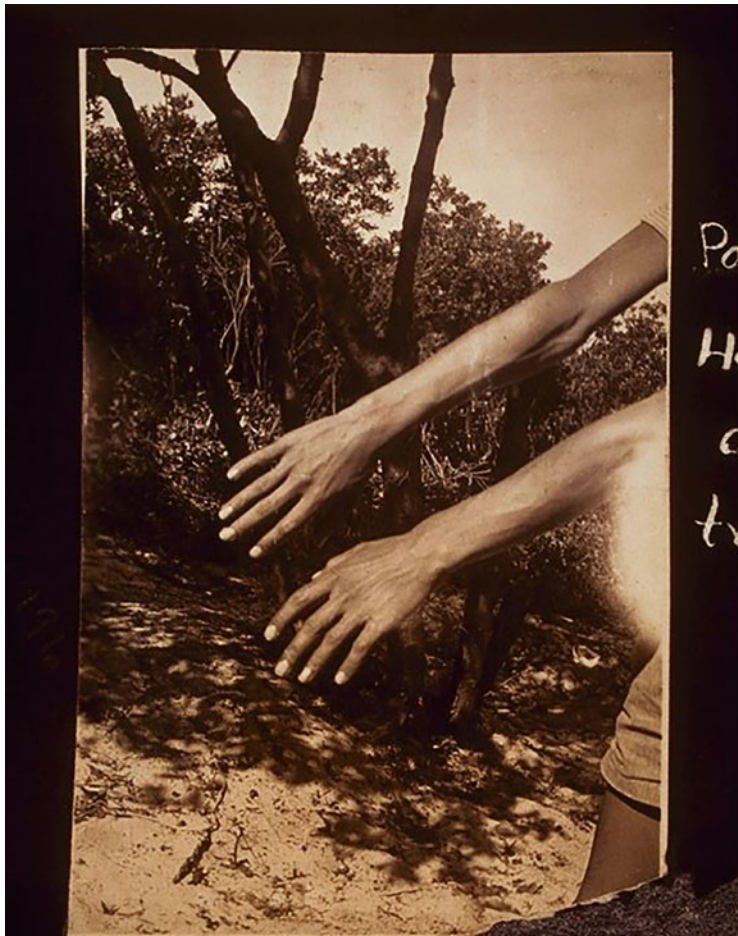


THE THING TO DO IS/
WOULD BE TO DESEGREGATE
NEIGHBORHOODS

THIS WAS
A STRATEGY,
TOOLS

WE'RE TALKING
ABT RESOURCES,
PROPERTY TAXES





Pauli Murray's hands in front of a tree, 1937. Pauli Murray Papers, Schlesinger Library, Radcliffe Institute, Harvard University.

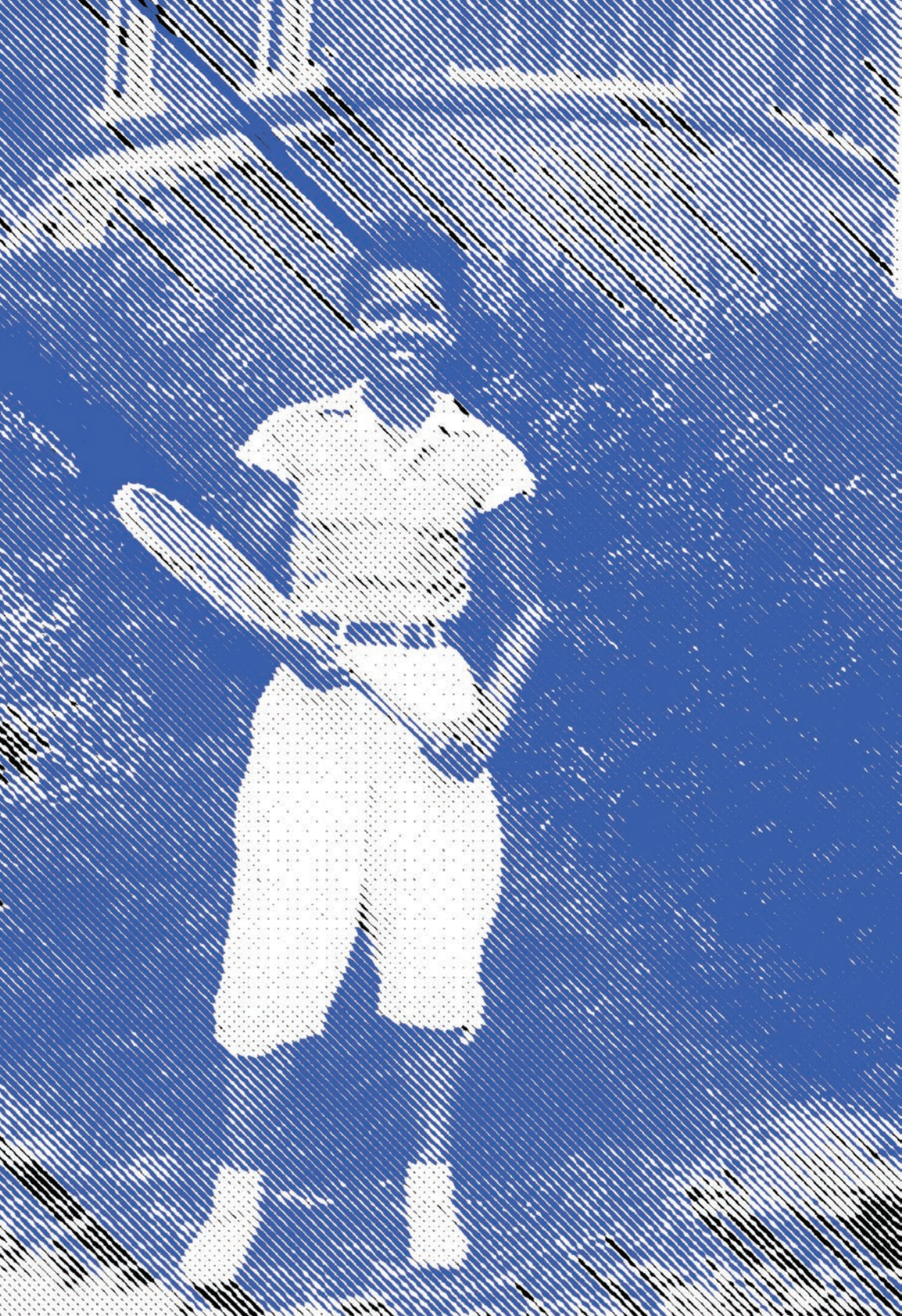
One thing I pulled from this history is that clear-eyed strategy is super important—actually understanding our tools and what they are useful for, and becoming adept at those tools so that we use them when it makes sense to use them. This would be one way the *Brown* cases have influenced my current work: on the resource front, because, again, for me this ultimately goes back to our communities not being robbed of our resources.

Thinking about the link between that and economic democracy, the key is to not have a middleman. On the importance of economic democracy, with the work that we're doing with Ujima, we have our resources that we are making decisions about. We are not going through an intermediary. We are not asking anyone for permission. We are deciding among ourselves how we are going to use our resources. We understand that they are our resources, and we're expansive about that: Our resources are my money I put into investment, and also what the community I live



in owes me, what the city I live in owes me, what the state I live in owes me, and what the country I live in owes me. And so I am entitled to decision-making power over all those resources.

I think that is one of the influences: helping to create a mechanism where our communities are not disrupted and providing for ourselves. So much of that was ultimately just about not being disrupted in trying to care for ourselves. ■■■



On the intersection of tech policy and civil rights

RASHIDA RICHARDSON

ID: 399-517-206 Stop Share



Brown II Research Group, The Radcliffe Institute for Advanced Study
 Interview Questions and Images for Rashida Richardson, (April 21, 2020)
 Cambridge, MA, April 17, 2020

A. Rashida, please tell us about your recent work with AI Now Institute and the Legal and Educational Defense Fund around oversight for artificial intelligence surveillance and its impact on New York City public school students.

1. What circumstances necessitated the current work and what has occurred?
2. How, if at all, has your policy research work employed the history of the Brown v Board of Education 1954 and 1955 cases?
3. What are your thoughts about the future of (public) schools in this moment of remoteness and digitization? What are potential issues of inequity that you see coming to the fore in this moment?

*"Education is the cornerstone of citizenship."
 -Chief Supreme Court Justice, Earl Warren*

Can you say more about the connection between education and citizenship? How does that shape your organizing efforts?

My background is as a lawyer who has worked primarily on civil rights issues, including school desegregation, specifically in New York State. I also previously worked on issues such as student data privacy and the intersection of education, tech privacy, and surveillance.

At AI Now, I serve a dual role, in that I do civil-rights-focused research, looking primarily at government use of different types of data-driven technologies, trying to understand their current and prospective implications, and then designing and developing policy interventions to address the problems we're seeing in our respective research.

I'm trying to use my background—having worked on so many different civil rights issues—and my form of structural analysis to think about what we're seeing in the technology development pipeline, to see how it connects to the structural problems and harms that have existed in society, in order to fully understand the right entry points for intervention.

Generally, a lot of the conversation in AI and tech policy is focused on privacy. Or it looks at the problems facilitated by or derived from technologies as exclusively a tech problem, rather than seeing them as sociotechnical and an extrapolation of structural problems that already exist. Why I came to AI Now, and why I care about these issues, especially given my background, is that I don't think these technologies are presenting new problems; I think they're replicating a lot of historical and current problems, or even amplifying them in ways. So this work in AI/big data tech can provide an opportunity to force conversations around equity, or force conversations around segregation, in ways that there was no political or economic appetite for before. That's why I see looking at tech, and specifically AI issues, as an opportunity to intervene. I think one problem in education is that especially because of research disparities in schools, tech becomes this Band-Aid to avoid the harder policy and social changes that need to happen.

Education is a space where I feel that often technology is adopted and the implications and consequences are an afterthought. It doesn't start with a larger question of "What do we think a fair and equitable education system looks like?"—one that has pluralistic learning, all the things that tons of research shows are necessary.

RASHIDA RICHARDSON is the director of policy research at AI Now Institute, an interdisciplinary research institute based at NYU and focused on the social implications of artificial intelligence. Prior to her work at AI Now, she was legislative counsel at the New York Civil Liberties Union (NYCLU), where she led the organization's work on privacy, technology, surveillance, and education issues.

Richardson describes her work as being at the intersection of tech policy and civil rights. She explains how the uncritical use of data and technology can further entrench systemic inequalities and highlights the specific ways we can see this occur in the realm of education.

The following text has been edited and condensed from an interview with Rashida Richardson.

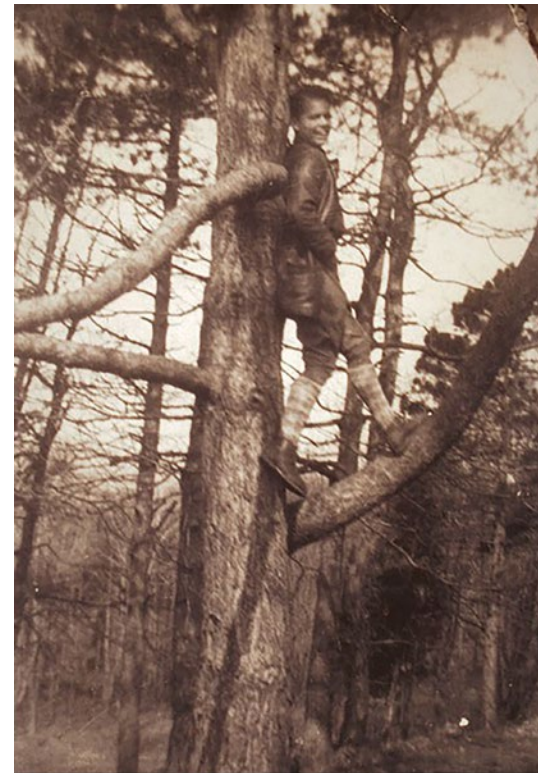
Then the second question should be “What is the role of technology in addressing and advancing that vision, in addition to policy and other social changes?” But that’s not the way that tech works in education, generally, or in educational policy. It’s usually put out into the world and said that it will solve the problem without even confirming that whatever problem has been identified is in fact the problem. So I do think that in education, using tech as a way to force fundamental changes is a little bit more challenging because of the way technology functions and how it’s being seen as a solution.

A lot of my research and policy work locally has focused on government use of what we call automated decision systems. That’s really any type of big data technology that relies on government and private data—or any type of main data source—to either facilitate or advance government decision-making or policy implementation. I actually first started working on it in regard to school segregation when I was at the ACLU. There was this looming question about New York high school admissions and the extreme racial disparities in the specialized high schools. But there were also questions about the algorithm that was used to place students in schools, and whether it was contributing to both racial and social economic disparities that are very prevalent in New York City schools. Then, on the flip side, there was a guy, Michael Alves, who has pushed what’s called the controlled choice algorithm, which is an attempt to do school assignment but adjust for school districts’ interest. So if a school district wants to have more racial equity across its schools, or social economic equity, then it can adjust the rankings and assignment of students to try to advance that goal. And there was also a

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Ruth Batson at a Boston University Mental Health Center Consultation and Education Program event, 1975. Ruth Batson Papers, Schlesinger Library, Radcliffe Institute, Harvard University.



Pauli Murray standing in a tree, 1928. Pauli Murray Papers, Schlesinger Library, Radcliffe Institute, Harvard University.

question in my research of talking to different practitioners and researchers about whether the controlled choice model would work.

The last issue I worked on at the ACLU before coming to AI Now was around the first school district in the country to use facial recognition, in Lockport, New York. New York State has a Bond Act that provides funding for technologies in schools. Most other school districts used this state funding for instructional or educational technologies, or to upgrade really aged systems or software that the school needed. But Lockport turned to one small provision that allowed the funding to be used for security reasons.

I don’t think the legislature anticipated that the funding would be used for facial recognition—more like CCTV cameras, metal detectors, and stuff that’s already in schools. It was also kind of astonishing that no one in the state government was actually tracking how that money was used, and that it took a reaction and advocacy to draw attention to the fact that school districts could exploit the funding in this way.

Lockport wasn’t even aware of all the news media pointing out the racial and gender disparities with facial recognition, and it’s a district that already had issues with racial disparity in school discipline practices: Black students and mixed-race students were likely to experience more extreme and more-frequent discipline. There seemed to be a complete lack of understanding of how that pre-existing issue could be worsened by the application of racially biased technology that is more likely to misidentify students of color. But I see another equity issue arising in schools that are less diverse, in that students of color, students with disabilities, any type of marginalized student, are more likely to have a negative experience with the technology—because it’s not built for them or with them in mind—and can experience negative educational outcomes or just have a more negative

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LONG TERM
HARMS OF
BIG DATA
—
MORE LIKELY
TO
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TERM EFFECTS
& HARMS ON
STUDENTS OF
COLOR

RACE IS OFTEN
DONE IN BLACK/
WHITE DICHOTOMY
—
THE HARVARD
AFFIRM. ACTION CASE

WE'RE
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THE
PROMISE
OF EDUCATION



YR DEALING
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PATCH WORK

BUSINESS AS
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RACIAL IMPLICATIONS
OF FAILURES
OF FACIAL RECOGNITION

Martha Schnee, OPPOSITE: "With Corona, it's even more extreme" — Rashida Richardson on racially biased AI technologies in segregated schools, 2020. ABOVE: "Business as usual is really problematic" — Rashida Richardson on the failures of facial recognition, 2020.

education experience as a result of the colorblind policy implementation of these technologies.

But that doesn't mean I don't have hope that there are ways to use the conversation around how technology exists in schools, or even how it has become so prevalent in schools, to force conversations around the more uncomfortable issues of the long-term consequences of resource hoarding or other things that people see as personal choices, but that are inherently political. If we know we're too far along and that there's no way to reverse our dependence and reliance on big data in society, then how can we use this data—or even more advanced applications of technology, like machine learning, that can look for patterns—to legitimize problems we all know exist, and therefore help advocacy that is striving for educational equity. So many institutional actors are asking for evidence, evidence-based policy, or metrics to support disparate impact claims. If that is the logic or approach to seeing problems that they have, then how can we use this data or data-driven technologies to help legitimize advocacy that needs to happen, or at least legitimize the harms and complaints that exist.

In our current moment, with remote schooling, I think the most obvious issues of resource inequality, economic inequality, and the digital divide have been exacerbated. I know that attendance and participation in remote classes is completely down. A lot of students' main form of internet is through a phone—so what does it mean when that phone is a whole family's main source of internet?

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My fear is that there will continue to be colorblind, class-bound-blind, power-blind policies put into place that don't appreciate the varied experiences of students, and by failing to acknowledge that difference, we'll be more likely to leave those who really were underserved and did experience harm in this period in a worse place than others. I just hope that the extreme policy decisions, business decisions, and other social decisions that are being made to address this crisis serve as some sort of evidence to force conversations around fundamental changes in society. ■■■

C. During our research for the Brown II Project, we encountered various archival absences and errors. We came to understand that the way Harvard's archive is tagged shows clear bias, can you respond to this type of tagging?



Caption: Recto: Dec 74

Title
Author / Creator
Creation Date
Description
Subject
Form / Genre

Twenty-three snapshots and portraits from the Boston University Mental Health Center Consultation and Education Program
Dain, William M. [photographer]
ca. 1973
Materials/Techniques: gelatin silver process
Materials/Techniques: chromogenic process
Place: Boston, Massachusetts, United States; women; clothing and dress; portraits; hairstyles; jewelry; hats; eyeglasses; men; men's clothing; exterior views; children & adults; children; mustache; students; classrooms; offices; drums; beaches; pipes; African Americans
photographs



Details

Title
Author / Creator
Description

Gloria Steinem at a political caucus meeting during Democratic National Convention

Lane, Bettye, 1930-2012 [photographer]

Materials/Techniques: paper

Materials/Techniques: gelatin silver process

Dimensions: 9 x 6 inches

Notes

General: Title and date provided by Bettye Lane.

Inscription: Verso: [Stamped] Please Credit Bettye Lane 176 Lafayette Street New York, NY 10012 (212) 226-3879

Subjects

Place: Miami, Florida, United States

women

portraits

meetings

politicians

feminism

photographs

Form / genre

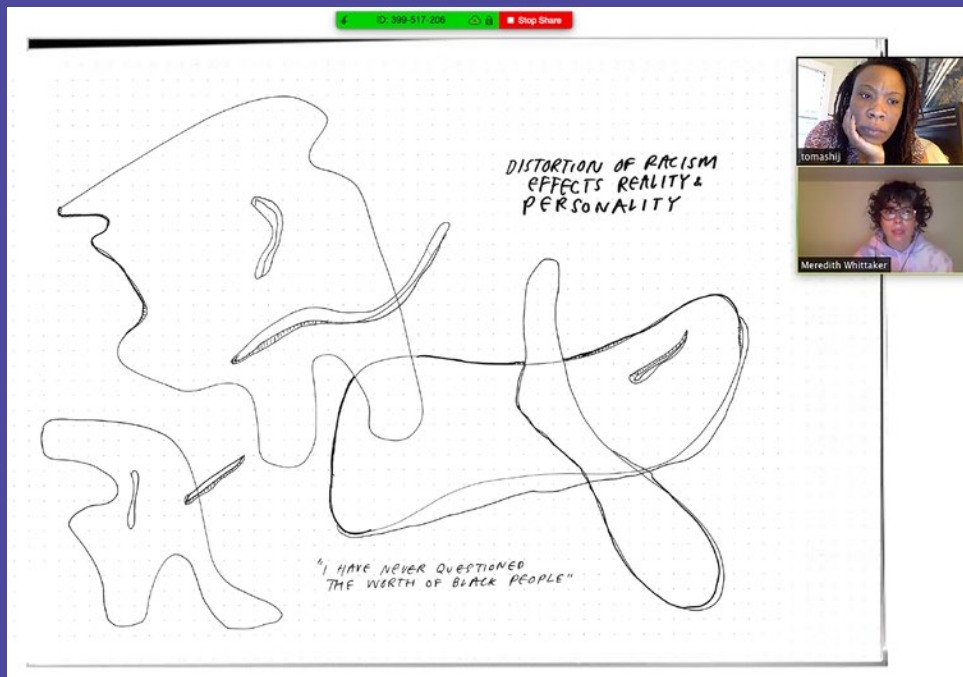
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On the racial biases of algorithms

MEREDITH WHITTAKER



MEREDITH WHITTAKER is a research professor at New York University, a cofounder and codirector of the AI Now Institute, and the founder of Google's Open Research group. She cofounded M-Lab, a globally distributed network measurement system that provides the world's largest source of open data on internet performance. Her work focuses on the social implications of artificial intelligence and the tech industry responsible for it. As a longtime tech worker, she helped lead labor-organizing efforts at Google, driven by the belief that worker power and collective action are necessary to ensure meaningful tech accountability.

Whittaker reminds us that the code and algorithms that govern tech products are not neutral: They, too, reflect and amplify our deeply racist, ableist, sexist, and capitalist social systems and histories. Technology as it's designed and sold under racial capitalism is too often used as a tool to further consolidate power and control. But Whittaker also points to recent acts of resistance: From the LAUSD teachers' strike and youth organizing to her and Rashida Richardson's work at AI Now, we are seeing organizers demand more-ethical uses of tech in schools and beyond.

The following text has been edited and condensed from an interview with Meredith Whittaker.

We're living in a moment

in which unequal access to education and space to thrive has never been more clear. These inequalities are most pronounced along racial lines and are now being exposed in very vivid detail in the context of COVID-19, from who has access to an internet connection that will allow participation in online learning to who has their own room to who has access to devices that let them log on to Zoom or proctored exams or e-learning platforms.

What kinds of assumptions and value judgments are being made about a student's ability to learn and the quality of their work using these online systems? All these are baked into schools' choice to "move online" without offering accommodation or adequate support. I don't think it's an accident that a lot of e-learning platforms have been pioneered in charter schools that were designed to take money away from public education and to profit by underserving communities of Black and Brown children.

The technologies that are being used to automatically score essays, or to track and ensure that students are paying attention to a lecture, or as anti-cheating surveillance for proctored exams—these are being integrated into the curriculum as schools move online during COVID-19, ostensibly as a means to maintain equity among students when they're learning from home. This is all happening rapidly, without consultation or democratic deliberation. And you have to question: What are the assumptions about "normal" and "good" that are baked into these systems? What is a "good" essay? What does "attention" look like to an algorithm? What kind of ableist, racist, classist assumptions might undergird these systems? Because it's these assumptions that shape the classifications that these systems produce and reproduce, and that shape children's lives and opportunities. These systems are also obscure and hard to examine. Most of them are actually making it more difficult to ask fundamental questions about how children are being ranked and classified, and according to what criteria. They are encoding deeply racist, deeply ableist, deeply discriminatory logics under the guise of computational sophistication, in ways that are extraordinarily profitable for a lot of the firms that are hawking this

software. So they are not only reproducing present and historical inequalities, but also obscuring them, making them harder to contest.

We're also seeing "security and safety" used as a pretext for further criminalization and carceralization in the context of certain schools and certain (usually Black, Brown, and poor) populations. This is often in response to the scourge of school shootings. Facial recognition that "detects" suspicious people on campus is being sold to school districts, for example. What kind of bodies does facial recognition technology classify as "suspicious"? Who is classified as a student who "belongs there"? Who is dangerous and who is safe? These are things that these technologies encode and that, frankly, border on discredited physiognomy and race science—the idea that interior character and emotions can be reliably detected from physical traits. Rarely are students, parents, teachers, and community members given a way to contest these technologies. It's incredibly important to push back on this turn toward surveillance and carceralization. Some astronomical percentage of schools—particularly in Black and Brown neighborhoods—are underfunded and have police on campus but no counselors. This school-to-prison pipeline is no joke, and you're seeing these types of technologies used to entrench those logics. Happily, the current revolutionary moment, in which we're seeing a global uprising against White supremacy and anti-Black racism, has led to many school districts' canceling their contracts with police. Hopefully this will extend to dismantling police technologies in schools as well.

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There is no way to build an algorithmic technology or classification without drawing on our histories and our present. There is no such thing as neutral. We know that. But these technologies are making judgments based on the data that is collected about our past and our present; that both serves to obscure the histories and source of those assumptions and serves to naturalize them. They are also being created by a tech industry that is largely White and largely men, and their logics reflect this narrow, privileged worldview.

"Automation bias" is a term for the phenomenon whereby people are more ready to trust a computational output than to believe the same judgment made by a human standing in front of them. This is just one of the problems with the wide deployment of these technologies throughout core social domains. Where there is inequity now, you will see these technologies amplify and reproduce it and often make it harder to contest. These technologies also centralize power and control. This is fundamental to their design (and one of the reasons they're so eagerly adopted by large corporations and governments). You can deploy one system to monitor and assess hundreds of thousands of people, based on the assumption or logic, or profit incentives of a very small handful of people. The system is calibrated to serve this handful, not necessarily to assist the hundreds of thousands whose lives and opportunities it's directly shaping. At AI Now we have described this as giving more power to those who already have it and further disempowering those who don't.

But we see resistance! We have Los Angeles Unified School District teachers' inspiring strike last year that incorporated racial justice and housing justice issues



Pauli Murray at her desk, 1977. Pauli Murray Papers, Schlesinger Library, Radcliffe Institute, Harvard University.

alongside classic narrow labor concerns. And right now, LAUSD teachers are back, fighting against a lot of onerous COVID-19-related rules, including the requirement to use Zoom. A few years ago, the Virginia teachers' strike was sparked in part by a mandate that teachers wear a Fitbit-like tracking technology that collected intimate location and health data and gave it to the district. If teachers didn't wear it, their health insurance premiums would go up. So there's actually a deep understanding of the problems with these technologies and the forms of control and surveillance they facilitate. It's heartening that we're seeing people rise up against these systems and the narrative of technological inevitability that's often used to justify their deployment.

It's imperative that we push back against the idea of inevitability. Nothing is inevitable; we have the power to shape the future. This is especially important because these companies—and the logic of neoliberal racial capitalism—has conflated "progress" with tech company profits, arguing that what's good for tech companies is beneficial for humanity. We need to forcefully reject this: "No—we can build other worlds. That's not the kind of progress we want!"

Institutional amnesia is a big ingredient in how data that reflects particular perspectives from our past and our present is assumed to be a neutral



Students and teachers in a Boston public school classroom, 1973. Ruth Batson Papers, Schlesinger Library, Radcliffe Institute, Harvard University.

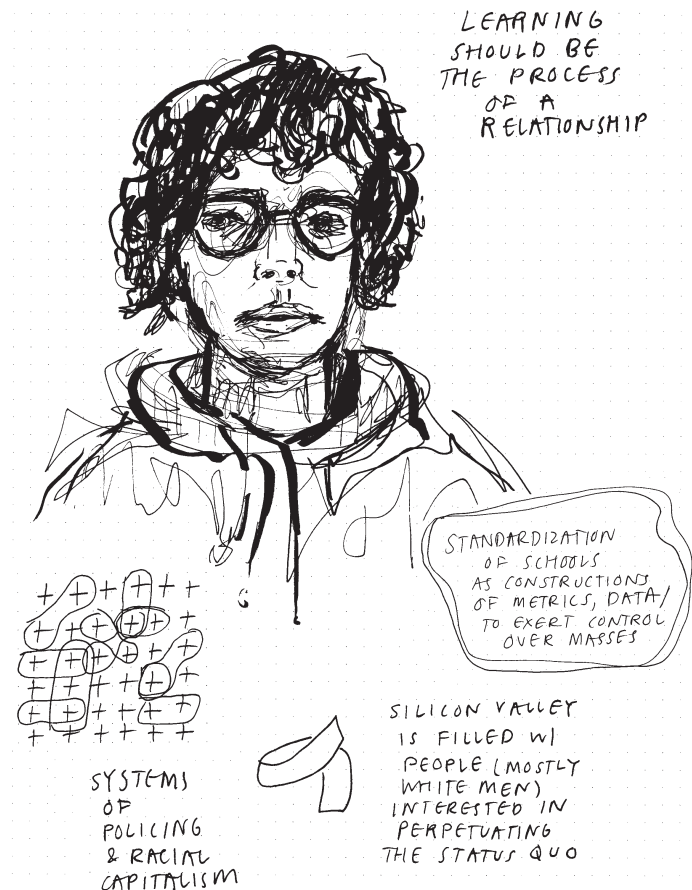
representation of reality. This data is then used to construct the “models of reality” that inform AI systems, on which basis they produce classifications and predictions. Amnesia is core to how racial capitalism sustains itself.

The tech industry has its own set of myths and self-interested stories it tells itself. For a long time it was taken as common sense that large-scale networked technologies were always beneficial; that even if some people are harmed, ultimately a rising tide lifts all boats. This self-serving mythology was taken seriously by many people, and helped inform the current popular (mis)understanding of what tech is and what it does. And it extends deep within tech companies, with workers themselves often misinformed about what their work is actually doing. Engineers working on a given component might think they created something “for good.” But its use is not up to them. An executive, or a sales team, will ultimately make that decision down the line. The engineer thought this machine vision system was doing disaster relief? Well, surprise, it’s actually doing drone surveillance.

American education is increasingly a capitalist enterprise, serving as a profit sector for DeVos-style charter schools and tech companies. And as many have pointed out, it’s also a means of social control and indoctrination, working to reproduce

certain ideologies and foreclose “unofficial” ways of knowing. This is particularly and painfully true in the context of mass standardized testing and homogenized test prep platforms, which are currently working to further flatten what it means to learn and know, creating less and less room for those human relationships—that one good teacher who saves you, and changes you, and wakes you up.

And, of course, it’s metrics-based, because you can’t do this sort of large-scale thing—you can’t exert social control from a position of power over hundreds of thousands of people—without some way to standardize that. That standardization is the construction of metrics, is the construction of data, the construction of *people* as fungible data points that can be stacked, ranked, and moved around and actually don’t matter in a way that goes beyond the columns you’ve defined in a database. —



Martha Schnee, “Learning should be the process of a relationship”—Meredith Whittaker on ways to resist standardization of schools, 2020.



On Ubuntu and the relationship between political systems and cultural conceptions of personhood

SABELO SETHU MHLAMBI



SABELO SETHU MHLAMBI is a computer scientist and researcher whose work focuses on the intersection of ethics, technology, and human rights. His research centers on the use of Ubuntu philosophy and sub-Saharan African decolonial frameworks as foundations for creating more-humane AI and equitable AI policy.

Mhlambi discusses how a society's political and legal systems reflect cultural conceptions of personhood. He draws out the assumptions underlying Western humanistic thought, in which personhood is defined in terms of the individual, rational actor. Mhlambi contrasts this with Ubuntu philosophy, which is based instead on an ethics of relationality.

The following text has been edited and condensed from an interview with Sabelo Sethu Mhlambi.

The research I have been doing is around ethics, personhood, what it means to be human, and how to create laws and structures that can support our basic needs as human beings.

What I do in my work is focus on the traditional view of personhood defined in Western society, and then follow the logical implications of that worldview. If you define a person this way, what are the resulting economic structures? What are the resulting political structures? What are the resulting laws? How do we see human rights? In order to protect humans, you need to first define those things that are so important about being human and what it means to be a person in the first place.

Different societies have different views of what it means to be a person. And I think that looking at the history of the United States, we can see the ramifications of the version of personhood that we have today. What does it mean to be a person in Western society? To be a person is essentially to be rational. This is a definition we encounter with the earliest Greek philosophers: Aristotle, for example, says man is a rational animal. Descartes, who is known as the father of modern philosophy, says, "I think, therefore I am." You also have the famous German ethicist Immanuel Kant—he defines ethics as something that's rational. All of personhood becomes tied to this concept of rationality, and from there we see other systems, such as capitalism, built for the rational person—for free agents to make rational choices in a free market.

So we have this idea of rationality as the essence of personhood. Now, what are the political implications of defining personhood this way? Being rational is fundamentally an individual behavior, an individual quality. It's not a group activity to be "rational." You, as an individual, just have to think and therefore you are. From there we can more broadly understand and examine the history of laws and principles that are based on individualism, and specifically this idea that you have to allow the rational person to be as independent as possible to use the fullest extent of their individual rationality. Erik von Kuehnelt-Leddihn's *Liberty or Equality* talks about the idea that either we can be equal or we can have liberty, but we have to choose one. In the United States, there's this idea that we're all created equal before the law, that we all deserve the same dignity. But there's a difference between having legal equality and having true equality. And it turns out that the

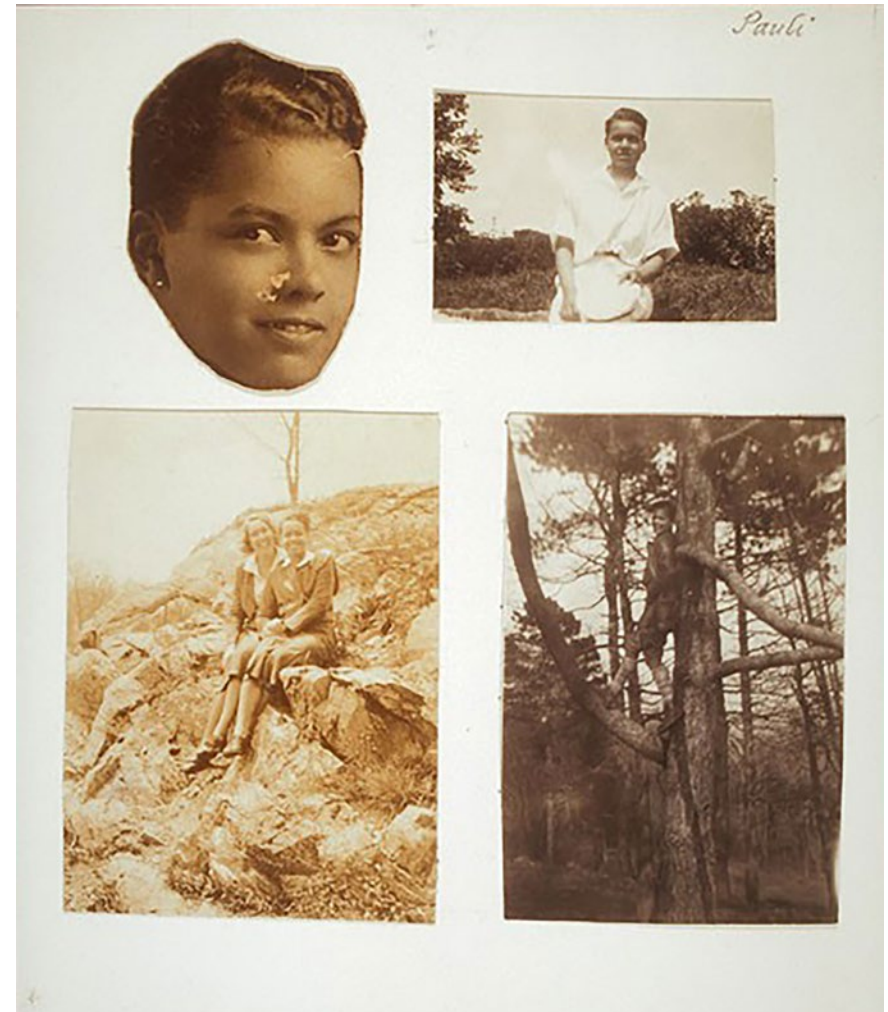


Children at a Boston University Mental Health Center Consultation and Education Program event, 1975. Ruth Batson Papers, Schlesinger Library, Radcliffe Institute, Harvard University.

founders of this country did not believe in true equality — which is obvious because they owned slaves while they signed the Declaration of Independence.

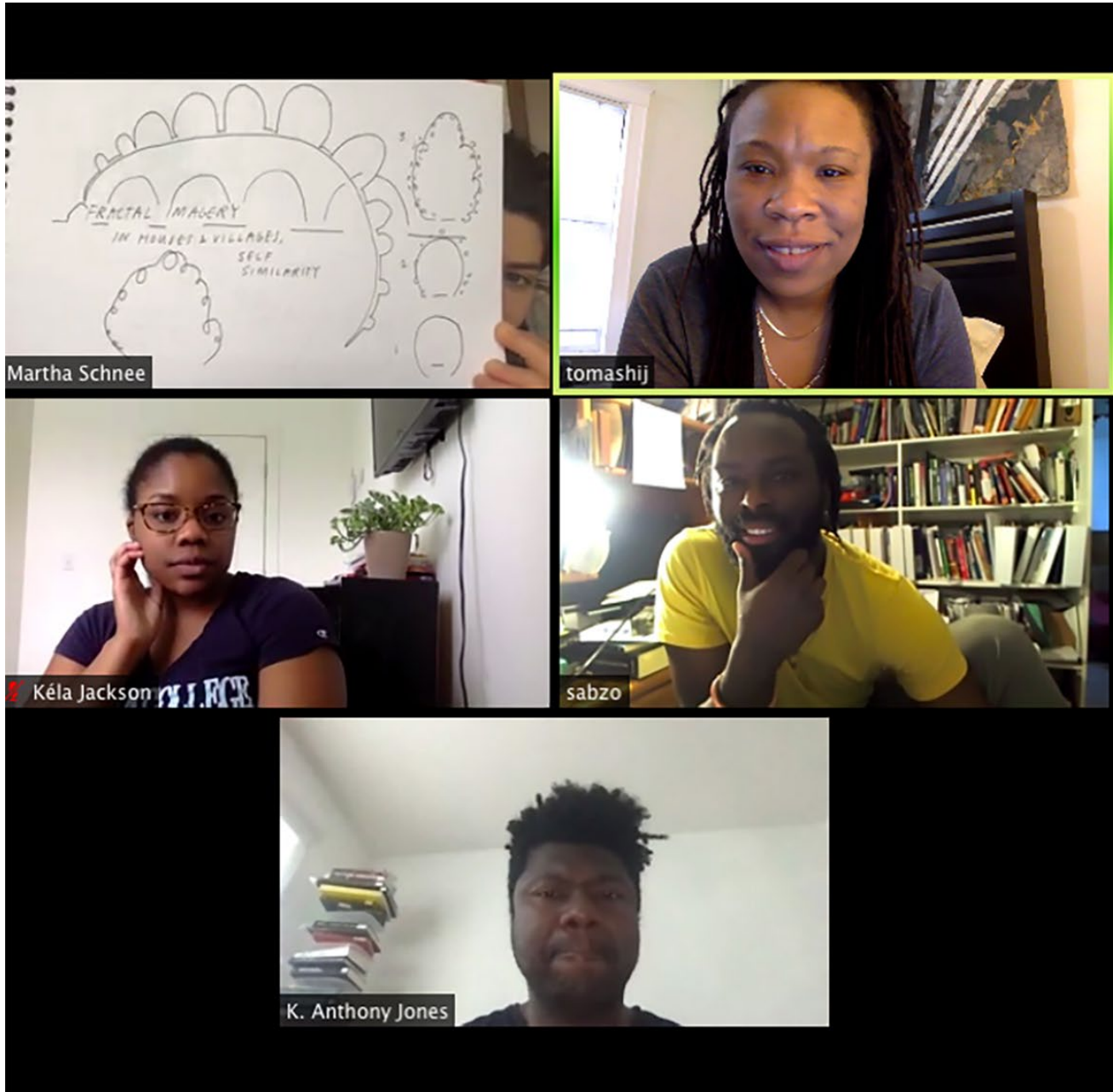
When you follow it all the way through, this Western idea of the human and the pursuit of individualistic liberty produces inequality. And the founders of this country knew that, but used the idea of rationality to justify the systems and social orders they were establishing. It was needed, for example, to justify the enslaving of Africans and the destruction of other indigenous cultures under this idea that they'd make these people more rational, more intelligent, more productive. Many of the inhumanities in history have been rationalized. In the popular literature, this is called the irrationality of rationality — history shows that while trying to pursue rationality, there's been the irrationality of enslavement, subjugation, colonization, disenfranchisement, segregation. It creates inequality. So what we're seeing today and what we've seen in history is not a coincidence; it's the logical outcome of this definition of personhood that says an individual is self-sufficient and autonomous.

This is where my research into computer science and AI comes in, because these are the same principles that we're putting into the creation and use of technology today. It is based on the same idea that rationality will solve everything; if we have AI rationality, we can have mastery over everything — nature, society, economy, etc. But this leads to the same conclusions, whether digital or in society. We see the inequalities that it creates.



Four images of Pauli Murray, CLOCKWISE FROM TOP LEFT: face, kneeling on ground, standing in a tree, and sitting on rocks with Edna Lisle, 1925. Pauli Murray Papers, Schlesinger Library, Radcliffe Institute, Harvard University.

I've been thinking about *Brown v. Board of Education*. Yes, we have school integration, and that's great. Still, though, Black children are more likely to be punished in schools — in fact, Black girls are twice as likely to be suspended from school — and that is another form of segregation. Despite the laws, people find ways to express their true beliefs. The sociologist Ruha Benjamin says, "Racism is productive." It makes sense, it's rational to some people — for instance, in the way it's used to supply the prison industry with free labor. So if people have rationalized their racism because of their internal biases and because it is actually productive for capitalism, how do you get the outcomes we need? We need relationality and new ways of being to bring more equality into society.



From **sabzo** to **Everyone**:

Nor does the language show any structural inferiority ; indeed, in this respect it absolutely outclasses many of our European languages, and, had it been planned by one of our most modern inventive geniuses, it could scarcely have been better modelled. In the hands, so to say, of one expert in its use, it is capable of expressing anything in the run of ordinary life, in a manner as perfect, and oftentimes in an easier and clearer way than in English. No reasonable person would expect it to have already made provision for all those abstract ideas, scientific facts, and paraphernalia of civilised life, which had never yet come within the sphere of its experience. And yet it carries within itself ample power and resources for answering all those requirements. Owing to its unrivalled bonomatopcetic capabilities, it provides both a medium of lifelike expression that the cleverest European raconteur could never aspire to, and offers an ever-ready means for the coining of endless new words..Indeed, in certain respec

From **sabzo** to **Everyone**:

"If the naming of things follows a principle of describing their function, appearance, sounds and relationships, not merely to identify and label them, it is from such a study that one can amass and trace some of the fundamental philosophies of the culture."

From **sabzo** to **Everyone**:

- person umu-Ntu
- people: aba-Ntu
- philosophy: ubu-Ntu
- culture isi-Ntu

From **sabzo** to **Everyone**:

"I am the face of humanity.
The face of humanity is my face...I am Father-Mother-Child.
I am the past, the present and the future.



Martha Schnee, "Ubu—Ntu: becoming, into you"—Sabelo Sethu Mhlambi on the meanings of the Zulu word, 2020.

To protect humanity, we need a philosophy whose essence is the protection of humanity, is uplifting the humanity of others. We know the results of a philosophy that says I'm a person because I'm an individual, self-complete, and rational. There are several other philosophies we can look to. What I focus on is Ubuntu philosophy. It's a Pan-African philosophy, or humanism, that asks: What is the purpose of humanity? How should we live together? How should we respond to one another and the world? Ubuntu is indigenous to southern Africa, and in my research, I focus on Ubuntu in the southern African context. But you'd be surprised: You encounter similar principles—in surprising detail—among other Africans, on the continent and in the diaspora.

Ubuntu means *being* a person, *becoming* a person. It translates to a set of different principles and talks about relationality and relationships. Its most well-known definition is that a person is a person through other persons. Ubuntu says it's how we relate to other people that defines our own personhood. So it's a personhood that understands that we're all interconnected, living on a shared planet. If we follow through with the logic of Ubuntu—that we are all interconnected and working to improve and exist in society better—we produce people who are more invested in taking care of one another. Dignity is at the core of relationality: I have to respect your differences, and we have to come together to live as a society. Fractals—a pattern that repeats itself at different scales and is nature's most

Brown II Research Group, The Radcliffe Institute for Advanced Study
Interview Questions and Images for Sabelo Sethu Mhlambi (May 1, 2020)
 Cambridge, MA., April 30, 2020

A. Western notions of modernity

1. Sabelo, in our previous conversation during your visit at Wallach House, you described the European Enlightenment project as the birth of the individual human out of modernity. Can you return to that history and describe explorations of "truth" through the lenses of Turing, Descartes, and Aristotle?
2. Rationality used to subjugate nature. This has moral limitations and leads to scientific racism/ missing context.

B. Sub Saharan African Philosophy insists that to be a person is to be relational.

1. Relationality "allows the king and the peasant to be equal."
2. You've said to us, "Moving to "interconnectedness/ interdependence/ tied humanity" and "We cannot have objective truth without context of everything else." Can you say more about these ideas?

C. Interconnectedness/ Tied humanity

1. In our interview with Professor David Harris, Director of the Charles Hamilton Houston Institute for Race and Justice at Harvard Law School, he described two different trajectories for Black students and White students. This seems to reflect your previous statements regarding the moral limitations of scientific racism. Can you say more about how scientific racism affects the development of human beings?

basic pattern—are a big part of African design and aesthetics, and also of Ubuntu. At the heart of Ubuntu is this idea of fractals, a kind of oneness and relationality that produces its community and social relationships. Equality, restoration, reconciliation, restorative justice become organic outcomes of thinking and living with Ubuntu.

In Ubuntu, the individual has great importance because they are the individualized expression of the collective and ultimate reality. That's profound, because it requires us to build societies together in which there is more harmony, where we're more connected so that we can all prosper, where we can have more life and dignity. Humanism, in this Ubuntu sense, is relational, fundamentally connected to other humans, and this is how we care for and protect one another. We have to ask for and work toward the moral guarantees we need to allow people to become collective selves. This is the question of human rights: How can we build societies in which all people can fully participate, fully dream? Ubuntu pushes us toward this goal by telling us that we are all deeply interconnected, and that the individual becomes an ethical member of society by aligning their destiny with those around them, bringing their gifts and skills in harmony with those in their community. ■



HARMONY
&
STRENGTH

ARCHIVE IMAGE
STRIKING IMAGERY
OF BELONGING,
BLACK JOY &
FREEDOM TO
DREAM

vs.
THE
BACKGROUND
NOISE OF
WHITE
SUPREMACY

UBUNTU IS
BEYOND WHAT ENGLISH
LANGUAGE CAN
DESCRIBE

Ubu.Ntu

IT'S 2 WORDS, ZULU.
THERE IS DEEPER, DOUBLE
MEANING

