Opportunities for White People in the Fight for Racial Justice

Moving from Actor → Ally → Accomplice

The chart below, very much a work in progress, has been developed to support White people to act for racial justice. It draws from ideas and resources developed mostly by Black, Brown and People of Color, and has been edited by Black, Brown, and People of Color. I recognize that categorizing actions under the labels of Actor, Ally, and Accomplice is an oversimplification, but hopefully this chart challenges all of us White folks to go outside of our comfort zones, take some bigger risks, and make some more significant sacrifices because this is what we’ve been asked to do by those most impacted by racism, colonialism, patriarchy, white supremacy, xenophobia, and hyper-capitalism. I believe that for real change to occur, we must confront and challenge all people, policies, systems, etc., that maintain privileges and power for White people.

Feedback: jonathan.osler@gmail.com or anonymously here.

STEP 1:

Identify the racial justice organizations in your area. Here are two lists of organizations (Black Led Racial Justice Organizations & A Partial Map of Black-Led Black Liberation Organizing) mostly led by “directly impacted” individuals (people who are most impacted by racist, xenophobic, and violent people/policies) and with missions to directly challenge institutionalized racism and White supremacy.

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1 When Malcolm X was asked how white people could be allies and accomplices with Black people in 1964, he responded: “By visibly hovering near us, they are ‘proving’ that they are ‘with us.’ But the hard truth is this isn’t helping to solve America’s racist problem. The Negroes aren’t the racists. Where the really sincere white people have got to do their ‘proving’ of themselves is not among the black victims, but out on the battle lines of where America’s racism really is — and that’s in their home communities; America’s racism is among their own fellow whites. That’s where sincere whites who really mean to accomplish something have got to work.”

2 Thank you also to Bree Picower, Lauren Morse, Maureen Benson, Tanya Friedman, and other White people for their input and feedback.
**STEP 2:**
Understand the distinction between Actors, Allies, and Accomplices.

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<th>Actor</th>
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<tr>
<td>The actions of an Actor do not disrupt the status quo, much the same as a spectator at a game, both have only a nominal effect in shifting an overall outcome. Such systems are challenged when actors shift or couple their actions with those from Allies and/or Accomplices. The actions of an Actor do not explicitly name or challenge the pillars of White supremacy which is necessary for meaningful progress towards racial justice.</td>
<td>Ally is typically considered a verb - one needs to act as an ally, and can not bestow this title to themselves. The actions of an Ally have greater likelihood to challenge institutionalized racism, and White supremacy. An Ally is like a disrupter and educator in spaces dominated by Whiteness. An Ally might find themselves at a social gathering in which something inappropriate is being talked about. Instead of allowing that space to incubate Whiteness, the Ally wisely disrupts the conversation, and takes the opportunity to educate those present. Being an Ally is not an invitation to be in Black and Brown spaces to gain brownie points, lead, take over, or explain. Keep in mind that as White people, whether as an Actor, Ally or Accomplice, we are still part of the ‘oppressor class’. This means we have to be very creative in flipping our privilege to help Black, Brown and Indigenous peoples. Allies constantly educate themselves, and do not take breaks. <strong>Franchesca Ramsey’s Video:</strong>  <a href="https://www.youtube.com/watch?v=5W5VHtqJsmE">5 Ways of Being an Ally</a> Franchesca Ramsey’s Video:  <a href="https://www.youtube.com/watch?v=5W5VHtqJsmE">5 Ways of Being an Ally</a></td>
<td>The actions of an Accomplice are meant to directly challenge institutionalized racism, colonization, and White supremacy by blocking or impeding racist people, policies, and structures. Realizing that our freedoms and liberations are bound together, retreat or withdrawal in the face of oppressive structures is not an option. Accomplices’ actions are informed by, directed and often coordinated with leaders who are Black, Brown First Nations/Indigenous Peoples, and/or People of Color. Accomplices actively listen with respect, and understand that oppressed people are not monolithic in their tactics and beliefs. Accomplices aren’t motivated by personal guilt or shame. Accomplices build trust through consent and being accountable - this means not acting in isolation where there is no accountability.</td>
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**STEP 3:**
Commit to taking 3 actions in the next month, and share these with a trusted friend, colleague, or family member in order to increase your accountability to follow through on your commitment. Can you take at least one action in the next two weeks in the Ally or Accomplice category?

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<td>Your Self-Education</td>
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<td>Attend marches, vigils that are “comfortable” and perhaps even fun. Includes most events led by White people.</td>
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<td><strong>Protesting</strong></td>
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<td>Donate to political candidates or organizations that don’t have an explicit racial justice mission or that are not led by directly impacted individuals.</td>
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<td>Reach out to other White people in your life (family members, old friends, distant social media connections) to engage them in conversations about racism, Whiteness, etc. Bonus points for seeking out and engaging (White) Trump voters in your personal networks.</td>
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*Your Money*

*Your White Communities*
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| Make phone calls and send emails (at the city/state level, with school districts, etc.) advocating on behalf of policies being put forth by racial justice organizations.  
- *We're His Problem Now* - calling sheet guide | Attend meetings, hearings, and other public events to advocate in person on behalf of policies being put forth by racial justice organizations.  
- We're His Problem Now - calling sheet guide | Diversify your social media. Follow radical/progressive Black, Brown, Indigenous figureheads and leaders in the movement. Then do your best to share and amplify their voice with your white social circles. This is a great way to culture shift ideas, art, and media.  
- In quoting Amanda Gelender: “Amplifying voices of color to your network is an important part of solidarity work. We are not the experts on race, but we have an opportunity to learn from so many experts and boost their influence.” |
| Any job that doesn’t somehow challenge institutionalized racism. | A job that is service-oriented towards helping people from marginalized backgrounds.  
Be extremely cautious of these jobs, because they can easily have very negative impacts on the communities they espouse to serve. Too many organizations slip into a dominant role, and only end up enabling/harming disenfranchised communities instead of alleviating the oppressive conditions that prevent the community from empowering themselves.  
Use your job position to help Black, Brown, and Indigenous People. Ex: purposefully seek out Black and Brown people to interview for jobs, and use Black caterers, or Indigenous speakers. | A job that involves organizing internally and externally to fight against institutionalized racism and white supremacy and/or that supports these efforts.  
In other words, your work should focus on alleviating the oppressive conditions that prevent disenfranchised communities from empowering themselves.  
The reality is ANY job you already have or choose to apply for, you can use your position to become a collaborator with Black, Brown and Indigenous Peoples; and thus a traitor to White supremacy. |
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<td><img src="Image" alt="Hands Up for Volunteerism" /> <strong>Your Time / Volunteerism</strong>&lt;br&gt;Volunteer at a service-oriented organization (tutoring, meal delivery, collecting canned goods, clothing drives)</td>
<td>Volunteer at a local racial justice-focused organization (<a href="#">see resources here</a>)</td>
<td>Join an organization with an explicit aim of naming and disrupting racial injustice</td>
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<td><img src="Image" alt="Ballots" /> <strong>Electoral Politics</strong>&lt;br&gt;Vote for Democrats. Exception could be voting for candidates of color in elections where a White person and a person of Color are running for the same position from the same political party.</td>
<td>Donate to campaigns of progressive people of Color running for political offices. Donate to campaigns of local progressive politicians in other cities/States who are trying to unseat incumbent Republicans/conservatives.</td>
<td>Actively fundraise for and campaign on behalf of progressive/radical politicians (especially non-White people), including those running in local elections (school boards, transportation agencies, housing authorities, city councils). Volunteer with and fundraise for organizations led by directly impacted individuals to support voter registration efforts within their communities. Don’t tell Black, Brown and Indigenous People how or whom to vote for. Use your energy and resources to organize White communities to support progressive/radical politicians and policies.</td>
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<td>Use proximity (stand close and watch) when you observe any form of intimidation, harassment, or violence against a person of Color by another white person or police officer.</td>
<td>Film any such confrontations. Shout as a way to try to stop such a confrontation. Engage White people in conversation about their actions (perhaps focusing on intent v. impact) when you observe or hear about racialized microaggressions.</td>
<td>Physically intervene in such confrontations. Here’s how to respond if you see a Hijab getting pulled off. Here’s another illustrated guide for directly challenging/interrupting Islamaphobia.</td>
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<td>Ensure that the reading material you provide for your children explicitly addresses issues of justice and equity. Expose children to books, movies, and TV that feature people of Color as protagonists and heroes. Enroll in public, district-run schools, not private or charter schools.</td>
<td>1) Take your young (age 0-16) children to events where adults (people of Color and other white people) are speaking about racism, violence against communities of Color, white supremacy, etc. 2) Talk with your children about these issues explicitly, including where they/you fit into these systems including the privileges they occupy. 2) Organizing and educating other people’s children to develop critical consciousness (like a great teacher might do)</td>
<td>Take your children to events, or organize events, where facilitators explicitly work with kids to explore intersection between race, power, privilege, etc.</td>
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**Abundant Beginnings - Child Activism**

- 40 Children’s Books About Human Right & Social Justice
- Using Their Words: Social Justice Children’s Literature
- Raising Race Conscious Children
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| Read, watch films, attend events, to gain greater knowledge of white privilege, white supremacy, institutionalized racism, the prison industrial complex, etc. Study and deal with your white guilt and white fragility.  
  - Understanding Systemic Anti-Black Racism in the United States: A Reference List for #BlackLivesMatter  
    - look especially for a section called “Resources for White People”  
  - Decentering Whiteness  
  - Robyn Diangelo (writes about white fragility).  
  Read/follow Black and people of Color-led organizations, journalists, authors (including on social media).  
  - “Like” these pages on Facebook  
  - Black Lives Matter Syllabus  
  - James Baldwin, "Black on White: Black Writers on what it Means to be White."  
  Join Facebook groups that focus on White allyship to racial justice causes.  
  - White & POC Allies Against White Supremacy  
  - Black Lives Matter | Take action beyond your own learning by engaging with other White people. Start conversations and share your learning with other white people in your life, especially those you are closest to (family members, children, neighbors, colleagues). Go to workshops and trainings (see resources). | Organize other white people to study these issues together, attend events as a group, invite speakers to meet with your group. |

| Workshops & Trainings  
  - Whites Confronting Racism Training  
  - People’s Institute for Survival and Beyond  
  - White Privilege Conference  
  - Facing Race Conference  
  - 6 Action Items for White People in the Workplace & Beyond |
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<td>Consume (enjoy, purchase) art, in all forms, produced by non-white people. Could include attending performances, choosing specific movies and documentaries, etc. (See Self-Education above).</td>
<td>Create visual art, poetry, films, websites, social media campaigns, etc., that address what you see as the role for white people in struggles for racial justice</td>
<td>Organize and fund opportunities for people from directly impacted communities to share their art.</td>
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<td>Put up signs in your windows, on your lawn, inside, like a Black Lives Matter poster</td>
<td>Make your home available to organizers who need safe, accessible, welcoming spaces to meet, plan actions, etc.</td>
<td>Provide free housing (do you have an extra bedroom?) to activists, organizers, or educators of Color</td>
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Additional Facebook pages to “Like” that are written/edited by Black, Brown and Indigenous people and have a focus on racial justice:

- Colorlines
- ColorOfChange.org
- For Harriet
- The BlackOut Collective
- Everyday Feminism
- Urban Cusp
- Black Girl Dangerous
- Darkmatter
- HuffPost Black Voices
- Black Lives Matter Bay Area
- Michelle Alexander
- Brittney C Cooper, Ph.D.
- Crunk Feminist Collective
- Rahiel Tesfamariam
- The Root
- Trans Women of Color Collective of Greater New York
- Audre Lorde Project
- Black Girls Code

(Thanks to https://medium.com/@agelender/6-action-items-for-white-people-in-the-workplace-beyond-ecf87271e89a#zns8p706d for the sources)
COURAGE TO DISSENT
Atlanta and the Long History of the Civil Rights Movement

TOMIKO BROWN-NAGIN
CHAPTER 12

“Bus Them to Philadelphia”

A Feminist Lawyer and Poor Mothers Crusade to Redeem Brown, 1972–1980

I feel like [my children] should be able to go to a school of their choice… a white school. (1976)

Eva Davis, Plaintiff in Metropolitan School Desegregation Case

Are you a married woman? Are you a welfare recipient? Have you ever been? (1976)

Robert Feagin, School Board Attorney, Questioning Plaintiff Eva Davis

“The… school case will never be over,” one Atlantan declared in 1972.1 This view summed up the exhaustion and dread with which many in the city greeted Armour v. Nix.2 Armour had been filed in June 1972 by poor black Atlantans who hoped to supersede the Calhoun litigation—then bogged down in its second decade—by claiming larger constitutional violations and seeking bolder remedies. By order of the Fifth Circuit, the Armour case would sit on the trial court’s docket—inactive and pending—until the Calhoun settlement was accepted by the district court. The Fifth Circuit had “pick[ed] up on the mood of the country” when it affirmed the Calhoun compromise and agreed that the pursuit of pupil integration could be abandoned. The Armour plaintiffs, on a mission to redeem Brown, were now ready to march forward. It was clear to most that they were walking against the wind.3

Margie Pitts Hames represented the plaintiffs in Armour in cooperation with the Georgia ACLU. Hames proceeded in the case fearlessly, determined that she could—and would—win. In the complaint she drafted and filed, she asserted on behalf of her impoverished clients complex discrimination claims against not one but ten area school systems and requested that the court order a truly comprehensive remedy, spanning the city of Atlanta and its suburbs. Atlanta’s history
of “residential apartheid,” Hames insisted, coupled with its history of educational discrimination, entitled the Armour plaintiffs to a metropolitan-wide desegregation order. The systems would not consolidate but would form a “federation.” The federation would collaborate and cooperate to achieve desegregation, but each district would remain separate for all other purposes. Such a geographically comprehensive remedy would defeat white flight, but retain the prized tradition of locally controlled school systems. Students in the city of Atlanta, its poorest areas included, would attend higher quality schools in outlying suburban areas—the places to which whites had flocked. Busing would be equitable. Poor students no longer would bear its brunt; middle-class students, white and black, would be bused, when necessary.

For the ACLU, the relief that Hames requested in Armour represented the ideal plan for school integration. Others viewed it far less favorably. The “Metro suit” was a “collage of legalities” that piqued emotions best left dormant, wrote one editorialist. We wonder,” nudged the Atlanta Constitution, “whether cross-county school transfers represent an idea whose time is no more.” An attorney for one of the school boards that Hames sued asked, more pointedly: “How long do we have to pay?” Armour invoked a racial past that many whites desperately wished to leave behind.4

A FEMINIST LAWYER

The feared crosscounty school federation would only materialize if Hames prevailed at both the liability and remedial phases of the case, and she believed she could do so despite the highly unfavorable political environment. Hames impressed colleagues as a woman with “bravado,” “bold and outspoken,” a “bull in the china shop.” Just recently, she had surmounted intractable political and legal hurdles in a different area of constitutional law. Hames litigated and won Doe v. Bolton, a companion case to Roe v. Wade, the landmark case in which the U.S. Supreme Court established that the constitutional right to privacy encompassed a woman’s decision whether to terminate her pregnancy. In Doe, Hames successfully challenged a Georgia statute that required abortions to be performed in hospitals and only with the advance approval of a hospital committee. The young lawyer called her January 1973 victory in Doe a “cornerstone for liberating women.” Others called her a “catalyst for women’s rights” and a “pioneer” for women’s equality as a result of her role in Doe. “Fresh from a Supreme Court victory,” Hames felt “very able to do about anything,” observed Roger Mills, one of her cocounsels in Armour.5
Hames’s story—and how she became a crusading feminist lawyer and civil rights advocate—says much about the sometimes unexpected ways in which people and causes find one another. A southern white woman, Hames grew up on a farm in rural Tennessee in a Christian home with strict, churchgoing parents—not traditionally a breeding ground for liberal causes. Religion alone did not shape Hames’s young life, however. Her family was poor, and she lived and worked amid black tenant farmers. “Race really cut across class lines. We had to work together to get the crop in,” Hames explained. As a result of her close proximity to blacks, she could see their humanity. Hames acquired an appreciation for black culture during visits to black churches, where she swayed to gospel music. 6

Indeed, Hames developed the first stirrings of consciousness against both abortion restrictions and racial discrimination in her youth when she heard a schoolteacher say that the only acceptable time for an abortion was “when a black man raped a white woman.” This “moral” exception to abortion based on “racial prejudice” “planted the seed of doubt” in Hames’s mind about the anti-abortion position. To Hames, it seemed “like an odd exception.” She became more skeptical about the ways in which societal norms policed female sexuality when no one would sit next to a pregnant classmate during high school. Hames befriended the girl. The “terrible dehumanization of that young woman” stuck with her. Hames became exasperated with antiabortionists during law school at Vanderbilt University, when her white male classmates recapitulated—albeit in more sophisticated and legalistic terms—her teacher’s race-based exception to the antiabortion position. Together, these experiences would help lead her, in 1970, to abortion rights work. 7

Hames strongly identified with her client, Mary Doe, just as she would identify with her clients in Armour, even though by that time she had long since left her humble upbringing behind. A young lawyer, married to a partner in a blue-blood Atlanta law firm, Hames had herself achieved career success. She had practiced labor and employment law for a private firm in Atlanta for several years. She enjoyed the intellectual challenge of the firm. But she was one of only a few women there. The “old boy” network in Atlanta, carefully sustained by exclusive clubs that banned blacks, Jews, and women from membership but catered to the legal establishment, left her with a sense of “professional second-class citizenship and isolation.” Nevertheless, Hames broke a barrier: she made partner, a first for a woman at her firm. 8

Then, Hames encountered sex discrimination in the workplace, and it redirected the course of her professional life. Soon after she made partner at her firm, Hames became pregnant. She intended to continue working full-time after childbirth; however, her colleagues informed her that they intended to
reduce her income by 50 percent after she returned to work—regardless of how many hours she worked. Hames would not countenance the “disrespect” and discrimination implied by the decision. She resigned from the partnership and set up her own firm—all before she delivered her first child. This single act of discrimination “cause[d] her to look at the world differently,” explained her son. It “awakened something” inside of her. That incident, coupled with her youthful experiences, made Hames into a feminist and civil rights lawyer. She became an advocate for women, blacks, and other outsiders in sex and race discrimination suits and abortion rights litigation.9

Hames found a parallel, however imperfect, to her own experience of discrimination in Mary Doe’s “poverty and lack of education.” Hames made a special effort to treat Doe respectfully and to forcefully assert and protect her client from the negative publicity, hate mail, and threatening telephone calls that the Doe litigation provoked. The lawyer sheltered her client, only to arrive at the Supreme Court for oral argument in Doe and find herself the object of curiosity and ridicule. “[T]here was much joking among the Court personnel and the press about its being ‘Ladies’ Day in Court’” because “three of the four attorneys arguing were women, and five of the justices’ wives were there.10

Gender powerfully shaped Armour v. Nix as well. Many of the plaintiffs were women—the poorest of poor black women. Hames’s prior work on reproductive and welfare rights cases made women like the Armour plaintiffs and their struggles for equality familiar to her. The reproductive and life choices of the Armour mothers had been severely constrained, like so many of the clients that Hames had represented in the past. The women lacked resources, education, and more often than not, access to family planning services. They tended to have large families, which exacerbated the women’s poverty and social marginalization. Many of the women relied on the state for income support, and Hames had seen the indignities visited upon welfare recipients—black women, in particular—up close. She had litigated welfare cases in which “separate rules existed for black and white women” receiving benefits. The state disincen­tivized the accumulation of assets and education and undermined relationships and self-sufficiency. Many women on welfare felt a sense of hopelessness.11

The plaintiffs in Armour were “very motivated” and “very organized” and hoped—through the litigation—to overcome the disadvantages that life had dealt them. They took great pride in their children and struggled to give their offspring a chance at better lives. These women and men “were at the very bottom” of society, but they did not “want their kids to be in the same situation they were in.” They sought opportunity for their children, just like middle-class parents, black and white. Hames, a mother of two young children who interrupted her career “when she started having babies,” could identify with the
impulse. She became the ally of the Armour mothers, just as she had been a friend to her pregnant classmate and the champion of Mary Doe. If Harnes felt a close bond with impoverished black female clients, much continued to separate them. Ethel Mae Mathews and her peers embraced Harnes’s help, but they knew that she “lived way out of town... way out in the rich section” in a “mansion.” The lawyer’s attire also revealed her wealth. Harnes wore a “long fur coat that came down to her shoes.” The “baby seal,” recalled Marilyn Bright, her paralegal at the time, “would appear every winter.” The luxurious fur often elicited comments from onlookers; court personnel were no exception. One unforgettable comment came from the lips of a hostile judge who presided over a police brutality case in which Harnes represented the black plaintiffs. The judge eyeballed Harnes’s coat and lashed out: “That nigger business must pay well, huh?” Harnes burst into tears. But she did not stop wearing her prized possession to court, no matter what message it sent to her clients or how distracting it might have been to others. “She loved that coat,” Bright noted. Harnes’s posh wardrobe and manor were just two of many indicators that she did not have “a natural constituency” in the poor, communities of color in which her clients lived. Some thought an African-American lawyer would have been a better advocate for the Armour plaintiffs. However, to whatever extent a cultural gulf existed between Harnes and her clients, it gave the ACLU lawyer little pause. Harnes believed deeply in social justice and the righteousness of her case and her cause. A self-described “strong-willed” woman who enjoyed her “firebrand” reputation, Harnes marched forward, unabashed and unafraid.

IDENTITY POLITICS

Harnes and her clients faced off against nineteen lawyers, all white and male, who represented the state of Georgia and the ten Atlanta-area school boards the plaintiffs had named in their complaint. According to Roger Mills, “you had the best school lawyers in the state plus the attorney general’s office on the other side” in a case that “was not only a legal case;” everyone understood, but also a “political case with enormous implications.” The defense attorneys, flush with taxpayers’ money, proved tenacious litigators. In their hands, the Armour plaintiffs’ sex, race, and class became weapons with which to delegitimize the metropolitan desegregation suit.

In pretrial depositions, defense lawyers questioned the women about their marital status, the identities of their children, and the names, whereabouts, and occupations of their children’s fathers. In doing so, the school board attorneys
sought to underscore how different the plaintiffs were from traditional white middle-class parents of school-age children. When he questioned Mattie Beens, a mother of thirteen children, the school board lawyer asked her to identify each child. “Have you one named Ricky?” “One named Jimmy?” “One named Antonio?” “One named Shirley?” The attorney already knew the names of Beens’s children; she had provided the names in writing to him prior to the deposition. But that was the point. The attorney presumably wanted the deposition record to reflect how large her impoverished family was and what unappealing additions her children would make to the suburban schools.\textsuperscript{14}

More deliberately obtuse questions followed. The school board attorneys asked for clarification when a woman described her occupation as “housewife.” “Where is that? Where do you work?” the disingenuously puzzled attorney wondered. The attorney also asked for clarification when a woman described her occupation as hotel maid. What, precisely, did she do, he wanted to know. In addition, the defense attorneys pointedly asked each plaintiff: “Are you on welfare?” “Have you ever been?” If the plaintiff answered affirmatively, the lawyers inquired how much assistance the plaintiff received per month and for how long they had been receiving benefits. The men also asked if plaintiffs lived in public housing. In sum, virtually all of the state’s questions concerned details about the women’s personal lives and life choices. For the defense attorneys, \textit{Armour v. Nix} seemed to be as much about family and social arrangements as about the constitutional law of school segregation.\textsuperscript{15}

The defendants’ effort to explore and expose the personal lives of the plaintiffs contained a certain logic, of course. Hames invariably elicited her clients’ desire to attend “white schools” for a “better education.” Together, the two lines of inquiry wove a narrative that whites feared: integration would bring the troubles of the black ghetto into the white suburbs. The defense’s questions also tapped into the growing backlash against “welfare dependency,” a campaign that targeted single black mothers for scorn. Before long, Hames began objecting to the setup. “All this going into people’s personal lives” bore no relevance to the underlying issues in the case, she argued. “I don’t want any more questions about marriage!” she declared. Her protests were unsuccessful. The personal questions continued.\textsuperscript{16}

Intriguingly, however, the defense lawyers abandoned their strategy for three—and only three—of the plaintiffs. One of the male plaintiffs, Edward Moody, resisted the lawyers’ efforts to scrutinize his personal life. During his deposition, Moody demanded to know what “bearing” his place of employment and his wife’s name had on the case. He refused to answer questions he deemed irrelevant and the attorneys backed off. The defense lawyers did the same when they took the deposition of another male plaintiff, this one of retirement age.
And, most tellingly, they did not badger Ethel Mae Mathews. Certain matters, Mathews insisted during her deposition, were “none of their business.” “I don’t think you’re no better than I am,” she announced. Mathews, in an apparent effort to stand up for the female plaintiffs who had come before her, then bitterly criticized the attorneys for questioning these other witnesses about their welfare status. As she continued her tongue-lashing, the school board lawyers interrupted her. They thanked Mathews for her time. She wanted to hold forth, but the defense had heard enough. The lawyers ended Mathews’s deposition without propounding further questions. 17

Ethel Mae Mathews’s charisma and experience as a community organizer might have increased Armour’s slim chances of success. However, Harnes did not seek to mobilize her clients to engage in the kinds of demonstrations and protests that Mathews, Eva Davis, Ed Moody, and other activists among the Armour v. Nix plaintiffs customarily led. Harnes continued the pattern that LDF’s Constance Baker Motley established in the first Atlanta school desegregation case: the clients themselves would play a minimal role in generating community support for the case. Yet, Harnes’s strategy unfolded in a different social context and with different clients from LDF’s. The ACLU lawyer may have identified with the black poor, but the “silent majority” of Americans—“non-demonstrators” and “non-shouters” who had elected Richard Nixon to office after he campaigned to restore “law and order” after ghetto riots, “forced busing,” and massive welfare programs—likely would not. The school board lawyers’ identity-based questions to Harnes’s clients appealed to this majority. Civil rights protests were not effective if the target audience did not ultimately find the demonstrators and their cause sympathetic. Perhaps political protest by the black poor during the mid-1970s would have only exacerbated the backlash against them. The Armour plaintiffs could best mobilize in coalition with higher-status activists, and that coalition did not materialize. 18

Harnes and the ACLU of Georgia did actively conduct outreach and seek political support from key middle-class players, including women’s organizations, nonprofit organizations, and churches. Chronically low on funds, Harnes looked to the national and local public interest organizations for resources and political support. Longtime community activist Frances Pauley wrote to Roy Wilkins of the NAACP on Harnes’s behalf, reminding him that Armor represented the last-ditch effort to achieve desegregation in Atlanta. “How can we influence people to give Margie Harnes the professional help she needs?” If Wilkins could not influence critical organizations to come to Harnes’s aid, Pauley wrote, could Wilkins at least persuade them “to be neutral when asked about the case and not stymie financial assistance?” The fund-raising efforts failed to produce needed resources. Racial politics partly explained the lack of
success. Many black middle-class groups tagged the ACLU a “white” organization out to “manipulate” the community. Others continued to oppose school desegregation outright. Harnes found few institutional backers for *Armour v. Nix* outside of the ACLU.\(^{19}\)

Some important African Americans did support the plaintiffs, but they did not offset those opposed or indifferent to the suit. Rev. Ralph Abernathy, Rev. Joseph Boone, and others associated with SCLC proved allies. In the wake of Dr. King’s assassination in 1968 SCLC had launched an unsuccessful Poor Peoples Campaign and backed striking garbage workers in Atlanta in 1970. Yet, the organization’s influence did not compare to that of other stalwart civil rights groups after King’s death, and had ebbed by the mid-1970s—at *Armour*’s height.\(^{20}\)

Julian Bond, a member of the Georgia senate, had always supported school desegregation in principle. But, acutely aware that the transition to desegregated systems had often devastated the ranks of black teachers and administrators, and sometimes harmed black students, he had not been a vocal opponent of the Atlanta compromise. “In the South,” Bond once quipped, “the man who’d been principal of Booker T. Washington High School became the assistant-to-the-assistant-to-the-assistant principal at Stonewall Jackson High School.” Nevertheless, Bond continued to offer unstinting praise for a robust judicial interpretation of *Brown* during the 1970s, and the *Armour* plaintiffs counted him “very supportive.” Bond argued that hysteria over busing, whipped up for “political gain,” had obscured the high stakes at issue in the school desegregation debate. “We are talking about equal opportunity in education,” he cried. “We are talking about building a democratic society…. We are talking about children and the kind of nation they … will make for future generations.”\(^{21}\)

Notwithstanding Bond’s high ideals, many experts viewed interdistrict school desegregation litigation as a risky proposition by the late 1970s, when *Armour* reappeared on the federal court docket after years of delay. The Ford Foundation, a major benefactor of liberal causes, did not fund the litigation. “Integrationists” in the civil rights establishment “felt themselves under attack,” explained Robert Sedler, one of Harnes’s cocounsels. Jack Greenberg, LDF’s director-counsel, predicted, as early as 1974, that Harnes faced a “permanent setback.” He thought metropolitan relief was unlikely given recent court decisions. The single biggest impediment to relief was *Milliken v. Bradley*. In this 1974 decision, the U.S. Supreme Court reversed an interdistrict school desegregation remedy; it held that suburban districts could only be required to remedy segregation in inner-city schools under a limited set of circumstances. Many observers considered *Milliken* the “death knell” of school desegregation. In light of *Milliken*, Greenberg did not think Harnes could win her case. He refused to back the “swashbuckling” lawyer’s bid for metropolitan relief, despite repeated requests for support.\(^{22}\)
Greenberg’s response provoked a bitter riposte from the director of the Georgia ACLU. The “right opposition is pretty easy to deal with,” he said, but “the left opposition” was “much harder” to swallow. *Armour* continued as a “shoestring operation” funded by the ACLU and driven by the energy of Harnes and local supporters without the money and clout to defeat the power structure or overcome the hostile political climate.  

**TRIALS IN COURT**

For all of her daring, Harnes litigated *Armour* in a traditional manner. The *Armour* plaintiffs played conventional roles in court. Ethel Mae Mathews, the veteran of raucous direct action campaigns against state and local authorities, provided straightforward testimony during the actual trial in the case. “Black schools are not providing the quality of education that white schools are,” Mathews testified. She did not verbally spar with the school board’s counsel, as she had when deposed. Eva Davis, whose children had participated in the majority-to-minority program, praised busing as “the greatest thing that has ever happened to my children.” Mrs. Armour proclaimed that she would bus her children as far as “Philadelphia, Pennsylvania,” if they could find equal opportunity there. Many other plaintiffs spoke of their desires for quality education for their children; they could only find it, they believed, in integrated schools. “In the real world,” said Sedler, these “ordinary working-class black people knew that a good education was where the white folks went.”  

Harnes primarily relied on written records—over a thousand documents in all—to make her case. She turned to school board minutes, planning commission reports, maps, and municipal records to support her claims. These documents showed, she claimed, that authorities had periodically disregarded school district boundaries to maintain racial segregation. She proffered evidence that suggested that officials had permitted white students to transfer out of Atlanta schools to suburban schools to escape desegregation. She showed that suburban school officials created attendance zones that had the effect of concentrating the few blacks who lived outside the city limits within a small number of schools. Rather than build new schools or integrate old ones, districts with few or no schools for blacks contracted with schools in other districts to handle the so-called black student overflow. Such practices continued in some suburban systems until the late 1960s, Harnes showed.  

Evidence about state and local housing policies, however, formed the crux of Hames’s case. “Whites live on the north and blacks live on the south (side of
Ponce de Leon Avenue),” Hames explained. “That didn’t just happen. It was carefully planned over a number of years by local and state governments.” She contended that her evidence demonstrated that school boards, state and local legislative bodies, and planning agencies, such as the Atlanta Housing Authority, the MPC, and the Georgia Real Estate Commission, cooperated in selecting school and housing sites to perpetuate school and residential segregation. Hames turned to history to prove her assertion that these actors had “bottled up” the black poor in the city of Atlanta and reserved the affluent suburbs for whites. Governmental bodies perpetuated Jim Crow through urban renewal and zoning practices, highway and street construction practices, and through boundaries, buffers, and barriers that segregated blacks from whites. Local housing authorities strictly segregated buildings by race and located public housing in racially identifiable neighborhoods. Suburban authorities actively discouraged blacks from moving to outlying areas.26

Karl Taeuber, a critical expert witness for the plaintiffs, confirmed the case that her documents made. The sociologist asserted that housing and school segregation in the Atlanta metropolitan area bore a strong correlation. And he claimed that government discrimination had caused both. “A lot of what was done, was done deliberately,” he found. Discrimination “severely constrained” housing choices. By 1970, Atlanta was more residentially segregated than it had been in 1940. School segregation logically resulted. Of the twenty-seven new schools built between 1966 and 1972, nine opened with 100 percent black enrollment and sixteen opened with between 92 and 99 percent black enrollment, all because of neighborhood segregation. “There is no way to say there was freedom-of-choice,” Taeuber contended, in neighborhoods or schools.27

**Two Tales of Biracial Negotiation**

In a poignant twist, the ACLU’s legal strategy required the court to revisit the decision-making of black business and political leaders in the postwar years as Atlanta confronted its housing shortage. Evidence regarding the role that black leaders had played in shoring up residential segregation provided a compelling subtext when Q. V. Williamson took the stand. Williamson, Atlanta’s first black councilman and the realtor who had dominated the black housing market in the city for forty years, testified that blacks had to “get political clearance” before they could “move in and build” on any parcel of land. As president of the Empire Real Estate Board and owner of a realty company, Williamson knew intimately about these practices. For decades, he had acceded to white officials’ demands to maintain residential segregation. So had black members of the Westside Mutual
Development Committee and the Atlanta Urban League, Williamson testified, including A. T. Walden, Grace Towns Hamilton, Robert Thompson, and others. They had negotiated with Atlanta mayors William Hartsfield and Ivan Allen to “uphold the system” that designated land and housing by race. All told, Williamson’s testimony made clear, public and quasi-public actors had limited the land and housing available to blacks.28

Poor blacks had suffered disproportionately within this rigged system. Hames, however, did not question Williamson about how the system that he described, and in which he played a pivotal role, specifically affected her clients. She would not have wanted to antagonize a witness who provided critical support for her case. It nevertheless was true that Williamson and other black realtors, brokers, salesmen, appraisers, bankers, builders, and developers had profited financially from segregation. They controlled the black housing market. In the process of exercising control, they helped to entrench residential segregation and exacerbated the problems of low-income blacks, in particular, who were afforded the fewest housing options under segregation. Many middle-class blacks could and did live in enclaves apart from poor blacks such as the Armour plaintiffs. Williamson acknowledged blacks’ “mixed feelings” about working within the system of residential segregation at one point during his testimony. Some blacks believed that leaders should demand “open occupancy,” he conceded. But, he went on, pragmatists who preferred to work within the system prevailed. Their decision-making helped to deepen “residential apartheid,” and thus, the system of school segregation that Hames now fought in court.29

If any one moment embodied the complex array of racial and economic forces at work in Atlanta’s housing market, it was the so-called Atlanta wall of 1962. Williamson’s testimony about the Atlanta wall riveted the courtroom. During the postwar era, African-American leaders shied away from the courtroom as a forum for addressing the housing crisis. This changed in 1962, when the Empire Real Estate Board turned to litigation to counteract what it considered an outrageous act of white aggression against an African-American surgeon. White residents of the Peyton Forest neighborhood had reacted angrily when a white contractor, in a financial crunch and unable to find a white buyer, sold his home to the black doctor. The angry whites went to the mayor in an attempt to drive the doctor out of the neighborhood. With the approval of Mayor Ivan Allen, Jr., and the backing of the city’s Board of Aldermen, the residents literally barricaded the area to physically prevent the surgeon, and any other African Americans who might attempt to invade their neighborhood, from getting in. That is, they erected concrete and steel barricades on Peyton and Harlan Roads to preclude black expansion into their neighborhood and
other white areas south of the roadblocks. By comparison, other methods the city had used to cordon blacks off from whites—parks, roads, vacant lots, and cemeteries—seemed subtle.30

The “Atlanta wall” of segregation made national headlines and inspired outrage among blacks. African Americans united in opposition to the wall. A coalition of organizations, ranging from the pragmatists of ANVL to the Atlanta NAACP to radical student activists in SNCC, condemned the wall. In this context, the Empire Real Estate Board “organized an all citizens’ committee to fight the battle of Peyton Road.” At a meeting held at the West Hunter Baptist Church, black leaders, including Q. V. Williamson and Rev. Ralph Abernathy, decried both the practical impact of the wall and its symbolism. It had driven race relations in Atlanta to “an all-time low.” Williamson expressed the congregants’ views: “These are the darkest days I’ve seen in Atlanta as far as race relations are concerned. [A]tlanta is the first town in the South to build barricades across public streets” to keep blacks out. “Perhaps we need to send Mayor Allen a copy of the Emancipation Proclamation,” another leader cried. After the meeting, the All-Citizens Committee for Better City Planning called for a boycott of white merchants who had supported the roadblocks, hired lawyers, and went into court for an order to “tear down the wall.” Ultimately, the Empire Real Estate Board’s suit, litigated by Donald Hollowell and Howard Moore, ended the controversy. The city removed the barricades by order of the Fulton County Superior Court. The court found the barrier, which city ordinances had codified, a violation of precedents barring legislation that facially discriminated against residents by race. The Empire Real Estate Board had been moved to activism to protect one of the community’s most esteemed members.31

But even after the uproar over the Atlanta wall, Williamson and other black leaders continued to take ambiguous positions in response to residential segregation. Their unwillingness to take an emphatic stand against segregated housing was animated, at least in part, by their socioeconomic class. During the summer of 1966, the Lynhurst-Peyton area, the same area in which the wall had been erected just three years earlier, again became a focus of concern. But now middle-class blacks joined with white residents to defeat a rezoning effort that would have brought rental units into the area. At the time, low-income blacks—that is, would-be renters—still faced a shortage of affordable housing units. Q. V. Williamson, the ASLC’s Jessie Hill, Jr., and Senator Leroy Johnson headed the list of opponents to rental units in Peyton Forest. The language that the residents used to fend off renters, many of whom the audience presumed would be black, sounded remarkably similar to the rhetoric that whites used when resisting desegregation. At a homeowners’ association meeting, Senator Leroy
Johnson urged the assembled crowd to “prevent this invasion” of renters. “You are striving to maintain a community that is worthwhile to live in and you have every right to oppose attempts to destroy it.” During the public hearing on rezoning, the question of race surfaced. A white resident denied that additional apartments would accelerate white movement out of the racially transitioning community. Race was not the issue, she insisted, but “maintaining a good community.” Q. V. Williamson—who spoke out against the rezoning at the public hearing—was also a member of the committee charged with deciding whether to rezone. The only black member of the committee, Williamson “abandoned his official role for one minute to speak in opposition” to the rezoning, the Atlanta Daily World reported. With widespread support from such leading blacks, the biracial coalition opposing rental housing prevailed. There would be no housing for renters in Peyton Forest. In this respect, the black middle-class residents of Peyton Forest were no different from most middle-class homeowners—black and white—in countless subdivisions across the country. One might ask whether the black residents of Peyton Forest, themselves longtime victims of discrimination, should have been more open to those seeking housing opportunities, especially other blacks. But it was not so.

The story presented by Hames in the case—through Williamson and other witnesses—omitted episodes such as the battle over rental housing for blacks in Peyton Forest. It also omitted battles between the national NAACP and the local branch over the desegregation of public housing units, home to many Armour plaintiffs, during the late 1960s. In 1967, the national NAACP charged that the U.S. Department of Housing and Urban Development (HUD) had refused to enforce the Civil Rights Act’s nondiscrimination provisions in the city’s public housing developments. At the same time that it attacked HUD, the national NAACP blasted what it viewed as local black leaders’ unwillingness to challenge segregation in public and private housing. The national group even charged that the lone black member of the Atlanta Housing Authority actually supported the agency’s segregation policy. According to the national NAACP, prominent members of the local black leadership, including Q. V. Williamson, appeared to support desegregation in theory, but not in fact. These complicating chapters in Atlanta’s history were, understandably, not a part of Hames’s evidence.

Nevertheless, Williamson’s testimony—both the events he recounted and those he left out—suggested the peculiar oppression that the Armour plaintiffs faced. They had been subject to race- and class-based disadvantage, sometimes by fellow African Americans, who themselves faced discrimination.

Once Williamson stepped down from the stand, and in the shadow of the Calhoun compromise, a looming question seemed to hang over the courtroom:
was the discrimination the *Armour* plaintiffs endured too far-reaching and too complex for a court to remedy? But the parties had only just begun to put on their evidence.

**The Chairman Speaks**

If Hames conceived Q. V. Williamson’s testimony as a highlight of her case, the *Armour* case reached a low point when Dr. Benjamin Mays took the stand for the defendants. Mays still served as chairman of the Atlanta Board of Education. Few black men in Atlanta could rival Mays’s stature. He was the former president of Morehouse College and mentor to Martin Luther King, Jr. He arrived in the courtroom as a “gibraltar of education,” a wise community elder who could definitively answer the central question—more political than legal—underlying *Armour v. Nix*: whether school integration, and the metropolitan remedy that it required, was worth the time, resources, and tumult it would cost Atlanta and the surrounding suburbs if ordered by the court.34

Mays’s mythic status in the community obscured his hopelessly conflicted position in the case. Over twenty-seven years, Mays, the son of South Carolina sharecroppers, had built Morehouse College into one of the nation’s preeminent black colleges. He had personally seen success flower in an all-black environment, and he took enormous pride in these accomplishments. “Every time I see an enterprise thriving because of Negro genius, Negro sweat, blood and tears,” Mays explained in a 1968 address at historically black Benedict College, “my heart leaps with joy and my soul takes wings.” He continued: “I have great pride in Negro banks, Negro insurance companies, Negro churches, the Negro press, Negro colleges, and every worthwhile institution that Negroes run and control.” And, Mays said, “I refuse to be swept off my feet by the glamour of a desegregated society.” His predispositions were clear. It came as no surprise, then, that, over the years, Mays had made equivocal statements about *Brown*. But the most serious conflict had occurred very recently. Mays, as chairman of the Atlanta Board of Education, had endorsed the compromise settlement of *Calhoun*, a case he considered an “albatross” around the necks of Atlanta’s citizenry. Based on that fact alone, Mays seemed unlikely to support Hames’s suit.35

Rev. Austin Thomas Ford, a white Episcopal priest who actively supported the *Armour* litigation, had other reasons to doubt Mays’s support for the plaintiffs. Ford ran a settlement house in Atlanta and had worked for years to help the city’s poorest black families gain community services. In 1972, Rev. Ford informed black parents in housing projects of the option to transfer their children to schools outside of the neighborhood; he urged them to take advantage
of the court-ordered majority-to-minority program. Ford’s efforts attracted more than three hundred prospective transfer students. But, in Ford’s telling, the parents encountered stiff resistance from Dr. Mays. The students, many of whom had special educational needs, all wished to gain access to the school district’s better schools. Mays and the students’ prospective principals “were very upset” about the transfers. Ford personally interceded with Mays. The chairman responded coldly. He was “not interested in the program.” When Ford threatened to bring the students and the press to the receiver schools the next day, Mays relented. Ford nevertheless had learned an important lesson. Mays was an “elitist.” This encounter and others taught Ford that class differences among blacks “were very intense”; “feelings of real identity” and “fellowship with the poor” were “rare.”

Mays almost certainly would have disclaimed class bias, but he nonetheless fervently opposed the claims of the poor black claimants in *Armour v. Nix*. In the press, Mays condemned the suit as a “money-making scheme by lawyers.” Notwithstanding the fact that Harnes and her colleagues volunteered their services to the penniless plaintiffs and were not guaranteed attorneys’ fees, Mays insisted that Harnes and her team did not have “the best interest of the child at heart” because “lawyers take cases to make money.” Then, in March 1978, Dr. Mays testified for the defendant school boards in *Armour*. He appeared under subpoena as a witness for several of the suburban school districts. The chairman of the Atlanta Board of Education was called as an expert on Atlanta’s “ability to provide a quality education without a metropolitan remedy.” Mays’s testimony began with a disclaimer. “[N]othing I say here,” he insisted, “must be interpreted to mean that I believe in a segregated society or segregated education.” Mays believed in “quality education,” he asserted. But, he claimed, such an education could be found in “segregated” or “integrated” institutions. He clarified: “I think you can have a quality education given equal facilities, equal library, equal buildings, [and] teachers with the same qualifications.” Mays appeared to endorse the “separate but equal rule,” and Harnes condemned his testimony. She objected to his “assault on the holding in *Brown v. Board of Education*.” The court overruled her. The school board lawyers had struck gold. They asked Mays to expound further upon his conclusions. A lawyer again asked Dr. Mays whether it was “necessary for the black children of Atlanta to attend school” with a “substantial portion of white students” in order for them to obtain a quality education. The revered black educator answered unequivocally: “I would have to say I do not believe that [it does] because that repudiates all of my experience as a boy.” It defied the experiences of exceptional black men such as Thurgood Marshall and countless other blacks in Atlanta who had attended all-black schools and had “gone on to do well,” he explained. They “had self-esteem.” Hence, Mays
offered, the metropolitan remedy at issue in the case had “nothing to do with quality education.” Still, Mays refused to concede Harnes’s point that he had rejected Brown. “The Board of Education is an integrated Board of Education and I don’t think you can get that board to argue for segregated education,” Mays declared. The logic of the Atlanta compromise had resurfaced, but Mays would not concede its real-life consequences for students. Mays also denied Harnes’s suggestion on cross-examination that he had once said that the metropolitan remedy would “destroy black political power” in Atlanta. “Politics,” Mays testified, had “nothing to do with” his position.38

**Finality**

Unsurprisingly, the two sides viewed the evidence presented in *Armour v. Nix* differently. The defendant school boards asserted that Harnes had presented inadequate evidence of discrimination. Harnes believed she had marshaled ample evidence to meet the strict proof standards governing interdistrict school desegregation relief.

The U.S. Supreme Court’s decision in the milestone case *Milliken v. Bradley* stood between each litigant and victory. *Milliken*, decided in 1974 by a sharply divided Court, reversed a city-suburban school desegregation remedy in Detroit and outlying areas. The majority held that the plaintiffs had not presented sufficient evidence to prove that the fifty-three suburban districts included in the remedy had affirmatively contributed to the inner-city schools’ racial isolation. The plaintiffs had only shown a single suburban district culpable for segregation in the city. Such thin evidence could not support such an expansive remedy, the majority held. Yet, the Court left open the possibility that it would uphold a metropolitan remedy if plaintiffs could prove that acts by suburban school officials or the state had caused or significantly contributed to segregation in the city. Justice Stewart’s opinion, in particular, provided a road map for plaintiffs who sought crossdistrict remedial relief. He noted that a metropolitan-wide remedy would be proper were it shown that state officials or political subdivisions of the state had contributed to or fostered school segregation by discriminating in the drawing of school district lines, in zoning, or in housing. Harnes thought she had met this evidentiary bar.39

The defendants found Harnes’s claims contemptible. “Madam lawyer’s” case was about history—ancient history—the defense attorneys asserted. The attorneys could do little to dispute the historical record, but they asked the court to set it to the side and render it legally meaningless. “We don’t want to start with Gone with the Wind and these other historical facts that won’t help
the Court,” said the lawyer for Decatur County. The attorneys found Harnes’s evidence of recent discrimination weak. The Atlanta Board of Education had been “unitary” for several years. Most of Harnes’s recent evidence concerned intradistrict rather than interdistrict discrimination. Virtually all of the testimony of her star witness, Q. V. Williamson, fell into this category, the Fulton County attorney argued; therefore, it could not support a metropolitan remedy. Harnes had not shown that whites transferred en masse from the Atlanta schools to avoid desegregation; in a free country, white families could move for a variety of reasons. To the extent that Harnes did have evidence of white resistance to desegregation, the school board attorneys rejected it in acerbic tones. “The assertion that Georgia has had a history of resistance to education is true,” one school district’s brief explained, “only to the limited sense that” concepts such as “compulsory racial balance” and “quota[s]” were and still are “contrary to the sociological, philosophical and educational views of most of Georgia’s citizens.” Another school district’s brief invoked a historical analogy to reject Harnes’s equivalence of “white flight” and discrimination. Parents had only “vot[ed] with their feet” against “extreme racial balance or mixing orders in the public schools,” the lawyers wrote, “much as East Germans voted against their intolerable conditions by fleeing to West Berlin before the Berlin Wall was erected.”

The federal district court agreed that Harnes had not met her burden of proof. In orders issued in March 1978 and September 1979, a three-judge panel granted the defendants’ motions to dismiss the case even though the plaintiffs had amassed a staggering amount of evidence. Indeed, the court found strong evidence of state-sponsored housing discrimination. It specifically noted the “agreement between the city and the Empire Real Estate Board, an organization of black real estate brokers and agents, to cooperate” in halting black expansion into white areas. The “race of land” helped determine the “race of schools” within Atlanta and the suburbs. But Harnes had made her case against the school boards mostly on the basis of historical wrongs; the court found “this history” a “fascinating topic.” However, the panel concluded, evidence concerning events prior to 1960 was not enough to prove liability, particularly since Atlanta had been unitary since 1973, when the compromise took effect. Other defendants were under court-ordered desegregation plans. Government did not cause contemporary residential segregation. In short, the defendants prevailed because the plaintiffs had shown “no significant violations of recent vintage,” and certainly none that would “justify the drastic remedy envisioned.”

Harnes had not expected to win in the district court, however. It had been clear to the plaintiffs’ lawyers that the panel of conservative judges were “not sympathetic” to school desegregation. “These three white male southern judges
were not about to order the desegregation of the Atlanta schools,” said cocounsel Sedler. All along, Hames had pegged her hopes for victory on “get[ting] Stewart’s vote.” She appealed directly to the Supreme Court. Justice Stewart would see, she believed, the “mountain of evidence” that she had presented in support of a metropolitan remedy. She had some momentum. Many courts had rejected interdistrict remedies after Milliken, but a few federal courts had ordered them, including in Wilmington, Delaware and Louisville, Kentucky. Recently, the justices had summarily affirmed the Wilmington remedy.42

But it was not to be. In a May 1980 per curiam order, the Supreme Court affirmed the district court’s decision in Armour v. Nix. It was surely not helpful to the plaintiffs’ cause that Justice Thurgood Marshall had recused himself from the case, presumably because of his previous role at the NAACP LDF, in Calhoun, specifically. More important, Justice Stewart, the most critical of the eight remaining justices, did not view the case Hames’s way. With that, Armour—and the legal battle over Atlanta’s legacy of Jim Crow schools—was finished, twenty-two years after Thurgood Marshall, Constance Baker Motley, and A. T. Walden had filed the initial case to desegregate the city’s schools.43

“That was a sad day,” Rev. Ford recalled. “I think if Dr. Mays had not been against it, and if Thurgood Marshall had not had to recuse himself,” it would have gone the other way. Roger Mills saw the loss in a different light. “We had, staring at us, the Milliken case.”“Sure the case was wrongly decided,” he believed, “but once it’s wrongly decided, you have to play by the new rules.” After Milliken, “it would have taken an awful lot” to win, he admitted. And after the devastating precedent, Mills was “not sure the evidence was there” to prevail. Margie Hames disagreed, and she took the loss “hard.” “But she was a strong person,” Ford recounted. “She knew it hadn’t happened to her, it had happened to the children.”44

**DOES HISTORY MATTER?**

Armour brought pragmatic civil rights full circle. For in some ways, the pragmatists’ theory of black power in politics, housing, and education had been on trial, along with whites’ past discrimination. In the school context, the two fortified each other, as the race of land determined the race of schools: the pragmatists’ resignation to residential segregation during the 1940s, 1950s, and 1960s held long-term and, for some, disastrous consequences. On trial during the 1970s, past proponents of the politics of biracial coalition such as Q. V. Williamson all but conceded that the tradition of pragmatic civil rights had not
worked out equally well for all members of the black community. By that time, it was too late to repudiate the bargain.

Armour v. Nix failed as a matter of law, but the case’s full measure cannot be taken in terms of whether the plaintiffs prevailed in court. Grassroots activists had never assumed that courts would do justice in their cases and, consequently had never valued their campaigns in strictly legal terms. Even so, the claims that the Armour plaintiffs asserted and the remedies that they demanded are significant. These women upset a growing “conventional wisdom” regarding the perspectives of African-American communities on Brown. This truism, advanced in numerous quarters—by adherents to the black power ideology, by former warriors in the fight for integration, and by numerous black spokespersons, elected or self-appointed—held that “the African-American community,” especially the working class, no longer agreed with the precepts of Brown. Proponents of this “wisdom” characterized the notion that racially separate schools were inherently unequal as sentimental at best and culturally racist at worst. Moreover, they noted, desegregation was impractical to implement. Stokely Carmichael captured part of the sentiment with his quip: “[L]ike communism in Marxist dogma, ‘integration’ was pure ideal.” Law professor Derrick Bell, a former NAACP LDF lawyer who later rejected the NAACP’s school desegregation strategy, captured another dimension of the new wisdom. Bell claimed that white liberal idealists had steered LDF away from its true mission; rather than represent poor clients who opposed busing for school desegregation, the lawyers continued to pursue racial balance remedies. Blacks had rejected the NAACP’s dogma and now were only concerned about “quality education,” matters such as equal resources, good teachers, and control over school governance. He pointed to black Atlantans to support his claim—overlooking the poor blacks, overwhelmingly women, who filed Armour v. Nix—and others like them who likely existed in other parts of the country.45

The Armour litigation exposed a difficult truth, one whose implications advocates on all sides of the school desegregation controversy did not easily accept. During the late 1960s and early 1970s, school desegregation was a deeply contested issue in black communities. It always had been a source of controversy. Class still heavily influenced how individuals and subgroups within black communities weighed the costs and benefits of fighting for integrated education. A 1981 poll revealed the persistent class divide on the issue in Atlanta. Over 64 percent of low-income blacks supported school integration and busing, while 50 percent of middle-income blacks did.46

The Armour plaintiffs embraced racially integrated schools not because they were romantics or culturally racist. To the contrary, they viewed themselves as the consummate realists. These impoverished women and men thought it was
folly to believe that in a racist and classist society, poor black children could obtain quality education outside racially mixed schools. Even if they wanted to, black teachers and administrators would not be able to provide quality education to poor black students in all-black schools. The *Armour* plaintiffs were willing to bear the social costs of access to integrated schools, all because they believed these institutions, on balance, to be higher quality schools. In other words, they sought quality education, and they believed that it was inextricably bound to integration.

With the passage of time, it is clear that both those who sought quality education in same-race institutions and those who sought it in integrated environments made rational choices. Concerns about white intransigence to desegregation and discrimination in desegregated schools, whether it took the form of negative stereotyping of black students or discrimination against qualified black faculty, were legitimate. Yet, substantial social science literature indicates that public schools with high concentrations of low-income minority children—such as those in metropolitan Atlanta and other cities throughout the country—frequently do not produce academically successful students. These schools serve those students with the greatest academic and social needs, and too seldom are able to attract the necessary resources and experienced teachers who are capable of inspiring intellectual growth among at-risk students. In current argot, these schools “leave students behind.” High-need schools fail despite black administrative control of school systems and despite black faculties.47

One could observe this phenomenon in Atlanta after the *Calhoun* compromise. Time proved that the settlement “was a bad deal,” observed Julian Bond. The black superintendent “just really didn’t make too much of a difference.” The city’s schools largely failed. Enrollment declined drastically, test scores plunged, and community support for the schools diminished. Poor students bore the brunt of the system’s inadequacies, as even middle-class black students deserted the system. Many black middle-class students moved to the suburbs, where they could attend racially mixed schools, which routinely outperform overwhelmingly black schools. In light of these later developments, the *Armour* plaintiffs’ crusade for quality, integrated schools looks entirely reasonable.48

The story of *Armour* is also important because it tells us much about the potential agency of marginalized groups in campaigns for change. The *Armour* plaintiffs certainly hoped to prevail on their legal claims and were disappointed when they did not do so. But activists such as Eva Davis and Ethel Mae Mathews achieved a measure of satisfaction simply by identifying how they were wronged and by asserting rights in court. Mathews’s verbal jousts with men who first denied her rights and then tried to deny her humanity, she believed, were acts of civic participation rarely seen from the dispossessed. Mathews and her peers
were also able to confront power brokers on behalf of those on society’s bottom rungs. In so doing, the plaintiffs, many of whom were involved in welfare rights and other forms of political and social activism prior to Armour, demonstrated how legal and social movements can fortify one another, regardless of whether plaintiffs achieve victory in court.\(^{49}\)

In the end, the story of Armour is, however, a story of federal court defeat. Because of Milliken, Hames’s lawsuit stood little chance of success. The case also went up against prevailing political winds. Those opposed to “forced busing” had countermobilized in a wide range of venues. On the streets of numerous American cities, on city councils, and in Congress, opponents of the kinds of remedial devices that Hames sought created a formidable social movement against racial change. Hames’s failed crusade to redeem Brown revealed how challenging the struggle for social justice had become in an era of federal court resignation to white resistance to school desegregation and divergent black interests over a range of public policy issues. In addition, the campaign brought attention to challenges that the “heroic and clever lawyer” identity—an identity that that successful federal court litigators sometimes may develop—can pose in attorney-client relationships, to say nothing of the challenges that race and class differences can present. Ultimately, however, Hames’s “swashbuckling” style exemplified the passion and resolve that lawyers must, at a minimum, summon if they intend—against the odds—to pursue equality through the law.
120. On the Court’s treatment of wealth discrimination and related claims in its equal protection jurisprudence, see, for example, San Antonio v. Rodriguez, 411 U.S. 1 (1973) (rejecting challenge to state’s school funding scheme despite large disparities among districts on grounds that wealth was not suspect classification and education was not fundamental right); Dandridge v. Williams, 397 U.S. 471 (1970) (rejecting challenge to state’s maximum welfare grant on grounds that state regulation in social and economic field is subject to rational relation review and state had legitimate interest in regulating poor). For a narrative account of poverty lawyers’ efforts, see Shepard, *Rationing Justice*, 37–67. I do not mean to suggest that the law has no regard for status-based discrimination against low-income people. In certain instances, it does. For example, due process protections are afforded to indigents who are subject to the deprivation of government benefits or penalties of a criminal nature. See Goldberg v. Kelly, 397 U.S. 254, 261 (1970); Mayer v. City of Chicago, 404 U.S. 189, 195 (1971).

121. The Fifth Circuit required the District Court to retain jurisdiction over Calhoun v. Cook while Armour v. Nix remained pending. See Calhoun v. Cook, Calhoun v. Cook, 522 F.2d 717, 720 (5th Cir. 1975). Thus, theoretically, the District Court might have and still could have entered orders implementing metropolitan relief.

Chapter 12


4. AC, 15 Nov. 1977, 3-A; 17 Nov. 1977, 4-A. Over the course of the litigation, the exact configuration of the proposed federated school system changed. Initially, six school systems were to be included in a metropolitan remedy: Atlanta, Fulton, Dekalb, Decatur, Clayton, and Cobb. Later on, Hames suggested that only Atlanta, Fulton, and Dekalb need be included in the initial phase of the remedy. Still later, the federated system was to include Atlanta and Fulton only in its first phase. See Proffer by Plaintiffs, 2–3, Armour v. Nix (N.D. Ga., 26 Sept. 1973), Case File, NARA, box 55, f. 5.


8. Hames interview, 4–5; Rose interview, 12 Aug. 2009, 1–3; Milbauer, *Law Giveth*, 44–45, 54. As a consequence of the discrimination that she encountered, Hames was very involved in the Georgia Association of Women Lawyers and other activities to
increase gender diversity at the bar and on the bench. See Margie Pitts Hames to Kice H. Stone, 7 Jan. 1982, Hames Papers; GAWL Survey, 19 July 1979, Hames Papers.


10. Rose interview, 1–3; Mills interview, 2; Milbauer, Law Giveth, 44–45, 54.

11. Mathews interview, 25; Ford interview, 16; Mills interview, 31–32. As prior chapters of this book have discussed, women—from the Urban League’s Grace Towns Hamilton to SNCC’s Ruby Doris Smith to grassroots organizer Dorothy Bolden to human rights activist Francis Pauley—always had been active in the struggle for racial equality in Atlanta. On Hamilton, see chapters 2–4; on Robinson, see chapters 6–7; on Bolden, see chapter 5. Women activists worked in community-based organizations. Many had taken a particular interest in education. Constance Baker Motley had been lead LDF lawyer in the initial Atlanta school desegregation case for many years. Motley, however, had pursued a court-based strategy. See chapter 10. According to some analyses, the LDF’s court-based strategy, in so far as it placed distance between its lawyers and activists who worked outside of the courtroom, also placed distance between the lawyers and many women activists who might have been particularly helpful in the lawyers’ struggle to implement Brown. See Brown-Nagin, “Transformation”; see also Nasstrom, “Women, Civil Rights Movement,” 294–95. In other cases, Motley’s legal activism may have been more compatible with community-based activism. See Sugre, Sweet Land of Liberty, 197–98.


13. Hames interview, 7; Parker interview, 21–22; Ford interview, 15–16; Bright interview, 5, 6; see also Fulton County Daily Report, 12 Feb. 1987, 1. Crossclass and crossracial lawyer-client relationships can pose challenges, particularly in litigation over reproductive rights. “Mary Doe” subsequently repudiated Margie Hames and the prochoice movement. Doe claimed that she had been “mentally unstable” and not “totally aware of what was happening.” Doe further claimed that she had been “used by her attorneys at the time.” See Fulton County Daily Report, 9 Feb. 1989, 1; see also Garrow, Liberty and Sexuality, 602–3. The same was true of Jane Roe, who repudiated her role in Roe v. Wade and her lawyer, Sarah Weddington. See NYT, 12 Aug. 1995, 1; 28 July 1994, C1. The cultural context of abortion rights litigation proved a particular challenge for women lawyers, given the history of state-imposed sterilization of blacks and other undesirables. Some viewed birth control, abortion, and eugenics as inextricably linked. See Roberts, Killing the Black Body, 90–103. For literature on challenges in crosscultural lawyer-client relationships, see López, Rebellious Lawyering; Cunningham, “Lawyer as Translator.”


18. See chapter 10. For a discussion of the difficulties that the poor faced when they attempted to organize without the legitimacy conferred by higher status funders, whites, and/or men, see, for example, Kornbluh, Battle for Welfare Rights, 193–94, 199, 205–13. On Nixon’s political rhetoric, see Lassiter, Silent Majority, 236–37, 251–54. On Carter’s, see ibid., 269–70.

19. Frances Pauley to Roy Wilkins, TL, 25 May 1974, Pauley Papers, box 17; Margie Hames to Gene Guerrero et al., TLS, 23 May 1975, Pauley Papers, box 17; Mills interview, 4–5; Sedler interview, 2.


24. See AC, 16 Nov. 1977, 1-A; Ford interview, 17; Sedler interview, 4.


30. See AI, 24 Nov. 1962, 1; 1 Dec. 1962, 1.

31. See Deposition of Q. V. Williamson, Armour v. Nix, no. 16708, 24 June 1975, 13–15; AI, 1 Dec. 1962, 2; AI, 29 Dec. 1962; AI, 3 Jan. 1963, 1. Sam Massell later became the city’s first Jewish mayor, with the strong backing of black voters; his vice mayor was Maynard Jackson, who became the city’s first black mayor.

32. See ADW, 22 June 1966, 1; 22 June 1966, 1; 24 June 1966, 1. A few months later, Williamson gave an address, entitled “Democracy in Housing,” at a national real estate brokers’ convention. ADW, 4 Sept. 1966, 3. See also Bayor, Race and the Shaping, 71–76; Harmon, Beneath the Image, 66; Ambrose, “Redrawing the Color Line,” 130; Orfield and Askinaze, Closing Door, 73–75.

33. See ADW, 22 Nov. 1967, 1; see also Bayor, Race and the Shaping, 71–76; Harmon, Beneath the Image, 66; Ambrose, “Redrawing,” 130; see also Orfield and Askinaze, Closing Door, 73–75; Hanchett, Sorting Out, 262.

34. “Gilbraltair” is from ADW, 30 Mar. 1984, 1. Grace Towns Hamilton, the former Atlanta Urban League director who was then a state representative, was deposed due to her service on a governmental commission examining reorganization of Atlanta-Fulton County in 1974–1976. She testified that a majority of the commission, herself included, had recommended the merger of the Atlanta and Fulton County governments, including the school systems. The legislature did not act on the controversial recommendation.


36. Ford interview by author, 4–6, 11.


43. See Mills interview by author, 18. Justice Marshall did not take part in Armour. Justices Brennan, Blackmun, and Stevens would have dismissed the appeal for lack

44. Ford interview, 20; Mills interview, 20, 25.

45. See Bell, “Serving Two Masters”; Carmichael, Ready for Revolution, 529. In a telling example, those other activists included Fannie Lou Hamer, the Mississippi sharecropper who in 1964 famously protested the seating of the segregated delegation to the Democratic National Convention, and who shared many characteristics with Mathews. Hamer—a lifelong crusader for the poor—served as a named plaintiff in the suit that, in 1970, integrated the Sunflower County, Mississippi, schools, an exploit for which she seldom is heralded. Lee, For Freedom’s Sake, 167–68.

46. Orfield and Ashkinaze, Closing Door, 110.

47. See Bell, “Serving Two Masters.” While segregated schools undermine academic performance, studies show that minority students who attend integrated schools tend to have higher aspirations and to fare better academically and socially. See Wells and Crain, Stepping over the Color Line, 182–93; Rita E. Mahard and Robert L. Crain, “Research on Minority Achievement,” 105–13, 117–21; Orfield and Ashkinaze, Closing Door, 127–29; see also Orfield and Lee, Racial Transformation; Orfield and Lee, Why Segregation Matters. On discrimination in desegregated schools, see Perry, Steele, and Hilliard, Young, Gifted, and Black, 109–30; Delpit, Other People’s Children.

48. See Orfield and Ashkinaze, Closing Door, 112, 121–29; Bond interview by author, 12.

49. See Menkel-Meadow, “Excluded Voices”; Finley, “Breaking Women’s Silence.” For more agnostic views about legal venues and voice, see White, “Subordination”; Felstiner, Abel, and Sarat, “Emergence.”

Conclusion

1. The statement in the epigraph is from Douglass, “American Constitution and the Slave,” 361.

2. The quotes are from Douglass, “American Constitution and the Slave,” 361; and Lincoln, “First Inaugural Address,” at 262, 269. On Dr. Martin Luther King, Jr.’s constitutionalism, see Kennedy, “Martin Luther King’s Constitution.”


4. On the pre-Brown era, see, for example, Mack, “Rethinking Civil Rights Lawyer ing”; Harris, “Negro and Economic Radicalism,” 130–39; Haines, Black Radicals, 18–21.


6. Ibid.

KEYNOTE ADDRESS

LIVING AND LAWYERING REBELLIOUSLY

Gerald P. López*

I have never thought about living or lawyering in impersonal terms. From my very first memories, I have never thought about living and then asked myself, “What’s Chicano living?” And I have never thought about lawyering and then asked myself, “What’s Chicano lawyering?” We can and should learn from others. We can and should grow. Indeed, we should be learning from others and growing, over and over again, as our lives unfold. Still, we cannot separate who we are from what we try to understand.

When I gave a title to Rebellious Lawyering: One Chicano’s Vision on Progressive Law Practice, I meant the second half to convey as strong a message as the first. And I meant to get across that the two parts of the title could not be severed, either in my own way of seeing the world or in what others should understand me to be saying about life and lawyering.

It’s not at all that I’m claiming sole credit for the ideas, skills, and sensibilities I call rebellious. Far from it. Everything I have ever said about living and lawyering has its roots in what I’ve learned from others. It’s only that I know full well that others would inevitably link experiences to vision in ways different from my own. I could not and do not claim to speak for anyone else, no matter how much I believe in and have been nurtured in community.

Still, in writing Rebellious Lawyering, I tried my best to connect with others. I had no illusions. My approach to problem solving—and my vision of how problem solving fits within a radically democratic idea of a life well-led—did not click with many I knew well. How could my vision trigger in others recognition of how we might work and live together to tackle particular challenges, to alter our institutions and practices, to change the world as we know it?

Life has taught me, however, that if we can see enough in common in one another’s vision we can act together. What can join us together

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ranges from desperate need to uncommon optimism to everyday routine. When we act together, we appreciate the advantages of standing shoulder to shoulder. At least at our best, we know we share enough about how we can and should work together to deal with everyday hassles, to sort through ever-improving ways of collaboration, and, yes, even to inch toward making come true our overlapping dreams of how we might live in community.

* * *

Long before I began thinking about lawyering, I tried with all my might to think through why I felt so repulsed by what seemed to be the reigning approach about how to live and work—how to shape our democratic institutions and the problem-solving practices at the heart of our everyday routines and our future trajectories. And, at the same time, I tried to piece together my own contrasting “philosophy,” one that could guide me across contexts to telling cultural and cognitive details, one that could embrace the lessons of experience and the insights of imagination, one that could both appreciate and challenge life as we know it in pursuit of a future we might currently be able only to prefigure.

Back then I didn’t know how to pull apart the reigning scheme, to identify all the relevant elements, to see how together they could come to feel seamless, natural, and even inescapable. I didn’t even know the word “philosophy,” in English, in Spanish, or in the street versions of both through which I so often expressed myself. But youthful energy propelled me forward. And, with the help of many people, I learned over time to contrast the reigning approach with my own rebellious vision of how, through our institutions and through our practices, we can and should shape our lives and choose our vocations in ways both personally rewarding and collectively valuable.

In the reigning approach to organizational and human behavior, experts rule. These experts collaborate principally and often exclusively with one another (and with support staff paid to enhance their expertise). In framing problems and choices, identifying and implementing worthy strategies, and deciding how much and whose feedback qualifies as necessary for effective monitoring and evaluation, these experts issue top-down mandates with which subordinates typically comply (through a wide range of intermediaries) in order to be rewarded for doing their job. This approach and those who operate within its sway show too little interest in regularly adapting aims and means to what unfolding events and relationships reveal; too little curiosity about the institutional dynamics through which routines and habits form; too little time discovering how well strategies work for everyone affected by its reign; and too little belief in our individual and collective
capacity to shape a future that does not acquiesce in the limits of today’s world.

The rebellious vision challenges the reigning approach along virtually every dimension. The rebellious vision depends upon networks of co-eminent institutions and individuals. These co-eminent collaborators routinely engage and learn from one another and all other pragmatic practitioners (bottom-up, top-down, and in every which direction at once). They demonstrate a profound commitment, time and again, to revising provisional goals and methods for achieving them; to searching for how better to realize institutional and individual aspirations; to monitoring and evaluating from diverse perspectives what’s working and what’s not; and to picturing future possibilities that extend beyond (even as they take cues from) past events and current arrangements.

The great gap between the problem solving championed by the rebellious vision and that nurtured by the reigning approach can be described as revolving around knowledge: Which institutions and which groups of people do we regard as “expert” sources of valuable knowledge? Which institutions and which groups of people do we believe need to be “in the loop” about information? To what degree and to what ends do our institutional and individual practices actively seek out new and evolving information about what we face and what we do? To what degree and to what ends do our practices—institutional and individual—put to use what we learn? Contrasting answers offered by the rebellious vision and the reigning approach can be discerned in the practices of diverse specialists and the everyday people with whom they work (including the lawyers and others who serve low-income, of color, and immigrant communities).

2. Id. at 11-82, 275-329.

can be detected in the workings of democratic politics, market economies, and civil societies, and in the ideologies and routines of those who directly shape and comment upon these spheres.

This great gap between problem-solving methods parallels the contrast between the rebellious vision’s and the reigning approach’s vying ideas of how we should live. Must we accept what we’re now living as our only option? Or can we regard what we’re now experiencing as endlessly unfinished, not just in its details but in the very contexts that seemingly define our choices? Must we settle for wildly less than we dream in building our relationships, our institutional capacity, and our democratic communities? Must we deride our own ideas of a better life with labels like naïve and adolescent? Once again, contrasting answers offered by the rebellious vision and the reigning approach can be perceived across institutional and personal realms, in minute particulars about a life well-led and in large statements about our collective mission.

* * *

For nearly three decades, I have been among those promoting an idea of progressive law practice that complements, meshes with, and, at its best, serves as one shining example of my rebellious philosophy. And The Center for Community Problem Solving at New York University (“The Center”), which I launched in September 2003 and which I direct, puts into action a brand of effective and accountable problem solving that aims to earn each day and over time the label rebellious.4 We at The Center work with many diverse people and institutions addressing a diverse slate of social, economic, and legal challenges. But perhaps no aspect of our work portfolio more vividly demonstrates how my earliest childhood experiences shape our current vision of practice than our Center’s campaign to keep people out of the criminal justice system—everyone from youth we hope
never get entangled to those with criminal records we hope never again see the inside of a prison or a jail.

Our campaign can be understood as our Center’s opposition to, and my career-long battle against, the “modern war on crime.” Through a set of almost unimaginably irrational, mean-spirited, and ultimately dysfunctional policies and practices, this nation’s war on crime closely monitors vulgarly “profiled” individuals and groups, hassles them whenever possible, arrests them often without legal justification and for concocted reasons, prosecutes them perhaps as often to immunize front line law enforcement officials as to enforce any law, sentences them for far too long, and locks them up in often utterly inhumane settings.

For decades now, we have done our best to hide from the price we pay for our policies and practices. We have long avoided spelling out and debating the extraordinary financial costs of long-term institutionalization. And we have long evaded making explicit and preparing for the complex consequences of imprisonment: “If we really believe these men and women were hard going in, what the hell do we think they’re going to be like coming out of prisons and jails?” We only rarely prepare inmates, families, and communities—either while people are locked up or when they get released—for the challenges of reentering the “outside world.” Then we hold those with criminal records to standards everyone else need not meet (or at least can fail to meet without facing dramatic consequences). The message rings out: “You’d better somehow make it, even without support, because we’ll be watching your every move and, if you slip, you’re going right back to where we think you belong.” Now that’s nasty, no matter where you call home.

Much as I regard myself and our Center as opposed to this war on crime, I feel bewildered and bothered when I hear this war described as new. It’s not that I don’t grasp the magnitude of the current crisis. It’s not that I don’t understand what’s both intriguing and maddening about ways in which we inflict and acquiesce in this ugliness. What makes me uneasy and dismayed is that this war on crime is not new. At least it’s not new if you’re talking about places like East Los Angeles. Let’s set the record straight: This nation has been waging a war on low-income, of color, and immigrant communities as far back as I can remember and farther back still. Make no mistake about how much what we’re now seeing perpetuates and extends policies and practices long part of life in the United States.

When I was a kid growing up in East L.A. in the 1950s and 1960s, we never knew a world where law enforcement was not in our face. I’m not talking sometimes in our face. I’m talking each and every day. Maybe you had to live in places like East L.A. and Watts and Compton and Pacoima to know just how much—for absolutely no justifiable legal reason—the L.A. Sheriffs, the L.A. Police
Department, and the California Highway Patrol routinely rousted us, nastily provoked us, and calculatingly aimed in every way imaginable to get us into the criminal justice system. They thought law enforcement meant relentlessly monitoring and messing with everyone who lived in L.A.’s already economically and culturally marginalized communities. The actions of law enforcement officials—and the policies and practices of which they were a part—affected every family I knew. And my own family suffered life-long consequences.

I lived in a large household of parents, children, grandparents, cousins, aunts, and uncles. Most of those who lived with us came up from Mexico, many initially coming without papers, some quickly getting legal permission to work for a while, some ultimately becoming proud U.S. citizens. Over the years, everyone living with us felt the ugly provocation and real danger of having to deal with L.A.’s law enforcement officers. Not least among these family members who got ensnared in the criminal justice system was my brother—ten years older, a parental figure, a heroin addict by his mid-teens, an angry pachuco. By eighteen he found himself locked up, beginning a cycle through various penitentiaries, including Folsom, San Quentin, and Soledad.

Rarely accepting the mockingly cruel treatment of prison guards and officials, my brother grew intimately familiar with solitary confinement. And, more than he now wishes were true, he had far too much to do with the founding of California’s earliest prison gangs, which over time spawned more prison gangs, which generated from all quarters mindless violence beyond the imagination of those of us who have never done time. All along, he had very little help trying to understand why he could barely read and write, why he was strung out on heroin, or why he could find a trustworthy second home only through gangs on the street and gangs in the joint.

Back home in East L.A., we tried desperately to figure out how to cope. Baffled by what had happened to our son, our brother, our grandson, our father, our uncle, our cousin, we had no idea how to think about—and literally no vocabulary for talking about—his dyslexia, his addiction, his gang involvement. We found ourselves telling stories of how my brother was off caring for horses in Arizona, picking fruit in California’s Central Valley, driving rigs across country (all of which at some point he in fact did). We kept up the front even though we came soon to realize his “exploits” on the street and in the joint were an open “neighborhood secret.” We couldn’t find any government official or employee to help us—any more than my brother could find somebody to help him.

The little support we did receive came principally from the tiny cluster of friends and family with whom we talked about our not-so-secret secret, and from the folks that we would meet while my mom
and I waited to board the buses that would take us on those long trips for those short visits authorities permitted us to have with my brother. Waiting on those somber lines, we would see people from the other parts of L.A.—people from neighborhoods like East L.A., Compton, South Central, Japantown, Chinatown, San Pedro, and Wilmington on which the war on crime had been long waged, and people for whom these bus rides meant getting to see their imprisoned fathers, grandfathers, uncles, aunts, and children. In our often silent and wary ways, we regarded one another as both strangers and family.

What smacked me hard during those early years was that no one ever asked either my brother and other people in the joint or my mother and father or other family members back home what we were facing, what problems we would frame, what help, if any, we received in addressing our problems, and what we thought of our capacity with and through others to do anything to change either my brother’s situation or our own. Not one single person ever asked. Even as a wild, sports-crazy, and not-much-reflective-kid, I still said to myself, “How in God’s name can they be running a system where the last thing they ever think of doing is asking the people most directly affected, ‘What do you think and how can we make it better?’” You didn’t have to believe we had all the answers. We certainly didn’t think we did. But couldn’t you imagine we had something important to share if anyone indeed cared about effectively solving a range of problems obviously implicated?

I realize that there were people all over Los Angeles and all across the country who never were consulted about what they knew and what they thought. In the reigning vision of democracy, we govern ourselves through experts who ask questions only to confirm what they already have decided to do, often only to hang on to their power. But let’s not conflate the reasons many others are not consulted with the reasons no one made inquiries of my brother and my family. When officials didn’t ask us folks from East L.A., it was principally because they could not imagine that we had anything worth saying. For generations we had been perceived and described as genetically and culturally inferior. We were dumb and lazy Mexicans, messed-up and needy “wetbacks,” cross-bred and inter-bred mongrels. We could fill certain lower-echelon economic and social roles. But in the stock account that had taken cultural and cognitive hold over the Southwest and probably the entire United States, we Mexicanos and Chicanos couldn’t possibly have within us anything valuable to offer about how best to solve problems or to govern our shared world.

Even at an early age, I knew enough to say, “Hell no!” But I didn’t know much else. Driven by some complex mix of emotions and ideas, I’d try to piece together a radically different philosophy about how we should live and work with others. And, in halting ways, I came to understand how much elementally had to change before we could
ever be able effectively to solve problems, fully to govern ourselves, and richly to imagine how we might shape the future.

We had to learn honestly to assess where we are and have been and how we might fashion paths able to move us, working with what we currently have available, toward a life more like our big-hearted and dream-like aspirations than like our small-minded and mean-spirited behavior. We had to grasp how living is an endless process of framing and attacking problems, evaluating whether our efforts to solve problems are good enough, and working to do it all better still, at once to cope and to thrive. We had to recognize that knowledge can and does come from anywhere, that you’re nothing short of a fool if you can’t appreciate that fact, and that you’re the biggest fool around if you think for a moment that you’re an expert who already knows everything there is to know about whatever course of action you or others have charted. In my heart of hearts, perhaps, I hoped East L.A. would give life to one version of how we might live and work together.

* * *

When I launched The Center for Community Problem Solving ("The Center") in September 2003, we decided that our mission would draw upon and reach beyond the work I’d been doing with others throughout my career. The Center would team up with low-income, of color, and immigrant communities to solve current legal, social, economic, health, and political problems and to improve our capacity to solve such problems. Along the way, we would strive towards our dream of an accountable and equitable democracy—one where equal citizenship is a concrete everyday reality, not just a vague constitutional promise.

To meet these bold aspirations, The Center puts into action our comprehensive and innovative "rebellious vision of problem solving." Through this vision, we meld street savvy, technical sophistication, and collective ingenuity into a compelling practical force. The power of our rebellious vision lies in extraordinary teamwork—teamwork in fact and not in name only. The Center never works alone. We regularly work with problem solvers of all sorts—including residents, merchants, ministers, organizers, researchers, funders, service providers, artists, teachers, corporate executives, journalists, public officials, doctors, lawyers, bankers, religious leaders, and policy makers. Only by routinely partnering with absolutely anyone who might in any imaginable way contribute can we get to where together we hope to go in the future.

Our vision of community problem solving unites certain key fundamentals:

1. We collaborate with those who live and work in low-income, of color, and immigrant communities. We seek out and share knowledge about existing problems, available resources, and useful strategies.

2. Drawing upon this knowledge, we connect those who face problems with those in public, private, and civic realms who help address them. We build networks of valuable know-how among diverse problem solvers and help shape and meet common goals.

3. Where problems remain unaddressed even after making such connections, we help fill those voids by scavenging around for resources (in NYC, across the U.S., across the globe). We leverage what's available with what may never have been tried, taking on apparently insoluble problems through everything from one-time trouble-shooting squads to more-permanent full-fledged partnerships.

4. All the while, we vigilantly monitor how strategies get implemented and candidly evaluate what works and what doesn't. Together with others, we develop and enforce standards by which to measure effectiveness, raising those standards as we increase our collective problem-solving power.

5. By sharing widely and regularly all that can be learned through formal research and informal exchange, The Center aims to improve our problem-solving capacity. We work to convince all involved (individuals, offices, organizations, institutions, coalitions, and networks) that we can and must always together get better at meeting head-on life’s evolving challenges.\(^6\)

For the past three decades, I have insisted that we need sophisticated and manageable methods for assessing both the problems faced by, and resources available to, low-income, of color, and immigrant communities. The legal and nonlegal offices, organizations, coalitions, and networks that serve these communities must learn—at least if we are to do our job as well as we should—to document and analyze what problems clients face and, simultaneously, what help they together might find to address these problems. Such research is anything but “academic” or “one shot” or a “luxury.” In our view, studies of this sort must become part of “business as usual” and united with street delivery of services.

Since 1999, in partnership with the Center for Urban Epidemiologic Studies (“CUES”), I have led a multidisciplinary team in conducting The Neighborhood Legal Needs & Resources Project (“The NLN&RP")—a sweeping study in Spanish, Mandarin, Cantonese, and

\(^6\) Id.
English of problems and resources in Harlem, East Harlem, Chinatown, the Lower East Side, Bushwick, and Bedford-Stuyvesant.\footnote{See The Ctr. for Cmty. Problem Solving, The Neighborhood Legal Needs & Resources Project, at http://www.communityproblemsolving.org/projects/neighborhood/ (last visited Feb. 23, 2005).} Relying principally on a sophisticated telephone survey of 2000 residents and intensive in-person interviews of more than 1000 service providers, we have the following aims:

Phase One—Information Gathering: Collect comprehensive information about problems residents face, where they go for help, and how they regard the help they get.

Phase Two—Data Analysis: Analyze the rich data residents and service providers have collaborated with us to generate.

Phase Three—Information Sharing: Team up with those who live and work in these neighborhoods and with a wide assortment of others to share, put to use, and mobilize around what we have learned.

Phase Four—Distribution of Tool Kit and Guide: Make available what we learn and how we learned it to those in New York City, across the country, and in international circles interested in studies such as The NLN&RP and its critical role in developing effective problem-solving systems.

In June 2003, we completed our telephone survey of 2000 residents. Already we have learned extraordinary amounts from these interviews. We’re now in the midst of running qualitative and quantitative analyses of the data collected through our surveys with residents and service providers. At the same time, we continue our march to complete the outreach side of phase one, combining intense background research and a daily slate of outreach interviews to close in on our goals.

Meanwhile, we keep drawing on everyone—from residents to hip-hop artists to ad executives—about how best to share and organize around what we have learned. Ultimately, through a variety of formats and languages, we will share the information gathered to inform and galvanize the many constituencies implicated in the quality of problem solving in New York City’s low-income, of color, and immigrant communities. And we shall make widely available The NLN&RP plan and instruments and further explore its potential for improving everyday and long-term problem solving.

Our partners at CUES are the first to say they could continue to crunch the data we’ve gathered for years to come. But already we’ve learned tons. And what we’ve learned from the communities who have so generously shared with us their experiences and knowledge
has already begun to shape our current work agenda. Here is only a sample of our efforts to keep people out of the criminal justice system.

The Reentry Project aims to help people with criminal records deal with a range of problems; to shape reentry policies and practices; and to improve available services. We develop community education programs, cultivate consortiums of service providers, and implement empirical studies of what works and what doesn't in reentry.\cite{8}

The Reentry Orientation Program connects people coming out of prisons and jails with available resources. Our workshops and guides cover everything from applying for identification and benefits to getting shelter and food to finding affordable housing to accessing education and jobs to managing family and childcare issues to meeting health needs.\cite{9}

The Keeping Our Kids Out of the Criminal Justice System Campaign aspires to prevent our young people from getting entangled in the criminal justice system. Teaming up with teachers, families, and everyone willing to pitch in, we help youth make wise choices, reform our educational and juvenile systems, and raise awareness about incarceration and its alternatives.\cite{10}

The Campaign to Hire People with Criminal Records makes the case for why we all benefit from recruiting, hiring, and promoting people with criminal records. Collaborating with everyone from employers to public officials to the general public, we work to increase dramatically our clients' employment opportunities and social mobility.\cite{11}

The Consumer Surveys of Problem-Solving Resources insist that we must have the equivalent of a "Zagat Survey" of resources available to low-income, of color, and immigrant communities. We have developed and will soon implement consumer surveys—beginning with people with criminal records—to allow diverse client populations to share their opinions of those to whom they turn for help.\cite{12}

The Streetwise About Money Campaign helps our client communities manage their money as wisely as possible. We share knowledge and build skills about how to sort through bank accounts,

\begin{itemize}
  \item \cite{11} See id.
  \item \cite{12} See id.
\end{itemize}


The Public Health Project teams up with low-income, of color, and immigrant communities to better understand health problems, access care, and shape both service and research. We conduct community-based participant-informed research, disseminate findings in accessible formats, and design interventions and mobilize communities based on what we learn.\footnote{See The Ctr. for Cmty. Problem Solving, The Public Health Project, at http://www.communityproblemsolving.org/projects/publichealth/ (last visited Feb. 23, 2005).}

* * *

My mom died on January 24, 2004. For about the last ten years of her life, she suffered dementia’s awful wounds. At the beginning, she simply couldn’t remember some of what she had lived. In some ways, that might have been a blessing. But in an oddly serendipitous and spiritually meaningful coincidence, at roughly the same time my mother began living with this illness my brother moved back into my mom’s small apartment. He returned for the same reason he always had returned: he was a junkie and he was in a jam and he was hiding and he knew my mom would put him up.

In the first few years, he and I cleaned up his legal messes and got him help in trying, once again, to stay off the junk. As always, his situation proved precarious. And on a daily basis he felt the impulse to hit the streets and hustle—who knows what exactly, but a fix if nothing else. But my mom was going downhill fast. My brother knew he couldn’t both hit the streets regularly and take care of my mom in a way he felt she deserved. So, for perhaps the first time in his life, he stayed home, trying to learn to live in ways new to him.

Near the end, the dementia had ravaged my mom. But even then, she would suddenly emerge lucid. During those moments, most frequently of all, she would ask me, “How are we going to get your
brother a job so he can live out a good life?” Now you could say she
was just being a great mother, a great mother to a sixty-four year old
man, a life-long junkie, one of the hardest people you could ever
meet. And you’d be right: She was a great mother—in fact, she was
the perfect mom for me.

But my mom was passing along a message that anchored and
propelled her entire life: Not only should my brother not give up, but
neither should we, and neither should anybody else. Rather, in her
exceedingly radical and practical way, she was insisting we should all
think in very concrete terms, “What’s the next step in actually trying
to live out what we dream for ourselves, for our families and friends,
and for the world we aim to make fundamentally a better place?”

Since my mom’s death, my brother has been very sick. At first, he
contracted a serious infection from sources unknown, then he endured
severe complications from diabetes, then he suddenly began throwing
up pints of blood from what turned out to be four previously
undiagnosed bleeding ulcers. At this point, he’s dealing at once with
all sorts of serious health problems. Still, at least when gently coaxed,
he’ll ask me, “Should I stay in L.A. or should I go back to Arizona?”

When I first heard that question, for a moment I thought, “What
does he mean?” Then when I heard him ask the question repeatedly,
often with follow-ups, it finally dawned on me. My God, my brother’s
following my mom’s lead. He’s proclaiming, “I want to see if maybe I
can do something with the rest of my life, maybe work with the other
Chicanos and Mexicanos taking care of horses in Arizona, certainly
not just play out my hand without having learned a damn thing or
without having tried. I want to put it all on the line, see if I’ve got
what it takes, see how I can live as a full-grown adult, and see if I can
make at least some of what I dream come true.”

Is that some crazy utopian claim? I don’t think so. In fact, for me
it’s anything but. The absolutely grounded conviction that my mom
lived by all her life and that my brother still clings to is that we can
and must strive for something better, knowing that there have been
moments of “something better” in the past, and that there can be such
moments again in the future. And they both seem to be saying that if
we can learn to be any good at working together, we can lengthen
these moments. And as we do so, we can change along the way both
how we think about our living together and how we think about our
solving problems together (including through our professional
lawyering).

Yes, the rebellious conviction that drove my mom and still drives
my brother is ambitious. Perhaps it’s even against the odds. But how
do we know what we can individually and collectively accomplish
unless, against the reigning approach to how to live and work, we act
as if our dreams can come true? Join my mom and my brother. Join
millions of people all across the globe. Reject absolutely the
“common sense” and “mature” notion that what we’re now living marks the limits of what’s possible. Imagine we can with others shape our lives, our problem solving, and the futures we dare to dream.