

Co-opting Restorative Justice in Higher Education

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Introduction

For colleges and universities, colorizing the restorative justice movement means being critical of how white supremacy has affected the implementation of restorative practices in higher educational institutions. White supremacy is a part of every interaction we have, and it influences the ways in which we participate (and show up) in all spheres of life. The experiences of practitioners of color within institutionalized spaces speak to the ways in which we are further marginalized when we engage in restorative practices with White practitioners. When White practitioners fail to critically examine their identities as they relate to power and privilege, the voices and experiences of People of Color get silenced, if not erased. Additionally, when we expect restorative justice to solve problems that institutions neglect, the work gets watered down without institutional prioritization, and restorative justice's transformative potential gets lost in the process. Decolonizing the use of restorative justice within institutions is the only way to address systemic harm and oppression and to dismantle the ways in which these structures influence interpersonal harm and conflict.

Recent events have seen a discernible rise in the use of restorative justice, mostly as a response to harm on college and university campuses. For example, in 2011, Justine Darling, restorative justice coordinator, found that an estimated 2 percent of public institutions of higher education use some form of restorative justice or restorative practices. This number did not include private institutions, and presumably many more institutions have since begun to incorporate restorative justice and practices into their policies and procedures.¹ Restorative justice's introduction comes on the heels of what some scholars argue is an overly legalistic response to harm on campuses across

the United States.² Restorative justice as a paradigm is framed as a tool to repair harm and rebuild community.³ Practitioners place special emphasis on community. Restorative justice's theory thrives on the foundational belief that people want to make amends for wrongdoing for two reasons: to return to the community,⁴ and to return a community to its relational balance.

Tom Sebok and Andrea Goldblum, facilitators in the restorative justice program at the University of Colorado at Boulder, argue that higher educational institutions possess resources to implement restorative justice:

[They are] well-defined communities, which work to promote an ethos of care and integration and have ready opportunities for collaboration; diverse populations, which deserve the flexibility of a restorative justice approach to offenses; support systems normally available, such as counseling services, health centers; alcohol, drug, or anger management programs; and numerous other services, student judicial and residence-life missions and processes for which restorative justice is a complement.⁵

However, introducing restorative justice to these institutions, while fundamentally ideal for a "community," is problematized even by the way it is introduced. Restorative justice is often described as an *alternative* approach, when in reality it is a way of being and a way that communities once operated. Viewing restorative justice as an "alternative" makes it easy to co-opt its pro-

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cesses and, in essence, water them down. The result is that RJ's foundations are more readily lost. They become embedded in a structure that arguably is designed to work within the confines of an individualized justice system—not within

the reality of community or collectivism. Mara Schiff, professor of criminology and criminal justice, posits the ultimate restorative justice question:

Is it possible for restorative justice to survive and transform such systems to produce socially just results, or is restorative justice more likely to get compromised and co-opted by the overwhelmingly dominant cultural ethos (and corresponding power structures) of the organizations it seeks to transform? Ultimately, is restorative justice strong enough to co-opt the co-opters?⁶

Institutions of higher education operate within a hierarchical structure. The literature shows this structure is founded in white supremacy—indeed, race and

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racism are embedded in the very fabric of institutional policies and practices.⁷ Institutions of higher education are not designed to benefit all of society but rather a select few or elite. As such, the goal of welcoming with open arms a more representative student body on college and university campuses has not been met. It is unclear if the presence of historically under-represented students has increased harmony or exacerbated White-based, racial tensions on campuses across the country.⁸ As more “minority” groups have entered the traditional White domain of higher education, a “quiet shift” has begun, one by which whiteness has shifted from the narrative of dominance and superiority to one that centralizes whiteness as normal.⁹ As institutions and individuals treat whiteness as normal, they actually work to further the superiority of whiteness, whether intentionally or not. This whiteness-as-normal view most poignantly manifests in the denial of racism and bias. Nolan León Cabrera, professor of the study of higher education, focusing on racial dynamics, expands the presence of white supremacy to include other manifestations of whiteness:

An institutional stance on racism that is reactive instead of proactive, the exclusion of diversity in the mission statement, concentration of institutional power in white (often male) administrators, minimal representation of faculty of color, and a reliance upon “traditional pedagogies” that disregard teaching across racial difference.¹⁰

As institutions have searched for ways to mitigate racial tensions of the campus climate and culture, they have done so mostly as a response to demands, public criticism, and the potential loss of funding avenues, rather than through developing ways to educate the campus community about racism's prevalence. Glyn Hughes, professor of sociology and racial justice, explains that “institutions with professed ‘commitments to diversity’ have felt a new sort of pressure to have well-organized mechanisms in place for responding to incidents [that pose a risk] . . . to a school's branded image.”¹¹ The introduction of restorative justice is, in many ways, an attempt to reduce the critique of racism and to minimize the reliance on traditional pedagogies. However, when this process is used to “fix” the problems that institutions of higher education neglect, restorative justice is more likely to be co-opted and dangerously misused.

Historically, institutions of higher education have attempted to create “race-neutral” laws and policies that unintentionally—or perhaps intentionally—disproportionately impact students coming from marginalized

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communities. This impact is evident in what Daniel G. Solorzano, professor of education and Chicano/a Studies, and his colleagues discuss in relation to *Grutter v. Bollinger*—a 2003 Supreme Court case that upheld an affirmative action admissions policy but stated that race would become an irrelevant factor in twenty-five years. Solorzano and his colleagues assert: “Clearly, one of the major outcomes of the Supreme Court’s opinion in *Grutter* was to forewarn higher educational institutions that race should become an irrelevant measure of the educational achievement or academic potential for students of color.”¹² Colorblindness and race neutrality allow for the ideology of meritocracy and equal opportunity to permeate institutions of higher education without critically analyzing how history shapes cultural understanding and capacity to navigate these institutions.

White Supremacy as Policy and Practice

US higher educational institutions, as a whole, are a microcosm of the United States. As a result of a seemingly colorblind and race-neutral policy, Shaun R. Harper and Lori D. Patton, both scholars in racial equity, write in *Responding to the Realities of Race on Campus*, “it is entirely possible for students to graduate from college without critically reflecting on their racist views, or having engaged in meaningful conversations about race.”¹³ Whiteness is operationalized as the default in terms of representation in curriculum, pedagogy, and physical bodies. While most institutions have incorporated course requirements to encourage students to engage in diversity, developed cultural centers, and added key positions on campuses to address inclusion efforts, much of these efforts are still operating from a reactionary lens. Little is being done to address white supremacy’s prevalence, how it manifests on campuses, and how it structures interactions between people. Institutions have not always been intentional about the types of interactions individuals are having on their campuses, particularly in creating opportunities for facilitated dialogues around issues of racism, classism, and other forms of oppression.

The introduction of restorative justice and its practices are no different. Restorative justice has been described in an “unequivocally positive—even idealized—light; as an exclusively benign and unquestionably progressive mechanism for facilitating inclusivity, reparation, resolution and, ultimately,

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healing and satisfactory closure."¹⁴ This description of restorative justice fails to consider the typical liberal, individualistic paradigm, which is hierarchal and emphasizes consequences that form the structure of higher education. Institutions of higher education have mostly implemented restorative justice as a tool to address disciplinary issues. These issues range from alcohol violations and bias incidents to, in a very few cases, sexual misconduct.

While, as David Karp and Susanne Conrad of Skidmore College observe, the "restorative justice approach promotes inclusion over social distancing, emphasizing instead those sanctioning strategies that rebuild conventional social ties to the college community," much of the work in higher education has failed to consider what community means: Who is included in that community?¹⁵ Because the restorative work focuses mainly on disciplinary issues, little to nothing has been done on what it takes to build community. This community-building work must involve having honest and difficult dialogues about issues of oppression that impact individuals within the walls of the campus "community." Dorothy Vaandering, professor of restorative justice in education, explains, for example, "Some early proponents of restorative justice warned that restorative justice initiatives risked being co-opted by institutional hierarchies if they focused only on conflict management procedures after individual incidents, and ignored the necessity of transforming governing structures and relationships."¹⁶

Vaandering suggests that restorative justice requires a community perspective; it requires no hierarchies to dictate what is acceptable—and what is not—in terms of forgiveness and accountability. By focusing only on conflict management, institutions of higher education fail to build community; they fail to develop a structure necessary to adequately implement restorative justice and restorative processes based on relationships. In the latter regard, restorative justice differs from traditional retributive justice. In other words, restorative justice sees offenses as damage to relationships and seeks to repair those relationships. Nevertheless, what do we do when there are no relationships to build on? What happens when there is no community established to which one might return?

Institutions of higher education are, by definition, "communities"; however, many sub-communities play a more active role in people's lives than the institution itself. Belonging to clubs and organizations, athletic teams, individual schools, etc., all offer subsets of community on college and university campuses. Similarly, self-identifying with historically marginalized groups creates an out-group experience, and that may limit what it means to be a member of the larger campus community or even some of the many sub-communities.

Chris Cunneen and Barry Goldson, professors of social science and

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criminology, argue that structural divisions around race, class, gender, etc., may inadvertently exclude individuals from restorative practices, "because they are without a community or without the right community."¹⁷ Without the right community or affinal group, instances of injustice can be viewed as business-as-usual; the injustices can be seen as too small, irrelevant, or not big enough to warrant change. Without the right community or affinal group, racism looks natural and ordinary. The focus falls on the extreme and shocking forms of injustice that are often individualized. But, as Richard Delgado and Jean Stefancic, leaders in critical race theory, write, this does "little about the business-as-usual forms of racism that people of color confront every day and that account for much misery, alienation, and despair."¹⁸

Viewing acts of racism as only the individualized acts of extremism increases the prevalence of white supremacy, as it allows those who hold power and privilege to define what is racist and what is important to address. Shaun Harper explains this racial dynamic: "The minimization of racism frame compels Whites to view discrimination through the narrow lens of overt, outrageously racist acts. Anything that falls short is often misperceived as minoritized persons being 'hypersensitive' or unfairly playing the 'race card.'"¹⁹ Institutions must do the work of building a cultural competency and dismantling white supremacy to ensure that everyone has the "right" community or affinity group. Implementing restorative justice is vital to developing community.

How we implement restorative justice is, of course, crucial to its success. Restorative justice is not meant to be only a reactionary tool. Lewis Schlosser, professor of psychiatry, and William Sedlacek, professor of counseling, ex-

plain that administrators often work in a reactive mode rather than in a proactive manner. Solutions of the former are designed to provide a quick resolution, one that places "emphasis . . . more on 'putting out the fire' than working toward preventing future 'fires.'"²⁰ Restorative justice, as a relationship-building process, slowly changes the campus ethos.

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On one hand, it ideally puts out fires, while on the other hand, it proactively prevents future fires. Restorative justice is both reactive and proactive and, as discussed below, should be implemented as such.

For instance, Gilleen McCluskey, professor of restorative practices in Edinburgh, and her colleagues describe three specific ways to implement restorative justice in school environments.²¹ Among these three approaches, the most effective method they identify is "ethos building," i.e., a whole-school approach. The ethos-building approach encompasses both a proactive ap-

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torative practices in : ways to implement ese three approaches, g," i.e., a whole-school both a proactive ap-

proach (using preventative and educational tools) and a reactive approach (an operational response to wrongdoing). As for the reactive approach on its own, the authors explain that such interactions of restorative justice are limited to those responsible for student behavior, like disciplinary officers, and are used only in response to events and issues, not with any proactive measures. In the third approach they describe, restorative justice is used only for serious incidents that could result in immediate school expulsion or would result in criminal charges. This approach did see positive gains for the individuals involved but had no impact on the overall school climate.

In order to implement the ethos-building approach, an institution has to be committed to a cultural shift—one that requires achieving buy-in from a variety of campus partners and other community stakeholders. It also means creating some structural and systemic changes to policies and practices. Additionally, this approach requires having conversations with those committed to improving the campus climate and reducing racism and other forms of oppression on the campus. What this commitment means boils down to an-

swering: What exactly is justice, and how do we understand it? The whole-school approach requires sufficient time and resources devoted to improving the overall campus climate. Institutions addressing isolated incidents cannot expect restorative justice to fix school climate, since they are a manifestation of campus culture. Gerardo R. López, professor of education and critical race theory, explains further the difference between explicit and structural incidences:

This focus on explicit acts has ignored the subtle, hidden, and often insidious forms of racism that operate at a deeper, more systemic level. When racism becomes "invisible," individuals begin to think that it is merely a thing of the past and/or only connected to the specific act.²²

Individuals who commit harmful acts against those in their community must believe that such behavior is acceptable—moreover, that those in their community would not find their behavior and actions indefensible or disrespectful. Treating these harmful acts as isolated incidents only furthers the disconnect that students experience when they try to engage around incidents of campus-related harm.

The use of a whole-school approach to restorative justice aligns with the steps outlined by Sylvia Hurtado, professor of education, and her colleagues.²³

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They assert that in order to improve the campus climate, the following things should occur simultaneously:

1. Campus administrators should reflect on their institution's history of inclusion.
2. They should take intentional steps to actively recruit and retain People of Color on the campus.
3. They should make serious efforts to attend to the perceptions and attitudes between and among groups.
4. They should improve the inter- and intra-group relations among groups in college.²⁴

This whole-school approach would ask that campus partners institute proactive restorative practices, such as community Circles and other forms of social engagement that emphasize relationship building. This focus on relationship is similar to the dynamic-diversity approach. According to Liliana Garces, professor of law and educational policy, and Uma Jayakumar, professor of racial justice in higher education, this approach fosters the "interactions among students within a particular context and under appropriate environmental conditions needed to realize the educational benefits of diversity."²⁵ In essence, Shametrice Davis, professor of education, and Jessica Harris, professor of critical race theory in education, observe, "Conversations on racism should not be just that, but rather purposeful dialogues that are cross-racial, sustained, and deconstruct the normality of whiteness."²⁶ Intentional cross-racial and cross-cultural conversations in the many spaces that students, faculty, and staff cross paths on the campus (e.g., classrooms, the residence halls, orientation, student organizations) should be normalized. These conversations should not only center the voice of the marginalized in an effort to deconstruct the normalcy of whiteness, but also challenge all parties to re-evaluate what they hold to be true and either change those held beliefs or further fortify them.

Failing to engage the campus in the work of dismantling white supremacy—such as engaging in intergroup dialogue and making building community across subgroups a priority—relegates restorative justice to another ineffective tool because it was not implemented properly. Nevertheless, restorative justice's transformative nature makes it more than an ideal candidate for adoption in higher education. Nancy Geist Giacomini, private educator and mediator, and Jennifer Meyer Schrage, conflict management specialist, assert, "The diversity of our students and the issues they face demand creative and educational solutions in addition to the conscientious application of procedural safeguards traditionally provided by campus disciplinary processes."²⁷

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types of dialogues, but offering spaces to engage in these dialogues can build stronger and more connected communities. Here are some sample questions, adapted from Occidental College, to ask students and others in this process:

1. How has your high school or pre-college experience differed from your college experience in terms of diversity, equity, and inclusion?
2. Based purely on how you look or present yourself, or on how someone else you know looks or presents themselves, what is an incorrect assumption someone has made or could make? How do these assumptions make you feel? What is an attribute or trait you would like people to recognize in you?
3. The country has been engaging in discussion this year around _____, _____, and _____; how have these topics impacted your home community?
4. At the time of _____ within the US, many people thought it was a good thing. Today, most people think it is unimaginable that _____ occurred, but it is important to recognize that _____ still exists in various forms in the US and around the world. What current commonly held belief or practice do you think will seem unimaginable fifty to one hundred years from now? What social injustice are we, as a society, currently overlooking or condoning?
5. What is your understanding of power, privilege, and oppression? Where have you heard or learned about these terms and their meanings in your life? How do you understand these terms as both academic concepts and lived experiences?
6. How can you use your time at _____ to connect with others different from yourself and contribute to an inclusive community?

Responses to Harm

Steps to build community and relationships within and between groups will need to be a principal element of the restorative paradigm. According to Vaandering, all four corners of a school must be included in this work:

1. In theory, facilitating circle conferences to address specific incidents of harm involving a few people should become the tip of the triangle, with the need for such post-incident repair reduced by foundational building work where the whole school population is enfolded in building and maintaining and repairing relationships in all aspects of the educational experience.²⁸

If restorative justice and restorative practices are to be advantageous for everyone and not just for those who are able to benefit from the normalcy of whiteness, then restorative justice facilitators must do the work of decolonizing their ideas about justice and who is deserving of that justice.

The whole-school approach is most beneficial, but for this process to be truly effective, facilitators—even at the basic level of restorative practices—must challenge their held beliefs about justice and social groups. If restorative justice and restorative practices are to be advantageous for everyone and not just for those who are able to benefit from the normalcy of whiteness, then restorative justice facilitators must do the work of decolonizing their ideas about justice and who is deserving of that justice.

Restorative justice and traditional justice are most often described as polarized rather than as compatible. While Gregory Paul and Ian Borton, both professors of communication, assert that “at their core . . . an offense is a violation that produces a need for condemnation, reparation, and accountability . . . and it is possible for people to pursue both ‘retributive’ and ‘restorative’ aims within RJ practices,” the two forms of justice respond to harms differently. Traditional justice seeks to hold those who have done harm accountable through punishment, while restorative justice seeks to hold them accountable through their desire to return to, and be welcomed by, their community.²⁹

According to a study conducted by Huang, Braithwaite, Tsutomi, Hosoi, and Braithwaite—professors of sociology, justice, and international relations in Australia and Japan—those who seek punishment as a form of accountability hold more traditional and socially conservative attitudes, while those who can access higher levels of social capital adopt a restorative justice orientation.³⁰ The authors found that the preference for more punitive measures was “fueled by fear of crime, fear of the poor, and belief that traditional values are decaying.”³¹ Conversely, the preference for restorative justice reflected a valuation of victim voice and amends. This binary result is not surprising when we consider the notion of social capital, defined as “the connections among individuals within networks and across networks.”³² The authors further distinguish two forms of social capital: “bonding social capital” refers to associations within groups where trust is thick and cohesion is high, while “bridging social capital” refers to between-group associations where trust is thin, values and norms are heterogeneous, but social exclusion is low.

The process (of facilitating restorative processes) requires that we negotiate justice among all the participants. The facilitators “can exert a particularly strong influence on this negotiation and enactment simply by virtue of their

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position."³³ We may reasonably believe that those who make the choice to become restorative justice facilitators hold particular beliefs and values about justice and may have high social capital. However, we may also reasonably assume that individual facilitators hold unconscious biases that may limit their ability to see harmed parties or offenders as deserving of restorative processes. The facilitators' social identities may allow for strong-bonding but low-bridging social capital, and this incongruence may influence facilitators' capacities to offer or adequately provide restorative practices as a response to incidents of harm.

Facilitators of restorative justice must do the work of developing their multi-cultural competence. Raechele Pope, professor of educational leadership and policy, and her colleagues define multicultural competence as the "awareness, knowledge, and skills that are needed to work effectively across cultural groups and to work with complex diversity issues."³⁴ Restorative processes are intended to correct the perceived shortcomings of the judicial process.³⁵ However, traditional judicial systems or a campus's cultural environment may co-opt the restorative process and lend opportunity for forgiveness to some populations more than for others. The result? An unfair or biased process may develop that favors students who mirror the dominant culture. By contrast, facilitators who are committed to rethinking and unlearning their conscious and unconscious beliefs have the potential to undo systems of injustice and inequity.

The tenor of not just the facilitators' but also the community's social capital also affects opportunities for forgiveness. In addition to biased, disproportionate access to restorative practices, it is all too easy to operate with binaries. The language of "victim" and "offender" or "harmed party" and "responsible party" limit the way facilitators and institutions both perceive and address harm. Often those who have either caused or suffered harm have likely been harmed or caused it themselves,

but binary terminology gets in the way of recognizing this. The more that restorative practitioners explore harms' complexities, the more

restorative processes on college and university campuses can address not just the incident of harm but also the harm's root causes. Facilitators begin to dig deeper into the "what happened" question. When higher educational institutions use restorative justice and restorative practices, their desire to resolve conflict quickly may result in processes that do not dig deep enough. In trying to address a harm, institutions may fail to invest in understanding "The Why." Without a whole-school approach, restorative justice's transformative benefits will be lost, either swept up into the hierarchal structure of higher education or used only for a select few, mostly those who are already beneficiaries of current justice systems. The goal of restorative justice is to bring harmed parties

In trying to address a harm, institutions may fail to invest in understanding "The Why."

and responsible parties (those who have done the harm) together. However, a substantial amount of pre-conference, pre-Circle work is required for both sides; otherwise the process may do more to harm the situation rather than re-

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solve it. In the process of unlearning, advocates of restorative justice and restorative practices must engage in dismantling notions of who is deserving of justice. This self-change begins with believing in the power of stories. The stories we need to hear are not only the stories of

individuals but also the stories of peoples. To engage this unlearning process, I suggest reading two books by Waziyatawin, Wahpetunwan Dakḥóta: *What Does Justice Look Like? The Struggle for Liberation in Dakota Homeland* and *For Indigenous Eyes Only: A Decolonization Handbook*.

Those wishing to advocate for restorative justice and restorative practices in higher education should ask themselves and these institutions the following questions:

1. What are your (vs. institutional) goals and intended purpose in using this model?
2. What resources (time, staff, and money) is your institution willing to offer for its implementation?
3. Is your institution committed to instituting the community-building and relationship-forming aspects of restorative practices? If not, then perhaps this practice should not be implemented at your institution.

Decolonizing restorative justice in higher education means moving beyond person-to-person harms. All four corners of a campus must be committed to digging down to and pulling up the roots of harm. Institutions of higher education must be willing to name white supremacy, name racism and oppression, and name the ways they and their institutions have been complicit in upholding these models. Institutions have to be about building relationships and dismantling white supremacy. Traditional notions of justice must be challenged through sustained dialogues and intentional cross-cultural communication—initiatives that are fully within the power of higher educational institutions to make happen.

DISCUSSION QUESTIONS

1. What steps has your institution taken, intentional or not, to preserve whiteness as normalcy, and what specific measures can be taken to uproot those practices, procedures, and policies?

2. How do we reimagine the college campus and the communities within? What can community look like if we invested time and money in building and expanding relationships? What would that investment look like in ten years?
3. How do we get colleges and universities to go beyond what critical race theory calls “interest convergence”? How do we get institutions to care about diversity, inclusion, and community because that is essential to our well-being and not because it supports the bottom line?

ACTIVITIES

1. For practitioners who are training other facilitators, consider having them unpack their identities in relation to their work as facilitators. This identity activity can be done in a variety of ways; one of those may be to use the activities found at this link with the perspectives of current RJ facilitators in mind: https://intraweb.stockton.edu/eyos/affirmative_action/content/docs/Interactive%20Diversity%20Booklet%2010-14-2011%20Rev%203_1_16.pdf.
2. As many people are aware, bias runs deep in our everyday lives. Engage facilitators and the campus community in discussion with our own biases through the use of the implicit bias test available through Harvard University: <https://implicit.harvard.edu/implicit/>.
3. Facilitate Circle lunches with people in positions of authority to walk through the discussion questions. Allow them to practice the community-building Circles that a whole-school approach desires for the larger campus community. Ideally, the activity will give them insight into the power of Circles.

RESOURCES

- Blackwell, Angela Glover, Stewart Kwoh, and Manuel Pastor. *Uncommon Common Ground: Race and America's Future*. Revised and updated edited. New York: W. W. Norton, 2010.
- Skidmore Project. Those interested in restorative justice in higher education may want to look at the Skidmore Project as a starting point to connect with other campuses with restorative justice programs: <https://www.skidmore.edu/campusrj/index.php>
- Winn, Maisha T., and H. Richard Milner IV. *Justice on Both Sides: Transforming Education Through Restorative Justice (Race and Education)*. Boston: Harvard Education Press, 2018.

NOTES

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