

## Atlanta, Georgia

# Report to the UN Universal Periodic Review of the US The Criminalization of Black Public School Educators in Atlanta

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**Supporting Organization: Southern Anti-Racism Network**

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The 2009 Atlanta Public Schools (APS) cheating scandal was a time period in which educators were accused of changing students' answers from wrong to right on a state standardized test called the Criterion Referenced Competency Test. It was the subject of national headlines, especially because then superintendent Beverly Hall, who was hailed as a corporate-friendly reformer in urban education, faced a stunning fall from grace. Including Hall, thirty-five APS employees were indicted on RICO charges; all but one were African American—and some faced prison terms of up to fifty years. The trial that eventually followed was the longest and most expensive in Georgia's history. One of those charged and ultimately convicted on April 1st, 2015 was Shani Robinson, at the time a thirty-year-old former first grade teacher, a Teach for America alumna, and nine days after being convicted, a new mother. Shani is a board member of the Southern Anti-Racism Network (SARN). SARN has committed to supporting Shani with seeking justice in this case.

Shani and her co-defendants were collateral damage in a crisis caused by an education reform movement that is increasingly shaped by business interests—interests that have for years been decimating black and brown schools and neighborhoods in Atlanta and beyond. As a convicted felon, charged with erasing and correcting her students' answers, Robinson initially faced twenty-five years in prison for something she did not do. Prosecutors argued that she aimed to boost her students' scores in order to win a bonus, but she never received extra money, and her first graders' test scores did not count toward the benchmarks that schools were expected to meet. Though desperate to stay with her baby, she refused to make a false confession in exchange for a lighter punishment and was ultimately sentenced to one year in prison and four years of probation. Today, her appeal pending, she is deeply troubled by the trial's fallout on her and her co-defendants' lives.

The scandal and trial were also a travesty for the Atlanta Public Schools, which had long served a majority-black student body under majority-black leadership in a city known as the Black Mecca, a place where black folks have thrived economically,

politically, and culturally in spite of bitter oppression. In the end, it was Atlanta's political and business elite's drive to entice wealthy and middle-class white residents to the city that led to the heightened pressure over

district test scores and ultimately to the cheating scandal. Urban renewal planning in Atlanta, as well as a host of related issues, thwarted quality education for Atlanta's public school students long before answers were changed on students' tests.

### **The criminalization of black educators and its impact:**

1. **Overblown Charges.** The way RICO was used in this case was unprecedented. To be classified as a racketeer under the RICO act, all it took was for you to be employed by Atlanta Public Schools during the dates in question. Judge Jerry Baxter, the trial judge, gave questionable instructions to the jury. He said that although the defendants were accused of violating *both* subsections of Georgia's (RICO) law, he would allow a conviction if the jury found that they had violated just one. Essentially, one juror could find that RICO was violated one way, and another juror could find that it happened a different way. The jurors would NOT have to come to a unanimous agreement to find any or all of the defendants guilty of the charges.

RICO must be applied to crimes committed for financial gain, but some of the defendants currently under appeal never received bonus money (the group of defendants collectively received only a few thousand dollars), and some taught at grade levels in which test scores did not count toward the benchmarks that qualified educators for bonuses.

2. **Racial Bias.** Even though white educators were originally implicated in a special state investigation into cheating in Atlanta Public Schools, 34 black educators and one Filipino educator were ultimately indicted. A state audit that preceded the investigation found that cheating likely occurred in 20 percent of Georgia's public schools. A separate investigation into Dougherty County schools found that cheating was nearly as widespread there as it was in Atlanta. Nationwide, cheating had been documented in school districts in 39 states and the District of Columbia. But even though the problem is extremely widespread, felony charges were only brought in a district led by a black superintendent with a majority of black employees.

The APS cheating trial is a prime example of the overall problem of mass incarceration that targets black communities. It's the school-prison-pipeline: Teacher's Edition. There has been a great decline in black public school educators over the years, and the APS cheating trial has likely contributed to that.

**3. Unfair trial.** The judge in this case has consistently displayed a strong bias against the defendants, most recently telling their attorney in court that he would like to drop him through a trap door with alligators underneath. Judge Jerry Baxter (the trial judge) acknowledged that witnesses lied in their testimony, stating that “perjury is being committed daily here,” but he did not strike perjured testimony from the record. Judge Baxter tried to help a witness identify a defendant by allowing her to walk around the courtroom and telling her, “You’re getting cold.” One witness indicated that prosecutors pressured him to make false statements in his plea agreement; he was one of two witnesses who recanted allegations during testimony. Prosecutorial misconduct was also at play; Judge Baxter scolded a lead prosecutor for repeatedly making facial expressions apparently intended to influence the jury.

**4. Smokescreen for Political Agendas.** The APS cheating trial was used to undermine public education and portray it as a failure. On the same day the prosecution rested in this case, the Governor at the time, Nathan Deal, introduced new education legislation called the Opportunity School District. It was modeled after Louisiana’s Recovery School District, which allowed the state to take over failing schools. Following the announcement of the OSD legislation, the current APS superintendent gave an entire cluster of schools to a charter operator and called it “partnership schools.” The APS cheating trial was a smokescreen for the privatization of public schools.

The model for simultaneously privatizing public housing and public schools in Atlanta, as in other cities, came together in a seamless trend as real estate developers, bankers, and corporate executives vied to sit on school boards and the boards of nonprofits that fund charter schools. Others cycled between corporations, foundations, and elected office where they pushed pro-charter policies amenable to their business interests. Among many such deals, Atlanta’s TADs (tax allocation districts) have channeled more than \$1 billion in public funding—much of which has come from Atlanta Public Schools—to private developers for luxury housing, office towers, and the city’s Beltline project, which has been a driving force of gentrification that displaces black residents.

## **Recommendations**

1) We urge the UN to recommend that Fulton County Superior Court terminate the charges of the 11 defendants found guilty in the Atlanta Public Schools cheating trial and grant restitution to all 12 defendants that ultimately went to trial.