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## **BELL, D. (2004). SILENT COVENANTS: BROWN V. BOARD OF EDUCATION AND THE UNFULFILLED HOPES FOR RACIAL REFORM. NEW YORK: OXFORD UNIVERSITY PRESS.**

Beth Wassell

As an educator, I never questioned the power of *Brown v. Board of Education* as a testament to the maturation of our nation's beliefs about segregation. However, in *Silent Covenants: Brown v. Board of Education and the Unfulfilled Hopes for Racial Reform*, Derrick Bell shatters the ideologies associated with the landmark case and argues that *Brown* offered little more than symbolic encouragement that discrimination could be overcome by litigation. Bell, currently a visiting professor of law at New York University, spent a considerable part of his career as an NAACP Legal Defense Fund lawyer and worked on numerous school desegregation cases. In this review, I first expound upon Bell's general argument of *Brown* as an unfulfilled dream for racial reform and then offer a critical look at the points that offer implications specific to educational practitioners, researchers and policymakers.

Bell outlines the context for the *Brown* decision by describing two types of silent covenants that have stimulated several policy decisions in U.S. history: racial-sacrifice covenants and interest-convergent covenants. Racial-sacrifice covenants are policy decisions that "sacrifice the freedom interests of blacks to resolve differences of policy making whites," (p. 38) such as protecting slavery in drafting the Constitution to ensure ratification by the Southern states. Interest-convergence covenants are decisions in which "black rights are recognized and protected when and only so long as policymakers perceive that such advances will further interests that are their [whites'] primary concern" (p. 49). After setting forth these concepts, Bell asserts *Brown's* legitimacy as an interest-convergence covenant that was directly related to the nation's Cold War concerns. Thus, *Brown* was less an issue of discrimination and more a means to reinforce the country's image as democratic and anticommunist. Both racial-sacrifice and interest-convergent covenants result in "racial fortuity" (p. 69) for blacks, which make them third-party beneficiaries. Yet similar to the Emancipation Proclamation, Bell contends that *Brown* had a "symbolic effect that far exceeded its legal force" (p. 55).

Bell acknowledges the difficulty in accepting his critical view of *Brown's* pragmatism: "*Brown* has become a legal landmark, an American icon embraced as a symbol of the nation's ability to condemn racial segregation and put the unhappy past behind us" (p. 130). In Chapter 3, Bell offers a provocative alternative decision to *Brown*, and argues that by upholding the *Plessy v. Ferguson* "separate but equal" decision, the Court could have encouraged more realistic and beneficial educational results for black students. In this alternative opinion, he claims, "[M]ore important than striking down *Plessy v. Ferguson* is the need to reveal its hypocritical underpinnings by requiring its full endorsement for all children, white as well as black...Realistic rather than symbolic relief for segregated schools will require a specific, judicially monitored plan designed primarily to provide the educational equity long denied under the separate but equal rhetoric" (p. 24).

Bell's alternative decision offers a critical reframing of the issue in light of the needs of black students, which is especially salient today given the prevalence of de facto segregated schools and the disparity of funding between urban schools (which are increasingly populated by students of color) and their suburban counterparts.

Interestingly, Bell claims that in his personal evolution, he has "abandoned [his] integrationist idealism" (p. 161) and recognized his responsibility to provide black students with an effective education. He offers two suggestions: reducing the disparities in school funding and the revival of alternative types of inner-city schools, such as independent, private, and charter schools and tuition vouchers. Bell cites several cases that have argued the issues of school financing and makes an integral point: "courts generally do not make the connection between unequal funding and race" (p. 163). Again, as was the case around the *Brown* decision, black students' needs are being compromised, yet little action has been taken to desegregate the funding (p. 161).

In *Silent Covenant* Bell raises several critical issues surrounding predominantly black urban schools. Unfortunately, he offers little in the way of practical suggestions that can go beyond the rhetoric that black students need more funding, better teachers and resources. Given Bell's involvement in school desegregation litigation, his arguments nevertheless cannot simply be dismissed as unfounded. In essence, Bell provides a strong argument and ample evidence to show *Brown's* status as more symbolic than effective. The most noteworthy aspect of the book is Bell's ability to weave current issues into his *Brown* argument such as the economic foundation of racism, affirmative action and urban education, thus making it an important read as we consider the

social consequences of the *Brown* decision after 50 years.

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