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Looking Back at Brown

3 books reflect on the 1954 Supreme Court decision and the effects it has had on America

By **David J. Garrow**, the author of "Bearing the Cross," a Pulitzer Prize-winning biography of Rev. Dr. Martin Luther King Jr.

BOOKS; Pgs. 1, 4.

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Silent Covenants: Brown v. Board of Education and the Unfulfilled Hopes for Racial Reform

By Derrick Bell Oxford University Press, 230 pages, \$25

The Failures of Integration: How Race and Class Are Undermining the American Dream

By Sheryll Cashin PublicAffairs, 391 pages, \$26

All Deliberate Speed: Reflections on the First Half Century of Brown v. Board of Education

By Charles J. Ogletree Jr. Norton, 365 pages, \$25.95

The 50th anniversary of Brown vs. Board of Education, the 1954 U.S. Supreme Court decision striking down government-imposed racial segregation in public schools, should inspire widespread celebration. But especially among African-Americans, Brown's ostensible beneficiaries, the May 17 anniversary now elicits ambivalence rather than elation.

The contrast from 50 years ago could not be greater. In 1954, Thurgood Marshall, the plaintiffs' lead lawyer, predicted that school segregation would fully vanish within five years and said he was "so happy I was numb." But Marshall's optimism dissipated rapidly. One year later the Supreme Court instructed the defendant school districts to implement desegregation "with all deliberate speed" and returned the five distinct cases that Brown comprised to the lower courts. There, the most influential order declared that Brown "does not require integration. It merely forbids discrimination" and "the use of government power to enforce segregation." Thirteen years passed before the Supreme Court explicitly repudiated that view and finally ordered large-scale desegregation of Southern schools that were almost as racially separate as in 1954.

The late 1960s and early 1970s witnessed a great upsurge in pupil integration across the South. But in a subsequent series of decisions reaching from 1974 to 1996, involving Northern cities such as Detroit and St. Louis, the Supreme Court refused to order metropolitan-wide integration for major urban areas whose schools often remained as racially discrete as those challenged in Brown. By the mid-1990s, school desegregation cases were coming to an end both north and south.

That history largely explains the mixed feelings Brown evokes today. Blacks nowadays are "ambivalent integrationists" whose "frustration with the unmet promises of integration" has led many to adopt "a 'post-integrationist' mind-set," writes Sheryll Cashin in "The Failures of Integration," her superbly erudite and enormously thoughtful new book.

Cashin's belief that "there is some buyer's remorse in the civil rights community about integration" is more than borne out by Derrick Bell's provocatively sardonic "Silent Covenants."

Bell was an attorney for the NAACP Legal Defense Fund during the 1960s in the South, but as early as the mid-1970s he publicly critiqued the unquestioning faith in integration that had guided his legal work. Revisiting those early and highly influential criticisms, Bell recalls regretfully that black parents "recognized long before their civil rights lawyers that the effort to racially balance the schools was not working."

Now, "having abandoned my integrationist idealism," Bell calls Brown "a serious disappointment" and a "failure." He observes that many other veteran activists likewise "came to see a singular focus on racial balance in public schools as actually counter-productive. Zealous faith in integration blinded us to the actual goal of equalizing educational opportunities for black children, and led us to pursue integration without regard to, and often despite, its ultimate impact on the well-being of students." With poignant remorse, Bell recounts how in 1961 several local activists in Mississippi beseeched him to help reopen a recently closed school. "Sadly unaware of the value of a black school in a small community, I told them that our crusade was not to save segregated schools but to eliminate them."

"Silent Covenants" examines Brown's post-1954 impact from a perspective readers may find either refreshingly realistic or cynically pessimistic. Declaring that "racism is permanent in this country," Bell explains that Brown should be seen as a decision that did more for white America's self-image than for black people. By portraying "state-supported racial segregation as an eminently fixable aberration," Bell writes, "the Brown Court foreclosed the possibility of recognizing racism as a broadly shared cultural condition."

Drawing upon the historical scholarship of Mary Dudziak, Bell contends that Brown "represented a convergence of black and the nation's interests" because the ruling greatly aided America's Cold War struggle against the Soviet Union. "[T]he Supreme Court was motivated to decide Brown as it did because it agreed with the State Department that invalidating segregation in the public schools would benefit the nation's foreign policy," Bell states.

That formulation may seem simplistic, yet Bell also agrees with scholars "who maintain that post-World War II civil rights progress would have come without Brown." Given Bell's view of American racism, he labels Brown "more a racial provocation than a remedy," for its primary effect, he says, was to stimulate violent resistance from angry white segregationists, violence that offended most Americans. This backlash argument minimizes the tremendous affirmative impact Brown had on civically active black Southerners who already were resisting segregation and drew tangible encouragement from the Supreme Court's ruling.

Yet Bell's diminution of Brown's importance supports his belief that "Brown teaches that advocates of racial justice should rely less on judicial decisions." Bell's argument challenges the widespread conviction that Brown is the ultimate example of how fundamental social change can be won through the courts. Bell expands his claim by contending that the Supreme Court's notable 2003 decision upholding affirmative action admissions programs, *Grutter vs. Bollinger*, likewise was a deceptive if not hollow victory. "A defeat for affirmative action advocates," he counterintuitively asserts, "might have motivated a challenge now to the use of standardized tests and preferential nonrace policies that will eventually be needed."

Bell, a former Harvard University Law School professor now teaching at New York University's School of Law, represents the generation of activists who fought the civil rights battles of the 1960s. His pervasive melancholy may surprise readers who expect movement veterans to celebrate victories rather than rue their missteps, but to Bell the very perception of Brown as a victory is a "mirage" that must be vanquished.

Charles Ogletree, a Harvard law professor who calls Bell his "mentor," is a generation younger, having graduated from Harvard Law School in 1978, two years after Bell's first critique of integrationist ideals. Ogletree's new book, "All Deliberate Speed," is less history than memoir, and its most interesting chapters describe Ogletree's own life course rather than the history of Brown.

Ogletree grew up in Merced, Calif., the oldest child of a truck driver whose gambling problem often left his family in dire want. "The material poverty we lived in was palpable," Ogletree writes, and he poignantly recalls a day during his first year of school when a teacher gave him a new set of clothes to replace the dirty hand-me-downs he had worn to class.

But school provided Ogletree a path to his future. "Books were my addiction," he writes, "and I could not feed it fast enough." At Merced High School, Ogletree was elected student body president, and a guidance counselor persuaded him to apply to Stanford University rather than the local junior college.

During his freshman year at Stanford, Ogletree was elected president of the Black Student Union. Black students were "in constant search of reasons to protest," Ogletree recalls, and he became coordinator of Stanford Students for the Defense of Angela Davis, the African-American Communist Party leader who was tried, and acquitted, of murder-conspiracy charges in 1972. The Davis trial impelled Ogletree to apply to law school, and he arrived at Harvard during the height of Boston's intense struggle over court-ordered school busing to desegregate one-race schools.

Ogletree found Harvard Law School less than welcoming to black students, and "our peers' assumption that we were 'special admits' made the environment even less hospitable," he writes. Ogletree was a volunteer at the Boston NAACP office, and, like Bell, he now questions his own failure "to ask the hard and obvious questions about what we were doing. . . . Did anyone ask whether the black parents were getting the best for their children by sending them into white schools. . . . We didn't ask these questions then, to our regret, and perhaps to the harm of our children."

Ogletree was a public defender in Washington, D.C., after law school and then joined the Harvard law faculty in 1989. But despite a happy and successful life that undeniably has benefited from Brown's legacy of educational integration, Ogletree's verdict on the landmark decision is just as negative as his mentor Bell's. Ogletree acknowledges Thurgood Marshall's "optimism that the courts could eliminate segregation" but argues that "full equality in education . . . was compromised from the beginning" by the Supreme Court's refusal to issue "an immediate injunction against segregation." Thus Brown was "ultimately unsuccessful," and 50 years after the decision "there is little left to celebrate."

If Bell and Ogletree's glum pessimism is dispiriting, Cashin's impressively astute analysis in "The Failures of Integration" is a bracing tonic for anyone seeking a hopeful vision of a brighter racial-justice future. A decade younger than Ogletree, Cashin grew up in Alabama as the daughter of "an admitted 'black supremacist,'" Dr. John L. Cashin Jr., a well-known political activist. After law school she clerked for Thurgood Marshall during his final year as a justice on the U.S. Supreme Court. Cashin served in the Clinton White House as a domestic policy adviser, and since 1997 has taught law at Georgetown University.

Cashin admits that black people "have become integration weary" and acknowledges that "it is hard to find ardent black voices for integration and amazingly easy to find ambivalent ones."

Some of that ambivalence, she writes, represents "a nostalgic cry for an intact, pre-integration black community that may never have been as good as it seems from the distance of time."

But Cashin is a fervent if slightly apologetic champion of the integrationist ideals that Bell has forsaken. Despite some misgivings, "I have become convinced," she writes, that "racial and economic integration" offer "the best route to equal opportunity for everyone" and "the best route to closing the egregious gaps of inequality that weaken our nation."

Cashin looks carefully at education and reports that American public schools "are rapidly becoming more separate and unequal." The "idea and vision animating Brown could not be farther from the reality of American public education today," Cashin writes, but rather than despair, she outlines a vision she acknowledges is "optimistic" and indeed "utopian."

"The best avenue to bringing about equality of educational opportunity," she explains, "is to bring about more socioeconomic integration in American public schools," and greater socioeconomic diversity in residential neighborhoods is the surest and most direct path to that goal.

"[M]ost upper-income black people are just as uncomfortable living in close proximity to their lower-income brethren as are white folks," Cashin reports. "[I]ncorporating African-Americans into other people's life space is the great challenge of integration," and "new multirace, multiclass coalitions" of grassroots citizens committed to residential diversity will be needed to advance that agenda.

If "the transformative integration of the races and classes that I have in mind" occurred, Cashin says, America would have "no high-poverty schools" and could achieve "the eventual eradication of anything approaching ghetto conditions." Then "all children would be able to attend schools that offer them a meaningful shot at a world-class education and the opportunity to move beyond circumstances of birth and chance."

Cashin realizes that jaded social critics may find her program utopian indeed, but she correctly contends, "The greatest social changes in the United States were premised on optimistic visions rather than pessimistic ones." Those who disagree will find Bell's "Silent Covenants" powerfully reinforcing. But anyone who wants to celebrate Brown's 50th anniversary, rather than dismiss it, will draw practical inspiration from Cashin's eloquent call for a national recommitment to Brown's timeless ideals.

PHOTOS (color): (Book covers.)

PHOTO (color): Elizabeth Eckford is jeered by angry whites as she walks to Central High School in Little Rock, Ark., in 1957, more than three years after the U.S. Supreme Court struck down government-imposed racial segregation in public schools. Tribune file photo.

PHOTO: White students block the path of black students trying to enter an Arkansas high school in September 1957. AP file photo.