

What Happened to Brown? A Review Essay

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Books reviewed in this essay

After Brown: The Rise and Retreat of School Desegregation

Charles Clotfelter

Princeton: Princeton University Press, 2004

216 pp. \$24.95

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

Sheryll Cashin

New York: Public Affairs, 2004

320 pp. \$26

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

Charles J. Ogletree, Jr.

New York: Norton, 2004

416 pp. \$25.95

MAY 17, 2004, MARKED THE fiftieth anniversary of the *Brown v. Board of Education* decision, and the year 2004 witnessed an outpouring of celebrations and commiserations, with achievements loudly proclaimed and disappointments duly noted. The bare demographic facts of the period are stark in the simplicity of their statement: Public schools in America that were over 50 percent African American declined from 76 percent in 1968, to 63 percent in 1972, but had risen to nearly 70 percent in 2000. For Hispanics the rise and fall of public school segregation was even worse. The schools for African Americans and Hispanics were inferior to white schools in physical plant, books, certified teachers and curriculum. Despite some improvements, this was true before *Brown* and continues to be true today. Indeed, some schools are now more segregated than before *Brown*.

Nearly all the observances focused on the court decision as the signal legal event of the century that ended the apartheid decision of *Plessey* (1896). But the court decision only symbolically marked the end of one era and represented the culmination of years of carefully planned litigation, political maneuvering and the witnessing of cataclysmic events of national and world significance that impinged on or were actively initiated by the African American plaintiffs, in their struggle for full participation in the nation. Without understanding this context one cannot truly understand *Brown* or what it represents.

A mere 20 years after the Civil War, African Americans founded the Afro-American League in 1887, with the signal intent of supporting the *Blair Education Bill* which was before Congress and whose mandate was to provide equal Federal funds for black and white schools while maintaining segregation — anticipating Professor Derrick Bell's (*Silent Covenant*, 2004) despairing suggestion by over a century. Some Southerners accepted this plan but most Southerners (and a few Northerners) rejected the plan. In 1891, after much debate, it went down to defeat. This defeat had enormous implications for black empowerment in the South and one black spokesman said that the "failure [of the Blair bill] would be a disaster for the whole country, especially to the black race." But the bill was defeated despite this foreboding and eventually led to the demise of the Afro-American League in 1908.

The downfall of the League led to the formation of the National Association for the Advancement of Colored People (NAACP) in 1909. The NAACP and its legal defense arm maintained as its principal objective the same motivation as that of the League — the ending of segregated public schooling in the South. But this time, its primary strategy would be through the courts rather than through the legislative process.

Charles Hamilton Houston was the main strategist of the legal program of the NAACP. Houston and his colleagues thought that the courts were less susceptible to the vagaries of the political process and more open to the presentation of facts, rather than being swayed by emotion or ideology. Ultimately they were to learn otherwise. The NAACP embarked on the complex and tortuous journey that began with graduate schools and law schools, and

ultimately public schools that culminated in the *Brown* decision of 1954.

Brown stood in 1954 like a bright light emerging from the Stygian swamp of the decades preceding it. For example, 1925 in Detroit, a so-called liberal northern city, there were 35,000 registered members of the Ku Klux Klan. Charles Ogletree notes that “between 1890 and 1930 an estimated 3,220 African Americans were lynched in the South alone, 7 in the Northeast, 79 in the Midwest, and 38 in the far West.” It was not just the existence of segregation itself, but the pall of oppression that permeated every aspect of life and affected the psyches of blacks and whites in their complex relations with each other to the present day. That this way of life was sanctioned by the nation’s highest court and ignored by Congress, gave it a special resonance and permanence.

However, black GI’s were returning from WWII in 1946 with the belief that they had been fighting two wars: over the enemy abroad and over segregation at home. Segregation was already being chipped away at the edges before *Brown*. The armed forces were integrated by Harry Truman’s Executive Order in 1948 — over the objection of Dwight Eisenhower. Major league baseball was integrated by Jackie Robinson in 1947 — over the objection of Southern ball players. The whole world was changing: the Bandung Conference of 1955 brought African and Asian countries together to discuss throwing off the shackles of colonialism. It was in this postwar atmosphere of revolution and change that the *Brown* decision was rendered. *Plessey* could not have been overturned just a decade before. In the United States in 1935 the nation was a very different place.

The decision of 1954 was freighted with special implications beyond its immediate application to public schools. The African-American community instantly realized its logic would inevitably bring into question not only other segregated institutions but would profoundly (and perhaps permanently) change American life. The decision, it was expected, would lead to the inexorable crumbling of some of the barriers of that life — but not willingly and not without massive struggle, riots, demonstrations and the bloodshed of African Americans and many others allied with them: the murders of Michael Schwerner, Andrew Goodman, and James Chaney — three civil rights workers; the bombing of a Birmingham church causing the death of four black girls; the police brutality against dozens of peaceful demonstrators at the Edmund Pettus Bridge; and on and on. These people paid the price to implement *Brown*.

II

BROWN was a compromised decision to begin with. To obtain a unanimous decision to announce such a break with history and tradition, Chief Justice Earl Warren was compelled, despite the decision’s lofty language, to be quite vague about its implementation. This vacuum subsequently led to *Brown II* (1957), which was ostensibly to give guidance to beleaguered district judges, who were hearing all kinds of dodges to prevent integration. But *Brown II* contained the poisonous and infamous phrase “with all deliberate speed.” This phrase, much to the plaintiff’s lawyer Thurgood Marshall’s profound disappointment, and unleashed a storm of delaying maneuvers: states passed interposition and nullification used (which has been outlawed over 100 years before), gerrymandered attendance lines, shifts of public funds to private schools, separate racial tracks within schools, refusal to levy for public education, and sometimes outright defiance (the “Southern Manifesto” of Southern leaders is an example). With the exception of cases such as *Cooper v. Aaron* (1958) and *Bush v. Orleans-School Board* (1960), there were the no cases that reached the Supreme Court by 1964. Thus, the decade from 1954 to 1964 saw almost no progress in school desegregation.

In 1964, and 1965, two measures were passed by Congress that dramatically changed the pace of desegregation: The Civil Right Act of 1964 and the Voting Rights Act of 1965. The Civil Rights Act, with its threat of the withdrawal of federal funds was instrumental in spurring enforcement of desegregation orders. This act, in conjunction with favorable court decisions *Green v. County School Board* (1968), and *Swann v. Charlotte -Mecklenberg* (1971), gave powerful tools to the courts to insist that school district obey their orders, and that eventuated the Southern schools ironically becoming the most integrated schools in the nation. And the Voting Rights Act, which empowered blacks to vote, gave Southern lawmakers pause before committing acts that violated black rights. Again, it is reflected in the dramatic shift in the numbers that the decade from 1964 to 1974 saw the greatest progress in desegregation. Charles Ogletree, then a student at Stanford, realized the importance of the profound impact these decisions had on the politics of the Congress and on the courts. Ogletree describes “the push for civil rights, the protest against the Vietnam war” and recognized quite rightly that attending an elite, predominately white university, we were . . . the beneficiaries of *Brown*.” However, Lyndon Johnson said prophetically after the Civil Rights Act passed, “We have just lost the South.” He meant with the passage of the Act, the South would become Republican as, indeed, it did under Nixon and Reagan, and with the appointment of over 300 conservative federal judges the courts would be more

reactionary.

In 1974, *Milliken v. Bradley* sounded the death knell of desegregation and forecast the gradual resegregation of public schools. *Milliken* was a Detroit case that ruled that students could not be bused to surrounding suburbs unless the suburbs were officially involved in segregation. The suburbs, however, did not have to adopt an official policy of segregation. Their history did that for them. Charles Clotfelter notes that, "Racial zoning was declared unconstitutional in 1917, but some cities continued to enforce it into the 1950s. Clotfelter goes on to quote Douglas Massey who documented that "over the past ninety years, segregation patterns in the United States have consistently evolved to satisfy one overriding principle — the minimization of white-black contact." Moreover, following World War II, the explosion of the suburbs was abetted by the GI Bill's housing provision that contained the admonition that "traditional racial housing patterns were to be maintained." This provision guaranteed that the suburbs would be racially restricted. This was compounded by "white flight" which was accelerated by the Court ordered school integration.

The public schools in the 25 largest cities in the United States have populations that are majority minority, indeed overwhelmingly, regardless of the overall racial population of the cities. Sheryll Cashin summarizes the result today: "Black and brown public school children are now more segregated than at any time in the past thirty years."

The rationale for striving for integration in the first place was to give minority students access to better resources, therefore, improving their academic achievement as well as improving their self-concept. Numerous studies have been done of the effects of desegregation on academic achievement, far fewer on the complex topic of self-concept or intergroup relation.

Looking at a review of 48 studies of desegregated schools (Weinberg, 1977) the author observes "that a majority of the studies conclude that desegregation has positive effects on the achievement of African-American students." The majority of studies had been done on black students' achievement because they were the primary focus of desegregation. However, the few studies of Hispanic children reveal that their academic achievement is also enhanced in an integrated setting. The studies also found the "achievement of white students was not lowered in a desegregated setting." Moreover, there was a positive effect on black students in their later life choices. For example, college choice and college completion rates were higher for blacks who had attended desegregated elementary and secondary schools. These are some of the losses that are occurring with resegregation.

III

THE THREE BOOKS WE look at in this essay discuss where we have been and where we have come to in the fifty years since *Brown*, and they represent a cross-section of the hundreds of book, conferences and symposia proceedings that have been issued in observance of the milestone in desegregation. Charles Clotfelter's study, *After Brown* (2004), is an excellent mostly statistical study of (according to his subtitles) "the rise and retreat of school desegregation." In numerous tables he documents the physical and social separation in schools of the races in 1954 and traces the evolution of that separation to the year 2000. He makes an important point: "the fact at the heart of both the apartheid practices in the American South and the *Brown* decision that ruled it unconstitutional was the physical separation the races." In other words, he surmised that the Court took a look at both the residential segregation and the state mandated separation in the schools as dually contributing causes of school segregation. But the Court chose the easier path of only seeing state action as requiring federal intervention and "left unsettled by *Brown* . . . was whether racial segregation in school [was] brought about by segregated residential patterns . . . (and whether it) is might not also be vulnerable to constitutional challenge." The broader challenge and its more fundamental consequences was, alas, never addressed by the Court, but Clotfelter does observe that during the period 1968 to 1972, as a result of vigorous action by the federal government schools in the South progressed "from the most to the least segregated in the country."

Contrary to Clotfelter, Charles Ogletree, although born in 1952 — a "*Brown* baby" as he describes himself — spends much more time in his book describing the condition of black people prior to 1954. In the South, "African Americans were removed from the voting rolls . . . [and] were excluded from jury service . . . [and African Americans] suffered not only economic and political oppression but also violent repression by whites, most notably through lynching." He mentions "the Chicago riots of 1919" as well as "the Tulsa, Oklahoma riot of 1921 by whites." He further describes that period as witnessing the founding of black organization businesses and newspapers that provided some solidarity and protection to the black community.

Sheryll Cashin spends little time on America before *Brown*, but she performs a valuable service by describing the present state of race relations and stating that “racial segregation is still pervasive and class segregation seems to be the accepted norm.” Cashin, a middle-class law professor, describes her personal commitment to integration and her desire to live in a racially mixed community. But it is her description of class barriers that impressed me as providing the most insightful contributions to understanding the difficulties confronting the attempt to build a truly integrated community today.

Cashin provides five reasons that contribute to the maintenance of segregated communities. One, “blacks face integration exhaustion . . . they prefer places that are recognized as being welcoming to blacks and seem less willing than in the past to be integration pioneers.” Two, “whites place a premium on homogeneity. Whites are less likely than blacks to want to live in diverse neighborhoods.” The other barriers have to do with racial steering, discriminatory dealings of real estate agencies and biased practices of financial institutions. Although official barriers no longer exist, there are considerable pressures from unofficial but pervasive, sometimes illegal, barriers that contribute to maintaining segregated neighborhoods.

In her description of class differences in white and black communities, I believe Cashin makes the most original contribution, of the books discussed here. Clotfelter mentions class only in passing as it affects ability to pay for college. Ogletree is aware of class since he grew up in a working-class black family, where he was the first member to go to college, but he mentions class only offhandedly. Clotfelter quotes Senator Sam Ervin of North Carolina writing in defense of segregation: “Racial segregation . . . results from the exercise of fundamental American freedom — the freedom to select one’s associates . . . man finds his greatest happiness when he is among people of similar cultural, historical and cultural background.” Taken out of the realm of racial segregation, this definition seems to serve quite comfortably defining the social class separation of whites and social class distinctions of black as well.

Cashin makes an astute observation that seems to follow quite naturally from the foregoing statement: “Because the black elite have choices about where to live, work, learn and spend their money, blacks are no longer forced to depend upon one another . . . interdependence was the key to viability of black communities in the era of Jim Crow.” Whites are fleeing to the suburbs to escape, among other things, integrated schools, and the black middle class is seeking to separate from the black lower class equally for better schools as well as better housing choices. Saying this is not meant to guilt-trip middle class blacks but it is just a statement of fact. That Cashin makes this observation is due to her keen insight, and simply confirms the observation that blacks operate in accordance with their class interest: nonetheless, they are not to be viewed as a monolithic blob as is the usual practice with social commentators. This class interest serves to cause middle class blacks today to ask not “does it serve the black community?” but rather “does it serve me?”

Cashin does go on to add: “Black professionals who have chosen to live in separated neighborhoods but opt out of the public schools, or who harbor a classism toward other black people, pay for it in the long run.” Perhaps they do, but they, like middle class whites, are willing to amok that payment. The problem is, do middle class blacks, like middle class whites, look on the academic achievement potential of lower class blacks as trapped by their social and economic circumstances? To answer that question we have to briefly review the history of the immediate period of the 1950s leading up to the present.

American society became more conservative during the Cold War years, seeing the specter of Russia and Communism as the devil incarnate. And the Reagan and Nixon administrations solidified this by their conservative appointments to the federal courts and particularly to the Supreme Court. Meanwhile, the country’s economy shifted from a manufacturing base to a technology and information base and demanding that its workers be better trained and educated. Where less than 30 percent of American high school graduates in the 60s went on to college, by the year 2000, the number had increased to 44 percent.

The pressure on higher education saw a greater reliance on SAT testing as a sorting device to separate the admission winners from the losers. The intense competition for the most desirable slots in higher education, at elite schools, is causing whites to be less supportive of affirmative action. And mandatory testing has spread like the plague down the educational ladder to middle schools and elementary schools, down to George Bush’s “No Child Left Behind” initiative that requires that testing be conducted by as early as the fourth grade. If students do not perform up to a specified standard, the school may be threatened with closure. The Bush administration has not fully funded the program, which demands equal standards for still unequal schools, particularly schools serving poor students of color. Many commentators see NCLB as a program that was designed for failure. Monty Neill of Fair Test says, for example, “that making adequate yearly progress toward that [testing] goal is such that virtually no schools serving

large numbers of low-income children will clear these arbitrary hurdles.”

Alfie Kohn (*Phi Delta Kappan*, April, 2004) predicts that the result will be to “segregate schools by ethnicity . . . (and) segregate classes by ability.” School resegregation by mandated tests will only compound the trajectory of what is occurring with white flight and black ghettoization. We observe that there is no systematic and sustained outcry from progressive and leftist whites and, with some exceptions, progressive blacks, who see the connection between the nationwide organized attack on affirmative action at the higher educational level and its ties to the systematic attacks on public schools in the name of “reform” or “leveling the playing field” or “raising standards” or “race neutral” or any other euphemism that means pushing out the lower class, impoverished youngsters of color. Education is all one system — to suppress one part affects all others. The outcome will be: the ghettoization educationally of poor blacks and Hispanics.

Charles Ogletree mentions how he and his wife are involved in several excellent projects and they discuss others efforts to improve education for blacks and Hispanics in Cambridge and elsewhere such as Robert Moses Algebra Project in Cambridge, the Duke Ellington School of the Arts in the District of Columbia and the Benjamin Banneker Charter School in Boston. The name Benjamin Banneker was selected by the organizing committee who felt that Banneker, born of slave parents, but nevertheless went on “to excel as an astronomer, mathematician and scientist,” could serve as a model to black children locked in “schools [that] have much higher concentrations of poverty and much lower average test scores. Ogletree also served as chairman of the board of a remarkable program called the BELL Project, a rigorous tutoring and mentoring program for low-income elementary school students. These programs had the audacity to “believe that all children had the capacity to excel as learners and as citizens when provided with a rich, supportive, and stimulating education environment.”

THE BELIEF THAT ALL children “had the capacity to excel” is the essence of my intent in this essay. What is missing in the current literature is a call for a national effort to raise the achievement level to excellence for all students, black and non-blacks, elementary, high school and college, lower class and middle class. There are already excellent individual projects; some of which are powerfully described by Ogletree that educate a hundred here, a thousand there, very well. Cashin speaks eloquently of a more inclusive vision when she says, “Such possibilities are achievable if the majority of people who now suffer under American separatism would organize and act to reclaim democratic processes.” But her vision is directed primarily at the black middle class to help lower class blacks. However, I am thinking more broadly of a national effort led by the left that states as its goal “excellence for all” as an achievable goal, and takes the initiative along with other groups, such as those mentioned above, and perhaps with the NAACP and La Raza, to begin to implement a program for all of the children crushed by the system regardless of race. That is a project worth of the left’s collective effort. Perhaps a dream, perhaps not.

I am reminded of the dozens of eager young teachers who I observed in Prince Edward County, Virginia, in the mid-1960s who came south to teach young blacks who had been without education for five years because their public schools had been closed rather than have them integrated. I am further reminded of the hundreds of youths who volunteered in the most dangerous of circumstances, in Mississippi and Alabama, to register blacks to vote. I am reminded of the outpouring of young people — college students, people who had never voted before — to rally for Howard Dean when he was a presidential candidate and was the only one speaking out against the immoral, illegal and unconstitutional Iraq war.

There is a vast reservoir of talented people in our population who are eager to be mobilized for some progressive, advanced, indeed revolutionary, cause if only they were given leadership. But, I suspect that will probably not happen for a complex of reasons.

Although the idea that *all* children are capable of excellent academic achievement has been demonstrated over and over through the decades, it is doubtful that behaviorally, the left or, indeed, most middle class blacks believe it. Understandably it is a difficult concept to act on in a society that is arranged hierarchically and rewards are allocated disproportionately to the top and sparingly, if at all, to the bottom; and with those at the top believing the rewards are their due.

Benjamin Bloom, professor of education at the University of Chicago, after extensive research in the 1960s concluded that “most students become very similar with regard to learning ability, rate of learning, and motivation for further learning-when they are provided with favorable learning conditions” (*Human Characteristics and School Learning*, 1976). He added, “[these] are not matters of abstract theory or faith. They depend on easily observed

evidence readily obtainable in most of the classrooms of the world or in educational research laboratories." Jaime Escalante taught mathematics to Hispanic ghetto youths at Garfield High School in Los Angeles and raised their achievement in mathematics on the PSAT to such heights that it aroused the disbelief of the Educational Testing Service. James Comer, professor of psychiatry at Yale University, began his innovative program with the 99 percent black, single parented students in two New Haven schools and raised the two schools achievement levels to nearly the top scores in the city. Barbara Sizemore, reported similar excellent outcomes with the poor black school children of Pittsburgh. Ruben Donato with the language minority Academic Services Program had poor Hispanic youngsters achieving at the top of their age group despite English being their second language. Uri Treisman formerly of the University of California at Berkeley, had his black students achieving above white and Asian students in calculus, regardless of SAT scores; in fact in some cases blacks with the lowest SAT were performing above whites with the highest SAT. All of these programs were not transitory or one time achievements but were systematically studied and published in respected journals such as: *Scientific American*, *The Journal of Negro Education*, *Harvard Educational Review* and *Phi Delta Kappan*.

Why, one may ask, didn't education leaders, mainstream or progressive and left, jump on these programs excitedly and say, "these are models which can revolutionize education, and indeed, lift achievement for every class of students." They didn't, I believe, because, no matter their protest to the contrary, they believe that "demography is destiny." That is, poverty, poor housing, single parents, etc., are barriers that stand in the way of children breeching them, and thus, never to allow lower class children to equal the academic achievement of middle class children. I am very much aware of all the educational literature agreeing with this conclusion, but I have witnessed the obverse in my years of teaching emotionally disturbed youngsters at the elementary school level and teaching undergraduate and graduate students in the university.

Here is one example: Texas passed the 10 percent plan when its affirmative action program was declared unconstitutional. That is, the top 10 percent of the graduates from any Texas high school must be automatically admitted to any public university in Texas. Some education experts said that plan was doomed to fail because if the top 10 percent of graduates from the poorest high schools had to compete with the top 10 percent of graduates from the best high schools, the poor graduates would inevitably fail. The fact is, after some years in the program, the poor high school students are doing as well as the students from the best high schools. And they are excelling equally at the University of Texas at Austin, the flagship university in Texas.

WE MUST, AS SOCIALISTS, demand the best outcome for the greatest number of people; we cannot ask for less. We must not be seduced by the usual perception of seeing elite education as being only for those who have gone to good public or elite high schools. With the decline in integrated schools, the judicial failure of *Brown* and the wealth gap increasing for blacks and Hispanics, there is the danger of throwing up our hands and abandoning those who are the focus of our efforts. We may have lost the force of *Brown*, at least for the foreseeable future. We must not lose the people whom *Brown* was intended to save. The question might be asked: "what is the nation to do with all of these educated, intellectually alive people from the lower strata of society if these programs were enacted?" Good question, and the answer is the subject of another essay.