

On The Contradictions of Civil Rights Legislation and Other Such Racial Matters.

BY David Sealy

Derrick Bell, Faces At The Bottom Of The Well: The Permanence of Racism In America

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...the law works for the Man most of the time, and only works for us in the short run as a way of working for him in the long run. (25)

From Cornell West's *Race Matters* and Patricia Williams' *The Alchemy of Race and Rights*, to Michael Eric Dyson's *Reflecting Black: African American Cultural Criticism*, there have recently emerged a slew of provocative commentaries on the paradoxical nature of American race relations. Derrick Bell's *Faces At The Bottom of The Well* is an excellent addition to this debate. Written in a style reminiscent of his first book *Are We Not Saved*, Bell combines auto-biographical anecdotes, with fictional narratives, and traditional prose, attempting to re-think and "reassess the worth of the racial assumptions on which without careful thought, we have presumed too much and relied on too long" (14) Geneva Crenshaw, the black lawyer heroine of Bell's *Are We Not Saved*, as well as a host of other imagined characters, figure prominently in a series of fictional narratives; all designed to expose the extent to which racism is, and always will remain, a permanent undergirding of American society. To his credit, Bell does not simply address questions of race from a purely jurisprudential posture, but uses allegories to provide poignant and gripping examples of the egregious effects of racism on the personal lives of its victims. For example in a chapter entitled: "The Race Preference Licensing Act" Bell, in a dialogue with Geneva Crenshaw, explores the bankruptcy of present civil rights strategies, and suggests that what is needed is a more realistic approach to alleviat-

ing some of the more insidious effects of racist practices.

Let us suppose that the American government enacted a Racial Preference Licensing Act, based on a principle of racial realism which "seeks to balance the rights of our black citizens to fair treatment and the no less important rights of some whites to an unfettered choice of customers, employees, and contractees." (47)

Under the new act, all employers, proprietors of public facilities, and owners and managers of dwelling places, could, on application to the federal government obtain a license authorizing the holders, their managers, agents and employees to exclude or separate persons on the basis of color. The license itself was expensive. (48)

Establishments which adopt these race preferential practices must display their licenses in a public place and operate their establishments in accordance with the racial preferences stated in their license. License fees and commissions paid by license holders would be placed in an "equality fund" used to underwrite black businesses, to offer no-interest-loans for black home owners and to provide scholarships for black students seeking college and vocational education.

The point here is, at present, despite *dejure* illegalization of racial preference (i.e., segregationist policies) in housing and public facilities, in landmark decisions such as *Brown vs. The Board of Education*, (de facto) racial preference is an enduring feature of American society. This law would therefore acknowledge this defacto racial preference, with the additional proviso that one must pay to practice this racial preference. As Crenshaw states:

...the law enforcement model for civil rights breaks down when a great number of whites are willing because of convenience, habit or distaste, fear or simple preference -- to violate the law —.... (56)

"Racial nepotism" rather than "racial animus" is a major motivation for much of

the discrimination blacks experience." It is therefore time that both blacks and whites, acknowledge the ineffectiveness of the present law and order civil rights policies, and address themselves to contradictions of present race policy. Bell's point here is incisive. In the wake of the failure of traditional civil rights legislation we must begin to rethink the ways we construct our legislation: we must become more realistic. The battle against racism must continue, despite the inevitable reconfiguration of traditional civil liberties legislation into more complex ways of maintaining the status quo.

The purported gains of the civil rights era are mere chimera, civil rights legislation "is an updated version of the glass trinkets and combs they used in Africa a few centuries ago to trick some tribes into selling off their brothers and sisters captured from neighboring tribes." (19) In fact, civil rights legislation has done little to prevent—and may have contributed to—the contemporary statistics regarding black crime, broken families, devastated neighborhoods, alcohol and drug abuse, out-of-wedlock births, illiteracy, unemployment, and welfare dependency" (58).

Americans, Bell contends, echoing the position of the late great black Harvard historian Nathan Huggins, "view history as linear and evolutionary and tend to see slavery and racism as an aberration or pathological condition". Yet despite the ending of slavery and the adoption of anti-racist legislation, racism remains a dominant force in American life. The American dogma of automatic progress has always failed those who were marginalized and poor, of which blacks are conspicuously at the centre. Even noble and well intended attempts on the part of black people, to find a black homeland are not an answer. These attempts often fall short as they deny and dis-acknowledge the way all notions of blackness and black people are deeply imbricated in any notion of America; and the key role Black Americans have played in building America. Black Americans have always actively shown America what content to give to its talk of freedom and democracy. "We [Black Americans] are Americans.

We are not aliens. We are a component part of the nation. We have no disposition to renounce our nationality", said Frederick Douglass.

But this is not a reason to despair. According to Bell, we must no longer look for inspiration in the "sacrosanct, but utterly defunct, glory of ideals that for centuries have proven unattainable and poisonous. We must look to the lives of our foremothers and forefathers who despite inexorable odds, produced music, poetry and art, insisting on their humanity despite a social consensus that they were "a brutish sort of people". We must learn from the "unremitting struggles" of our forbearers; we must in a willful attitude of engagement and commitment, face squarely the unbearable landscape and the climate of that survival, "beating the odds while firmly believing in and knowing the odds are stacked against you". We must recognize that despite the fact that our actions may not be transcendent, and may in fact help the system more than hinder it—we must persevere. It is not a question of choosing between strategies of civil liberties and recognition that racism is a permanent fixture of American society, but of pursuing both at the same time, in the unalterable awareness that we must never give up.

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