And We Are Not Saved: The Elusive Quest For Racial Justice by Derrick Bell

H. Gregory Barksdale

Follow this and additional works at: http://lawdigitalcommons.bc.edu/twlj

Part of the Civil Rights and Discrimination Commons

Recommended Citation
H. Gregory Barksdale, And We Are Not Saved: The Elusive Quest For Racial Justice by Derrick Bell, 9 B.C. Third World L.J. 363 (1989), http://lawdigitalcommons.bc.edu/twlj/vol9/iss2/7
BOOK REVIEW

H. GREGORY BARKSDALE*


Today, while all manners of civil rights laws and precedents are in place, the protection they provide is diluted by lax enforcement, by the establishment of difficult to meet standards of proof, and worst of all, by the increasing irrelevance of antidiscrimination laws to race related disadvantages, now as likely to be a result of social class as of color. 1

In the 1980s issues of civil rights and racial justice have been replaced with concerns of budget deficits and sexually transmitted diseases. 2 Though the media has chosen not to focus its attention on the suffering which the racially oppressed endure as a daily part of life, the effects of racial prejudice are no less pronounced today, as evidenced by the gross disparity of wealth between white and Black citizens. 3 The civil rights struggles of the 1950s and 1960s focused primarily on ridding the country of de facto segregation. Accordingly, when the courts ordered the desegregation of the schools and declared miscegenation laws unconstitutional, when

* Production Editor, BOSTON COLLEGE THIRD WORLD LAW JOURNAL.

"Black" appears in upper case and I must justify why. Black is conventionally regarded as a color rather than a racial or national designation, hence is not usually capitalized. I do not regard Black as merely a color of skin pigmentation, but as a heritage, an experience, a culture and personal identity, the meaning of which becomes specifically stigmatic and/or glorious and/or ordinary under special social conditions. It is as much socially created as, and at least in the American context no less specifically meaningful or definite than, any linguistic, tribal, or religious ethnicity, all of which are conventionally recognized by capitalization.

Congress enacted the Civil Rights Act of 1964 and the Voting Rights Act of 1965, civil rights litigants praised these achievements as the second emancipation of the Black race.4 Events of the last twenty years demonstrate that this conclusion was premature.5 Neither legislative enactments nor landmark judicial decisions have eradicated racial discrimination in this country. Some commentators even argue that achievements made by Blacks in the 1960s and 1970s are slowly being eroded.6 This review examines a recent chapter in the debate, Professor Derrick Bell’s book *And We Are Not Saved*. Derrick Bell is a Professor of Law at Harvard Law School. *And We Are Not Saved* is an expansion upon what was originally the prestigious 1985 foreward to Harvard Law Review’s volume 99.7

Bell analyzes the struggle of Black Americans to achieve racial, political, social and economic equality from a historical perspective.8 From the outset of the book Bell proffers that white society rarely embraces any interpretation of United States history which does not have as its basic premise the supremacy of the white race. One of the greatest benefits of *And We Are Not Saved* is that Bell expands the minds of his readers by exposing them to a nontraditional interpretation of United States history — a Black construction. In *And We Are Not Saved*, Bell, based upon his reading of history, argues that the civil rights strategies which Blacks have continuously adhered to have been ineffectual in ending racial discrimination. Bell insists that a new strategy must be adopted, an agenda which builds a coalition of natural allies, Blacks, whites and other racial minorities who suffer similar economic and political persecution.

Stripped to its essence, *And We Are Not Saved* is a challenge to individuals who have been intimately connected with the civil rights

---


7 Each year the editorial board of the Harvard Law Review invites a legal scholar to write the foreward to the Supreme Court issue. See Greene, *A Short Commentary on the Chronicles*, *Harv. Blackletter J.* 60 (Spring 1986).

movement to assess the benefits of specific strategies. And We Are Not Saved is more than just a work of historical interpretation. Bell carries his analysis of traditional civil rights strategies much further by asking difficult questions about the strategies' successes and failures and by offering some novel answers to the questions.

And We Are Not Saved is presented in ten short chronicles. Each chronicle offers the reader a dosage of history and constitutional interpretation from the perspective of the racially and economically oppressed. Bell dedicates Part I of the book to exploring the issue of whether present civil rights strategies are capable of providing the Black race a means of escape from their impoverished position. The value of the book comes less from the final strategy which Bell recommends at the book's conclusion and more from its structure, which forces the reader to analyze and question the continued validity of traditional civil rights strategies with respect to contemporary racial issues. The value of the chronicles to both Black and white society is twofold. Members of the dominant culture undoubtedly benefit from being exposed to a different interpretation of American history and constitutional jurisprudence. Similarly, Black society profits from a reading of history which does not attempt to present white society as a morally innocent character in the game of race relations.

At another level, Bell uses fantasy as a vehicle for delivering the chronicles. Bell's choice of fantasy is well-suited. To the majority of whites in this country, the realization of the American dream is, as it has always been, a tangible goal. To the great majority of Blacks, however, thoughts of racial and political equality are hopeless wishes. It is appropriate, therefore, that Bell has presented the despair of the Black nation in a dream.

And We Are Not Saved is divided into three parts. In the prologue to Part I, Bell introduces his alter ego, Geneva Crenshaw. Geneva functions as the antagonist throughout the book, the character who adopts the militant approach to any issue being discussed. The majority of the chronicles are told through her eyes. It is no accident that Geneva is a woman; nor is it fortuitous that she is a dominant figure throughout the book. Black women have always been in the forefront of the struggle for civil rights. And We Are Not Saved is

---

9 See Book Note, 101 Harv. L. Rev. 849 (1988) (reviewing And We Are Not Saved, supra note 1).
10 Id. at 850.
structured so that after a chronicle is completed, Geneva calls upon Bell to give his legal analysis of the chronicle and predict how the Supreme Court would rule on the particular issue in question.

In Part I, Bell examines the contradiction of the American Constitution which purports to be based on freedom and equality but endorses in no less than ten different provisions the legality of slavery. Bell argues that this sacrifice of Black people at the formation of the country is one of the phenomena which has prevented Blacks from enjoying equal rights in this society. In the Chronicle of the Constitutional Contradiction, Geneva is transported back to Philadelphia in the year 1787, the site of the Constitutional Convention. Geneva confronts the Convention delegates in an attempt to discover whether they were cognizant of the consequences that their ambivalence concerning slavery would bring to Blacks. Bell uses this discourse to reveal seldom read American history. Although the framers, in the tradition of Locke and Rousseau, espoused justice and liberty as the two supreme ideals of human existence, the framers' motives for a strong union were greatly influenced by the need to protect their class interests. Bell also points out through the chronicle that most of American society is under the misconception that slavery as an economic institution was essential only to the agrarian economy of the rural South. In fact, the North benefited greatly from slavery because the Southern plantation owners used Northern manufacturing outlets as a means of developing their goods. The majority of the Constitutional Convention delegates believed that the division of the North and South over the slavery issue would prevent the formation of the union. Bell concludes, therefore, that the framers felt justified in sacrificing the Black race for the union.

The strength of the chronicle is its interpretation of history and Bell's ability to link the events of 1787 to the problems facing

12 D. Bell, supra note 1, at 26–50; see W. Wieck, The Sources of Antislavery Constitutionalism in America 1760–1848 at 62–83 (1977) (noting that the Constitution contains ten direct or indirect concessions to the practice of slavery).


14 D. Bell, supra note 1, at 31; see generally D. Bell, Race, Racism and American Law (2d ed. 1981); D. Robinson, Slavery in the Structure of American Politics: 1765–1820 (1971).

15 D. Bell, supra note 1, at 43.

16 Id. at 44; see Kluegel & Smith, Whites' Beliefs About Blacks' Opportunity, 47 Am. Soc. Rev. 518 (1983).
Black society today. The economic plight of the Black race in America has been consistently explained as the result of Black ineptitude or the inherent inferiority of the Black race. The Chronicle of the Constitutional Contradiction makes it clear that the founding fathers decided over two hundred years ago to subordinate the Black race to ensure the economic prosperity of the country.

In Chapter 2, the Chronicle of Celestial Curia, Bell introduces the readers to divergent views on the usefulness of current civil rights strategies. Bell analyzes litigation and the role that the judicial system plays in eradicating racial discrimination in America. Bell works from the premise that people with economic and political power fashion laws in their own interest. The validity of this premise is questionable, however, because Bell offers little statistical evidence to bolster his claim. Here, as well as in other important points of the book, agreement with Bell's analysis is premised on a similar interpretation of constitutional law. Bell argues that litigation has been of only marginal benefit to Blacks and that most so-called landmark judicial decisions have been of more help to white society. For example, in Dred Scott v. Sanford, 60 U.S. (19 How.) 393 (1857), the Supreme Court held that Blacks were not citizens under the Constitution but were property of the slaveholders.

 Also, under Bell's interpretation of Brown v. Board of Education, the Court ordered the dismantling of state sponsored segregation solely to insure that America would remain the moral leader of the free world in the fight against communism. Bell attempts to convey to the reader that the United States ended segregation to serve the interests of the majority and not because the country realized that segregation was both morally and legally wrong. Bell's reading of Brown is susceptible to criticism as being controversial or outside the mainstream of traditional legal thought. Bell's intention, however, is to present to the reader a message which is unconventional and nonconformist, but is also historically and legally accurate. Bell uses these two Court decisions to demonstrate that the
Supreme Court specifically and the judiciary in general is susceptible to political considerations. In particular, "the issue of race is such a politically sensitive subject in this country that the [Supreme] Court seldom stray[s] far from prevailing public moods." 20

Towards the end of the chapter, Geneva poses the question of why Blacks continue to rely on litigation and the judicial system to remedy laws which are the result of racism and not the cause of racism. Bell argues that Blacks must continue to press the courts for relief because of the lack of other options. Law is a powerful element in our society, however, because of its ability to distribute the burdens and benefits among citizens. Thus, Blacks and other oppressed minorities have a vested interest in changing the laws which are discriminatory. From the birth of the union, the white majority has used laws which are either overtly or covertly racist to deprive the Black race of economic and political participation. Bell contends that this is one of the primary reasons Blacks remain trapped in the lower class. 21

This chronicle more than any other demonstrates Bell's inherent belief in the judicial system as a viable method of achieving racial equality. It is irrefutable that the enactment of civil rights laws has resulted in some positive advances for Blacks in the areas of affirmative action, voting rights and school desegregation. Bell should be criticized, however, for offering a lawyerly rationale to counter historical evidence that litigation has not been particularly effective in the war against racial prejudice. Bell fails to deal directly with the problem although he acknowledges that complaints lodged by the critics are legitimate. Bell should have emphasized the important accomplishments that civil rights litigation has had in the lives of American citizens, while at the same time recognizing its limitations as a means of eradicating racial discrimination. Presumably, Bell's attachment to the litigation strategy is the direct result of his days as a lawyer for the NAACP Legal Defense Fund.

In Chapter 3, Bell, through the Chronicle of the Ultimate Voting Rights Act, examines the argument that if Blacks were allowed full participation in the political process the circumstances of the Black race as a whole would vastly improve. As set forth in the

20 D. Bell, supra note 1, at 58; see Brown v. Board of Education (II), 349 U.S. 294, 300 (1955) (Court set up a standard of compliance so vague that school boards were able to evade real school desegregation for more than a decade).

21 D. Bell, supra note 1, at 52–53; see generally D. Bell, Race, Racism and American Law (2d ed. 1981).
chronicle, the Ultimate Voting Rights Act would have a dual component. The first part of the plan provides that "every voter who casts a ballot in a primary or general election shall receive a hundred dollar state tax rebate to cover travel and other expenses." The second component of the plan allocates a certain percentage of elected seats to minority candidates. In the chronicle, opponents of the plan argue that the plan is contrary to the American political system and that it violates the fourteenth amendment by expressly taking race into account. Bell allocates a disproportionate amount of the chronicle to developing the story at the cost of losing much of the substance of the message. The other chronicles are presented in a straightforward manner so that the theme is readily apparent. This tale, however, disintegrates into melodramatic haze.

At the chronicle's conclusion Bell suggests in legislation what the courts have been reluctant to enact by judicial decree. Bell insists that proportional representation plans will allow Blacks to elect officials in numbers equal to their proportion of the population. Bell recognizes, however, that the plan could potentially harm Blacks by inciting a white backlash and by impeding the formation of coalitions between Blacks and other groups. This acknowledgement by Bell is an important one because a theme of realism is interjected into the analysis. There are numerous examples in American history where one segment of the population has violently protested where it appears that another group is obtaining an unfair advantage. At different times in the book, Bell offers initiatives or makes conclusions that do not comport with either economic or political reality. By making this observation Bell appears to be implicitly conceding that proportional representation is only a limited option to the Black community.

Chapter 4, the Chronicle of the Sacrificed School Children, explores the benefits and costs of integration as a means to Black advancement. The chronicle focuses on the Supreme Court's decision in Brown v. Board of Education and the subsequent school desegregation cases of the 1960s and 1970s. Bell attempts to answer critics who argued many years ago that desegregation would not

22 D. Bell, supra note 1, at 86.
23 Id.
24 Id. at 94-96; see Levinson, Gerrymandering and the Broadening Omnipresence of Proportional Representation: Why Won't It Go Away?, 33 UCLA L. Rev. 33 (1985).
25 D. Bell, supra note 1, at 95.
26 See L. Bennett, Before the Mayflower (1961) (author provides several instances of violent reactions).
eradicate racial prejudice or improve substantially the condition of the Black race. Bell concedes that in hindsight school desegregation, as a strategy, has failed to meet its intended purpose of increasing the quality of education for Black youth.

"We civil rights lawyers attacked segregation in the public schools because it was the weak link in the separate but equal chain. Our attack worked. But to equate integration with the effective education Black children need - well, that was a mistake." Desegregation was not the objective but merely the strategy adopted to achieve the goal. Whites who controlled the school systems seized the opportunity to benefit from desegregation litigation by closing Black schools, firing Black teachers and administrators and by thrusting Black children into hostile environments where failure was assured. The resulting legacy is that today much of Black society is under the false perception that integrated or white schools offer better educational opportunities than do Black schools.

If a Black reparations fund were established with the single purpose of bringing economic justice to the Black race, would this be the definitive strategy? Bell begins to answer this question by offering evidence of previous judicial precedents which granted reparations to remedy past wrongs. In the chronicle of the Black Reparations Foundation, a white philanthropist recognizes the depressed economic condition of the Black race and decides to set up a several billion dollar reparations fund. The fund’s purpose is to bring Blacks up "to the levels they would have had but for the impediments of historic slavery and the continuing disadvantages of racism," through money grants that encourage Blacks to participate in the country’s economic system. Opponents claim that the plan promotes racial discrimination and thus is not entitled to charitable status under the tax laws. These same opponents also contend that "the scale of the [fund is] so large, its potential impact on

---

30 D. Bell, supra note 1, at 123–27; see B. Bittker, The Case for Black Reparations (1973) (presenting the arguments for and against Black reparations).
31 D. Bell, supra note 1, at 127.
people's lives so mammoth, that it [is] both appropriate and necessary to bring the foundation under governmental control.32

The chronicle is insightful because it offers an analysis of the reaction of the white majority to a plan that does not adversely affect this majority. Bell argues that the jealous reaction of the white race grows out of the realization that better conditions for Blacks cannot be accomplished without whites losing some of their privileged status. The retaliation suffered by Blacks in the chronicle further bolsters Bell's argument that whites, as a result of their social conditioning, believe that Blacks belong at the bottom of the economic and social ladder. The racial antagonism whites express towards the reparations fund is analogous to the controversy surrounding affirmative action policies. Poor whites have argued vehemently that affirmative action is tantamount to reverse discrimination because race is considered expressly in society's distribution of burdens and benefits.33 Their passionate opposition to affirmative action is confusing given the fact that both historical and statistical evidence confirm the view that affirmative action has not resulted in Blacks obtaining a share of society's benefits proportional to their population.34

In Chapter 6, the Chronicle of the De Vine Gift, Bell explores the question of whether affirmative action is a vehicle for Blacks to achieve racial equality. The chronicle focuses on a law school's search for minority faculty candidates. The De Vine Gift is a source outside the law school which has the money and means to discover potential applicants. The De Vine Gift is successful in both locating and attracting several qualified candidates. It is at this point that the administration begins to realize that the affirmative action program is working and that the law school could potentially have a fifty percent Black faculty. Prior to this revelation six candidates had been hired and the law school was giving serious consideration to hiring a seventh candidate, who unquestionably was the most qualified of any previously hired applicant.

32 Id. at 129–30.
33 See Regents of the Univ. of California v. Bakke, 438 U.S. 265 (1978); see also Cooper, The Coercive Remedies Paradox, 9 HARV. J.L. & PUB. POL’Y 77 (1986) (arguing for colorblindness in equal protection remedial action and against "victim blind" remedies); Graglia, Race-Conscious Remedies, 9 HARV. J.L. & PUB. POL’Y 83 (1986) (arguing that the term "race-conscious remedies" is merely a euphemism for race discrimination).
Bell uses the chronicle to explore certain fallacies concerning the benefits of affirmative action. Bell puts forth the supposition that most organizations that adopt voluntary affirmative action programs advocate only small scale integration. But once the percentage of minorities reaches a certain point, the credibility of the organization as a white institution is threatened. This claim, however, is debased because Bell fails to provide sufficient evidence that white society acts in this manner. If Bell is to use this claim as the basis for his argument that affirmative action is insufficient as civil rights strategy, more than the account of the chronicle’s seventh candidate must be presented.

The balance of the chapter addresses the ability of the seventh candidate to bring an action for racial discrimination. Bell concludes that the Supreme Court would probably reject the seventh candidate’s claim. In the employment discrimination context, the Court has disallowed claims against employers who have a history of hiring minorities. Additionally, any defendant educational institution could argue

"[t]he maintenance of a predominantly white faculty ... is essential to the preservation of an appropriate image, the recruitment of faculty and students, and to the financial support of alumni. With heartfelt expressions of regret that the world is not a better place, the law school would urge the Court to find neither federal fair employment laws nor the constitution would prohibit it from discriminating against minority candidates when the percentage of minorities on the faculty exceeds the percentage of minorities within the population."

Implicit in Professor Bell’s analysis is his belief that whites have a subconscious desire to control their surrounding environment. Although this view is not readily accepted by white culture, Bell’s analysis of how the power structure operates remains valid. It is important to understand that “racism is more than a pejorative hurled in powerless frustration at an omnipotent evil.” As Professor Charles Lawrence more precisely puts it:

\[\text{Note: \text{footnotes are not included in the text.}}\]
Racism in America is much more complex than either the conscious conspiracy of a power elite or the simple delusion of a few ignorant bigots. It is part of our common historical experience and, therefore, a part of our culture. It arises from the assumptions we have learned to make about the world, ourselves, and others as well as from the patterns of our fundamental social activities.39

The value of the chronicle is Bell's ability to demonstrate that affirmative action programs are a good vehicle for accomplishing this goal because the white majority will allow only a very few qualified minorities to gain entrance into any particular institution.

Many Blacks who have become disillusioned as a result of years of discrimination believe that Black progress will develop out of a national crisis. As Bell points out, history reveals that this belief is misplaced. For example, during the great depression, the government gave tacit approval to distribution of society's benefits and burdens on the account of race.40 Similarly, after World War II, Blacks returning home from overseas experienced the same racism which existed prior to the war.41 In the Chronicle of the Amber Cloud, a plague afflicts the young white members of the country. The white youth experienced symptoms of lethargy, suspiciousness and withdrawal. In the chronicle "many of the [young victims'] well-to-do and powerful parents claimed that subversive elements were responsible for the disaster."42 Although no Black children were affected by the plague, "during the search for a cure hundreds of Blacks volunteered for extensive psychiatric testing designed to determine the precise nature of Ghetto disease."43 The chronicle culminates in the discovery of a serum which the government decides to give only to white children.

Bell dedicates the remainder of chapter 8 to analyzing a claim brought by civil rights litigants challenging the government's plan for the serum's distribution as violative of the equal protection clause. Bell concludes that the Supreme Court could find that although the targeting provision was a racial classification the government had a compelling state interest in providing relief to the young white victims.44 It is not coincidental that a significant number

39 Lawrence, supra note 6, at 330.
42 D. Bell, supra note 1, at 164.
43 Id.
44 See e.g., Korematsu v. United States, 323 U.S. 214, 216 (1944); Hirabayashi v. United States, 320 U.S. 81 (1943).
of the country’s Black youth exhibit the same characteristics as the chronicle’s young white victims. Bell fails, however, to link the condition of the country’s Black youth to society’s overall well-being. In other words, neither the Chronicle of the Amber Cloud nor Bell’s subsequent analysis of equal protection law is particularly persuasive in convincing the country’s power elite to reform existing racial policies. The Chronicle of the Amber Cloud further demonstrates how the equal protection clause and the strict scrutiny doctrine, which has grown out of the fourteenth amendment, often sacrifice the interests of Blacks. In fact, the benefit of the strict scrutiny doctrine has been severely eroded since the Court adopted the intent standard.

In Part II, Bell demonstrates that the historical patterns of racism in this country are an important element of the present condition of the Black community. This analysis is a refreshing departure from that of neoconservatives who have captured center stage in the 1980s by arguing that the traits displayed by the Black underclass are qualities inherent in a ghetto population. Part II is germane because much of the racist ideology that exists in America has been incorporated by Blacks into their own beliefs. The result is that the cycle of poverty in which so many Blacks are enthralled becomes even harder to escape. Bell understands and convincingly relates to his readers that if Blacks are ever to make significant gains in this society a positive self-image is a necessary element of the solution.


46 See Washington v. Davis, 426 U.S. 229 (1976); Crawford v. Board of Educ., 458 U.S. 527 (1982); see also Pettigrew, supra note 6, at 686–93 (comparing the overt racism of the 1960s to the covert racism of the 1980s).

47 D. BELL, supra note 1, at 9.


49 See W. Gwatney, DRYLONGSO: A SELF PORTRAIT OF BLACK AMERICA (1980); 2 The Seventh Son; The Thoughts and Writings of W.E.B. DuBois 385 (J. Lester ed. 1971).

50 See W. Wilson, The Truly Disadvantaged at 3–19.

Chapter 9, the Chronicle of the Twenty Seven Year Syndrome, explores the contentious relationship between Black men and Black women.52 In the chronicle, Black women are afflicted with a disease called the twenty-seventh-year syndrome and display the following symptoms: they are twenty-seven years old, hold an advanced degree, and never have been married or had an offer of marriage. A Black woman contracting the twenty-seventh-year syndrome would lose all educational and job-related skills. The theme of the chronicle, as Bell envisions, is that out of the hopelessness and despair of the syndrome “Black men who had ... taken Black women for granted [begin] recognizing them for the remarkable individuals they are.”53

Bell should be criticized for not creating a chronicle which envisioned the equalization of Blacks along gender lines where there is mutual success for both Black men and Black women and not shared helplessness or subordination. Although Bell’s intentions are well-grounded, this chronicle brims with patriarchy and sexism because Black women must become helpless in order to make Black men aware of the severe isolation of some Black women. Bell should be praised, however, for attempting to introduce the reader to the rarely discussed topic of Black women in America. The fact that Bell uses Geneva, a Black heroine, to interpret the chronicle provides legitimacy to the discussion.

Political conservatives insist that Blacks should stop depending on government welfare and resort to self-help as a means to overcoming oppression.54 The question of chapter 9, the Chronicle of the Black Slave Scrolls, is whether the dominant society actually wants Blacks to change their economic and social status. In the chronicle, a group of Blacks on an excursion to Africa discover slave scrolls, which reveal the elusive history of slavery in America. Upon reading the scrolls, Blacks reject crime, drug addiction and self-hatred, which have long plagued the Black community. Blacks begin competing effectively with whites at all levels, often surpassing whites in many arenas. Whites, who still control the political process,


53 D. Bell, supra note 1, at 202–03.

54 See generally C. Murray, Losing Ground (1984); T. Sowell, supra note 48.
instituted racial tolerance laws which banned the teaching of the slave scrolls and resulted in their inevitable destruction.

Historical evidence supports Bell's conclusion that this would be the reaction of the white majority. Bell offers the example of the Reconstruction period when Blacks' business and educational success served only to intensify the hostility of southern whites. Similarly, Bell uses the treatment of Black leaders such as Malcolm X, Martin Luther King and Marcus Garvey as prima facie evidence to support his theory. The common factor uniting each of these men is that throughout their lives each man argued passionately to the Black race "that racism, not inherent inferiority, was the source of their self-hate and self-destructive behavior." Bell then moves to analyzing a suit brought by Blacks against the government charging that racial tolerance laws violated the first and thirteenth amendments. Bell argues that in times of crisis the Court is most likely to constrict the constitutional rights of a group in order to protect the country as a whole. The message of the chronicle is clear, as are the declarations of the other chronicles: self-help will not change the relative status of Blacks.

The final chronicle of the book, the Black Crime Cure, contemplates the most discouraging predicament of the Black race. In the chronicle, a Black gang discovers a stream full of small ruby-red stones the size of peas. For anyone with a substantial amount of African blood who ingests one of the stones, the reaction is an overpowering desire to fight Black crime. As the new narcotic — the "crime cure stones" — inundates the Black community, "Black people become overjoyed and look forward to life without fear of attack in even the poorest neighborhoods. Whites also [lose] their fear of muggings, burglary, and rape." Society makes little effort, however, to incorporate those Blacks who have made their living through illegal means into the mainstream of American life. The result that follows is inevitable. Young Blacks who are raised with no hope for meaningful opportunities ignore the pleadings of the Blacks who have taken the "crime cure stones" and turn to crime.

57 D. Bell, supra note 1, at 222.
58 Id. at 245–48.
Bell adopts a cynical tone at the end of the chronicle, concluding that any single civil rights strategy is doomed to failure because society controls the mechanism to frustrate the goals. Bell asks what options are left to the Black race. Professor Bell uses the Celestial Curia to provide the answer. The use of the Celestial Curia is significant here because they are cast in an angelic role. Hence, when the Celestial Curia deliver the solution to the equation, the message takes on a spiritual nature. The Celestial Curia state quite profoundly that previous civil rights strategies were destined to failure because the fruits of success would only exchange Black suffering for white suffering. As a result white society feared that any discernable rise in Black status would result in corresponding reduction in white status. Bell stresses that any civil rights strategy chosen by Blacks must give meaning to the constitutional principles of liberty and justice. Many whites in this country suffer under an economic system which perpetuates class division irrespective of race. Bell concludes that the only strategy is for Blacks to unite with similarly oppressed people regardless of race.59

Liberals will be quick to criticize Bell for advocating a middle ground alternative rather than proposing a definitive civil rights strategy. Similarly, conservatives will dismiss Bell's theory as too dependent on government intervention to solve problems which require individual efforts. Notwithstanding either of these two critiques, the approach Bell advocates is most pragmatic in the face of evidence that civil rights strategies as they now exist are ineffective to combat contemporary racial issues. It is also important to remember that in his introduction to And We Are Not Saved Bell wrote that "rather than offering definitive answers, I hope, as law teacher rather than social seer, mainly to provoke discussion that will provide new insights and prompt more effective strategies."60

59 See generally W. Wilson, The Truly Disadvantaged (Dr. Wilson argued similarly that any new initiative which either attacks racial discrimination or poverty must be phrased in such a way that the majority also benefits).

60 Id. at 3.