

Critical Dialogue

The Crucible of Desegregation: The Uncertain Search for Educational Equality. By R. Shep Melnick. Chicago: University of Chicago Press, 2023. 336p. \$105.00 cloth, \$35.00 paper.
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In 1954, the Supreme Court ruled unanimously in *Brown v. Board of Education of Topeka* that “separate but equal” was unconstitutional. The *Brown* decision was about ending legally protected segregation between Black and white children in public schools, but more broadly, it challenged the legitimacy of Jim Crow, the state-sanctioned system of racial segregation throughout the United States. However, 70 years after *Brown v. Board*, the nation is still struggling with school segregation. In some school districts, segregation between Black and white children is similar to 1954 levels, and some school districts are more segregated today than they were in 1954.

There have been many books written on the topic of *Brown v. Board*, but in *The Crucible of Desegregation: The Uncertain Search for Educational Equality*, R. Shep Melnick brings new insights and analysis to help explain why “desegregation” remains elusive 70 years after the Supreme Court decision. Relying on historical analysis and an extensive review of the literature and federal court decisions, Melnick argues that desegregation has not been successful because “despite issuing nearly three dozen school desegregation decisions, the Supreme Court has never explained what ‘desegregation’ means” (10). In the absence of a clear definition, the Supreme Court has decided desegregation cases that have “produced vague legal formulations rather than effective educational policies” (27).

This ambiguity is also a result of what Melnick argues are two competing views of desegregation within the Court: he presents the enduring struggle to desegregate US public schools through the tension between a “colorblind” interpretation and a “racial isolation/equal opportunity” approach within the federal judiciary. The “colorblind” approach relies on a narrow interpretation of the Equal Protection Clause of the Fourteenth Amendment, in which racial classifications can only be used “in the most unusual circumstances—when such classifications are narrowly

tailored to achieve a compelling state interest” (10). Although the NAACP and other civil rights groups relied on this “anti-discrimination” interpretation of the Fourteenth Amendment to make the argument against legal segregation, over time the “colorblind” philosophy of “nondiscrimination” has been adopted by conservative justices in their desegregation rulings. This approach has been championed by various Supreme Court Justices over the decades, including Justice Clarence Thomas, who argued that “government must treat citizens as individuals, and not as members of racial, ethnic, or religious groups” (29–30). As Melnick writes, “This understanding of the Equal Protection clause creates a very strong—indeed nearly irrefutable—presumption against the assignment of students to schools on the basis of race, even if the goal is to promote the racial balance rather than to enforce segregation” (30).

The competing view, the “racial isolation/equal opportunity” approach, begins from the premise that the multiple factors contributing to Black students attending segregated schools also deny them equal educational opportunities. As a result, desegregation efforts demand not only race-conscious policies to address “racial isolation” but also measures that lead to “the substantial improvement in the quality of education offered to minority students” (13). By using a “structural injunction,” judges and supporters of the “racial isolation/equal opportunity” approach sought to use the power of the courts to “remake” the systems of public education in the United States to address racial isolation and create equal educational opportunities (147).

Melnick argues that both approaches rely on (1) an interpretation of the Equal Protection Clause of the Fourteenth Amendment, (2) an assessment of the institutional capacity of the federal judiciary, and (3) an evaluation of social-science evidence on the causes and effects of school segregation (26). However, he also argues that both have significant flaws. The colorblind approach makes it easy to avoid any action on desegregation, whereas the racial isolation/equal educational opportunity approach relies on the involvement and capacity of the federal judiciary, which, Melnick argues, is often not feasible. Ultimately, these competing views, the absence of a clear definition of “desegregation,” and the Court’s opinion that segregation

should proceed with “all deliberate speed” have led to vague and unclear directions for addressing segregation.

Despite this vagueness and the problems it has created for the Court, many school districts in the 1960s did successfully achieve “unitary” status: a school system “without racially identifiable schools” (73). Melnick shows how an unlikely partnership between a weak Office of Civil Rights (OCR) and the Fifth Circuit Court of Appeals, whose jurisdiction covered much of the Deep South, created a breakthrough in school desegregation in 1966–67. In 1965 and 1966, the OCR issued a robust set of desegregation guidelines that did not have much power of enforcement until the Fifth Circuit endorsed them and used its authority to enforce them. In 1965, 6.1% of Black children in the South attended schools with some white students. By 1970, the figure had increased to 85.9% (83). The drastic increase is attributed to the active interventions of the courts in desegregation cases in the South.

However, the success of these efforts began to wane in the 1970s because of several political factors. Melnick discusses how the critical partnership between the OCR and the Southern courts broke down after Nixon’s election. Nixon, who did not want his administration to be involved in and “blamed” for school desegregation in the South, fired OCR director Leon Panetta because Panetta refused to wind down the agency’s role in desegregation efforts. Additionally, the growing controversy over busing in the 1970s led to declining political support for desegregation in cities and states.

Another factor was opposition from Black communities. In chapter 6, Melnick describes a growing lack of support from Black communities for three key reasons: a desire among Black parents to send their children to their neighborhood schools, the growth of Black political power in cities, and the cost that desegregation imposed on Black communities that, among other trends, led to a significant decrease in the number of Black teachers, particularly in the South. As Black communities gained political control of mayors’ offices, city councils, and school boards in many cities, some Black leaders were reluctant to support metropolitan desegregation plans that threatened to dilute Black political power.

As a result of these political factors, as well as the increase in the number of conservative judges on the federal courts—who have generally been less involved with and indeed more hostile to desegregation efforts—activists and elected officials have pursued efforts to address racial educational inequality beyond the courts. Melnick concludes the book by analyzing the Elementary and Secondary Education Act of 1965 (ESEA) and Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin in programs or activities that receive federal financial assistance. Presidential administrations, particularly the Obama and Biden administrations, have relied on these federal policies,

including their funding and regulatory provisions, to attempt to address enduring obstacles to educational opportunity in communities of color.

Melnick correctly points to efforts outside the courts, like ESEA and Title VI, as important government policies to address education inequality. However, the politics of these measures also merit further scrutiny. Although these federal initiatives brought in additional resources to districts in need of financial support, they also instituted an oversight regime that emphasized “standards” as a key to addressing educational inequality. Three decades into these standards, we have seen how teachers have become targets of the reforms and how communities have been disempowered by removing locally elected school boards and closing schools. These initiatives have contributed to the separation of communities from their schools while failing to achieve sustainable educational improvement.

Melnick concludes the book with a statement that aptly summarizes a main argument in *The Crucible of Desegregation*: “In the long struggle over school segregation, two central features of American political life collided: our creedal commitment to equality of opportunity and our decentralized educational institutions. Compared to other advanced liberal democracies, Americans are more accepting of large inequalities of income and wealth. For most Americans, what counts is not equal results but equal opportunity to achieve the ‘American Dream’ of upward mobility” (251).

Although it remains true that Americans largely express a “creedal commitment to equality of opportunity” and support for public education (252), *The Crucible of Desegregation* gives us reason to question just how shared such a commitment to equal opportunity in education really is. Through a rich analysis of the deliberative process of federal judges and their court decisions over a 70-year period, Melnick offers valuable insights into how the lack of “all deliberate speed,” the failure to produce a coherent definition of “desegregation,” and the adoption of “colorblind” jurisprudence are all part of a broader logic to deny equality of opportunity to Black people and other people of color while maintaining a rhetorical commitment to equality. This notion of a collective American belief in equality of opportunity, especially educational opportunity, deserves greater scrutiny.

Response to Domingo Morel’s Review of *The Crucible of Desegregation: The Uncertain Search for Educational Equality*

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— R. Shep Melnick

I thank Domingo Morel for his accurate summary of the main arguments of *The Crucible of Desegregation*. Only in