

DERRICK BELL'S NARRATIVES AS PARABLES

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What does the literary character of Derrick Bell's fictional narratives tell us about how they should be interpreted? In his chronicle, *The Space Traders*,¹ for instance, Bell relates the tale of alien visitors to the United States who promise the country wealth if it will trade the nation's blacks.² The country votes decisively for the trade.³ In *The Racial Preference Licensing Act*,⁴ Bell recounts the decision by a fictional President to permit employers and property owners to buy a license that would allow them to discriminate on the basis of color and race.⁵ License fees would be used to support businesses, homeowners, and students in the black community.⁶ What are these stories trying to tell us? How are they trying to move us? Should they be read literally, as though the country would indeed vote in favor of the aliens' trade? Would the establishment of a racial preferencing license, in fact, more efficaciously resolve racial unrest? What does the status of these stories as "fictions" indicate about their claims, if any, to truth? How do they move readers to open themselves to the racial change these narratives seek?

Questions of this kind have arisen in the context of a larger debate about the employment of narrative in law and legal scholarship. Two principal charges against narrative—in both fictional and nonfictional accounts—have appeared. The first charge is that "stories can distort legal debate, particularly if those stories are atypical, inaccurate, or incomplete."⁷ Stories must be evaluated, the claim goes, based on objective standards of knowledge and reason.⁸ The second charge is that legal narratives, even if true, are inadequate. They fail sufficiently to persuade; thus, more material forms of racial change must be pressed.⁹

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1. DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM* 158–94 (1992) [hereinafter BELL, *FACES AT THE BOTTOM*]. For further discussion of this narrative, see *infra* Part III.B.

2. *Id.* at 159–60.

3. *See id.* at 192.

4. *Id.* at 47–64. For further discussion of this narrative, see *infra* Part III.A.

5. *See id.* at 47–48.

6. *See id.* at 48–49.

7. DANIEL A. FARBER & SUZANNA SHERRY, *BEYOND ALL REASON: THE RADICAL ASSAULT ON TRUTH IN AMERICAN LAW* 39 (1997) [hereinafter FARBER & SHERRY, *BEYOND ALL REASON*].

8. *See, e.g., id.* at 5–7.

9. *See, e.g.,* Richard Delgado, *Crossroads and Blind Alleys: A Critical Examination of Recent Writing About Race*, 82 TEX. L. REV. 121, 135–36, 152–53 (2003) [hereinafter Delgado, *Crossroads*]. In the *Crossroads* essay, Delgado reviews DERRICK BELL, *ETHICAL AMBITION: LIVING A LIFE OF MEANING AND WORTH* (2002) [hereinafter BELL, *ETHICAL AMBITION*] and *CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY* (Francisco Valdes, Jerome

This article seeks to transcend the existing debate. I argue that the valuable function of legal narratives can be understood only when we appreciate their literary character. In particular, I contend that narratives such as Bell's should be read as parables. I analogize the literary nature of Bell's narratives to the use of parable in the Christian Bible's New Testament,¹⁰ a subject that has received significant attention from New Testament scholars. The point is not to equate the status of Bell's work with that of the New Testament parable, but to highlight the similarities in literary style.¹¹ New Testament parables and Bell's parables

McCristal Culp & Angela P. Harris eds., 2002). The current Article does not address the latter book.

10. Because of the contentiousness of contemporary debate on religious issues, let me offer three caveats regarding my recourse to New Testament parable. First, I set aside any question, whether favorable or antagonistic, of the New Testament's truth. My goal is to examine the *literary character* of the parable. Parables can be religious or nonreligious—witness Bell's work—but it happens that the literary nature of parables has been studied most intensely by New Testament scholars. Therefore, this scholarship on parables needs attention. My literary inquiry then seeks to proceed, like many other academic investigations, without assessing the truth of the subject of inquiry. For those who remain suspicious that the portrait will remain favorable to religion or, conversely, for those who remain hopeful that it will, let me suggest that attention to the literary character of parable as manifestation raises challenging theological questions about claims regarding the role of divine grace in Jesus's parables. For a brief discussion of this point, see *infra* note 127.

Second, invocation of New Testament scholarship is not intended to disparage insight from other religious traditions. For example, recent study of New Testament parables has located them as not divided from but "regularly tied inseparably" to the larger context of contemporaneous Jewish parable literature. See, e.g., Craig L. Blomberg, *The Parables of Jesus: Current Trends and Needs in Research*, in *STUDYING THE HISTORICAL JESUS: EVALUATIONS OF THE STATE OF CURRENT RESEARCH* 231, 234 (Bruce Chilton & Craig A. Evans eds., 1994) (citing the work of Claus Westermann). Further, interpretation of the Hebrew Bible (what Christians call the Old Testament) by Jewish scholars has also attempted to recover more broadly the modality of manifestation, the theme I pursue in the more restricted context of New Testament parable scholarship. See, e.g., JAMES L. KUGEL, *THE GREAT POEMS OF THE BIBLE* 35–36 (1999) [hereinafter KUGEL, *GREAT POEMS*] (suggesting that our "ways of seeing" have evolved over time).

Third, my reliance on New Testament scholarship is not intended as a rejoinder on the side of Christianity to criticism by Farber and Sherry that "radical multiculturalists," including Bell, are anti-Semitic. See, e.g., FARBER & SHERRY, *BEYOND ALL REASON*, *supra* note 7, at 4, 25–26, 58–59 (criticizing Bell). See generally *id.* at 52–71 (chapter entitled *Is the Critique of Merit Anti-Semitic?*). (I set aside the question whether Bell is, in fact, a radical multiculturalist, which I think he is not.) As already mentioned, my invocation of the New Testament parable is for literary purposes, and Farber and Sherry's charge that radical multiculturalism is anti-Semitic is rejected by other scholars, including those otherwise sympathetic to these authors. See Richard A. Posner, *The Skin Trade*, *THE NEW REPUBLIC*, Oct. 13, 1997, at 40, 42 (review of FARBER & SHERRY, *BEYOND ALL REASON*, *supra* note 7) ("I do not think that the critical race theorists are anti-Semites.").

11. Because this Article is concerned with a descriptive characterization of how parable is employed both in Bell and the New Testament, it is *not* concerned with arguing whether in fact Bell's stories or the New Testament's reveal "truth." See also *supra* note 10. Further, analogizing the literary character of the parable in the New Testament to the parable's use in Bell's work remains a literary inquiry, not a surreptitious effort to divinize Bell or his message. Rather, the contention is that only by understanding the literary nature of the message can the reader be in the position to raise the question of truth.

both reorient, and they do so by disorienting.¹² Just as the New Testament parables should be read based on the criteria of manifestation—the manifestation of new knowledge and insight—rather than on the basis of adequation—to existing norms and knowledge¹³—so, I argue, should Bell's narratives.

Part I presents the recent debate on legal narrative. Part II analyzes recent New Testament scholarship on the parables and describes how the parables are understood as vehicles of manifestation. Significantly, I differentiate the definition of a parable from that of an allegory. Part III demonstrates how Bell's narratives are properly understood as parables. Bell's narratives should be comprehended as manifesting something new, something not appropriately assessed on the basis of their message's adequation to customary norms or understandings. Part IV develops the larger insights of parable scholarship for narrative legal theory in general. Part V concludes by justifying the article's defense of narrative within the debate over whether an argument for racial change needs to promote a more material and less idealistic—in other words, less narrative-oriented—basis for change.

I.

THE DEBATE ON LEGAL NARRATIVE

Narratives can operate in a number of ways,¹⁴ but particularly I want to elicit the function of disorientation that is explored in general narrative analysis. Kathryn Abrams and Richard Delgado, two of the most prominent scholars of legal narrative, describe variously how narratives can act as “paradigm-shifting,”¹⁵ as rupturing¹⁶ and “revelatory;”¹⁷ as jarring, displacing, or destroying;¹⁸ as “shatter[ing] complacency and challeng[ing] the status quo.”¹⁹ In

12. See *infra* text accompanying notes 112–17 (claiming that parables reorient by disorienting).

13. See *infra* text accompanying notes 118–21 (contrasting the criteria of manifestation and adequation).

14. See, e.g., Toni M. Massaro, *Empathy, Legal Storytelling, and the Rule of Law: New Words, Old Wounds?*, 87 MICH. L. REV. 2099, 2104 (1989) (characterizing how legal narrative symposium participants “describe or use multiple sorts of stories: stories that bridge, providing connections between people of different experience, stories that explode (like grenades) certain ways of thinking, stories that mask, devalue, or suppress other stories, stories that consolidate, validate, heal, and fortify (like therapy), and even stories that maim or ‘spirit murder’ and so should not be told at all”) (footnotes omitted).

15. Kathryn Abrams, *The Narrative and the Normative in Legal Scholarship*, in REPRESENTING WOMEN: LAW, LITERATURE AND FEMINISM 44, 50 (Susan Sage Heinzelman & Zipporah Batshaw Wiseman eds., 1994) [hereinafter Abrams, *The Narrative and the Normative*]. See also Kathryn Abrams, *Hearing the Call of Stories*, 79 CAL. L. REV. 971, 1035 (1991).

16. Kathryn Abrams, *How to Have a Culture War*, 65 U. CHI. L. REV. 1091, 1121 (1998) (reviewing FARBER & SHERRY, *BEYOND ALL REASON*, *supra* note 7). See also William N. Eskridge, Jr., *Gaylegal Narratives*, 46 STAN. L. REV. 607, 611 (1994) (describing a gaylesbian “story of rupture and resistance”).

17. Kathryn Abrams, *Unity, Narrative and Law*, 13 STUDIES IN LAW, POLITICS & SOCIETY 3, 5 (1993).

18. Richard Delgado, *On Telling Stories in School: A Reply to Farber and Sherry*, 46 VAND.

part, legal narrative acts to disrupt the doctrinal form of legal analysis and discourse—stories challenge non-stories.²⁰ In addition, legal narrative acts as a “counterstory” to jar majoritarian stories.²¹ The challenge posed by these counterstories is twofold. First, they unmask what the racial majority deems to be “truths”²² and “objective standards” as “stories.”²³ Second, the counterstories “displace or overturn these . . . majoritarian myths and narratives.”²⁴ Counterstories can expose the lie contained in majoritarian narratives.²⁵ They challenge

accounts by which majoritarians make sense of their world; stories such as: without intent, no discrimination; outright racism is rare and sporadic; we have all the civil rights legislation and case law we need—any more would disadvantage innocent whites; some cultures unfortunately have less ambition and ability than others; and so on.²⁶

Counterstories provide a means for undermining the “presuppositions, received wisdoms, and shared understandings” that, on the one hand, are little attended and simply presumed, and that, on the other, form the cognitive grounds on whose bases legal and political decision occurs.²⁷

Narratives also operate differently than arms-length, “objective” doctrinal analysis. They seek from their readers more than simple, rational, or abstract understanding; instead, understanding of a narrative is affective, more lived, “visceral.”²⁸ Narratives also seek to lure the reader into a story; they work

L. REV. 665, 671 (1993) [hereinafter Delgado, *On Telling Stories*] (“[D]estruction of contingent, comforting myths is often a necessary prelude to constructing a better, fairer world.”) (responding to Daniel A. Farber & Suzanna Sherry, *Telling Stories Out of School: An Essay on Legal Narratives*, 45 STAN. L. REV. 807 (1993) [hereinafter Farber & Sherry, *Telling Stories Out of School*]). See also Richard Delgado, *Shadowboxing: An Essay on Power*, 77 CORNELL L. REV. 813, 818 (1992) [hereinafter Delgado, *Shadowboxing*] (“A well-told counterstory can jar or displace the dominant account.”).

19. Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2414 (1989) [hereinafter Delgado, *Storytelling for Oppositionists*].

20. See, e.g., PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS* 199 (1991) (characterizing Bell’s use of the fictional Geneva Crenshaw as an “instrument by which to attack the monolithism of white patriarchal legal discourse. . . . the fiction who speaks from across the threshold to the powerful unfiction of the legal order; [a] destroyer of the rational order.”).

21. See Delgado, *On Telling Stories*, *supra* note 18, at 670–71. See also Delgado, *Shadowboxing*, *supra* note 18, at 818.

22. See Delgado, *On Telling Stories*, *supra* note 18, at 670 (“Majoritarians tell stories . . . but with the conviction that they are not stories at all, but the truth.”).

23. See Delgado, *Shadowboxing*, *supra* note 18, at 818 (discussing how for actors who have been in positions of power, “their subjectivity long ago was deemed ‘objective’ and imposed on the world”).

24. *Id.*

25. Richard Delgado, *Derrick Bell’s Racial Realism: A Commentary on White Optimism and Black Despair*, 24 CONN. L. REV. 527, 530 (1992) [hereinafter Delgado, *Derrick Bell’s Racial Realism*].

26. Delgado, *On Telling Stories*, *supra* note 18 at 671.

27. Delgado, *Storytelling for Oppositionists*, *supra* note 19, at 2413.

28. Abrams, *The Narrative and the Normative*, *supra* note 15, at 53.

noncoercively²⁹ and insinuatively³⁰ as they ask the reader to “suspend judgment.”³¹ Narratives ask the reader to reconcile two worlds: the text’s and the reader’s.³²

Scholars have raised two major objections against the invocation of narrative in law. The first is that claims presented in narratives are not testable against objective criteria of knowledge. The work of Daniel Farber and Suzanna Sherry³³ is representative of this objection. Farber and Sherry understand in abstraction narrative advocates’ claims that narratives “are powerful means for both creating and destroying mindset”³⁴ and “have a persuasive power that transcends rational argument.”³⁵ Farber and Sherry themselves acknowledge that narratives “can be a source of empathetic understanding”³⁶ and “can sometimes significantly affect their audiences.”³⁷ But they argue that narratives can also distort. We must have criteria, they maintain, to be able to evaluate whether narratives are representative, accurate, and complete.³⁸ Using objective standards, we must be able to assess the “veracity and verifiability” of a story.³⁹ As I shall explore in Parts II and III, I contend that Farber and Sherry appraise narratives on the basis of their adequation to existing norms, whereas study of the parable and Bell’s employment of it demonstrate that narratives may instead manifest new norms, new truths, and must be understood in that light. I return to the more general defense of legal narrative in Part IV.

The second objection to the use of narratives in law is that they do not sufficiently persuade. My colleague Richard Delgado poses this objection provocatively. In contrast to Farber and Sherry, Delgado has no doubts about the verity of the message conveyed by authors such as Bell. “It is no accident that Bell has a tremendous underground circulation and status in the minority community of color. We know that his message is true.”⁴⁰ Instead, Delgado asks of

29. Richard Delgado, *Derrick Bell and the Ideology of Racial Reform: Will We Ever Be Saved?*, 97 YALE L.J. 923, 947 (1988); Delgado, *Storytelling for Oppositionists*, *supra* note 19, at 2415.

30. Richard Delgado, *Brewer’s Plea: Critical Thoughts on Common Cause*, 44 VAND. L. REV. 1, 13 (1991) [hereinafter Delgado, *Brewer’s Plea*]. See also Delgado, *Storytelling for Oppositionists*, *supra* note 19, at 2415, 2435.

31. Delgado, *Storytelling for Oppositionists*, *supra* note 19, at 2415, 2440.

32. See *id.* at 2435.

33. See, e.g., FARBER & SHERRY, BEYOND ALL REASON, *supra* note 7; Farber & Sherry, *Telling Stories Out of School*, *supra* note 18. See also Daniel A. Farber & Suzanna Sherry, *The 200,000 Cards of Dimitri Yurasov: Further Reflections on Scholarship and Truth*, 46 STAN. L. REV. 647 (1994).

34. FARBER & SHERRY, BEYOND ALL REASON, *supra* note 7, at 31.

35. *Id.* at 39. See also *infra* text accompanying notes 294–96.

36. Farber & Sherry, *Telling Stories Out of School*, *supra* note 18, at 830.

37. *Id.* at 826.

38. See FARBER & SHERRY, BEYOND ALL REASON, *supra* note 7, at 39.

39. *Id.* at 99.

40. Delgado, *Derrick Bell’s Racial Realism*, *supra* note 25, at 530. Delgado’s view contrasts sharply with that of Farber and Sherry, who single out Bell specifically as a “social

those who employ narrative to challenge racism whether they use too superficial a tool to effect change: is narrative too idealistic and too attentive only to contexts of discourse? Should the sources of racial entitlement and change be acknowledged rather as more fundamentally predicated upon material factors?⁴¹ Delgado differentiates between idealist and materialist schools of racial critique:

An “idealist” school holds that race and discrimination are largely functions of attitude and social formation. For these thinkers, race is a social construction created out of words, symbols, stereotypes, and categories. . . . A second school holds that while text, attitude, and intention may play important roles in our system of racial hierarchy, material factors such as profits and the labor market are even more decisive in determining who falls where in that system. For these “realists,” racism is a means by which our system allocates privilege, status, and wealth.⁴²

Delgado expresses primary adherence to the materialist school.⁴³

Proper appreciation of Delgado’s stance requires reconciliation of his materialist orientation with his role, previously seen, as one of the most prominent advocates of legal storytelling.⁴⁴ We must also understand how Delgado can criticize idealism and yet demonstrate great respect for Bell’s work.⁴⁵ Indeed, Delgado identifies Bell as another preeminent member of the materialist school.⁴⁶ I return to these issues in Part V, but here I will concentrate on Delgado’s more general objections to narrative. He contends that racial change occurs not because of discourse, argument, or persuasion but as a result of material conditions. In support of this argument, Delgado describes Bell’s own thesis of “interest convergence”:⁴⁷ racial change in the United States, including

constructionist.” FARBER & SHERRY, *BEYOND ALL REASON*, *supra* note 7, at 4 (“In our view, social constructionism [as espoused by Bell, among others,] poses a serious threat to our intellectual and political community.”).

41. See Delgado, *Crossroads*, *supra* note 9, at 123–24 (discussing the realist school’s analysis of how material factors have shaped our racial history and current racial hierarchy). See also Richard Delgado, *Two Ways to Think About Race: Reflections on the Id, the Ego, and Other Reformist Theories of Equal Protection*, 89 *GEO. L.J.* 2279, 2280 (2001) [hereinafter Delgado, *Two Ways*] (“Ideal factors—thoughts, discourse, stereotypes, feelings, and mental categories—only partially explain how race and racism work. Material factors—socioeconomic competition, immigration pressures, the search for profits, changes in the labor pool, nativism—account for even more, especially today.”) (footnote omitted). The division between materialism and idealism has been a significant one in Delgado’s writings for years. See, e.g., Richard Delgado, *Explaining the Rise and Fall of African American Fortunes—Interest Convergence and Civil Rights Gains*, 37 *HARV. C.R.-C.L. L. REV.* 369, 370–71 (2002) [hereinafter Delgado, *Explaining*].

42. Delgado, *Crossroads*, *supra* note 9, at 123–24.

43. See, e.g., *id.* at 124, 152; Delgado, *Two Ways*, *supra* note 41, at 2285.

44. See *supra* notes 18–19 and accompanying text.

45. See, e.g., Delgado, *Crossroads*, *supra* note 9, at 146–50.

46. Delgado, *Explaining*, *supra* note 41, at 371.

47. See, e.g., Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 *HARV. L. REV.* 518 (1980) [hereinafter Bell, *Interest-Convergence Dilemma*].

the effects of decisions such as *Brown v. Board of Education*,⁴⁸ has occurred not because of white altruism but because of white self-interest, including fears of domestic disturbance and tainted international reputation.⁴⁹ Delgado and his frequent coauthor, my colleague Jean Stefancic, have coined the term “empathic fallacy” to criticize the belief that idealist vehicles such as speech, dialogue, exhortation, and remonstrance will lead to reform of individual mindsets.⁵⁰ These vehicles fail because we are not autonomous entities who choose among competing ideas. Instead, we enter debates with a preexisting structure of understanding.⁵¹ Racism is itself part of the dominant understanding, on the basis of which we reason; such widespread understanding resists change.⁵² Thus, while Delgado finds narratives such as Bell’s to be true, they may fail because of reader resistance. The quest for racial change must proceed on more material, less ideal, grounds. In response to Delgado’s challenge, I endeavor to show that narratives as manifestations of new truths serve as a tool in the material arsenal for change. There is materiality and vitality to the quest to change readers’ minds.

II.

NEW TESTAMENT SCHOLARSHIP ON THE PARABLE

In this Part, I build the case for understanding narrative as a form of manifestation of new insights and truths. I take as an illuminating example the case of the New Testament parable.

The initial presupposition of the New Testament scholarship I shall describe is that New Testament text is not literally the words of God but the product of human—even if divinely inspired—hands.⁵³ The books of Matthew, Mark, and Luke (the Synoptic Gospels) relate the story of Jesus’s life and ministry,⁵⁴ but they were written at least forty years after Jesus’s crucifixion.⁵⁵ Because of this historical distance, scholars have tried to differentiate gospel material that may more accurately record statements made by Jesus himself from other material the gospel writers and the early Christian communities inserted. In particular, the parables have been subject to this analysis because, as Norman Perrin writes,

48. 347 U.S. 483 (1954).

49. Delgado, *Crossroads*, *supra* note 9, at 137–38. For discussion of Bell’s theme of white self-interest, see *infra* text accompanying notes 206–9.

50. See Richard Delgado & Jean Stefancic, *Images of the Outsider in American Law and Culture: Can Free Expression Remedy Systemic Social Ills?*, 77 CORNELL L. REV. 1258, 1276, 1281 (1992) [hereinafter Delgado & Stefancic, *Images of the Outsider*]. See also *id.* at 1261 (“[T]he empathic fallacy[] consists of believing that we can enlarge our sympathies through linguistic means alone.”).

51. *Id.* at 1280. For further discussion of this point, see *infra* notes 333–39 and accompanying text.

52. Delgado & Stefancic, *Images of the Outsider*, *supra* note 50, at 1279.

53. See, e.g., NORMAN PERRIN, *THE NEW TESTAMENT: AN INTRODUCTION* 7 (1974).

54. *Id.* at 8.

55. *Id.* at 7.

“the parables are perhaps the most characteristic form of the speech of Jesus himself.”⁵⁶

A. *Literary Criticism*

Interpretive inquiry into the parables has proceeded in four modes: textual criticism, historical criticism, literary criticism, and the act of interpretation itself.⁵⁷ I briefly describe the first two modes in order to situate my elaboration of the last two. Let me offer as an example the parable of the Good Samaritan from the book of *Luke*.⁵⁸ Jesus tells the parable in the following way:

A man was going down from Jerusalem to Jericho, and he fell among robbers, who stripped him and beat him and departed, leaving him half-dead. Now by chance a priest was going down that road, and when he saw him he passed by on the other side. So likewise a Levite, when he came to the place and saw him, passed by on the other side. But a Samaritan, as he journeyed, came to where he was, and when he saw him, he had compassion. He went to him and bound up his wounds, pouring on oil and wine. Then he set him on his own animal and brought him to an inn, and took care of him. And the next day he took out two denarii [coins] and gave them to the innkeeper, saying, “Take care of him, and whatever more you spend, I will repay you when I come back.” Which of these three, do you think, proved to be a neighbor to the man who fell among the robbers?⁵⁹

Textual criticism establishes the “the text to be interpreted.”⁶⁰ In the parables, the issue is to differentiate statements made by Jesus from those added editorially by the gospel writers that may potentially change the parable’s meaning.⁶¹ In the parable of the Good Samaritan, scholars employing textual criticism have argued that the verses surrounding the language just quoted do not belong to the parable’s original context and so were not part of the parable as told by Jesus.⁶²

The challenge of historical criticism is to decipher the meaning of a biblical text as it was “understood by those for whom the text was written.”⁶³ In the

56. NORMAN PERRIN, *JESUS AND THE LANGUAGE OF THE KINGDOM: SYMBOL AND METAPHOR IN NEW TESTAMENT INTERPRETATION* 199 (1976) [hereinafter PERRIN, *LANGUAGE OF THE KINGDOM*].

57. *See id.* at 9.

58. This parable is also prominent in the academic literature. *See, e.g., id.* at 162 (discussing this parable as the author’s “sample parable”); *Thematic Section: The Parable of the Good Samaritan*, 2 *SEMEIA* 1–131 (1974).

59. *Luke* 10:30–36 (English Standard).

60. PERRIN, *LANGUAGE OF THE KINGDOM*, *supra* note 56, at 2.

61. *See generally id.* at 101–2 (discussing ways in which the parable must be reconstructed to filter out changes made in the text as it was adapted and reinterpreted by various communities).

62. JOHN DOMINIC CROSSAN, *IN PARABLES: THE CHALLENGE OF THE HISTORICAL JESUS* 59–60 (1973) [hereinafter CROSSAN, *IN PARABLES*].

63. PERRIN, *LANGUAGE OF THE KINGDOM*, *supra* note 56, at 4.

Good Samaritan parable, historical criticism asks what the appearance of a Samaritan would mean to Jesus's Jewish audience. To these Jews, a Samaritan was not some faceless, interchangeable placeholder but quite the contrary: "a hated enemy, a half-breed, a perverter of true religion."⁶⁴ A Samaritan was a "socio-religious outcast."⁶⁵ To ask a Jew to conceive of a Samaritan as a neighbor was to ask for the conjunction of two terms that were traditionally held apart. Only when we comprehend the original, historical significance of the Samaritan can we grasp the real import of this parable. To arrive at this interpretation, however, we need to complete textual and historical criticism with literary criticism.

Literary criticism asks us to contemplate, as a serious and independent subject of inquiry, the nature of the literary form in which a message (such as the parable) is conveyed. More particularly, the claim is that the literary structure itself informs the message, both as to content and to the way in which the message is conveyed. Fundamentally, the thought content is not "indifferent to its literary vehicle."⁶⁶ The interpretive possibilities offered by literary criticism are "new because they could not be discerned apart from the literary-critical considerations; they are valid because they arise out of the nature and natural force of the literary form and language of the texts."⁶⁷ For my purposes, literary criticism forms the most significant advance in biblical interpretation. Moreover, I shall argue that it comprises the most important source of insight for comprehension of the character of Bell's narratives. It is essential to the interpretation of both Jesus's parables and Bell's texts that they be comprehended fundamentally as parables, and not as allegories.

1. Allegories

The charge of the New Testament scholarship on which I rely is that Jesus's parables have too often been interpreted as allegories rather than as parables, even by the authors of the Synoptic Gospels. For instance, allegorical commentary could be inserted in the biblical text either within or after the parable,⁶⁸ similarly, later commentary would interpret Jesus's sayings in allegorical form. As an example of allegory in the biblical text, consider the commentary following the parable of the Sower. The parable talks of seed falling on the path, on rocky ground, among thorns, or in good soil.⁶⁹ But to this

64. ROBERT W. FUNK, *LANGUAGE, HERMENEUTIC, AND WORD OF GOD: THE PROBLEM OF LANGUAGE IN THE NEW TESTAMENT AND CONTEMPORARY THEOLOGY* 212 (1966). Funk adds that "[a]ccording to rabbinic teaching, an Israelite was not to accept alms or a work of love from a non-Jew, since Israel's redemption is thereby delayed." *Id.* at 212 n.61 (citations omitted).

65. CROSSAN, IN *PARABLES*, *supra* note 62, at 64. *See also id.* ("For Jews have no dealings with Samaritans.") (quoting *John* 4:9).

66. PAUL RICOEUR, *ESSAYS ON BIBLICAL INTERPRETATION* 91 (Lewis S. Mudge ed., 1980) [hereinafter *RICOEUR, ESSAYS*].

67. PERRIN, *LANGUAGE OF THE KINGDOM*, *supra* note 56, at 9.

68. *See id.* at 8.

69. *Mark* 4:3-8.

message the gospel writer adds several more verses allegorizing the parable: the sower is sowing the word of God. The birds that eat the seed on the path are like Satan taking away the word. The seeds sown on rocky ground do not have strong enough roots, so in times of affliction they fall away. Those hearing the word among the thorns allow other desires to choke out the word. However, those sown in good soil that hear the word will bear fruit.⁷⁰ Similarly, the gospel writer transforms a modest account of the Good Samaritan parable. The parable tells us how to be a neighbor; it becomes “an allegory of charitable action.”⁷¹

Allegory has an educative, didactic, informative function.⁷² It proceeds on the basis of a double meaning.⁷³ There is an overt meaning—the story told—and then a meaning underneath that needs to be decoded.⁷⁴ The overt meaning is a vehicle for the expression of the covert meaning. When this covert meaning is uncovered—when the overt meaning is translated into the covert meaning—the overt text can be discarded. It has served its purpose, and the covert meaning can stand by itself.⁷⁵ Under an allegorical reading, the parable of the Sower is about the vagaries of belief; faith will grow or not depending on the nature of its soil.⁷⁶ In the allegorical accounts of the Good Samaritan parable, the parable tells how to be a neighbor. Once the underlying message is discerned, its wrapping is no longer of any intrinsic value. Once the message is understood, the allegory can be discarded.⁷⁷

2. Parables

To explore what is different about parables, let us return to the scholarly explication of the Good Samaritan parable. Textual criticism has isolated the

70. *Mark* 4:14–20. For discussion of this parable, see, e.g., CROSSAN, IN PARABLES, *supra* note 62, at 39–44, 50–51.

71. PAUL RICOEUR, THE PHILOSOPHY OF PAUL RICOEUR 241–42 (Charles E. Reagan & David Stewart eds., 1978) [hereinafter RICOEUR, PHILOSOPHY] (discussing how the “Parable ceases to be a Parable of the Kingdom” when “reduced to a moral teaching”).

72. See, e.g., ROBERT SCHOLES & ROBERT KELLOGG, THE NATURE OF NARRATIVE 107 (1966) (referring to allegory as “the kind of didactic narrative which emphasizes the illustrative meaning of its characters, setting, and action”).

73. Paul Ricoeur, *The Nuptial Metaphor*, in ANDRÉ LACOCQUE & PAUL RICOEUR, THINKING BIBLICALLY: EXEGETICAL AND HERMENEUTICAL STUDIES 265, 286 (David Pellauer trans., 1998).

74. See, e.g., PERRIN, LANGUAGE OF THE KINGDOM, *supra* note 56, at 6, 92.

75. See, e.g., PAUL RICOEUR, THE SYMBOLISM OF EVIL 163 (Emerson Buchanan trans., 1969) [hereinafter RICOEUR, SYMBOLISM OF EVIL] (“An allegory can always be *translated* into a text that can be understood by itself . . .”).

76. See, e.g., CROSSAN, IN PARABLES, *supra* note 62, at 44.

77. Later I shall briefly examine how allegorical elements may operate within a story that remains fundamentally parabolic. See *infra* note 108. This conjunction may explain the use of the subversive allegory in contexts such as the black church, where “allegory has remained a vibrant form of proclamation.” JOHN R. DONAHUE, S.J., THE GOSPEL IN PARABLE: METAPHOR, NARRATIVE, AND THEOLOGY IN THE SYNOPTIC GOSPELS 12 (1988). There the overt contents of the message are not discarded but have their own parabolic force. This example is of interest for possible analogies to Bell’s work. See *infra* text accompanying notes 221–36.

relevant text,⁷⁸ and historical criticism has demonstrated that the Samaritan was considered an enemy of the Jew.⁷⁹ The Samaritan is someone whom the victim does not expect to help, and indeed someone from whom the victim does not want assistance.⁸⁰ Linguistic criticism now attends to how the language of the text operates. The text asks the listener to put together for the same person two contradictory words: "Samaritan" and "neighbor." John Dominic Crossan argues, "The whole thrust of the story demands that one say what cannot be said, what is a contradiction in terms: Good + Samaritan. . . . [W]hen good (clerics) and bad (Samaritan) become, respectively, bad and good, a world is being challenged and we are faced with polar reversal."⁸¹ The literal conflict turns over the listener's world and challenges its presumptions.⁸² The underlying force of the parable, says Crossan,

is that *just so* does the Kingdom of God break abruptly into human consciousness and demand the overturn of prior values, closed options, set judgments, and established conclusions. . . . The hearer struggling with the contradictory dualism of Good/Samaritan is actually experiencing in and through this the inbreaking of the Kingdom. Not only does it happen like this, it happens in this.⁸³

The parable is a *language event*.⁸⁴ The listener's experience may be transformed in and through the force of the parable's language; she may experience a new reality.⁸⁵ The parable of the Sower operates in a similar fashion. Its emphasis is not fundamentally on growth, but on the miracle of production occasioned by the small seed. "It is like this that the Kingdom is in advent. It is surprise and it is gift."⁸⁶ The crux, then, is that "the kingdom of God is not what the parables tell about, but what happens in parables."⁸⁷ The parable is the "bearer[]" of the reality with which [it is] concerned."⁸⁸ This conception makes clear that

78. See *supra* text accompanying notes 60–62.

79. See *supra* text accompanying notes 63–65.

80. FUNK, *supra* note 64, at 213.

81. CROSSAN, IN PARABLES, *supra* note 62, at 64.

82. Recognition of the disruptive power of parable seems to be retained by a variety of more recent interpreters. See, e.g., DONAHUE, *supra* note 77, at 15 ("In terms of image and subject matter the parables are realistic, but in the unfolding of the parable the realism is shattered."); Blomberg, *supra* note 10, at 232 (maintaining that the parables' message "regularly subverts conventional wisdom in shocking ways"). See also *id.* at 252 (contrasting his conservative parable scholarship with Donahue's more liberal scholarship).

83. CROSSAN, IN PARABLES, *supra* note 62, at 65–66.

84. FUNK, *supra* note 64, at 220. See also PERRIN, LANGUAGE OF THE KINGDOM, *supra* note 56, at 138, 146, 178.

85. See Dan O. Via, *Parable and Example Story: A Literary-Structuralist Approach*, 1 SEMEIA 105, 118 (1974) ("The narrative parables . . . give a new vision of everyday existence as transected by the surprising incursion of the transcendent.").

86. CROSSAN, IN PARABLES, *supra* note 62, at 51.

87. PAUL RICOEUR, FIGURING THE SACRED: RELIGION, NARRATIVE, AND IMAGINATION 165 (David Pellauer trans., Mark I. Wallace ed., 1995) [hereinafter RICOEUR, FIGURING THE SACRED].

88. PERRIN, LANGUAGE OF THE KINGDOM, *supra* note 56, at 55–56.

although the language of an allegory can be discarded when its underlying message is discovered, the same is not true for the parable.⁸⁹

3. *Parable as metaphoric*

Characterization of the parable as metaphoric provides the crux of the scholarly insight about the parable as a literary form⁹⁰ and clarifies why parable, in contrast to allegory, is not eliminable. The most extended, relevant discussion of metaphor arises in Paul Ricoeur's magisterial tome, *The Rule of Metaphor*.⁹¹ I will first summarize briefly his thesis there and then turn to his and others' assessment of metaphor in the parable context.

In his more general work, Ricoeur concentrates on the "rifts" metaphor creates in an existing order and the processes by which metaphor "disturbs and displaces" order.⁹² Metaphoric predication arises when there is a "clash" in literal meaning; metaphor creates new meaning in the space where there is literal contradiction.⁹³ Metaphor destroys the literal order in order to present a new order.⁹⁴ As Ricoeur writes elsewhere, metaphor "break[s] through previous categorization and . . . establish[es] new logical boundaries on the ruins of the preceding ones."⁹⁵ In his work more directly analyzing parable, Ricoeur describes the parable as conjoining a metaphorical process with a narrative form.⁹⁶ The bearer of the metaphor is the parabolic narrative as a whole in its tension with ordinary life and reality.⁹⁷ The parable is "the metaphorization of a

89. See DONAHUE, *supra* note 77, at 12–13.

90. See, e.g., PERRIN, LANGUAGE OF THE KINGDOM, *supra* note 56, at 123 (arguing that "consideration of a form of language which uses comparison but which can serve as a vehicle for the disclosure of ultimacy . . . [should lead] to a consideration of the nature, function, and power of metaphor").

91. PAUL RICOEUR, THE RULE OF METAPHOR: MULTI-DISCIPLINARY STUDIES OF THE CREATION OF MEANING IN LANGUAGE (Robert Czerny trans., 1977) [hereinafter RICOEUR, RULE OF METAPHOR]. To anticipate, note the subtitle: *The Creation of Meaning in Language*.

As the Article's attention to Ricoeur begins to increase, let me clarify my bias. I studied under Ricoeur in graduate school and edited his book on ideology and utopia. See PAUL RICOEUR, LECTURES ON IDEOLOGY AND UTOPIA (George H. Taylor ed., 1986) [hereinafter RICOEUR, LECTURES].

92. RICOEUR, RULE OF METAPHOR, *supra* note 91, at 22.

93. *Id.* at 194.

94. *Id.* at 22. Contrast Ricoeur's emphasis on the metaphoric displacement of existing order with the work on metaphor by cognitive theorists George Lakoff and Mark Johnson. Under their approach, the target domain in metaphor simply carries over and preserves the source domain. See, e.g., GEORGE LAKOFF & MARK JOHNSON, PHILOSOPHY IN THE FLESH: THE EMBODIED MIND AND ITS CHALLENGE TO WESTERN THOUGHT 91 (1999). Elsewhere I analyze at greater length the contrast between Ricoeur's model of metaphor and Lakoff and Johnson's. See George H. Taylor, *Cognitive Theory, Conscience, and Law*, 6 GRAVEN IMAGES (forthcoming 2007).

95. RICOEUR, PHILOSOPHY, *supra* note 71, at 131.

96. Paul Ricoeur, *Biblical Hermeneutics*, 4 SEMEIA 27, 30 (1975). Subsequently, Ricoeur will add a third trait of parable—that its qualifier is the Kingdom of God. See *id.* at 32–33.

97. *Id.* at 95. In later work, Ricoeur also talks of the metaphoric process of the narrative-parable as arising in the relationship between the parable and the larger narrative that encompasses

discourse."⁹⁸

Several lessons emerge from the analysis. First, appreciation of the metaphoric quality of parable is an insight into its literary form. The metaphoric capacity of parable is a prominent theme in the work of Ricoeur and other biblical scholars who take literary criticism seriously.⁹⁹ Second, as a language event, the parable as metaphor produces new possibilities:¹⁰⁰ it is "creative of meaning,"¹⁰¹ it says "something new about reality,"¹⁰² it is "revelatory."¹⁰³ Third, because the parable lives and is productive in its metaphoric moment, it cannot be reduced to the terms of prior, literal meaning in three senses. On the one hand, it is a language *event*: it has force, it transforms. Further, as creative of meaning, it says something new in a way that transforms prior categories.¹⁰⁴ Finally, as metaphoric, parable "induces a vision of that which cannot be conveyed by prosaic or discursive speech."¹⁰⁵ It is "untranslatable."¹⁰⁶ While an allegory points to its underlying meaning and can be discarded when that meaning is found,¹⁰⁷ the parable as metaphor cannot be discarded, because it is the parable's metaphoric weight and density that conveys and bears its meaning.¹⁰⁸

it. This latter narrative about the Kingdom of God is "an expression that orients the whole process of transgression." RICOEUR, FIGURING THE SACRED, *supra* note 87, at 147. Attention to the metaphoric role of the parable as a whole helps explain why some parables, such as the Sower (see *supra* text accompanying note 69) can function metaphorically even though internally, unlike the Good Samaritan (see *supra* text accompanying notes 81–83), they do not seem to present metaphoric clashes with everyday life. RICOEUR, FIGURING THE SACRED, *supra* note 87, at 147.

98. RICOEUR, FIGURING THE SACRED, *supra* note 87, at 161 (emphasis omitted).

99. See, e.g., FUNK, *supra* note 64, at 213. In the parable of the Good Samaritan, [t]he "logic" of everydayness is broken upon the "logic" of the parable. It is the juxtaposition of the two logics that turns the Samaritan, and hence the parable, into a metaphor. . . . If it is the literal meaning of Samaritan that provides the initial jolt to the everyday mentality embodied in the story, it is the nonliteral meaning that triggers, through the parable, a whole new vista. . . .

Id. See also *id.* at 133–62 (chapter titled *The Parable as Metaphor*).

100. See RICOEUR, PHILOSOPHY, *supra* note 71, at 245 ("The poetic power of the Parable is the power of the Event. . . . Poetic means creative.").

101. FUNK, *supra* note 64, at 137.

102. Ricoeur, *Biblical Hermeneutics*, *supra* note 96, at 80.

103. PERRIN, LANGUAGE OF THE KINGDOM, *supra* note 56, at 129 ("[T]he idea of the parable as revelatory image remains central.").

104. See, e.g., Ricoeur, *Biblical Hermeneutics*, *supra* note 96, at 79 (discussing how in metaphor "a new signification emerges . . . which has no status in established language and which exists only in the attribution of unusual predicates").

105. FUNK, *supra* note 64, at 136. Since it seems that every contemporary work with any kind of religious or theological subject must make reference to Dan Brown's *The Da Vinci Code*, the following reference from that book seems apt here: "Metaphors are a way to help our minds process the unprocessable." DAN BROWN, *THE DA VINCI CODE* 341–42 (2003).

106. Ricoeur, *Biblical Hermeneutics*, *supra* note 96, at 80 (speaking of metaphor).

107. See *supra* text accompanying notes 72–77.

108. See PERRIN, LANGUAGE OF THE KINGDOM, *supra* note 56, at 135 (discussing how, in the parable, the Kingdom of God "confronts us through the power of metaphor . . . to be the bearer of reality, to induce vision").

4. Parable as manifestation

How may we summarize the literary critical insight into the productive capacity of the metaphoric language event that is parable? Here I take the parables as exemplary of how Ricoeur defines religious texts more generally. Religious texts are poetic:¹⁰⁹ they have the power of “breaking through” and “opening.”¹¹⁰ They “ruptur[e] the ordinary.”¹¹¹ Two essential points must be drawn—points that I will argue are also essential in understanding the import of Derrick Bell’s work.¹¹² First, in rupturing the ordinary, parables disorient.¹¹³ They provoke a tension with the ordinary. They ask us to confront the assumed contradiction between Samaritan and neighbor¹¹⁴ and so challenge us to reassess literal terms whose meaning we had assumed and taken for granted. But parables “disorient only in order to reorient us.”¹¹⁵ Through the productive power of the metaphoric parable, we “discover another way of seeing.”¹¹⁶ So the first essential point is that methodologically, the parables proceed as “reorientation by disorientation.”¹¹⁷

The second essential point is that the poetic function of parable vivifies “a new concept of truth as *manifestation*—and in this sense as revelation[.]”¹¹⁸ Ricoeur writes:

[T]he poetic function incarnates a concept of truth that escapes the definition by adequation as well as the criteria of falsification and verification. Here truth no longer means verification, but manifestation, *i.e.*, letting what shows itself be. . . . It is in this sense of manifestation that language in its poetic function is a vehicle of revelation.¹¹⁹

More recently, scholars (including Crossan and Ricoeur, who articulated the divide) have argued that the separation between allegory and parable may not be as great as once thought. *See, e.g., Ricoeur, Biblical Hermeneutics, supra* note 96, at 35; John Dominic Crossan, *Parable, Allegory, and Paradox, in 9 SEMIOLOGY AND PARABLES* 247, 264–78 (Daniel Patte ed., 1976). Increasingly, some scholars agree, for instance, that Jesus may have used allegory in his presentation of the parables. *See, e.g., DONAHUE, supra* note 77, at 12. This newer understanding, however, does nothing to diminish the larger insight of biblical literary criticism about the parables. The parables remain metaphoric; they convey and create new meaning; they are non-reducible.

109. *See* RICOEUR, FIGURING THE SACRED, *supra* note 87, at 43.

110. RICOEUR, ESSAYS, *supra* note 66, at 104.

111. RICOEUR, FIGURING THE SACRED, *supra* note 87, at 60 (“The paradoxical universe of the parable . . . is a ‘burst’ or an ‘exploded’ universe.”). Perrin writes of how parable “startle[s] the imagination” and “shatter[s] . . . that everyday world.” PERRIN, LANGUAGE OF THE KINGDOM, *supra* note 56, at 106, 199.

112. *See, e.g., infra* text accompanying notes 192–95.

113. RICOEUR, PHILOSOPHY, *supra* note 71, at 244.

114. *See supra* text accompanying note 81.

115. RICOEUR, FIGURING THE SACRED, *supra* note 87, at 281.

116. *Id.*

117. *See* RICOEUR, PHILOSOPHY, *supra* note 71, at 244 (emphasis added).

118. RICOEUR, ESSAYS, *supra* note 66, at 98 (emphasis added).

119. *Id.* at 102. *See also* RICOEUR, FIGURING THE SACRED, *supra* note 87, at 72 (“[T]he

Parable manifests new meaning; its reorientation by disorientation brings new meaning into being. A concept of truth as manifestation is bound to be troubling, Ricoeur acknowledges, to more traditional linguistic analysis.

Linguistic analysis is so heavily determined by the history of the principles of verification and falsification that it is very difficult for this school of thought to conceive of a concept of truth that would not be taken for granted and defined a priori as *adequation*. The idea . . . that truth may mean not *adequation* but *manifestation* seems to be alien to the main thesis of linguistic analysis¹²⁰

Theories of adequation and verification assume the propriety of testing insights by their congruence to established norms and truths. They do not appear to allow for the manifestation of new truths, new revelations. In contrast, manifestation may confront, disrupt, and displace old truths in order to bring new ones to light. “[M]etaphor,” writes Ricoeur, “not only shatters the previous structures of our language, but also the previous structures of what we call reality. . . . With metaphor we experience the metamorphosis of both language and reality.”¹²¹

5. *The role of the reader*

The final element of the literary critical inquiry assesses the role played by the reader. The parable as metaphor disorients by presenting a clash with known reality: the juxtaposition of Samaritan and neighbor. At the same time, the metaphor reorients by producing new meaning—the Samaritan *is* a neighbor—but the reader must grasp and complete the meaning.¹²² The parable is in need of interpretation.¹²³ In part, the ability of the individual to interpret depends on the audience to which a text is addressed: whether it speaks primarily to those who already believe or, like the parable, to the “whole people.”¹²⁴ But the ability to interpret also depends on the individual’s own openness to the message. On the one hand, the reader may grasp the metaphor, but on the other,

process of revelation is a permanent process of opening something that is closed, of making manifest something that was hidden.”).

120. RICOEUR, FIGURING THE SACRED, *supra* note 87, at 36.

121. RICOEUR, PHILOSOPHY, *supra* note 71, at 132–33. Dan Stiver finds in Ricoeur’s analysis of metaphor and narrative keys to “the cognitive *disclosiveness* of religious language.” DAN R. STIVER, THEOLOGY AFTER RICOEUR: NEW DIRECTIONS IN HERMENEUTICAL THEOLOGY 249 (2001) (emphasis added).

122. Ricoeur argues this need for interpretation is true for all reading. See 3 PAUL RICOEUR, TIME AND NARRATIVE, at 159 (Kathleen Blamey & David Pellauer trans., Univ. Chi. Press 1988) (1985) (“It is only in reading that the dynamism of configuration completes its course.”).

123. See Ricoeur, *Biblical Hermeneutics*, *supra* note 96, at 133.

124. *Id.* at 132–33 (distinguishing the openness of the parable from eschatological discourse—treatment of the final days—which principally addresses “the relatively closed audience of believers already initiated into this mode of discourse”).

the reader may refuse it, reject it, want to reduce it to accustomed literal terms, or not allow it to work.¹²⁵ In the parable, comments Robert Funk,

the hearer is confronted with a situation in relation to which he must decide how to comport himself: is he willing to allow himself to be the victim, to smile at the affront to the priest and Levite, to be served by an enemy? The parable invites, nay, compels him to make some response. And it is this response that is decisive for him.¹²⁶

The operation of the parable itself does not foreordain the response. The contingency of listener response is well reflected in the parable of the Sower: no matter what the quality of the seed, the quality of the ground in which it is sown will make a difference in how well it flourishes.¹²⁷

125. According to one scholar,

Parable interpreters may in the process of working with the text find that it teases or intrigues the mind into meaningful insight, or they may find that it does not. Such insight, if it occurs, results from the interaction of text and interpreter and not from the domination of either one by the other.

MARY ANN TOLBERT, *PERSPECTIVES ON THE PARABLES* 43 (1979). Cognitive psychology also emphasizes the role played by the reader, particularly in resisting a change of mind. In the first place, “[i]t is *never* easy to bring about a change of mind . . .” HOWARD GARDNER, *CHANGING MINDS* 92 (2004). Further, change is even more difficult when reader resistance is strong. *See id.* at 18, 211.

126. FUNK, *supra* note 64, at 214.

127. *See Mark* 4:3–8. As we close discussion of literary criticism of the parables, let me briefly summarize some of the theological debate occasioned by the literary critical enterprise. Since (for purposes of the article) I am less concerned with theological questions than with the possible adoption more generally of any interpretive insights gained here, my attention to the theological debate will be only suggestive. To the extent the debate is germane for questions of more general interpretive analysis, I will return to those issues at a later point. *See infra* note 312. Literary criticism first participates in the debate over the role played by the reader of or listener to Jesus’s sayings and the Gospel more generally. As evident from the parable of the Sower, the debate here is a longstanding one over whether an individual’s belief turns on individual decision (i.e., the receptivity of her soil), on the gift of divine grace, or both. Consider a traditional Protestant account: “Luther and Calvin affirmed that faith is both a gift and a decision. Without the gift, the decision is not related to the experience of God’s forgiving love. Yet the experience of God’s mercy, and the affirmation that God has led one to this experience, do not vitiate decision.” JOHN DILLENBERGER & CLAUDE WELCH, *PROTESTANT CHRISTIANITY INTERPRETED THROUGH ITS DEVELOPMENT* 31 (1954).

Second and more importantly, the literary critical approach is itself subject to debate because in its emphasis on the alleged production of the parable as metaphor, it appears to conflate the operation of language with the operation of divine grace. As one commentator notes, “[t]he impression arises that at times salvation comes from metaphor alone!” DONAHUE, *supra* note 77, at 11. Hans Frei provocatively criticizes the literary critical approach for rendering Jesus as merely allegorical: he represents the embodiment—and only that—of an underlying, more generally available process of the poetic production of meaning. *See* Hans W. Frei, *The “Literal Reading” of Biblical Narrative in the Christian Tradition: Does It Stretch or Will It Break?*, in *THE BIBLE AND THE NARRATIVE TRADITION* 36, 48 (1986) [hereinafter Frei, “*Literal Reading*”]. For a defense of Ricoeur, see, e.g., STIVER, *supra* note 121, at 245 (differentiating Ricoeur’s philosophy from his theology).

B. *The Act of Interpretation*

Textual criticism, historical criticism, and literary criticism all subserve the final stage in the analytic process: “the act of interpretation itself.”¹²⁸ Here my concern is less with the act of interpretation by the believer—already adverted to briefly above¹²⁹—but rather interpretation by the scholar undertaking the rigors of critical analysis (which is perhaps undertaken by believers, but perhaps not). I am also interested in a more self-critical assessment of how the interpretive process proceeds. In this inquiry, the parable and religious discourse become subsumed within more general poetic phenomena.

1. *Understanding*

The initial premise here is that there are legitimate modes of thought and experience other than those that have predominated in the lineage of Western philosophy.¹³⁰ These alternative poetic forms of expression must be recovered and renewed. Recall the contrast between manifestation and adequation, and the need to preserve and protect a space for the former against the rule of the latter. We have, Ricoeur writes, “uncritically accept[ed] a certain concept of truth defined as adequation to real objects and as submitted to a criterion of empirical verification.”¹³¹ By contrast, language in its poetic function suspends “the reign of truth as adequation and the very definition of truth in terms of verification” in order to liberate a “more primitive, more originary” domain.¹³² James Kugel writes of a lost manner of seeing: a careful reading of the Hebrew Bible demonstrates that “a certain way of perceiving . . . has gradually closed inside of us, so that nowadays most people simply do not register, or do not have access to, what had been visible in an earlier age.”¹³³ We must remember, though, he adds, that what was “otherwise” is “not unrelated to what exists in the fullest reality of today.”¹³⁴ Kugel, Ricoeur, and others try to recapture the kind of

128. PERRIN, *LANGUAGE OF THE KINGDOM*, *supra* note 56, at 9.

129. *Supra* text accompanying note 125.

130. See LACOCQUE & RICOEUR, *supra* note 73, at xvi. As Ricoeur discusses elsewhere, elements of Western philosophy may in fact not be immune to these alternatives. He observes that Kant invokes a

power of the imagination “to present” (*Darstellung*) those ideas of reason for which we have no concept. By means of such representation, the imagination “occasions much thought (*viel zu denken*) without however any definite thought, i.e., any concept, being capable of being adequate to it; it consequently cannot be completely compassed and made intelligible by language.”

RICOEUR, *ESSAYS*, *supra* note 66, at 116 (quoting IMMANUEL KANT, *CRITIQUE OF JUDGMENT* 157 (J.H. Bernard trans., 1966)).

131. RICOEUR, *ESSAYS*, *supra* note 66, at 101.

132. *Id.*

133. KUGEL, *GREAT POEMS*, *supra* note 10, at 36.

134. JAMES L. KUGEL, *THE GOD OF OLD: INSIDE THE LOST WORLD OF THE BIBLE* 199 (2003) [hereinafter KUGEL, *THE GOD OF OLD*]. See also KUGEL, *GREAT POEMS*, *supra* note 10, at 36 (arguing that biblical texts not only bear witness to a different way of seeing but “perhaps invite us,

seeing available in myth.¹³⁵ The task is to become open to the poetic manifestation. This task is perhaps best captured in the metaphor not of seeing but of listening or hearing—of attending to and opening oneself to what is expressed. “This hearing which understands,” Ricoeur writes, “is the crux of our problem.”¹³⁶ To listen is first to attempt to understand, and not to critique; it is to offer oneself to “the possible mode of being-in-the-world which the text opens up and discloses”¹³⁷ Understanding is the opposite of self-projection: it allows “the work and its world [to] enlarge the horizon of [one’s] own self-understanding.”¹³⁸ As Ricoeur writes specifically of the parables, we need to permit the work’s “poetic power [to] display itself within us.”¹³⁹

2. Interpretation

To allow the poetic its power to display is to think on the basis of the poetic display, on the basis of what the metaphor, parable, or symbol gives, and the transformative meaning it creates.¹⁴⁰ We must retain the recognition here that, in order to be true to the poetic meaning, the poetic cannot be reduced; its meaning is not transparent but opaque, rich, thick, and inexhaustible.¹⁴¹ At the same time, the poetic gift must be interpreted.¹⁴² Analytic tools must be brought

with the use of some spiritual imagination, to try to enter into it, open our eyes, and look”).

135. See, e.g., KUGEL, *THE GOD OF OLD*, *supra* note 134, at 15–18; PAUL RICOEUR, *THE CONFLICT OF INTERPRETATIONS: ESSAYS IN HERMENEUTICS* 284 (Don Ihde ed., Nw. Univ. Press 1974) (1969) [hereinafter RICOEUR, *CONFLICT OF INTERPRETATIONS*] (“Something is discovered, unconcealed, which, without myth, would have remained covered, concealed.”); *id.* at 300 (discussing the power of myth “to open and uncover”). In a fictional account, Roberto Calasso taps into this power to open and uncover in a wonderful and lyrical evocation of Greek myth. ROBERTO CALASSO, *THE MARRIAGE OF CADMUS AND HARMONY* (Tim Parks trans., Knopf 1993) (1988). See, e.g., *id.* at 280 (“For centuries people have spoken of the Greek myths as of something to be rediscovered, reawoken. The truth is it is the myths that are still out there waiting to wake us and be seen by us, like a tree waiting to greet our newly opened eyes.”).

136. RICOEUR, *CONFLICT OF INTERPRETATIONS*, *supra* note 135, at 450. See also KUGEL, *THE GOD OF OLD*, *supra* note 134, at 200 (“[T]hese texts have always been there, ready to do the talking, if only we are ready to listen.”); HANS-GEORG GADAMER, *TRUTH AND METHOD* 462 (Joel Weinsheimer & Donald G. Marshall trans., 2d rev. ed., Continuum 1995) (1986) (“[T]he primacy of hearing is the basis of the hermeneutical phenomenon”); *id.* at 465 (“The hermeneutical experience also has its own rigor: that of uninterrupted listening.”).

137. PAUL RICOEUR, *HERMENEUTICS AND THE HUMAN SCIENCES* 177 (John B. Thompson ed. & trans., 1981).

138. RICOEUR, *PHILOSOPHY*, *supra* note 71, at 145.

139. *Id.* at 245.

140. In an early formulation, Ricoeur argues that the symbol “gives rise to” thought. E.g., RICOEUR, *CONFLICT OF INTERPRETATIONS*, *supra* note 135, at 299; RICOEUR, *SYMBOLISM OF EVIL*, *supra* note 75, at 348.

141. See, e.g., RICOEUR, *CONFLICT OF INTERPRETATIONS*, *supra* note 135, at 289–90 (differentiating signs which are transparent from symbolic signs, which are opaque and have an “inexhaustible depth”).

142. See, e.g., Ricoeur, *Biblical Hermeneutics*, *supra* note 96, at 35 (maintaining that, in the context of interpreting religious texts, religious language “implies a *tension* between ‘image’ and ‘meaning’ which calls for *interpretation*. Nowhere is religious discourse freed of a minimal attempt to interpret it”).

to bear in order to sort out and decipher what the poetic means. Ricoeur has described this movement from the figurative to the conceptual as an inherent dynamism.¹⁴³ In other work, Ricoeur advocates an approach to interpretation conceived as functioning at the intersection between “two domains, metaphorical and speculative. . . . On one side, interpretation seeks the clarity of the concept; on the other, it hopes to preserve the dynamism of meaning that the concept holds and pins down.”¹⁴⁴

How does this tension between symbol and thought, the metaphoric and the speculative, operate? Ricoeur's answer is unapologetic. The relationship is circular: “We must understand in order to believe, but we must believe in order to understand.”¹⁴⁵ We must believe in order to understand: the interpreter cannot fully engage with a text unless she lives “in the aura of the meaning that is sought.”¹⁴⁶ The interpreter need not necessarily “believe-with” that is, share the faith of the home community or the individual author, but “reading and interpretation through imagination and sympathy . . . [are] the minimum condition[s] for access to the meaning of the[] texts.”¹⁴⁷ We must also understand in order to believe in two senses: we must decipher the poetic meaning by interpretation,¹⁴⁸ and we must apply interpretive tools—such as textual, historical, and literary criticism—so that we may *hear* again,¹⁴⁹ so that we may hear what the text is trying to say.

The interpretive circle between belief and understanding still permits critique. It is not viciously circular—neither tautologous, nor self-confirming—but alive and dynamic.¹⁵⁰ As Ricoeur explicates more broadly, the elements of understanding include both understanding (the sympathetic regard for meaning) and explanation (the analytic inquiry).¹⁵¹ Understanding is mediated by explanation.¹⁵² Recall the example just noted of the employment of textual, historical, and literary criticism in interpretation of the parables. The goal is

143. *See id.* at 133.

144. RICOEUR, RULE OF METAPHOR, *supra* note 91, at 303 (rejecting a “destruction of the metaphorical by the conceptual”). Ricoeur has also argued that “[b]etween the concept which kills the symbol and pure conceptual silence, there must be room for a *conceptual* language which preserves the *tensive* character of symbolic language.” Ricoeur, *Biblical Hermeneutics*, *supra* note 96, at 36.

145. RICOEUR, SYMBOLISM OF EVIL, *supra* note 75, at 351.

146. RICOEUR, CONFLICT OF INTERPRETATIONS, *supra* note 135, at 298.

147. LACOCQUE & RICOEUR, *supra* note 73, at xvii.

148. *See supra* text accompanying note 141.

149. RICOEUR, SYMBOLISM OF EVIL, *supra* note 75, at 351.

150. *See id.*; RICOEUR, CONFLICT OF INTERPRETATIONS, *supra* note 135, at 298.

151. *See, e.g.,* PAUL RICOEUR, *What is a text? Explanation and understanding*, in *HERMENEUTICS AND THE HUMAN SCIENCES*, *supra* note 137, at 145.

152. *See* RICOEUR, *HERMENEUTICS AND THE HUMAN SCIENCES*, *supra* note 137, at 220. *See also* George H. Taylor, *Critical Hermeneutics: The Intertwining of Explanation and Understanding as Exemplified in Legal Analysis*, 76 CHI.-KENT L. REV. 1101 (2000) (discussing how understanding and explanation are not opposed but inextricably interconnected and can be integrated into the law).

understanding, but the analysis is also critical: it challenges and undermines the sufficiency of allegorical interpretation of the parables.¹⁵³

When Ricoeur claims that interpretation functions at the intersection of two domains that either seek “the clarity of the concept” or hope “to preserve the dynamism of meaning,”¹⁵⁴ this is another way of stating that interpretation functions at the intersection of explanation and understanding. In recognition of this interplay between understanding and explanation, Ricoeur argues that religious testimony itself must be subject to interpretation and testing. Testimony comprises both manifestation and a crisis of appearance.¹⁵⁵ Furthermore, Ricoeur argues that a distinction must be drawn “between the false witness and the truthful one,”¹⁵⁶ as those works and signs of manifestation are liable to judgment.¹⁵⁷ The kind of judgment available, however, is one of probability, not certainty.¹⁵⁸ We remain within the requirements of a sphere of manifestation rather than one of adequation.

III.

BELL'S NARRATIVES

Based on the previous analysis of parables, I now argue that Derrick Bell's fictional narratives are best understood as parables.¹⁵⁹ I argue for this characterization even though Bell more frequently refers to his fictions as allegories¹⁶⁰ in his own writings and only rarely as parables¹⁶¹ or “metaphorical

153. See *supra* text accompanying notes 84–89 (discussing how different forms of criticism help readers understand parables, and yet parables cannot simply be discarded).

154. See RICOEUR, RULE OF METAPHOR, *supra* note 91, at 303.

155. RICOEUR, ESSAYS, *supra* note 66, at 146.

156. *Id.* at 112.

157. *Id.* at 146.

158. As Ricoeur notes,

In terms of the modality of judgment, the interpretation of testimony is only probable, but it only appears as such when compared to a scientific ideal which governs only one of the different requirements of thought, which reigns in only one of the centers of reflection, namely knowledge of objects.

Id. at 150.

159. Setting aside his textbooks, Bell has written seven other books. Four of these contain fictional narratives. See AFROLANTICA LEGACIES (1998) [hereinafter BELL, AFROLANTICA LEGACIES]; GOSPEL CHOIRS: PSALMS OF SURVIVAL FOR AN ALIEN LAND CALLED HOME (1996) [hereinafter BELL, GOSPEL CHOIRS]; FACES AT THE BOTTOM, *supra* note 1; and AND WE ARE NOT SAVED: THE ELUSIVE QUEST FOR RACIAL JUSTICE (1987) [hereinafter BELL, AND WE ARE NOT SAVED]. Bell's remaining three books are nonfiction. See SILENT COVENANTS: BROWN V. BOARD OF EDUCATION AND THE UNFULFILLED HOPES FOR RACIAL REFORM (2004) [hereinafter BELL, SILENT COVENANTS]; ETHICAL AMBITION: LIVING A LIFE OF MEANING AND WORTH (2002) [hereinafter BELL, ETHICAL AMBITION]; CONFRONTING AUTHORITY: REFLECTIONS OF AN ARDENT PROTESTER (1994) [hereinafter BELL, CONFRONTING AUTHORITY]. I will concentrate on representative narratives from the four books of fiction.

160. See, e.g., BELL, GOSPEL CHOIRS, *supra* note 159, at 78; BELL, AND WE ARE NOT SAVED, *supra* note 159, at 6–7; Derrick Bell, *The Power of Narrative*, 23 LEGAL STUD. F. 315, 316 (1999) [hereinafter Bell, *Power of Narrative*] (referring to fictions as allegories). Bell has also characterized certain of his individual narratives as allegories. See, e.g., BELL, FACES AT THE

tales.”¹⁶² While some of his narratives do include allegorical elements, the nature of the narratives’ messages signifies the operation of a parable.¹⁶³ Ultimately, Bell’s stories themselves reveal the nature of his literary method and message.

A. The Racial Preference Licensing Act

The Racial Preference Licensing Act is one of Bell’s most forceful tales.¹⁶⁴ The President in this story acknowledges that racial tolerance does not exist,¹⁶⁵ and that laws that attempt to police and change individuals’ morals are difficult to enforce.¹⁶⁶ State-enforced policies of racial integration have not been effective.¹⁶⁷ The President signs into law the Racial Preference Licensing Act in an effort to replace the state’s failing policies, based on ethics, with action based on the marketplace.¹⁶⁸

BOTTOM, *supra* note 1, at 135 (describing *A Law Professor’s Protest* found in *id.* at 127–34 as “allegorical traged[y]”); Bell, *Power of Narrative*, at 345 (describing “The Space Traders” found in *Faces at the Bottom of the Well* at 158–94, as “allegory”); Derrick Bell, *An Allegorical Critique of the United States Civil Rights Model*, in DISCRIMINATION: THE LIMITS OF LAW 3 (Bob Hepple & Erika M. Szyszczak eds., 1992) (publishing (and describing as “allegory”) a variation of “The Racial Preference Licensing Act” found in *Faces at the Bottom of the Well* at 47–64).

161. See, e.g., BELL, GOSPEL CHOIRS, *supra* note 159, at 38; BELL, AND WE ARE NOT SAVED, *supra* note 159, at 253 (referring to his fictions as parables).

162. See, e.g., BELL, AND WE ARE NOT SAVED, *supra* note 159, at 6 (describing his fictions as “metaphorical tales”); *id.* at 253 (referring to his fictions as “merely metaphorical essays”).

163. See *infra* text accompanying notes 221–36. My treatment of parable in legal scholarship appears distinctive. Recourse to parable has appeared on a number of occasions in legal scholarship. See, e.g., NORVAL MORRIS, THE BROTHEL BOY AND OTHER PARABLES OF THE LAW (1992); E. Allan Farnsworth, *Parables about Promises: Religious Ethics and Contract Enforceability*, 71 FORDHAM L. REV. 695 (2002); Steven D. Smith, *Religion, Democracy, and Autonomy: A Political Parable*, 42 WM. & MARY L. REV. 685 (2001); Patrick J. Long, *The Good Samaritan and Admiralty: A Parable of a Statute Lost at Sea*, 48 BUFF. L. REV. 591 (2000); John Copeland Nagle, *A Twentieth Amendment Parable*, 72 N.Y.U. L. REV. 470 (1997); Martha Minow, *Some Realism About Rulism: A Parable for the Fiftieth Anniversary of the Federal Rules of Civil Procedure*, 137 U. PA. L. REV. 2249 (1989).

In these works parable is employed, not thematized. Discussion of parable as a subject within legal scholarship is, however, much more infrequent. See, e.g., G. Edward White, *The Parable as Legal Scholarship*, 87 MICH. L. REV. 1508 (1989) (reviewing ROBERT BURT, TWO JEWISH JUSTICES: OUTCASTS IN THE PROMISED LAND (1988)); Robert A. Burt, *Constitutional Law and the Teaching of the Parables*, 93 YALE L.J. 455 (1984). White criticizes Burt’s book as a parable that prioritizes the structure of an argument over evidence in support of it. See, e.g., White, *supra*, at 1519. White also says Burt’s work “is a parable presented as legal scholarship.” *Id.* at 1526. Burt’s article compares the degree to which the parables and the courts do and do not rely on command to ensure assent. See Burt, *supra*, at 502. It is ironic that White criticizes Burt’s book as parabolic (which, as it happens, does not make reference to parable), while Burt’s article defends recourse to parable.

164. See BELL, FACES AT THE BOTTOM, *supra* note 1, at 47–64.

165. See *id.* at 47.

166. *Id.* at 51.

167. See *id.* at 49.

168. *Id.* at 51.

The Act permits employers and property owners to buy a license to discriminate on the basis of race and color.¹⁶⁹ Licensees can therefore refuse to hire minority employees, serve minority customers, or house minority tenants. However, proprietors must display their licenses prominently to alert potential customers and employees—both white and of color—to the establishment's discriminatory preferences.¹⁷⁰ The Act also seeks to eliminate racial subterfuge and tokenism.¹⁷¹ In turn, revenues derived from license fees support black businesses, provide black home buyers with no-interest mortgage loans, and fund scholarships for black students.¹⁷² The Act thus replaces "idealism" with "realism,"¹⁷³ and "maximizes freedom of racial choice."¹⁷⁴

Bell's larger objective in telling this story is "to make people *see*."¹⁷⁵ The analytic model encompassing textual, historical, and literary criticism and the act of interpretation will assist our unfolding of what Bell wants readers to comprehend.

Textual criticism, establishing the text to be interpreted,¹⁷⁶ illustrates that the *The Racial Preference Licensing Act* chapter consists of both the story of the President's signing of the Act¹⁷⁷ and a subsequent dialogue about the story between the narrator (purportedly Bell) and his fictional interlocutor, the author of the story, Geneva Crenshaw.¹⁷⁸ Although both parts are fictional, do we consider them both part of the same fiction? While the commentary acts to explicate the story, the poetic power of Bell's fictions arises more in the story.¹⁷⁹

Historical criticism helps the reader appreciate "the circumstances in which and for which [the text] was written."¹⁸⁰ Knowledgeable readers of Bell's corpus will verify that *The Racial Preference Licensing Act* crystallizes Bell's long-held view that the civil rights approach to promoting integration was due to fail—and has, in fact, failed.¹⁸¹

Ultimately, literary criticism reveals the crux of our inquiry into Bell's

169. *Id.* at 47–48.

170. *Id.*

171. *See id.* at 48 (noting the requirement that discrimination be nonselective).

172. *Id.* at 48–49.

173. *Id.* at 49.

174. *Id.* at 52.

175. *Id.* at 60.

176. *See* PERRIN, *supra* note 56, at 2.

177. BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 47–52.

178. *Id.* at 52–64. As apparent, some interesting issues of authorship arise here also. If the story of the Act is by Crenshaw, does it really represent Bell's point of view? If a statement in the dialogue, such as, "You have to make people see," *see supra* text accompanying note 175, is by Crenshaw, does it in fact represent Bell's perspective? Do the narrator's? Since my purpose is elsewhere, I shall elide these questions and generally read conclusory statements as Bell's.

179. *See infra* text accompanying notes 181–99, 210.

180. PERRIN, *LANGUAGE OF THE KINGDOM*, *supra* note 56, at 4.

181. For example, the "Racial Preference Licensing Act" chapter appears in a book subtitled *The Permanence of Racism*. *See* BELL, *FACES AT THE BOTTOM*, *supra* note 1.

story. The narrative is a parable, a language event.¹⁸² Bell transforms the reader's understanding through the force of the story of the Act.¹⁸³ Like the biblical parable, his story is metaphoric. Recall that metaphor causes "rifts" and "disturbs and displaces" the existing order.¹⁸⁴ The story of the Racial License Preferencing Act unsettles existing civil rights norms. Its attack on assumed presuppositions and priorities shocks readers, including my own students. Whereas the parable of the Good Samaritan required listeners to juxtapose two entities—Samaritan and neighbor—they had thought contradictory,¹⁸⁵ Bell's tale urges readers to recognize as impossible of fulfillment something—integration—they had taken as an unquestioned norm. In both parables, the challenge operates as a reversal.¹⁸⁶

The disruption of existing norms provides the basis for the metaphoric moment of creation—the productive event that transforms prior categories.¹⁸⁷ The story's call for "[r]acial realism"¹⁸⁸ at once acknowledges the failure of an integration model of civil rights and at the same time affirms the availability of another approach. Market-driven economic analysis replaces the idealism of moral advocacy.¹⁸⁹ Endorsement of this law-and-economics approach provides another level of reversal to the story, as law and economics is stereotypically deemed to be conservative in its aims.¹⁹⁰ The story's theme is shocking; it has a force that subsequent explication, whether here or in Bell's subsequent dialogue, does not have. The metaphoric power of the message is not adequately "conveyed by prosaic or discursive speech."¹⁹¹ Bell's dialogue on the Act allows the reader to hold the theme at arm's length; however, that is not the case

182. See *supra* notes 84–85 and accompanying text.

183. Or the reader's understanding can be transformed if the reader is open to the story's message. See *infra* text accompanying notes 272–84.

184. RICOEUR, *RULE OF METAPHOR*, *supra* note 91, at 22. See *supra* text accompanying note 92.

185. See *supra* text accompanying notes 81–83.

186. See *supra* text accompanying note 55. In his other writings, Bell has characterized how critical race theory disrupts prior reality. See Derrick Bell, *Who's Afraid of Critical Race Theory?*, 1995 U. ILL. L. REV. 893, 899 [hereinafter Bell, *Who's Afraid of Critical Race Theory?*]. Bell has also characterized how narrative can affect listeners, "engendering seemingly irreconcilable perceptions of societal attitudes." Bell, *Power of Narrative*, *supra* note 160, at 347 (quoting Stephen Shie-Wei Fan, *Immigration Law and the Promise of Critical Race Theory: Opening the Academy to the Voices of Aliens and Immigrants*, 97 COLUM. L. REV. 1202, 1216 (1997)).

187. See *supra* text accompanying note 104.

188. BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 47.

189. See *id.* at 47, 51.

190. See generally ROBIN PAUL MALLOY, *LAW AND ECONOMICS: A COMPARATIVE APPROACH TO THEORY AND PRACTICE* 51–56 (1990) (discussing criticisms of underlying assumptions and values incorporated into the neoclassical economic model). Richard Delgado has also employed law and economics for progressive purposes. See Richard Delgado, *Rodrigo's Roadmap: Is the Marketplace Theory for Eradicating Discrimination a Blind Alley?*, 93 NW. U. L. REV. 215, 244–45 (1998) (suggesting the use of market incentives to induce positive employer behavior toward racial minorities).

191. FUNK, *supra* note 64, at 136 (discussing New Testament parable).

in the story itself. The story has a poetic power: it breaks through the old and opens new vistas.¹⁹² Its method, like that of the New Testament parables, is “reorientation by disorientation.”¹⁹³

In bringing forward something new, Bell’s story must be assessed not based on its adequation to old categories or norms¹⁹⁴ nor on verification, but on “*manifestation, i.e., letting what shows itself be.*”¹⁹⁵ The reader’s primary task is one of understanding, of opening oneself to the new world being disclosed.¹⁹⁶ The reader must try to live “in the aura of the meaning that is sought,”¹⁹⁷ must try to read with “imagination and sympathy.”¹⁹⁸ Critique is possible but only first on the basis of understanding. Part of the force of the story of the Licensing Act is that the reader’s understanding remains uncertain: does Bell really intend advocacy of the license, or is the story more rhetorical, more exhortative?¹⁹⁹ Because of its poetic power, the story seems to be parabolic. Further, there is little evidence of allegorical overtones.

B. The Space Traders

As noted previously,²⁰⁰ *The Space Traders*²⁰¹ tells the story of alien visitors to the United States who promise the country prosperity—wealth, environmental decontaminants, and so on²⁰²—if in return the nation’s people will allow the space traders to transport home with them all of the country’s blacks.²⁰³ The

192. See *supra* text accompanying note 110.

193. See RICOEUR, *PHILOSOPHY*, *supra* note 71, at 244. Cf. BELL, *CONFRONTING AUTHORITY*, *supra* note 159, at 161–62 (discussing how vanguard artists “create a new convention, sometimes building on, but more often exceeding and threatening accepted conventions”).

194. See RICOEUR, *ESSAYS*, *supra* note 66, at 36.

195. *Id.* at 102 (emphasis added).

196. See RICOEUR, *HERMENEUTICS AND THE HUMAN SCIENCES*, *supra* note 137, at 177. See *infra* text accompanying note 282.

197. RICOEUR, *CONFLICT OF INTERPRETATIONS*, *supra* note 135, at 298. See *supra* text accompanying note 146.

198. LACOCQUE & RICOEUR, *supra* note 73, at xvii. See also *supra* text accompanying note 147.

199. The story’s power may in fact be somewhat undercut by the succeeding dialogue, where Geneva Crenshaw states that in fact her intention was to provoke and “not . . . to urge actual adoption of a racial preference licensing law.” BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 60. Later she argues that even if traditional civil rights advocates resisted the Act, they still might have their consciousness sufficiently raised by the story so that they might seek other new avenues for reform. *Id.* at 62. Bell may have thought the dialogue’s caveat necessary because, in Crenshaw’s words, “I could not leave it to you to figure out the real significance of my story.” *Id.* at 52. If read as intended literally, the Act’s proposal might be deemed so oppositional to prior norms that it would simply be rejected out of hand and its message for change dismissed. Crenshaw’s interjection that she needed to clarify the text’s meaning reiterates the seeming symbiosis noted earlier (see *supra* note 178) between the story and its expositor.

200. See *supra* text accompanying notes 1–3.

201. See BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 158–94. In his latest book, Bell returns briefly to this narrative. See BELL, *SILENT COVENANTS*, *supra* note 159, at 47–48.

202. BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 159–60.

203. *Id.* at 160.

issue generates significant debate, and voters favor the trade decisively.²⁰⁴ As in *The Racial License Preferencing Act*,²⁰⁵ this decision does not take place based on what is right or moral.²⁰⁶ Instead, despite the profound injustice, protection of white self-interest prevails. As one black character in the story argues, “[i]t has become an unwritten tradition in this country for whites to sacrifice our rights to further their own interests.”²⁰⁷

Along with Bell's emphasis on racial realism, noted previously in the story of the Licensing Act,²⁰⁸ the theme of white self-interest is one of the most perduring in Bell's corpus.²⁰⁹ How does our interpretive method help us better comprehend the story of *The Space Traders*? Analysis based on textual criticism would be rather brief. The chapter in which the narrative appears includes only the story; there is no accompanying explanatory dialogue, as there was in the Licensing Act tale.²¹⁰ Historical criticism would seek to situate the tale within not only its current history but also within the history to which it alludes.²¹¹ The story itself recounts prior consideration of emigration programs (voluntary and involuntary) for African Americans.²¹² It also briefly recalls the original constitutional compromise that permitted slavery as a telling example of a required sacrifice by blacks.²¹³ It evokes as well the American resettlement and confinement of Japanese Americans during World War II.²¹⁴ Commentators such as Michael Olivas have observed that the space trade is analogous to other events in United States history: “Not only have Blacks been enslaved . . . but other racial groups have been conquered and removed, imported for their labor and not allowed to participate in the society they built, or expelled when their labor was no longer considered necessary.”²¹⁵

204. *Id.* at 192.

205. *See supra* text accompanying note 188–89.

206. *See* BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 171:

Golightly [a black character] had done what he so frequently criticized civil rights spokespersons for doing: he had tried to get whites to do right by black people because it was right that they do so. “Crazy!” he commented when civil rights people did it. “Crazy!” he mumbled to himself, at himself.

207. *Id.* at 174.

208. *See supra* text accompanying notes 188–89.

209. For more expansive discussion of these themes, see George H. Taylor, *Racism as “The Nation’s Crucial Sin”*: *Theology and Derrick Bell*, 9 MICH. J. RACE & L. 269 (2004) [hereinafter Taylor, *Racism as “The Nation’s Crucial Sin”*].

210. *See supra* text accompanying notes 177–81. The tale is later described as written by Crenshaw. *See* BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 195.

211. *See* PERRIN, *LANGUAGE OF THE KINGDOM*, *supra* note 56, at 4.

212. *See* BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 168 (citing schemes by Benjamin Franklin and other abolitionists to free slaves and return them to Africa, and Lincoln’s investigation of emigration plans).

213. *Id.* at 188. Bell discusses this sacrifice at much greater length in another fictional narrative, *The Chronicle of the Constitutional Contradiction*. *See* BELL, *AND WE ARE NOT SAVED*, *supra* note 159, at 26–42.

214. *See* BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 191.

215. Michael A. Olivas, *The Chronicles, My Grandfather’s Stories, and Immigration Law*:

To move from this historical criticism to literary criticism might seem to deflect attention from the vision of the United States this history reflects, but that is not the case. Rather, the move to literary criticism based on this history helps illuminate the potency of the literary critical insight. Recognition of this history could suggest to some that Bell's tale is fundamentally allegorical—a recapitulation in fictional form of this historical trail of woe. If it is true, though, that *The Space Traders* forces us to face this history, it does more than simply challenge us to remember as our history a past we would rather forget. It simultaneously asks us to confront the fact that this history operates in our present and may presage our future. Essentially, the tale acts as a parable: it reverses an assumed view of progress toward racial harmony and requires us to face the role of white self-interest in our nation's decisions. The tale is unsettling, disturbing, and upsetting, precisely to the extent it is not simply a fictional fantasy. The allegorical elements in *The Space Traders*—its evocation of the history analogous to the trade at issue in the story—add to the power of the work as a parable.

C. Bluebeard's Castle

Bell's recounting of *Bluebeard's Castle*²¹⁶ is distinctive. Instead of presenting his own narrative creation, he uses a traditional French fairy tale (as retold operatically by Béla Bartók) to explore the “unkept promises” of American racial justice.²¹⁷ Judith marries Bluebeard and upon entering his castle sees seven locked doors. In order to more fully share his life, Judith asks her husband to open the doors, but he initially refuses.²¹⁸ Over time, she gains the keys from him one door at a time. To her horror, behind each door are symbols of his malevolent reign: weapons of torture, armaments, gold, jewels, and blood-stained scenes of his kingdom.²¹⁹ Bluebeard beseeches Judith not to open the seventh and last door, but she does. Inside are his former wives, still alive. Bluebeard gives her no choice but to join them, and the opera ends as he

The Slave Traders Chronicle as Racial History, 34 ST. LOUIS U. L.J. 425, 429 (1990). See also *id.* at 430–39 (citing the removal of the Cherokee from Georgia, the importation of Chinese workers followed by the Chinese Exclusion laws, and the importation of Mexican laborers under the Bracero Program). Bell has acknowledged Olivas's work. See Bell, *Power of Narrative*, *supra* note 160, at 345. See also Richard Delgado & Jean Stefancic, *Derrick Bell's Chronicle of the Space Traders: Would the U.S. Sacrifice People of Color if the Price Were Right?*, 62 U. COLO. L. REV. 312, 323–24 (1991) [hereinafter Delgado & Stefancic, *Derrick Bell's Chronicle*] (discussing exploitation and subsequent displacement of Chinese and Mexican laborers and African American slaves).

216. Bell, *Bluebeard's Castle: An American Fairy Tale*, in BELL, *AFROLANTICA LEGACIES*, *supra* note 159, at 155.

217. *Id.* For a recording of the opera, see BÉLA BARTÓK, *BLUEBEARD'S CASTLE* (Columbia Records 1963).

218. *Id.* at 156.

219. BELL, *AFROLANTICA LEGACIES*, *supra* note 159, at 156.

closes the door upon her.²²⁰

Bell's exploration of the story is overtly allegorical. The first six doors stand for episodes in the racial history of the United States where, in each, a promising door was opened and then closed. First, the Emancipation Proclamation²²¹ freed slaves in Confederate territory, but it provided no substantive rights that would prevent resubjugation.²²² Second, passage of the post-Civil War constitutional amendments²²³ suggested promise, but narrow judicial construction rendered the protection basically meaningless.²²⁴ Third, the hopes of *Brown*²²⁵ have remained elusive.²²⁶ Fourth, the aims of the Civil Rights Act of 1964²²⁷ to remediate racial discrimination in areas such as employment have not been fulfilled.²²⁸ Fifth, the Voting Rights Act of 1965²²⁹ led to thousands of new black voters, but in response, a variety of techniques have been used to dilute the black vote.²³⁰ Sixth, some affirmative action policies have brought improvement, but resistance against them remains strong.²³¹ Bell's allegory acknowledges that "change in the racial landscape" has occurred.²³² But the process is not one simply of ascending progress. Instead, while doors do open, they also get closed.²³³

Bell's recourse to the tale of Bluebeard's Castle turns from allegory to parable in the following two ways. First, the tale is not used merely as a vehicle in which to explore the United States' racial history. Instead, the historical recounting ultimately returns to the message of the story. As Bell relates, Bluebeard responds to Judith's request that the castle be opened to outside wind,

220. *Id.* at 156–57.

221. Emancipation Proclamation, Proclamation No. 17 (Jan. 1, 1863), *reprinted in* 12 Stat. 1268 (1863), *and available at* http://www.archives.gov/exhibits/featured_documents/emancipation_proclamation/transcript.html.

222. BELL, AFROLANTICA LEGACIES, *supra* note 159, at 160–61.

223. U.S. CONST. amends. XIII (abolishing slavery in the U.S.), XIV (granting citizenship to those born in the U.S.), and XV (prohibiting disenfranchisement on the basis of race).

224. BELL, AFROLANTICA LEGACIES, *supra* note 159, at 161–62.

225. *Brown v. Board of Education*, 347 U.S. 483 (1954).

226. BELL, AFROLANTICA LEGACIES, *supra* note 159, at 162 (describing the promise of racial equality that *Brown* symbolized for many blacks).

227. Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (codified as amended in scattered sections of 42 U.S.C.).

228. BELL, AFROLANTICA LEGACIES, *supra* note 159, at 163.

229. Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437 (codified as amended in scattered sections of 42 U.S.C.).

230. BELL, AFROLANTICA LEGACIES, *supra* note 159, at 163–64.

231. *Id.* at 164. For Bell's more recent reflections on the Supreme Court's decisions in *Gratz v. Bollinger*, 539 U.S. 244 (2003), and *Grutter v. Bollinger*, 539 U.S. 306 (2003), which addressed affirmative action in the educational context, see BELL, SILENT COVENANTS, *supra* note 159, at 147–59.

232. BELL, AFROLANTICA LEGACIES, *supra* note 159, at 165.

233. *Id.* ("Thus, despite breakthroughs, we find ourselves in the midst of an increasingly grim national scene.").

sun, and, light with this blunt retort: "Nothing can enlight this castle."²³⁴ The tale powerfully evokes the message: sun and light will not come; racism has its permanence.²³⁵ Bell comments: "The [racial] tableau changes with the times, but its structure and final outcome remain constant."²³⁶ As in Bell's other narratives, the twist of the tale as applied to racial relations upsets our norms and expectations. We presume a continuing path of progress in race relations, and Bell jolts us, upsets us, and disorients us. As in the prior tales we have discussed, the disorientation reorients us to a sober, chastened view of the historic and present plight of the United States' racial minorities. In Bell's return from an allegorical appropriation of the tale to the tale's own confounding message, he transforms the literary character of the telling from allegory to parable.

The second twist in Bell's use of the story goes further. It remains true that "[n]othing can enlight this castle."²³⁷ Yet, somehow, there is still room for hope: a seventh door that remains yet to open—the door of the United States' racial future.²³⁸ The metaphoric, "revelatory"²³⁹ power of the tale offers a second level of reorientation. The comparison of Bluebeard's tale with American racial relations is an allegory, but the juxtaposition has poetic, transformative power. And the contrast with the biblical parables, or with the two prior fictions of Bell's that I have analyzed, is provocative. In all these, the transformative power of the story occurred now, in the reading. In the language event of the parable,²⁴⁰ "just so does the Kingdom of God break abruptly into human consciousness. . . ."²⁴¹ In *The Racial Preference Licensing Act*,²⁴² the appeal to "[r]acial realism"²⁴³ arises out of a transformed realization of the situation in which we now find ourselves. *The Space Traders*²⁴⁴ pushes us to confront the reality now of white self-interest.²⁴⁵ By contrast, what is distinctive

234. *Id.* at 159.

235. This theme is an enduring one in Bell's work. Recall the subtitle of Bell's work *Faces at the Bottom of the Well: The Permanence of Racism*. See BELL, *FACES AT THE BOTTOM*, *supra* note 1.

236. BELL, *AFROLANTICA LEGACIES*, *supra* note 159, at 159–60.

237. *Id.* at 159.

238. *Id.* at 167 ("Behind it there is the potential for self-revelation for whites as well as blacks. Salvation for all is possible if its light can reveal the destructiveness of whiteness, can provide an antidote to its corrupting influence . . .").

239. *Id.* at 155.

240. FUNK, *supra* note 64, at 220–21. See also PERRIN, *LANGUAGE OF THE KINGDOM*, *supra* note 56, at 138, 146, 178 (describing how various scholars have analyzed parables as language events).

241. CROSSAN, *IN PARABLES*, *supra* note 62, at 65. See also RICOEUR, *FIGURING THE SACRED*, *supra* note 87, at 165 ("[T]he kingdom of God is not what the parables tell about, but what happens in parables.").

242. BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 47.

243. *Id.*

244. *Id.* at 158.

245. *Id.* at 171.

about the second level of the transformation offered in *Bluebeard's Castle* is that it exists as something potential and possible, not something actual or present. Bell writes:

America, too, has a Seventh Door. Behind it there is the potential for self-revelation for whites as well as blacks. Salvation for all is possible if its light can reveal the destructiveness of whiteness, can provide an antidote to its corrupting influence, a corrective for its mesmerizing hypnotic spell. The door will not be opened until blacks become insistent or when political or economic conditions dictate this long-overdue revelation.²⁴⁶

As evident from the quotation, Bell does not discard his harsh critique. Change will occur only when “blacks become insistent” (racial realism) or “when political or economic conditions dictate” (white self-interest). But there is a door and revelation can occur. Consistent with the histories of the prior doors, Bell is not sanguine about how lasting the effects of the door’s opening will be or whether in fact the door will remain open.²⁴⁷ But there is possibility nonetheless. Bell’s response here is consistent with his larger corpus. On the one hand, racism is permanent; on the other, it remains worthwhile to fight the struggle against it. As I argue elsewhere, this tension marks an enduring paradox in Bell’s work; however, as I also argue, it is a living paradox, not a contradiction.²⁴⁸ For present purposes, the literary insight is that the transformative power of the parable as a narrative includes openness both to what *is* and to what *may be* possible.²⁴⁹

Bluebeard's Castle comprises one of Bell’s “Afrolantica Legacies” in the book of the same name. Afrolantica is a fictional creation of Bell’s that first appeared in the tale, *The Afrolantica Awakening*, a chapter in *Faces at the Bottom of the Well*.²⁵⁰ Afrolantica was a giant land mass that arose unexpectedly in the middle of the Atlantic Ocean.²⁵¹ Explorers to the land found its special peculiarity: its air could be breathed by blacks but not whites.²⁵² In fact, blacks venturing onto the land underwent an “experience of heightened self-

246. BELL, *AFROLANTICA LEGACIES*, *supra* note 159, at 167.

247. *Id.* at 167–68.

248. See Taylor, *Racism as “The Nation’s Crucial Sin,” supra* note 209.

249. This balance between the real and the aspirational is also an important theme in the work of my colleague, Jules Lobel. Lobel writes:

Those who view justice not as a mere norm but as a turbulent river, “a fighting challenge, a restless drive,” are continually operating on the fault line between current reality and human aspiration, between what is and what ought to be. Success in navigating the river requires maintaining the tension between reality and aspiration, between what is and what ought to be, between our reach and our grasp.

JULES LOBEL, *SUCCESS WITHOUT VICTORY: LOST LEGAL BATTLES AND THE LONG ROAD TO JUSTICE IN AMERICA* 9 (2003) (citations omitted).

250. See BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 32–46.

251. *Id.* at 32–35.

252. *Id.* at 33–35.

esteem, of liberation, of waking up.”²⁵³ Many blacks contemplated migrating to Afrolantica’s shores. When the first group of ships arrived, however, they were met by the entire land mass sinking back into the ocean.²⁵⁴ As the ships retreated to return to the United States, the people on board discovered they were not in fact dismayed. “[T]he miracle of Afrolantica was replaced by a greater miracle. Blacks discovered that they themselves actually possessed the qualities of liberation they had hoped to realize on their new homeland. Feeling this was, they all agreed, an Afrolantica Awakening, a liberation—not of place, but of mind.”²⁵⁵

As an Afrolantica legacy, *Bluebeard’s Castle* intends to elicit a similar liberation of mind—one of openness and possibility. In the concluding pages of *Afrolantica Legacies*, Bell’s fictional counterpart, Geneva Crenshaw, says to narrator Bell that Afrolantica is real. Unlike the Camelots and Shangri-las, which “[are all] envisioned as escapes from the real world,” Afrolantica is “a reflection of that world: one offering a perspective that enlightens and encourages people wherever they are.”²⁵⁶ Bell’s fictions are parables: they have poetic power, they transform, they reorient by disorienting. They manifest both what is—the realities now unfolded by critique—and the possibilities of what may be.²⁵⁷ What Bell ascribes to critical race theory in general applies directly to his own work: it is “transformatively aspirational.”²⁵⁸

D. The Gospel Light

Bell’s story, “The Gospel Light”,²⁵⁹ concludes his book *Gospel Choirs* and provides an apt conclusion to the discussion of Bell’s narratives. In this tale, the narrator and his wife²⁶⁰ listen to Geneva Crenshaw preach a sermon during a church service. The following story comprises the heart of Crenshaw’s address. Melodie is the daughter of a minister, and she has an exquisite singing voice.²⁶¹

253. *Id.* at 35.

254. *Id.* at 45.

255. *Id.* at 45–46.

256. BELL, *AFROLANTICA LEGACIES*, *supra* note 159, at 172.

257. See Derrick Bell, *Commencement Address—Howard University School of Law*, 38 HOW. L.J. 463, 470 (1995) (arguing for communication of “a view of what *is* against a background of what *might be*”). The openness to what may be is utopian, but this openness is utopian as “exploration of the possible” rather than as escape, “the completely unrealizable.” RICOEUR, *LECTURES*, *supra* note 91, at 310. This clear-minded utopianism—utopianism in its best function—has been visible in Bell’s writings since his first work of fiction, *And We Are Not Saved*. That book’s final chapter calls for a “Third Way” between black emigration and violent struggle. BELL, *AND WE ARE NOT SAVED*, *supra* note 159, at 251–58. Bell explicitly acknowledges that this proposed alternative is “utopian,” but he wants to carve out a space for a prospect that is as yet “difficult even to envision.” *Id.* at 255.

258. Bell, *Who’s Afraid of Critical Race Theory?*, *supra* note 186, at 906. Bell describes critical race theory writing as embracing a “transformatively aspirational concern with race.”

259. BELL, *GOSPEL CHOIRS*, *supra* note 159, at 203–14.

260. *Id.* at 214.

261. *Id.* at 207–8.

Although her father and his church do not approve of gospel music, as she grows older, Melodie finds that the gospels speak to her.²⁶² She decides upon the ministry as a vocation, graduates from divinity school, and then serves in her father's church.²⁶³ Upon her father's death, she submits her name for consideration as the church's pastor.²⁶⁴ The church is reluctant, both because she is a woman and because its members prefer another candidate, who is male.²⁶⁵ The church nevertheless permits her to offer a trial sermon, and she decides to preach in gospel hymns.²⁶⁶ The sermon "should have opened all but blinded eyes and sealed hearts," but blinded eyes and sealed hearts are what she meets.²⁶⁷ "Everyone was stunned by the beauty of her music, but determined—despite some inner turbulence—not to be moved by it."²⁶⁸ The male candidate is appointed as the new pastor instead. Later church records indicate that gospel hymns have become congregation favorites.²⁶⁹

The tale operates on several levels: on the role of women in employment and in relationships,²⁷⁰ on the abiding spiritual power—to which the book is dedicated—of gospel songs,²⁷¹ and on the failure of listeners to hear. It is the last theme that I want to emphasize here. At this level, the story is allegorical: a tale about listeners' failure not only to hear the gospels but also to hear Bell himself. The story is ultimately parabolic because it challenges our assumption that we have heard. Bell asks us really to hear.

262. *Id.* at 208.

263. *Id.* at 208–9.

264. *Id.* at 211.

265. *Id.* The subtext here is that Melodie and the other candidate, Shadrach, have the beginnings of a relationship, *see id.* at 209, and that Melodie knows that if she continues in the competition, Shadrach will cease the relationship. *See id.* at 211.

266. *Id.* at 212–13.

267. *Id.* at 213.

268. *Id.*

269. *Id.* at 214.

270. Bell has thematized this subject in numerous narratives. *See, e.g., Shadow Song, in BELL, GOSPEL CHOIRS, supra note 159, at 91* (discussing and showing respect for issues of sexual orientation); *Women to the Rescue, in BELL, GOSPEL CHOIRS, supra note 159, at 152, 155* (discussing how "blacks must deal with sexism and patriarchy in our communities before we can address effectively the continuing evils of racism"); *The Entitlement, in BELL, GOSPEL CHOIRS, supra note 159, at 188* (discussing the fictional development of sexual entitlement therapy, which precludes physical intimacy unless the relationship is based on equality and respect); *The Last Black Hero, in BELL, FACES AT THE BOTTOM, supra note 1, at 65* (discussing interracial relationships); *The Race-Charged Relationship of Black Men and Black Women: The Chronicle of the Twenty-Seventh-Year Syndrome, in BELL, AND WE ARE NOT SAVED, supra note 159, at 198* (discussing the difficulty professional black women have in finding and establishing relationships with black men).

271. *See, e.g., BELL, GOSPEL CHOIRS, supra note 159, at 3–4* (describing the "spiritual nourishment that is the essence of this music's appeal," an essence that has "a universality capable of touching all who hear and need its comfort, its consolation," a potential "to touch and unite across barriers of race and class").

Although for Bell, a fundamental task is “to make people *see*,”²⁷² he also repeatedly acknowledges his awareness that people will refuse to see, refuse to listen, refuse to understand. As in the parable of the Sower, his message is sown on diversely receptive ground.²⁷³ At times Bell analogizes his efforts to the role of a prophet. “About the least dire fate for a prophet is that one preaches, and no one listens; that one risks all to speak the truth, and nobody cares.”²⁷⁴ Elsewhere he recurs to similar imagery. “The power of prophesy does not guarantee conversion. Most people reject predictions founded in truth as unreasonable, inconvenient, or frightening. That is why true prophets are more likely to be persecuted than praised.”²⁷⁵ An essential part of the reason that Bell has developed and argued for racial realism is that whites, because of self-interest, have chosen not to listen to messages about the need for racial reform. Racial realism replaces exhortation to do the right thing with economic analysis and incentives. Recall Bell’s words in his discussion of *Bluebeard’s Castle*: “[T]here is the potential for self-revelation for whites as well as blacks. . . . The door will not be opened until blacks become insistent or when political or economic conditions dictate this long-overdue revelation.”²⁷⁶ Bell’s narratives disrupt our categories, our orientation, our understanding in order to move us to a place where the critique, through disorientation, opens us to paths of reorientation. In an interview, Bell cites approvingly Audre Lorde’s maxim that one “can’t destroy the master’s house with the master’s tools.”²⁷⁷ Bell’s fictional narratives travel a path alternative to the master’s tools of doctrinal legal analysis in order to disorient and reorient. As in *Bluebeard’s Castle*, though, he recognizes that, despite his efforts, readers may refuse to hear and the door of possibility may, yet again, close.²⁷⁸ Bell comments elsewhere, “The presentation of truth in new forms provokes resistance, confounding those committed to accepted measures for determining the quality and validity of statements made and conclusions reached, and making it difficult for them to respond and adjudge what is acceptable.”²⁷⁹

When the door likely closes, for Bell the task is to take up the struggle once again.²⁸⁰ For the reader or listener, the primary charge is to understand one’s own obligation to hear. As parables, Bell’s tales reorient and bring forth

272. BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 60.

273. *See Mark* 4:3–8.

274. BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 157.

275. BELL, *AFROLANTICA LEGACIES*, *supra* note 159, at 33.

276. *Id.* at 167.

277. ANDREA MCARDLE, *An Interview with Derrick Bell: Reflections on Race, Crime, and Legal Activism*, in *ZERO TOLERANCE* 243, 249 (Andrea McArdle & Tanya Erzen eds., 2001) (referring to Audre Lorde, *The Master’s Tools Will Never Dismantle the Master’s House*, in *THIS BRIDGE CALLED MY BACK: WRITINGS BY RADICAL WOMEN OF COLOR* 98, 99–100 (Cherrie Moraga & Gloria Anzaldúa eds., 1981)).

278. *See* BELL, *AFROLANTICA LEGACIES*, *supra* note 159, at 167–68.

279. BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 143.

280. *See* BELL, *AFROLANTICA LEGACIES*, *supra* note 159, at 174.

something new. We cannot judge them according to familiar or conventional criteria. In their poetic function, they incarnate "a concept of truth that escapes the definition by adequation as well as the criteria of falsification and verification. Here truth no longer means verification, but manifestation, i.e., letting what shows itself be."²⁸¹ To listen is first to understand, not to critique. We must open ourselves to "the possible mode of being-in-the-world which the text opens up and discloses."²⁸² For access to the meaning of a text, we must read with "imagination and sympathy."²⁸³ Bell can make manifest, can disorient in order to reorient. But the reader or listener bears responsibility also. As Ricoeur writes, "This hearing which understands is the crux of our problem."²⁸⁴

IV. NARRATIVE

Based on our discussion of Bell's narratives as parables, we can now resituate the debate on narrative in legal scholarship more generally. On the one hand, understanding how parables manifest new insights allows us to ground positive portrayals of legal narratives as "paradigm-shifting"²⁸⁵ and "revelatory."²⁸⁶ On the other hand, appreciation of the character of parables also provides a response to critiques by scholars such as Farber and Sherry who argue that narratives should be assessed according to "conventional standards of truthfulness and typicality."²⁸⁷

I contend that Farber and Sherry comprehend truthfulness and typicality on the basis of adequation to existing norms, whereas narrative as reorientation by disorientation acts based on the manifestation of new norms and new truths.²⁸⁸ I shall argue that the criterion of typicality should be incorporated into the criterion of truthfulness; first, however, I move toward that point by discussing some of the limitations of typicality on its own terms. For our purposes, recourse to typicality fails on at least two grounds. First, sometimes the injury or story may not be "typical" in the sense of one that happens to the majority of a class—think of racial lynching, for instance—yet it is one that deserves attention and redress on its own and may, as well, reflect deeper, more "typical" racial animosity. The story is both an individual story and a deeper, broader story. Further, typicality does not adequately encompass the stories of those who see more deeply. Think, for example, of the role of the religious prophet in Western

281. RICOEUR, *ESSAYS*, *supra* note 66, at 102.

282. RICOEUR, *HERMENEUTICS AND THE HUMAN SCIENCES*, *supra* note 137, at 177.

283. LACOCQUE & RICOEUR, *supra* note 73, at xvii.

284. RICOEUR, *CONFLICT OF INTERPRETATIONS*, *supra* note 135, at 450.

285. Abrams, *The Narrative and the Normative*, *supra* note 15, at 50.

286. Abrams, *Unity, Narrative, and Law*, *supra* note 17, at 5.

287. Farber & Sherry, *Telling Stories Out of School*, *supra* note 18, at 854.

288. For another provocative criticism of Farber and Sherry, see Jane B. Baron, *Resistance to Stories*, 67 S. CAL. L. REV. 255 (1994).

tradition—an analogy drawn by Bell²⁸⁹—or of Plato’s allegory of the cave in the *Republic*.²⁹⁰ In both, truth lies in what is seen, not in its being acknowledged as typical. For someone like Bell, the truth of his work should not depend on it being judged as typical, for its “typicality”—the pervasiveness of the racial injustice that he intends to describe—is acknowledged only if we first understand (i.e., have manifested in us) its underlying truth.²⁹¹

So the question becomes whether the “truth” of Bell’s or any narrative acts to reorient by disorientation. Farber and Sherry raise the issue here as one of the “veracity and verifiability” of a story.²⁹² Recall, though, Ricoeur’s criticisms of this approach. Analysis has been so “heavily determined by the history of the principles of verification and falsification” that it has become difficult for the standard approach “to conceive of a concept of truth that would not be taken for granted and defined a priori as *adequation*.”²⁹³ By contrast, Ricoeur wants to articulate and defend another approach to truth, one that “escapes the definition by adequation as well as the criteria of falsification and verification. Here truth no longer means verification, but manifestation, i.e., letting what shows itself be.”²⁹⁴ For narrative—and in particular, as I have argued, Bell’s narratives²⁹⁵—truth is measured as manifestation, not adequation.²⁹⁶

Certainly, a criterion of truth as manifestation presents problems. As Farber and Sherry anticipate, it is difficult to know how to appraise a criterion that seems to rely on an intuitive “flash of recognition” and that may be susceptible to a reader’s reaffirmation of his or her own preconceptions or biases.²⁹⁷ Ricoeur himself acknowledges some circularity in understanding: to understand one must “live in the aura of the meaning that is sought.”²⁹⁸ There is also some circularity between understanding and critique. Critique is possible, but only

289. See *supra* text accompanying notes 274–75. Jules Lobel also distinguishes between the prophetic and the current, majoritarian view. According to Lobel, the value of prophecy is determined not by success according to current norms but by transformation in the long-term. See LOBEL, *supra* note 249, at 106–7, 116.

290. PLATO, *Republic*, in THE COLLECTED DIALOGUES OF PLATO 575, 747–50 (Edith Hamilton & Huntington Cairns eds., Paul Shorey trans., 1961).

291. As throughout, the analogy here to the prophets and to Plato, as earlier to Jesus’s parables, is not to equate Bell’s status with these figures but to indicate a methodological similarity in how truth is disclosed.

292. FARBER & SHERRY, *BEYOND ALL REASON*, *supra* note 7, at 99.

293. RICOEUR, *FIGURING THE SACRED*, *supra* note 87, at 36 (referring specifically to linguistic analysis).

294. RICOEUR, *ESSAYS*, *supra* note 66, at 102.

295. See *supra* Part III.

296. Kathryn Abrams argues that narratives “offer new understandings of what ‘truth’ as a criterion for belief might be . . . [and] challenge the notion that ‘truth’ must be established by comparison with an external point of reference,” that is, by adequation to given, external norms. Abrams, *Unity, Narrative and Law*, *supra* note 17, at 22.

297. Farber & Sherry, *Telling Stories Out of School*, *supra* note 18, at 836–37.

298. RICOEUR, *CONFLICT OF INTERPRETATIONS*, *supra* note 135, at 298.

after “reading and interpretation through imagination and sympathy.”²⁹⁹ This circularity is undeniably frustrating for parties on both sides: for those narrators who maintain they are not understood because the reader has not, in the narrators’ view, sufficiently opened themselves to the story being told, and for those who criticize the story and are, in turn, criticized for not understanding.³⁰⁰ Stories assisted by internal or supplementary analysis—the dialogues, for example, following many of Bell’s narratives between Bell and the fictional Geneva Crenshaw—can provide some common grounds of analysis for both narrator and reader.³⁰¹ But the primacy of manifestation remains. A new truth, it is contended, is being told, and this new truth may reorient by disorientation, by unsettling existing norms, existing truths. To really understand, one must really *listen*.

To reject manifestation because of its methodological uncertainties is to reject the possibility of new truths that have yet to be disclosed. It is difficult to comprehend, for example, how Farber and Sherry’s interpretive model can accommodate itself to the possibility of manifestation rather than only to adequation. In turn, this raises questions about the adequacy of their interpretive approach. Farber and Sherry endorse a model of legal pragmatism.³⁰² Legal pragmatism is not formalist in its reasoning and allows for a range of cognitive tools to be employed in reaching a judgment.³⁰³ The Farber and Sherry form of pragmatism is conservative³⁰⁴ in the descriptive sense in that it relies considerably on the weight of tradition. As Farber writes separately:

The pragmatist philosophers were keenly sensitive to the importance of tradition . . . as a necessary ingredient in all human reasoning. For the pragmatists, tradition was . . . the essential foundation for intellectual and social progress. Consistency with the past is, as Holmes said, as much a necessity as a virtue, for “[t]he past gives us our vocabulary and fixes the limits of our imagination.” . . . [C]reativity and innovation do

299. LACOCQUE & RICOEUR, *supra* note 73, at xvii.

300. See, e.g., Farber & Sherry, *Telling Stories Out of School*, *supra* note 18, at 851 (“[F]or those readers who neither resonate nor recognize, and for those who passionately disagree [with a story], there is no way to enter the dialogue.”).

301. Farber and Sherry have argued that many narratives do not contain analytic elements but are simply stories. See, e.g., FARBER & SHERRY, *BEYOND ALL REASON*, *supra* note 7, at 86, 99; Farber & Sherry, *Telling Stories Out of School*, *supra* note 18, at 809. Richard Delgado has strongly criticized this argument, offering Bell’s work as an exemplary example of the more typical critical race narrative. See Delgado, *On Telling Stories*, *supra* note 18, at 670.

302. See FARBER & SHERRY, *BEYOND ALL REASON*, *supra* note 7, at 132–33.

303. See *id.* See also Daniel A. Farber, *Reinventing Brandeis: Legal Pragmatism for the Twenty-First Century*, 1995 U. ILL. L. REV. 163, 169 [hereinafter Farber, *Reinventing Brandeis*] (“The pragmatist’s judicial decision will rarely claim to rest on a single premise. Rather than using the metaphor of the foundation as a means of support, pragmatists prefer to speak of a web of beliefs or a many-legged stool.”).

304. See Eskridge, *supra* note 16, at 612–13 (characterizing Farber and Sherry’s approach as “conservative pragmatism”).

not arise from a rejection of tradition but rather from a full embrace of it³⁰⁵

Setting aside the question of the accuracy of this characterization of pragmatist approaches, Farber's statement reveals much about the methodology that he and Sherry adopt. Consider again this statement from the longer quotation: "Consistency with the past is . . . as much a necessity as a virtue, for '[t]he past gives us our vocabulary and fixes the limits of our imagination.'"³⁰⁶ This is a methodology of adequation, and it is an approach that a methodology open to manifestation rejects as insufficient. Compare Ricoeur's definition of tradition. Tradition is

not the inert transmission of some already dead deposit of material but the living transmission of an innovation always capable of being reactivated by a return to the most creative moments of poetic activity. . . . In fact, a tradition is constituted by the interplay of innovation and sedimentation.³⁰⁷

This definition of tradition can be contextualized within the larger dimensions of hermeneutics, to whose development Ricoeur and Hans-Georg Gadamer are the principal contemporary contributors. In my view, hermeneutics provides the broad interpretive domain within which narratives such as Bell's and, more generally, the poetic and the parable may be located, typically at the more disruptive end of the spectrum. Hermeneutics argues that understanding does not arise simply based on applying what has come before (a sedimentary notion of tradition) to the instance at hand (the story being told or the legal case at issue). Instead, the pre-existing whole (the tradition, the existing norm of understanding) is informed by the part (the instance of application), and understanding of the part is informed by the whole—each informs the other. As Gadamer argues, application involves "co-determining, supplementing, and correcting [a] principle."³⁰⁸ Commentator Joel Weinsheimer explains that this means that neither the interpretive rule "nor the instance to which it is applied is antecedent to the other;" their relationship is "reciprocal rather than unilateral. Each term modifies and acts on the other so that they interact."³⁰⁹ The particular is not assessed in terms of its adequation to existing norms, for these norms may

305. Daniel A. Farber, *Legal Pragmatism and the Constitution*, 72 MINN. L. REV. 1331, 1344–45 (1988) [hereinafter Farber, *Legal Pragmatism*] (quoting OLIVER WENDELL HOLMES, COLLECTED LEGAL PAPERS 139 (1920) and citing JOHN DEWEY, ART AS EXPERIENCE 265 (1934)).

306. *Id.* (citation omitted).

307. 1 PAUL RICOEUR, TIME AND NARRATIVE 68 (Kathleen McLaughlin & David Pellauer trans., Univ. Chi. Press 1984) (1983) [hereinafter 1 RICOEUR, TIME AND NARRATIVE].

308. GADAMER, *supra* note 136, at 39.

309. JOEL WEINSHEIMER, PHILOSOPHICAL HERMENEUTICS AND LITERARY THEORY 80 (1991) [hereinafter WEINSHEIMER, PHILOSOPHICAL HERMENEUTICS]. See also JOEL WEINSHEIMER, GADAMER'S HERMENEUTICS: A READING OF *TRUTH AND METHOD* 192 (1985) ("[T]he general is . . . continually determined by the particular, even as it determines the particular. Application is not reductive but productive . . .").

be informed and transformed by the incorporation of the particular. Something new is seen, and that recasts the previously existing whole.

Frank Michelman discusses similarly the notion of practical reason. "Judgment mediates between the general standard and the specific case. . . . This process, in which the meaning of the rule emerges, develops, and changes in the course of applying it to cases is one that every common law practitioner will immediately recognize."³¹⁰ The hermeneutic process of application is not extreme or extraordinary, but part of everyday interpretation. Existing interpretive norms are reassessed and reintegrated as part of the routine process of application to new situations. It is insufficient to rest application on an adequation to prior norms and rules. In the process of application, something new occurs, something new is made manifest, and that truth must be incorporated into a recast set of norms. In the typical process of application, as in typical common law development, the new that appears may be slightly different from the old and change may be very incremental.³¹¹

But the major disruptive power of the narrative, as of the poetic and the parable, is simply a more extreme version of the same process.³¹² It may be troubling that there is no more formal or uniform way to resolve the relationship between the general and the particular at the moment of application; different interpreters will resolve the interrelation in different ways. But that is the reality with which we are faced. Denial of the truth that a new manifestation may bring leaves us very partial and limited in our understanding.

310. Frank I. Michelman, *Foreword: Traces of Self-Government*, 100 HARV. L. REV. 4, 28–29 (1986).

311. See, e.g., Eskridge, *supra* note 16, at 630 (affirming the pragmatist view that opinions are dynamic and undergo cumulative changes over time).

312. Perhaps this interrelation of the relatively modest process of application with the disruptive and reorientative process of the poetic or the parable may help overcome objections to the notion of manifestation. One criticism of manifestation is that some claim ignorance of "[d]isclosure' as an 'event' in 'understanding'. They say that this is not *their* model for what it is to understand . . ." Frei, "*Literal Reading*", *supra* note 127, at 55 (endorsing this position). The minute occurrences of disclosure in the moment of application may make more credible the possibility of larger "events" in the poetic moment. Another criticism, voiced by Farber and Sherry, is that reports of "conversion" based on a story are "scarce." Farber & Sherry, *Telling Stories Out of School*, *supra* note 18, at 826. Perhaps, though, repeated exposure to a message in stories can slowly bring a reader to a changed orientation. See, e.g., Eskridge, *supra* note 16, at 630. It is a different point if a reader refuses to change positions. See *supra* text accompanying notes 125–27.

On other grounds, Mark Tushnet claims that Bell's narratives fail because "our society lacks a similar set of shared assumptions." Because of societal diversity, different readers will react to Bell in different ways. Mark Tushnet, *The Degradation of Constitutional Discourse*, 81 GEO. L.J. 251, 274 (1992). Again the response would be that in the moment of application, readers are asked to challenge their existing assumptions and to revise them as a result of their encounter with the new truths that Bell claims to expose. Whether in fact this will occur is the distinguishable issue of the nature of reader response. However, methodologically, it is not sufficient for Tushnet simply to observe differing assumptions as a starting point. The question is whether the narrative can help overcome these differences.

Farber himself quotes positively Michelman's statement.³¹³ Farber's work also includes assertions that pragmatism "can encompass both tradition and prophecy."³¹⁴ However, it is difficult to find—whether in Farber's own work or the work he has coauthored with Sherry—incorporation of the role that manifestation of the new may play. Their work more centrally seems predicated on Farber's phrase, "[c]onsistency with the past is . . . as much a necessity as a virtue, for '[t]he past gives us our vocabulary and fixes the limits of our imagination."³¹⁵ Emphasis on adequation alone does not allow for manifestation. But there is more than one kind of reason,³¹⁶ and more than one approach to discovering the truth.³¹⁷ Farber and Sherry quote Brandeis: "'If we would guide by the light of reason, we must let our minds be bold."³¹⁸ The lesson, they immediately add, is that "[t]hose of us in the mainstream must remain open-minded; we must not be afraid to learn from others."³¹⁹ This does not seem a lesson that Farber and Sherry have adequately incorporated. Recall Ricoeur's phrase: "This hearing which understands is the crux of our problem."³²⁰ The crux of the narrative problem is the failure to hear that leads to the failure to understand.³²¹

313. Daniel A. Farber, *The Inevitability of Practical Reason: Statutes, Formalism, and the Rule of Law*, 45 VAND. L. REV. 533, 538 (1992).

314. Farber, *Reinventing Brandeis*, *supra* note 303, at 181.

315. Farber, *Legal Pragmatism*, *supra* note 305, at 1344–45 (citation omitted).

316. See Francis J. Mootz III, *Between Truth and Provocation: Reclaiming Reason in American Legal Scholarship*, 10 YALE J.L. & HUMAN. 605 (1998) (reviewing FARBER & SHERRY, *BEYOND ALL REASON*, *supra* note 7).

317. Essential to Farber and Sherry's project is a defense of the Enlightenment. See, e.g., FARBER & SHERRY, *BEYOND ALL REASON*, *supra* note 7, at 27 ("At least since the Enlightenment, knowledge has been thought of as universally accessible and objective."). One way to view the contest between advocates of narrative and Farber and Sherry is by comparison to a similar debate within the Western tradition between the Enlightenment and its antagonist, Romanticism. Consider Isaiah Berlin's depiction of the two. See ISAIAH BERLIN, *THE ROOTS OF ROMANTICISM* (Henry Hardy ed., 1999). The use of symbol was central to romantic thought because of its attention to dimensions of depth. *Id.* at 99, 102. Romanticism tried to express symbolically what "could not be expressed literally." *Id.* at 100. The effort was to convey something "immaterial" using "material" means. *Id.* at 102. "Whatever description I give always opens the doors to something further, . . . but certainly something which is in principle incapable of being reduced to precise clear, verifiable, objective prose." *Id.* at 103. The romantic stance was dramatically distinguishable from the Enlightenment's appeal to a knowable, objective truth. *Id.* at 105.

318. FARBER & SHERRY, *BEYOND ALL REASON*, *supra* note 7, at 142 (quoting *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting)). Farber also quotes this passage in the final sentence of his more lengthy essay on Brandeis. See Farber, *Reinventing Brandeis*, *supra* note 303, at 190.

319. FARBER & SHERRY, *BEYOND ALL REASON*, *supra* note 7, at 142. See also *id.* at 107 (noting the "personal qualities that a search for truth reflects—such as open-mindedness, humility, [and] tolerance . . .") (quoting William P. Marshall, *In Defense of the Search for Truth as a First Amendment Justification*, 30 GA. L. REV. 1, 31 (1995)).

320. RICOEUR, *CONFLICT OF INTERPRETATIONS*, *supra* note 135, at 450.

321. Cognitive psychologist Howard Gardner writes:

Unless one is committed to religious fundamentalism, one should always remain open to changing one's mind; it is worth attending to ideas that have affected many others,

V.
NARRATIVE AS IDEALISTIC?

After having explicated and situated Bell's narratives on their own terms, it is now appropriate, in this final Part, to enlarge the frame of reference and return to the question raised by Richard Delgado. Is the employment of narrative to challenge racism too idealistic, too focused on mental constructs, when the task should instead be concentration on the material factors that more decisively effect change?³²² Recall that Delgado offers Bell's thesis of "interest-convergence"³²³ as an exemplar of a materialist approach: racial change has occurred in the United States not because of white morality but because of white self-interest, including fears of social unrest and adverse international standing.³²⁴ Change has resulted not from persuasion but from material conditions. Let me offer another, related example. Bell argues that racism's perdurance stems from whites' maintenance of a property right in whiteness. "[T]he set of assumptions, privileges, and benefits that accompany the status of being white can become a valuable asset that whites seek to protect."³²⁵ The advantages are again material: economic, political, and psychological.³²⁶

Yet in helping us assess the difference between materialism and idealism, the theme of a property right in whiteness raises two provocative points. First, for whites low on the economic ladder, maintenance of this property right may be contrary to their economic interests. They identify with whites at the economic top rather than ally with blacks of an economic class similar to their own; in fact, they blame blacks of their economic class for being the source of their problem.³²⁷ These whites act against their own best economic interests. A material interest—here the property right in whiteness—is not necessarily equivalent to an economic interest. Second, this material interest is founded in a

even when one personally finds little of value in them. Our thought processes sharpen when we wrestle with these ideas, and it is even possible that we might eventually find merit in the ideas that we once rejected. . . . [A]wareness of resistance is valuable both to the creator of new vision and to the individual who initially resists a strange and exotic presentation—possibly because it hits too close to home.

GARDNER, *supra* note 125, at 127.

322. Delgado, *Crossroads*, *supra* note 9, at 123–24.

323. See, e.g., Bell, *Interest-Convergence Dilemma*, *supra* note 47, at 522–28 (explaining *Brown* in terms of the temporary convergence of interests among blacks and (some) whites).

324. Delgado, *Crossroads*, *supra* note 9, at 137–38. For prior discussion of Bell's theme of white self-interest, see *supra* text accompanying notes 206–09.

325. Derrick A. Bell, *Derrick A. Bell (dissenting)*, in *WHAT BROWN V. BOARD OF EDUCATION SHOULD HAVE SAID: THE NATION'S TOP LEGAL EXPERTS REWRITE AMERICA'S LANDMARK CIVIL RIGHTS DECISION* 185, 188 (Jack M. Balkin ed., 2001).

326. *Id.* at 185.

327. Derrick Bell, *Racism: A Major Source of Property and Wealth Inequality in America*, 34 *IND. L. REV.* 1261, 1270–71 (2001). As Bell recognizes, this result is contrary to his interest convergence thesis. See, e.g., BELL, *AND WE ARE NOT SAVED*, *supra* note 159, at 165.

cognitive structure. The status ascribed to whiteness is based not on biology³²⁸ but on belief, a belief supported and confirmed in white culture.³²⁹

To generalize the point, part of the essential scholarly contribution of Bell and Delgado is that they argue against and seek to replace inadequate, current cognitive models of racial change. In Bell's view, the traditional civil rights community's assumption that racism would be progressively eradicated has failed.³³⁰ As we saw in discussion of *The Racial Preference Licensing Act*,³³¹ Bell argues that the fight against racism should rely less on the "idealism" of ethics and more on the "racial realism" of economics.³³² Bell's realism wants to oust idealism, but racial realism is itself a cognitive model that intends to supplant another, failed cognitive model. Delgado and Stefancic in turn describe as an "empathic fallacy"³³³ the belief that idealist forms such as speech and dialogue will lead to changes in individuals' minds.³³⁴ Why do these vehicles fail? As argued above, we are not autonomous entities who choose among competing ideas.

In an important sense, we *are* our current stock of narratives, and they us. We subscribe to a stock of explanatory scripts, plots, narratives, and understandings that enable us to make sense of—to construct—our social world. Because we then live in that world, it begins to shape and determine *us*, who we are, what we see, how we select, reject, interpret and order subsequent reality.³³⁵

Racism is itself part of the "dominant narrative" that comprises the understandings on the basis of which we reason, and these dominant narratives resist change.³³⁶ In its reliance on dialogue and exhortation to effect change, the empathic fallacy is too idealistic. Note, though, that like Bell, Delgado and Stefancic challenge idealism based on an alternative *cognitive* structure. "[W]

328. Yes, some still may believe the difference is biological, but that is not the case for most.

329. In his latest book, Bell cites as a principle here the notion of "hegemony": a belief, reinforced by the social structure, in the value of the current social order. See BELL, *SILENT COVENANTS*, *supra* note 159, at 187. As noted above, *supra* text accompanying note 326, whiteness can have economic, political, and psychological value, but that value results from a status that exists in the head, not in biological reality. As the text now goes on to argue, cultural status is a cognitive phenomenon that has real, empirical consequences.

330. Derrick Bell, *Racial Realism*, 24 CONN. L. REV. 363, 377–78 (1992).

331. See BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 47–64. See also *supra* Part III.A.

332. See BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 49.

333. See *supra* text accompanying note 50.

334. See Delgado & Stefancic, *Images of the Outsider*, *supra* note 50, at 1261, 1276, 1281.

335. *Id.* at 1280. Among those cited in support at the end of this quotation, see *id.* at 1280 n.166, are the first two volumes of Ricoeur's *Time and Narrative*. See 1 RICOEUR, *TIME AND NARRATIVE*, *supra* note 307, & 2 PAUL RICOEUR, *TIME AND NARRATIVE* (Kathleen McLaughlin & David Pellauer trans., Univ. Chi. Press 1985) (1984). I agree that Ricoeur says we are structured by our narratives. However, I will later argue that for Ricoeur these narratives can change, as in metaphoric moments. See *infra* text accompanying notes 363–65.

336. Delgado & Stefancic, *Images of the Outsider*, *supra* note 50, at 1279.

are our current stock of *narratives*”³³⁷ As they write elsewhere, “The devices by which we construct and make sense of our social world are largely linguistic, consisting of categories, concepts, and particularly narratives.”³³⁸ Cognitive structures themselves have a materiality; inextricably they provide a framework, an interpretive density, through which and because of which we understand.³³⁹ The civil rights community’s material actions—dedicated labors of untold years—may not achieve the desired goal if they are pursued according to an insufficient cognitive understanding of racism’s modality. At times, Delgado writes, a “gestalt switch” may be necessary.³⁴⁰ We may need “to examine the legal background—the bundle of assumptions, baselines, presuppositions, and received wisdoms—against which the familiar interpretive work of courts and legislatures takes place.”³⁴¹ If we fail at this cognitive task, “all the rest is shadowboxing.”³⁴² Delgado argues that the search must be undertaken both for the “broad structures” that have led to racial and other forms of oppression and for those that may replace them with true equality and democracy.³⁴³ Cognitive structures should be included within both of these lists.³⁴⁴

337. *Id.* at 1280 (second emphasis added).

338. Richard Delgado & Jean Stefancic, *Norms and Narratives: Can Judges Avoid Serious Moral Error?*, 69 TEX. L. REV. 1929, 1957 (1991) [hereinafter Delgado & Stefancic, *Norms and Narratives*]. See also *id.* at 1953 (“[W]e are all situated actors, constituted in large part by the ‘stories’ or narratives by which we understand and impose order on reality.”).

339. For example, Bell describes how at the time *Brown v. Board of Education*, 347 U.S. 483 (1954), was being decided, segregation was not simply aberrant. Rather, he writes, “[i]t was the *dominant interpretive framework* for a social structure that organizes the American garden’s very configuration. Segregation . . . consolidated the *imaginative lens* through which Americans would now conceive race.” BELL, SILENT COVENANTS, *supra* note 159, at 82 (emphasis added).

Paul Ricoeur pursues the larger argument here at greater length. In contrast to the Marxist division between an economic infrastructure and superstructure of ideas, Ricoeur argues that concepts themselves inform and are part of the infrastructure. RICOEUR, LECTURES, *supra* note 91, at 223.

340. Delgado, *Shadowboxing*, *supra* note 18, at 823.

341. *Id.* at 823–24.

342. *Id.* at 824.

343. Delgado, *Two Ways*, *supra* note 41, at 2296.

344. See, e.g., Richard Delgado, *Derrick Bell’s Toolkit—Fit to Dismantle That Famous House?*, 75 N.Y.U. L. REV. 283, 307 (2000) (“Sometimes . . . one needs to turn a thought structure on its side, look at it from a different angle, and gain some needed distance from it, before the path to liberation becomes clear.”); Delgado, *Brewer’s Plea*, *supra* note 30, at 6 (“We needed new ideas and theories—sometimes if you are up a tree and a flood is coming, you have to climb down before climbing up a taller one.”); Richard Delgado & Jean Stefancic, *Why Do We Tell the Same Stories?: Law Reform, Critical Librarianship, and the Triple Helix Dilemma*, 42 STAN. L. REV. 207, 223 (1989) [hereinafter Delgado & Stefancic, *Why Do We Tell the Same Stories?*] (“[The ideas of] divergent individuals [such as Bell] offer the possibility of legal transformation and growth. Like nature’s mutant or hybrid, they offer the infusion of new material needed to retain the vitality of our system of thought.”).

The present Article is likewise an attempt to displace a prevalent conceptual structure (one defining understanding on the basis of its adequation to existing norms) with a new conceptual structure (one expanding understanding to allow manifestation of the new). Both of these

If cognitive structures have a materiality, then what becomes of Delgado's distinction between idealist and materialist forms of racial critique? The distinction remains vital on two grounds. First, Delgado argues that recent racial critique has been disproportionately idealist. Critique has focused "almost exclusively on *discourse* at the expense of" attention to issues such as power, history, and other social, political, and economic determinants of racial fortune.³⁴⁵ "Ideal factors—thoughts, discourse, stereotypes, feelings, and mental categories—only partially explain how race and racism work. Material factors—socioeconomic competition, immigration pressures, the search for profits, changes in the labor pool, nativism—account for even more, especially today."³⁴⁶ Delgado seeks to redress an imbalance. At this level, both idealist and materialist analyses can coexist, and Delgado's encouragement of a materialist perspective does not undermine the space for an account (such as this Article's) that emphasizes discourse analysis. In turn, the present Article's concentration on cognitive structures rather than on questions of power or history does not intend to denigrate work in these other areas.³⁴⁷ To be more precise, this Article addresses the need for acknowledgment of cognitive structures that allow entrance of Bell's disruptive arguments—arguments that advance theses about very material subjects such as interest convergence and whiteness as property.

At a second level, however, Delgado's endorsement of materialist over idealist approaches is more challenging. The claim is that recourse to materialist analysis is necessary as a matter of efficacy: materialist factors create change; idealist factors largely do not. Change occurs on the basis of social, political, and economic movements, not on the basis of narrative. Recall Delgado and Stefancic's coining of the empathic fallacy: we are constituted by our stories, and later discourse—the introduction of new narratives—will not move us, will

conceptual structures have a materiality; they provide an interpretive lens through which data is assessed, explained, and understood.

345. Delgado, *Crossroads*, *supra* note 9, at 122.

346. Delgado, *Two Ways*, *supra* note 41, at 2280. See also Delgado, *Crossroads*, *supra* note 9, at 123–24.

347. The brevity of these remarks on the importance of this material work might seem a form of academic genuflection: a brief, honorific show of purported respect, while true interest really lies elsewhere. Let me suggest why that suspicion is, I hope, mistaken in the present case. The time I spent as a boycott organizer in Los Angeles for Cesar Chavez's United Farm Workers left a lasting impression about the relationship between organizing and legal rights. Legal discourse, including legal rights, does not arise and is not maintained without organizing, without expression of political power. In the legal literature, this relationship is especially well articulated in the work of Staughton Lynd. See, e.g., Staughton Lynd, *The Right to Engage in Concerted Activity After Union Recognition: A Study of Legislative History*, 50 IND. L.J. 720 (1975). William Eskridge endorses a similar recognition in the gay and lesbian movement. See, e.g., Eskridge, *supra* note 16, at 632 (citing the views of Franklin Kameny that "information and persuasion will be unavailing unless backed up by power and protest"). The present Article's attention to cognitive understanding assesses therefore only one aspect of a much larger picture.

not create fundamental change.³⁴⁸

We are all situated actors, whose selves, imaginations, and range of possibilities are constructed by our social setting and experience. We *are*, in a sense, our current narratives. Thus, an unfamiliar narrative invariably generates resistance; despite our best efforts, counterstories are likely to effect at most small, incremental changes in the listener or reader.³⁴⁹

Under this critique, even if this article is successful in establishing that uses of narratives such as Bell's make manifest something new and so cannot be evaluated according to existing norms of adequation, this thesis seemingly has more theoretical than actual import because narratives that seek to transform—including Bell's—will continue not to persuade. As we have discussed throughout, readers will resist the narrative.

In the face of Delgado's challenge, does my thesis about the nature of Bell's narrative have any remaining heft, any actual import? Let me answer by trying to respond to the most pointed question raised by Delgado's critique: why do Delgado and Bell, materialists both, continue to write? The response itself has four differentiable levels. First, writing can take the form of truth-telling, whether it is efficacious or not. This element is more overt in Bell's work. Bell writes, for instance, "[w]e're a race of Jeremiahs, prophets calling for the nation to repent."³⁵⁰ As previously noted,³⁵¹ Bell goes on to acknowledge, "[a]bout the least dire fate for a prophet is that one preaches, and no one listens; that one risks all to speak the truth, and nobody cares."³⁵² Truth-telling voices objection and protest; it does not let those living falsely to go free, even where it does not change minds.³⁵³ Speaking the truth also can provide the writer some sense of

348. As Delgado and Stefancic note,

[T]he *empathic fallacy* consists of believing that we can enlarge our sympathies through linguistic means alone. By exposing ourselves to ennobling narratives, we broaden our experience, deepen our empathy, and achieve new levels of sensitivity and fellow-feeling. We can, in short, think, talk, read, and write our way out of bigotry and narrow-mindedness, out of our limitations of experience and perspective. . . . [H]owever, we can do this only to a very limited extent.

Delgado & Stefancic, *Images of the Outsider*, *supra* note 50, at 1261.

349. Delgado & Stefancic, *Norms and Narratives*, *supra* note 338, at 1933. As Delgado notes in another work,

[M]ost audiences will generally react to the reformer's message with either anger or puzzlement. Members of the control group will be angry: How dare they use that argument against us? And persons not members of either the insurgent or the control group will respond with puzzlement: I thought they meant the [status quo] by justice.

Delgado, *Norms and Normal Science: Toward a Critique of Normativity in Legal Thought*, 139 U. PA. L. REV. 933, 961 (1991).

350. BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 157.

351. *Supra* text accompanying note 274.

352. BELL, *FACES AT THE BOTTOM*, *supra* note 1, at 157.

353. See, e.g., Delgado & Stefancic, *Derrick Bell's Chronicle*, *supra* note 215, at 328 ("[S]torytellers have directed their attention to the oppressors, reminding them of a day when they

integrity, of refusal to acquiesce.³⁵⁴ Second, even where the narrative does not change the minds of a racial majority, it can act as a counterstory supporting the story of racial minorities—it tells the truth of *their* story.³⁵⁵ The value of story for these communities must be underscored. Third, the counterstory urges that the majoritarian story is neither the only story nor a necessary story. The current social system is not a closed system, and alternatives exist. Delgado writes that counterstories “can open new windows into reality, showing us that there are possibilities for life other than the ones we live. They enrich imagination and teach that by combining elements from the story and current reality, we may construct a new world richer than either alone.”³⁵⁶ As we have discussed, this notion of possibility is an essential element of Bell’s writings, most notably in his narrative, *Bluebeard’s Castle*.³⁵⁷ The work of Delgado and Bell is “transformatively aspirational.”³⁵⁸

These three levels of response remain independent of the challenge Delgado raises at a fourth and final level: does critical race narrative change the perspective of those in the white majority? First, let us enlarge the question: can minds change? Cognitive psychology suggests the answer is yes. In a recent work, Howard Gardner argues:

[M]ost mental representations are neither given at birth nor frozen at the time of their adoption. In our terms, they are constructed over time within our minds/brains and they can be reformed, refashioned, reconstructed, combined, altered, and undermined. They are, in short, within our hands and within our minds. Mental representations are *not* immutable; analysts or reflective individuals are able to lay them out, and, while altering representations may not be easy, changes can be effected.³⁵⁹

would be called to account.”).

354. See, e.g., BELL, *CONFRONTING AUTHORITY*, *supra* note 159, at 161.

355. See Delgado, *Derrick Bell’s Racial Realism*, *supra* note 25, at 530:

Our need, then, is for counterstories that reveal the lie implicit in the thousands of majoritarian narratives and sub-narratives according to which we are inferior, according to which our lowly estate is deserved. . . . It is no accident that Bell has a tremendous underground circulation and status in the minority community of color. We know that his message is true.

356. Delgado, *Storytelling for Oppositionists*, *supra* note 30, at 2414–15. See also Delgado & Stefancic, *Derrick Bell’s Chronicle*, *supra* note 215, at 328 (“In Biblical history, storytellers for oppressed groups told tales of hope and struggle—for example, that of the Promised Land—to inspire and comfort the community during difficult times. Reality *could* be better—and, perhaps, will be.”).

357. See *supra* Part III.C.

358. Bell, *Who’s Afraid of Critical Race Theory?*, *supra* note 186, at 906 (discussing critical race theory in general). As previously intimated, I am especially interested in the role imagination and utopia play in Delgado’s and Bell’s work, particularly imagination as productive rather than just reproductive and utopia as exploration of the possible rather than as escape. See *supra* notes 91, 130, 257.

359. GARDNER, *supra* note 125, at 46.

Gardner's research indicates that mind change most likely occurs when the following factors operate together: reason, research (supporting data), resonance (affective support), representational redescription (multiple reinforcing representations), resources and rewards that can be drawn upon, and background real world events.³⁶⁰ Notice that material factors are relevant to the ideational change, yet they do not determine the change. Cognitive elements retain some autonomy. Gardner alludes, for example, to the role of imagination.³⁶¹ More broadly, the possibility of mind change indicates that we need not be simply the product of our biological, cultural, and historical heritage.³⁶²

In attempting to conceptualize more precisely the nature of mind change, I would return to our prior discussion of the hermeneutic relationship between whole and part. At the moment where we attempt understanding, we bring to bear the pre-existing "whole" that we are—the various social, cultural, historical, and cognitive elements of our background and tradition. These interpretive norms are brought to bear on the "part"—the element that is new. And the hermeneutic argument is that the whole does not subsume the part, but that each informs the other. The part can modify and act on the whole and vice versa.³⁶³ Think of this action even more precisely by returning to the operation of metaphor. Metaphor—the "part" newly introduced—displaces a given order—a prior "whole"—in order to present a new order.³⁶⁴ Now incorporate these functions of metaphor and application into the operation of narrative. Narrative does not operate as a form of arms-length logic; it works affectively, disruptively to challenge existing norms and question their sufficiency. The parable of the Good Samaritan asks the listener to hold together two contradictory elements, neighbor and Samaritan.³⁶⁵ Narrative does not simply offer an alternative order; it undermines the integrity of the order previously held dear. Parable, metaphor, and narrative can create change.

Yet we must again face the fact of potential resistance. As Delgado and Stefancic argue, "Divergent new narratives, ones that could jar and change us, always spark resistance . . ."³⁶⁶ The fact of resistance is recognized also in the Bible,³⁶⁷ by Bell,³⁶⁸ and by psychologist Gardner.³⁶⁹ Yet even if conversion is

360. See *id.* at 15–17. I later return to Gardner's seventh factor, which may negate change: resistance. See *infra* note 369.

361. See GARDNER, *supra* note 125, at 47.

362. *Id.* at 211–12. This judgment may conflict with Delgado and Stefancic's conclusion that "our ability to escape the confines of our own preconceptions is quite limited." Delgado & Stefancic, *Images of the Outsider*, *supra* note 50, at 1281. Observe that the debate here concerns the material nature of our cognitive structures.

363. See WEINSHEIMER, *PHILOSOPHICAL HERMENEUTICS*, *supra* note 309, at 80.

364. See RICOEUR, *RULE OF METAPHOR*, *supra* note 91, at 22.

365. See *supra* text accompanying notes 81–83.

366. Delgado & Stefancic, *Norms and Narratives*, *supra* note 338, at 1953.

367. Recall the parable of the Sower, *Mark* 4:3–8. See *supra* text accompanying note 127.

368. See *supra* text accompanying notes 272–79.

369. GARDNER, *supra* note 125, at 18 ("[M]ind changing is unlikely to come about when the

rarely instantaneous, perhaps narrative's unsettling of prior logic can create a crack or a wedge that can be opened incrementally over time by new narratives, just as drops of water can eat into stone. Gardner recognizes the typically incremental nature of change;³⁷⁰ Delgado and Stefancic also acknowledge incremental change as a possibility.³⁷¹ But even this "optimism" about narrative may be more suspect, write Delgado and Stefancic, "when applied to evils, like racism, that are deeply inscribed in the culture."³⁷² Bell's prognosis is even more dire: "[R]acism is an integral, permanent, and indestructible component of this society."³⁷³

A paradox seems at work in Bell³⁷⁴ and also in Delgado and Stefancic. The structures of racism are perduring, resistance to racial change is strong—yet they continue to write. In part, their writings, including their narratives, distinctively offer more material perspectives and strategies—for example, attention to interest convergence and to local and international labor markets—that act as alternatives to what they consider failed idealistic models based on dialogue and discourse.³⁷⁵ And yet these more material arguments are writings, and writings that attempt to persuade. The paradox is that the structures of racism are enduring, yet these writings suggest all hope is not lost. The possibility that a reader will be moved by a parable or a narrative is not foreclosed; the reception of the metaphorical twist³⁷⁶ is unpredictable. We do not know in advance whether the reader will be indifferent, will resist, or will be reoriented by the disruptive manifestation of the new. At the end of his latest book, *Silent Covenants*, Bell quotes Robert Gordon: "Things seem to change in history when people . . . act[] as if . . . they could change things; and sometimes

resistances are strong, and the other factors do not point strongly in one direction.").

370. See *id.* at 102 ("We all cherish shortcuts to conveying new ideas, having them understood forthwith, changing minds dramatically and decisively; and yet it is not possible, in most cases, to accomplish transmission and acceptance in short order.").

371. See Delgado & Stefancic, *Norms and Narratives*, *supra* note 338, at 1933 ("[A]n unfamiliar narrative invariably generates resistance; despite our best efforts, counterstories are likely to effect at most small, incremental changes in the listener or reader.").

372. Delgado & Stefancic, *Images of the Outsider*, *supra* note 50, at 1281.

373. BELL, *FACES AT THE BOTTOM*, *supra* note 1, at ix. For additional citations to similar propositions in Bell, see Taylor, *Racism as "The Nation's Crucial Sin," supra* note 209, at 272–73.

374. See *supra* notes 247–49 for a discussion of the paradox in Bell's work between his thesis that racism is permanent and his continued efforts to write and act against it.

375. I also should acknowledge that in recent work arguing for materialist against idealist models of racial change, Delgado's principal intended audience is other scholars within critical race theory. See Delgado, *Crossroads*, *supra* note 9; Delgado, *Two Ways*, *supra* note 41. The possibility of persuasion may be more available when the reader's views are closer in spectrum to the author's. Yet the remaining distances may make persuasion difficult here as well. More generally, if there is at least the possibility of persuading someone of similar but not identical views, then perhaps this is additional evidence that we are not simply cabined within our own interpretive worlds but can bridge gaps between ourselves and others.

376. See RICOEUR, *RULE OF METAPHOR*, *supra* note 91, at 97–99 (alluding to Monroe C. Beardsley, *The Metaphorical Twist*, 22 *PHILOSOPHY AND PHENOMENOLOGICAL RESEARCH* 293 (1962)).

they can, though not always in the way they had hoped or intended; but they never knew they could change them at all until they tried.”³⁷⁷ For Bell, as for Delgado and Stefancic, one must do what one can, and one of the available tools is narrative: narrative that can reorient by disorienting, narrative that can make manifest something new.

377. BELL, SILENT COVENANTS, *supra* note 159, at 200 (quoting Robert Gordon, *New Developments in Legal Theory*, in THE POLITICS OF LAW 413, 424 (David Kairys ed., 2nd ed. 1990)).

For Delgado and Stefancic's appreciation of the availability and effectiveness of a narrative twist, I was struck by their quotation of Michel Foucault in an epigraph:

This book first arose out of a passage in Borges, out of the laughter that shattered, as I read the passage, all the familiar landmarks of my thought—*our* thought, the thought that bears the stamp of our age and our geography—breaking up all the ordered surfaces and all the planes with which we are accustomed to tame the wild profusion of existing things, and continuing long afterwards to disturb and threaten with collapse our age-old distinction between the Same and the Other.

Delgado & Stefancic, *Why Do We Tell the Same Stories?*, *supra* note 344, at 207 (quoting MICHEL FOUCAULT, THE ORDER OF THINGS: AN ARCHAEOLOGY OF THE HUMAN SCIENCES xv (1973)).

