



# The Law as it Could Be

*Owen Fiss*

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The Law As It Could Be gathers Fiss's most important work on procedure, adjudication and public reason, introduced by the author and including contextual introductions for each piece some of which are among the most cited in Twentieth Century legal studies. Fiss surveys the legal terrain between the landmark cases of *Brown v. Board of Education* and *Bush v. Gore* to reclaim the legal legacy of the Civil Rights Movement. He argues forcefully for a vision of judges as instruments of public reason and of the courts as a means of shaping society in the image of the Constitution. In building his argument, Fiss attends to topics as diverse as the use of the injunction to restructure social institutions; how law and economics have misunderstood the role of the judge; why the movement seeking alternatives to adjudication fails to serve the public interest; and why *Bush v. Gore* was not the constitutional crisis some would have us believe. In so doing, Fiss reveals a vision of adjudication that vindicates the public reason on which *Brown v. Board of Education* was founded.

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