



**Brian K. Landsberg.** *Enforcing Civil Rights: Race Discrimination and the Department of Justice*. Lawrence: University Press of Kansas, 1997. 276 pp. \$35.00, cloth, ISBN 978-0-7006-0826-3.



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An Attorney's View of the Department of Justice and the Battle Against Race Discrimination

When Brian Landsberg began working for the Civil Rights Division (CRD) of the Department of Justice in 1964, his early assignments had him climbing over barbed-wire fences and plodding through mud, creeks, and clay in Sumter County, Alabama, where he interviewed poor African-Americans who wished to vote. Later, he worked in federal courts, trying cases and arguing appeals, before finally leaving the Justice Department in favor of a teaching position at the McGeorge School of Law in 1986. In his book *Enforcing Civil Rights: Race Discrimination and the Department of Justice*, Landsberg frequently draws from his twenty-two years of experience as an attorney for the Civil Rights Division. Yet this is certainly not a memoir or even a glib "insider's account." Landsberg also looks at case law, legislative histories, Justice Department archives, and a broad array of secondary sources in his examination of the CRD.

But strictly speaking, this is not a work of history either, and most historians are not likely to

enjoy this book. The writing is sometimes dense and repetitive, and relatively few pages are devoted to the evolution of civil rights laws, or to the compelling reasons for the federal government's role in this type of litigation. Moreover, there is no single, unifying "argument" here: historians who are accustomed to thesis-driven monographs may be frustrated with the way Landsberg breezily skips from topic to topic. Although he carefully analyzes the limits of attorney general authority, the various forces that influence the Justice Department's priorities and litigation policy, and the future of the CRD, Landsberg devotes only a couple of very brief chapters to the history behind all of this.

Yet this is not to say that *Enforcing Civil Rights* is without value. Landsberg rightly points out that "Although much study has been devoted to substantive issues of civil rights laws, little attention has been paid to the structure of civil rights enforcement (p. 3)." As a result, political scientists, law students, and fusty, legal scholars who favor bureaucratic approaches to the study of black freedom movement—"from the top down,"

as it were--may well profit from the detail and complexity behind Landsberg's study.

Created in 1957, the CRD was first designed to enforce a smattering of Reconstruction laws, and employed perhaps a dozen lawyers. At present, a staff of some 500 help the Attorney General to enforce laws, not merely against race discrimination, but also against violence towards abortion clinics, or transgressions against the rights of institutionalized persons. Moreover, although the CRD was initially allowed to only sue local and state governments, the division may now bring suit against private individuals and companies.

Landsberg believes that since the "Civil Rights Division was created to secure the rights of disenfranchised African Americans," litigation policy should reflect this "central duty," even as the division's authority continues to reach into other areas (p. 153). This is no doubt the correct moral position, for as Landsberg elsewhere mentions, "The history of discrimination based on gender, age, disability, and family status differs in important ways from the history of race discrimination (p. 99)." But Landsberg is dropping land-mines with his frequent assertion that that the division's foremost priority has usually been with "nondiscrimination." Many laws that have been bolstered by the CRD, ranging from affirmative action statutes to busing ordinances, reflect a policy of "federally managed race relations," not "nondiscrimination." This is not to say that these policies are wrong or misguided; indeed, this reviewer supports them whole-heartedly; but we should also recognize that the advent of these laws, which are aim to engineer a more integrated and equitable society, mark a clear departure from the scope and purpose of the nondiscrimination laws that held sway before *Brown v. Board of Education*.

Perhaps the two most interesting chapters in Landsberg's book focus on the question of priorities. Clearly, the CRD has never been large enough to remedy each and every act of unlawful discrimination that falls within its authority, and

with its expanded role, it has become increasingly important for the division to carefully allocate its resources. In focusing on highly visible breaches of the law, or upon systemic (as opposed to individual) instances of discrimination, the CRD tries to create an "atmosphere of compliance" with civil rights laws. Yet even as these laws are relatively stable, both the executive branch and the attorney general typically leave their mark on the way the CRD operates.

For example, during the Reagan era, William Brayford Reynolds--the assistant attorney general for civil rights--believed that most forms of affirmative action were inconsistent with the goals of civil rights laws. Yet in 1995, President Clinton's appointee to this position, Deval Patrick, argued that there should be no interference with race-conscious systems of "preferences" that aim to remedy past discrimination. As Landsberg explains, "Both men relied on law and policy to reach these inconsistent positions, which paralleled the political stances of the president's who had appointed them. It is worth exploring how the division forms its positions on the difficult issues it must address (p. 4)." Landsberg is wary of the squabbles that sometimes arise between career civil servants and political appointees, and he hopes that the division will ultimately promote the evenhanded and effective enforcement of the law, not the whims or proclivities of narrow interests.

Landsberg's long-standing commitment to fairness and equality is evident throughout this book, and this is worthy of our applause. Moreover, policy analysts and legal scholars may well profit from his careful attention to detail, and from the relevance that his study holds for current debates over the forms and limits of civil rights enforcement. But as history, it falls short. The civil rights movement was not driven by the Department of Justice, but rather by a broad-based, grassroots coalition of black and white Americans, whose activism compelled the federal

government to uphold the most basic human and constitutional rights of all citizens. Accordingly, this dense, bureaucratic study--which focuses purely on the legal structure behind the battle against discrimination--is likely to carry currency with only the most ardent specialists in the history of the civil rights movement.

This review was commissioned for H-Pol by Lex Renda <renlex@csd.uwm.edu>

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