

## BOOK REVIEW

### A NEW NARRATIVE OF RACIAL SEGREGATION

#### **The Color of Law: A Forgotten History of How Our Government Segregated America**

Rothstein, Richard. 2017. *The Color of Law: A Forgotten History of How Our Government Segregated America*. Liveright Publishing.

Reviewed by Alison Mills

In *The Color of Law* (2017), Richard Rothstein takes what once was a familiar narrative of racial segregation in America and turns it decisively on its head.

With bountiful evidence and rigorous detail, Rothstein rejects the prevailing view, upheld to this day by the Supreme Court, that individual decisions create a natural geography of *de facto* racial segregation in our cities, and argues instead that our government at all levels abetted and sponsored what is in fact *de jure* segregation. This is the heart of *The Color of Law*. According to Rothstein, the government has systematically violated the rights it created in the 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup> Amendments to the Bill of Rights for black Americans, and his book is essentially a treatise that methodically uncovers this narrative of history.

Each chapter of the book presents a careful yet forceful analysis of historical data, records, and events that uncover this *de jure* segregation across all facets of our cities. Rothstein demonstrates how public housing, zoning, insurance policies, taxation, labor unions, and police forces all developed and executed racially targeted policies and practices that created widespread discrimination and inequality at the hands of the government.

Several pieces of evidence come right from the Bay Area. Rothstein opens his book by asking, if state-sanctioned segregation occurred in San Francis-

co, the most liberal of our modern cities, then must it have occurred everywhere? One of the cases Rothstein presents in the Bay Area occurred in the mid-1950s, when Ford Motors closed its plant in racially diverse Richmond and moved 50 miles south to a racially-restrictive neighborhood in Milpitas. Developments built near the new plant were being subsidized by the Federal Housing Administration and were explicitly designated for whites only. As a result, most black workers could not move near the new plant and either lost work or faced long commutes if they remained in Richmond. For Rothstein, the story is a typical one in this country; a story not made by racially biased individual actors, but rather orchestrated knowingly by the government. Ultimately, this type of story results in the economic inequality and racial segregation we see between cities like Richmond and Milpitas today.

Rothstein's argument is strengthened by balancing a discussion of sweeping, large-scale violations with those that are more personal and shocking in their injustices. First, he thoroughly discusses the explicitly racist principles outlined in the 1935 *Underwriting Manual* of the Federal Housing Administration, which would not insure mortgages to African American families because "incompatible racial groups should not be permitted to live in the same communities." For nearly the next twenty years, subsequent editions repeated this guideline. Rothstein then rounds out his final chapters by giving a passionate account of government failure to enforce the ba-

sic rights of many black families who faced extreme physical violence and property damage if they moved into a white neighborhood and were often quickly driven out. The depth of his research at both scales powerfully illustrates the pervasiveness of racial segregation in our society.

Rothstein makes clear that *de jure* segregation occurs not just spatially, but economically as well. In his chapter discussing the suppressed incomes of black families, Rothstein explains how black families' inability to afford to live in middle-class communities is a direct result of federal and state labor market policies that depressed African American wages with undisguised racial intent. Rothstein dives into the history of specific pieces of legislation like the Wagner Act, which legally empowered labor organizations that refused to admit African Americans. This is a compelling framework that makes clear that income segregation and the wealth gap are by no means *de facto*, but rather the outcome of economic policies created by powerful organizations. Here Rothstein posits that *de jure* segregation is not limited to one side of the political spectrum, and demonstrates how many institutions played a part in the segregation and discrimination of African Americans.

Rothstein's argument throughout *The Color of Law* is clearly articulated and is certainly an important one, but it should also be considered as merely the latest development in a new body of literature that accepts this disturbing narrative of our country's history as given. Rothstein builds on important works from Weaver (1948), Kushner (1980), Hirsch (1983), Jackson (1985), Massey (1993), and Sugrue (1996), but his argument is exacting in its classification of segregation as *de jure*. Rothstein himself is a research associate at the Economic Policy Institute and a Fellow at the Thurgood Marshall Institute of the National Association for the Advancement of Colored People (NAACP) Legal Defense Fund, and as such, his examination is largely limited to the economic and legal implications of segregation. Thus, while he presents a comprehensive account in favor of explicit remediation to the inequities caused by racially homogenous neighborhoods, a consideration of the social and cultural impacts of segregation is conspicuously absent.

Near the end of his book, Rothstein concedes that a discussion of real remedies and solutions is outside the scope of this research. Yet this lack of attention to feasible policy solutions at both the federal level and the more local, contextual level feels inadequate. Throughout this book, Rothstein also curiously rejects the phrase "people of color," essentially suggesting without equally convincing evidence that other minorities do not face *de jure* segregation to the same extent as African Americans. While this seems

to be an unproductive way to position his profoundly important research, it certainly leaves room for future literature to address what Rothstein has explicitly chosen to ignore.

Nonetheless, Rothstein concludes his book with an anecdote that is both compelling and revealing in the context of the magnitude of research he has presented. He looks briefly at several U.S. history textbooks widely used in public schools and points to passages that reveal how the myth of *de facto* segregation is perpetuated and described as a passive force outside the control of government. In this sense, the history of racial segregation is not so much "forgotten" as it is reframed as one that acquits our federal, state, and local governments of responsibility. The value in Rothstein's book comes from challenging this narrative, and from providing a history that acknowledges this massive body of evidence.

Ultimately, Rothstein's book is an essential read for all, but particularly for those whose work may be based on an old narrative of racial segregation. It is a meticulous and deliberate account of history that must be relearned and brought to the fore if America is ever to heal its racial fracturing.

## REFERENCES

- Hirsch, Arnold. 1983. *Making the Second Ghetto: Race and Housing in Chicago, 1940-1960*. Chicago: University of Chicago Press.
- Jackson, Kenneth T. 1985. *Crabgrass Frontier*. New York: Oxford University Press.
- Kushner, James. 1980. *Apartheid in America: An Historical and Legal Analysis of Contemporary Racial Segregation in the United States*. Arlington: Carrollton Press.
- Massey, Douglas, and Nancy Denton. 1993. *American Apartheid: Segregation and the Making of the Underclass*. Boston: Harvard University Press.
- Sugrue, Thomas. 1996. *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit*. Princeton: Princeton University Press.
- Weaver, Robert. 1948. *The Negro Ghetto*. New York: Russell & Russell.