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The YLPR Interview: Ralph G. Neas

Ralph Neas is one of America’s premier civil rights leaders. As executive director of the Leadership Conference on Civil Rights, he presides over a coalition of more than 185 civil rights groups. In that capacity, he helped lead the campaign to block the nomination of Judge Robert Bork to the U.S. Supreme Court, and has led the efforts on behalf of the Civil Rights Act of 1990.

Neas, who graduated from Notre Dame and the University of Chicago Law School, began his career as an aide to Senator Edward Brooke and later to Senator David Durenberger, both Republicans. In fact, Neas himself belongs to that party, which has led some to quip that he’s “0 for 4” — a white, male, Catholic Republican.

Recently, Patty Daniels, Grant Dorfman, and Dan Pink of the Yale Law & Policy Review staff talked with Neas in his Washington, D.C. office. What follows are excerpts from that conversation.

THE REAGAN RECORD

YLPR: Let’s go back in time a little bit. The 1980s were a rough time for civil rights in the United States. Reagan brought in Ed Meese and William Bradford Reynolds, loaded the federal judiciary with conservatives, tried to gut the Voting Rights Act, railed against affirmative action, attempted to block school desegregation, and tried to give tax breaks to schools that discriminated. How much damage did this administration cause?

Neas: First, let me state clearly that the full story of the 1980s with respect to civil rights has not been told. It is true that we had an administration that, in my view, compiled the worst civil rights record of any administration in many decades. It is also true that legislatively speaking, the 1980s were a bipartisan reaffirmation of civil rights, and a bipartisan rejection of the right wing legal philosophy that Ed Meese, Brad Reynolds, Ronald Reagan and others exemplified.

What the Reagan Administration did, led by the Department of Justice, was to repudiate, time and again, the civil rights policies of past Democratic and Republican administrations. They attempted to weaken the civil rights
laws across the board with respect to voting rights, housing, education, employment, and federal funding.

YLPR: What was driving this repudiation? Previous Democratic administrations and Republican administrations had supported these items. Why did this administration decide it was time for a change?

Neas: For the first time we had an administration where civil rights policies were controlled by right-wing ideologues. And the right-wing ideologues did not believe in the active role of the federal government in eliminating discrimination and assuring the equality of opportunity.

I would never say that Meese or Reynolds or Reagan were racists or sexists. I think they had an extraordinary insensitivity with respect to civil rights issues and an extraordinary ignorance about the breadth and depth of discrimination in this country — not only past discrimination, but present discrimination. Furthermore, whenever I think of Meese and Reynolds and their ilk, I think of the Preamble to the Constitution. Sometimes I felt, and still feel, that the only clause they see or understand is to “provide for the common defence” and they forget that there are other responsibilities of the executive branch of the federal government: to “establish Justice” and to “promote the general welfare.”

YLPR: If that’s all they were concerned about, how did Reagan win two landslide elections and George Bush win another one? They obviously were striking a chord in some Americans.

Neas: But with respect to the civil rights achievements of the past 35 years, there has been, and still is, a very strong bipartisan consensus. During the entire Reagan tenure, poll after poll indicated that substantial majorities of the American people did not agree with his domestic policies in particular and certainly not his social policies.

During this time, every two years, people kept voting in members of the Congress who very forcefully made sure that the right-wing was repudiated on Capitol Hill and that many important civil rights measures were enacted. Maybe the greatest example of very strong bi-partisan consensus was the national repudiation of the [Judge Robert] Bork nomination.
In terms of the defeat of Bork, do you have any second thoughts or regrets about what the anti-Bork campaign accomplished?

Oh, not at all. It was an extraordinary victory for progressives in this country. As I said before, first and foremost in the Senate and throughout the country there was a consensus on behalf of the legal achievements of the civil rights movement over the last 35 years and a rejection of what Robert Bork and Ronald Reagan wanted to do with respect to the legal achievements of the last three and a half decades.

Secondly, the advise and consent process has perhaps changed — hopefully forever. The advise and consent process for the first 150 to 175 years of our country, did take into account judicial philosophy. I think most people acknowledge that during the 70s judicial philosophy was not an important factor — that in essence the Senate had ceased to be a co-equal branch of the government with respect to judicial nominations. The Advise and Consent responsibility is not just the President’s. It is also the Senate’s.

Thirdly, while Justice [Anthony] Kennedy is certainly no Justice [Lewis] Powell, he is also certainly not a Judge Bork. In our view, no one is to the right of Robert Bork. Every time he goes on TV, every time he writes, every time he lectures, he proves our point about how extraordinarily to the right of center he is.

Robert Bork defeated Robert Bork. It was his statements, his speeches, and opinions over a 30-year period that worked against him. We were certainly first in line to share those statements and those speeches and those writings with the world, but from the very beginning, we said that there was a 25-year paper trail that could not be forgotten or shredded, and that the Senators and the people of this country understood what he was all about.

So does that mean we’ll start getting wallflowers like Kennedy — people who are more obscure, who haven’t written pages and pages of legal scholarship?

Well, that’s tough to say. Justice Kennedy had a somewhat extensive record of opinions, but with respect to his Ninth
Circuit opinions, there were about five or six that gave us considerable pause — on fair housing, on voting rights and several other areas. But for the most part, much more so than Robert Bork, he was a practitioner of judicial restraint. He did not use a set of facts or a particular case as a vehicle to expound for pages and pages on his personal judicial philosophy.

As Robert Bork said many times, a Supreme Court justice is part of a court that sets precedents. He said that there were dozens of Supreme Court decisions he disagreed with and that a Supreme Court justice is under an obligation to reconsider or revisit such decisions and, if necessary, overturn the decision. And that paragraph, maybe more than any other paragraph, set off my alarms when I was doing the research — that once he got on the Supreme Court, he thought he was under a responsibility to revisit those Supreme Court decisions he did not like.

YLPR: Conceding the legitimacy of the Senate's involvement on the advise and consent process, there is nonetheless a wide difference between that and the specific tactics and thrust of the campaign. Do you have any concerns that conservatives could use similar lobbying and media efforts to block, say, the nomination of [Harvard Law Professor] Laurence Tribe by a Democratic Administration?

Neas: Let me address that in several ways. Number one, of course, the last time a Democratic President had an opportunity to nominate a Supreme Court Justice . . . was [Justice Abe Fortas's] elevation to Chief Justice . . . and a right-wing filibuster put that nomination to death.

Supreme Court nominations, for the most part, have always involved some element of politics. Again, there was a bit of a hiatus in the 70s after [Harold Carswell] and [Clement] Haynesworth, where I think competence and character were probably the only two issues that Senators looked at that carefully. But historically, over a 210-year period or a 215-year period, judicial philosophy was very important — is very important — especially when putting someone on the Court will fundamentally alter what has been the law of the land. . . . So, I can understand why the progressive forces or the more conservative forces would
take judicial philosophy into account in close nominations. . . . Now there is no question that there was an extensive national campaign, but that was in reaction to a President who had politicized the federal judiciary.

What we did, on a national scale, was share what we had found out about Robert Bork, not just with Senators, but certainly with the press at a national, state, and local level, and with tens of thousands people who felt the way we did, or we knew would feel that way we did, once they had the information on Robert Bork.

YLPR: One of the criticisms came in regard to tactics — for instance, the TV spot with Gregory Peck. People felt that somehow demeaned the judicial process, that it wasn’t a fit strategy for discussing someone nominated to the highest court in the land.

Neas: Again, I disagree. I have heard many interpretations, especially by revisionists who were trying to restate what happened during 1987 and put their spin on it. Up until 1987, I thought that Congress’s finest Constitutional hour was the Watergate period, where both the Senate and the House conducted themselves in an extraordinary way. I have never seen anything like it until 1987 when we saw the Senate Judiciary Committee process. I thought that was a three week seminar on Constitutional law, Constitutional history. Up until then, in 16 years in Washington, I had never heard such serious debate on Constitutional issues. . . . I think more people learned more about the Constitution in the bicentennial year of the Constitution, than any other time.

There was also no question that in addition to doing the research, in addition to writing and producing reports and preparing testimony, you also have to share that information with the general public, and advertisements, especially TV advertisements, are one very effective way of doing it. I can’t tell you how much time people spent going over copy to make sure that what was said reflected the facts — what Robert Bork had said or written, what the impact of a Bork confirmation would be upon the law. I think the Gregory Peck advertisement was an excellent example of dramatizing what was at stake. There aren’t many times in history of the country, where you reach the point where the Court is evenly divided.
So, I think you have to think of the situation at the time and put it in context. . . . [Conservatives] were saying, “This means at long last we get to basically overturn what the Supreme Court has done over the last 30 years. This is the time for the conservative movement to be in ascen-
dance. This will mean that we will wipe out all these liberal
decisions of the past three decades.” They knew what was at stake. If they could get their candidate, Robert Bork, then their counterrevolution on civil rights would have a chance of victory. . . . So packing the Supreme Court with like-minded ideologues became the number one priority of the right wing.

YLPR: Not only the Court, but the entire federal judiciary.
Neas: Absolutely. 378 nominations over an 8 year period, more than half the federal judiciary, more than half the Circuit Courts of Appeals, three Supreme Court Justices and Rehnquist getting a promotion. The studies that have been done by the University of Massachusetts, the University of Kansas and others, show that at the lower court level it is more difficult to get into court if you are a victim of discrimination, more difficult to prove discrimination, and if you are lucky enough to prove discrimination, more difficult to obtain an effective remedy.

But I will admit that the Supreme Court is the most important forum because it sets the precedents. I think that within a very short amount of time, obviously we found out in June 1989 in particular, what a new five person ma-

TODAY’S BATTLES

YLPR: Are George Bush’s civil rights policies kinder and gentler than Ronald Reagan’s?
Neas: The first year, I believe, most civil rights leaders adopted a “wait and see” attitude. There was a lot of hope when George Bush took office that things would be different. Not that we were going to have a progressive Democrat or progressive Republican in charge of the executive branch, but that the Bush policies would be much different than the Reagan policies. With respect to some things, there have been differences. The President would get high marks from virtually everyone in the civil rights movement for differences with respect to tone, with respect to rhetoric, with
respect to accessibility. Certainly, many leaders have been called down repeatedly to the White House. But I think the same leaders would say, "But how is the Department of Justice different from the Meese Department of Justice?" And if you look at the last year, it's a very good question.

I can see stylistic differences in the Department of Justice, but I can't see any significant substantive differences as to policies. Look at the decision of [Attorney General] Dick Thornburgh to accept the recommendations of Brad Reynolds to go into Georgia, and to try to undo all the school desegregation decrees. Look at the decision of Dick Thornburgh to go into Prince Georges County to file a law suit on a teacher assignment plan based on race. Look at the briefs filed in the FCC cases with respect to affirmative action. Look at the Thornburgh reaction to the 1989 Supreme Court decisions. At the very least, there were significant changes in the law and that should have been acknowledged. And of course there is the nomination of William Lucas to be Assistant Attorney General for Civil Rights, someone who did not have the legal experience for it or the civil rights experience.

So you get a tremendous dichotomy between the statements of George Bush which, by the way, on affirmative action are very supportive, and the actual policies of the Bush Department of Justice by Dick Thornburgh.

YLPR: How has the change in administrations affected your strategies—particularly with respect to the Civil Rights Act of 1990?

Neas: We always assume, whether it's Ronald Reagan or George Bush, that there could be the possibility of a veto. So, when we are fashioning legislation, we are thinking of two-thirds majorities in both houses of Congress.

The other thing is that we always want to keep the coalition together; the unity of the coalition is very important. We've got a coalition of 185 organizations, and as I said before, we've got minorities, women, disability groups, labor, major religious denominations. We're a consensus organization. So, maintaining that consensus is sometimes more difficult than fashioning the consensus in the first instance because when you go through the legislature process, you have compromise situations. But, in addition to
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those broad, overall strategies, I think in any successful legislative campaign, you have to integrate successfully your Washington lobbing strategy, your media strategy, and most importantly, your grassroots strategy. Maybe better than anything else, because we have 185 organizations, and all those organizations have state and local affiliates, we have people power.

We don’t have the money of the right wing. We don’t have the electronic media capabilities of the religious fundamentalists, but we do have many more people than they do and we activate those people.

YLPR: One question about the coalition. There are virtually no gay and lesbian groups in it. In fact, when you recited the list of coalition members, you did not mention any of these groups. Their public presence seems to be relatively less vocal than Latinos or Blacks.

Neas: Up until about five or six years ago, there were no gay or lesbian groups in the Leadership Conference. And one reason is that there is no consensus on certain gay issues. . . . There are, though, two gay rights organizations in the coalition. Back in ‘84 or ‘85, a number of gay rights activists came and talked to me because they wanted to join the Leadership Conference to work on the Civil Rights Restoration Act and a number of other civil rights issues. What we worked out with the Executive Committee was that the Executive Committee would accept the application of the gay organizations as long as there was an understanding that we could not reach a consensus on some of these issues. Now, my guess is that from the perspective of the gay rights organizations, this was a compromise that they were willing to accept, because they wanted an opportunity to get into the coalition on a formal basis and use the coalition as many other interest groups have used the coalition over the last 40 years — to build bridges of understanding. And, over a period of time, they hope to win more supporters to their point of view on certain legislative measures. There is no question that we’ve worked together on a number of issues, certainly the American Disabilities Act, the Civil Rights Restoration Act, Civil Rights Act of 1990.
A CHANGING WORLD

YLPR: One change in the next century will be demographic. Blacks, Latinos, and Asian-Americans will increase in number. Indeed, people of color will become a majority of the U.S. population. What will this mean for the civil rights community, its goals, and its strategies?

Neas: That's something that we obviously are addressing and will have to address. It's very much an issue, for example, with respect to employment opportunities and the Civil Rights Act of 1990. Demographics indicate that in the year 2000, 85% of the emerging work force will consist of nonwhite males, . . . which means that we better get on the stick with respect to addressing some of these employment opportunity issues. You could argue there will be more of a need for Blacks, Hispanics, women, and persons with disabilities, but there will also be a tremendous need to get people into the workplace now and train those people.

And training, of course, does not begin once you are employed. This is a process that doesn't start when you become 18. In fact, if it started when you become 18, you'd be too late to be a beneficiary of certain kinds of training. So, that's a very important issue that is being analyzed. Obviously, if you talk with some of the minority groups, they see their voting strength increasing, which will hopefully mean more members of Congress and state legislatures and the courts, who will reflect more accurately the diversity of the country. But it certainly underscores the central tenet of the civil rights movement about providing equal opportunity for all of our citizens by encouraging integration, acknowledgment of diversity, and a multicultural approach to things.

Again, I want to be very careful about my relatively optimistic assessment of the 1980s, with respect to the bipartisan repudiation of the right wing. What happened in the 1980s, while from a perspective of legal achievements being preserved was a victory, it was also at considerable cost. Number one, the enforcement mechanism of the federal government was dismantled for eight years. For a moderate Republican or Democrat to correct that will be difficult. Number two, I do think the Reagan forces contributed to the worsening of the civil rights environment
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because there was a total lack of moral leadership within the Reagan Administration. We certainly are aware, for example, of the rise in hate crimes and many terrible incidents of Forsyth County in Georgia, Howard Beach, the Citadel, the University of Michigan, and the University of Massachusetts. You can name virtually any part of the country. And can you remember “The Great Communicator” ever going to the airways to denounce that kind of racism, that kind of violence? It just wasn’t a priority for the Reagan Administration.

The third negative is that while we were devoting such considerable time and resources and personnel and money to fighting these successful rear-guard actions, the country by and large ignored the unfinished agenda of the civil rights movement — and that’s the quest for economic justice. One of the great quotes is Martin Luther King, back in ’65, after the enactment of first Civil Rights Act. Someone said, “Well, you got what you wanted,” and his reaction was, “It’s one thing to go legally up to the lunch counter and yet another thing to be able to pay for the lunch.”

YLPR: That’s one of the points, in another article in our issue, Professor Blumrosen makes.1 He argues that the civil rights community should no longer focus exclusively on civil rights laws, but on items not traditionally on the so-called civil rights agenda. He mentions things like fighting the capital gains tax reduction or working on national trade and other issues of economic expansion. In what ways are you moving in that direction?

Neas: His basic point I want to underscore. But civil rights leaders have never said it was either [anti-discrimination law] or [economic opportunity].

On the one hand you do have racism and you have to eliminate it. You have to pass laws and enforce those laws, but that alone would not be enough. We’ve got other kinds of problems, societal problems, whether they be economic issues that Al Blumrosen was talking about or drugs, or crime or destruction of the family. And Jesse Jackson, Ben Hooks, Mary Frances Berry, Eleanor Holmes Norton,

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and all the leaders have said you have to do this in a com-
prehensive way.

Now, the frustrating part of it, and this is really the
principal tragedy of the Reagan era, is that it is possible to
do both, but it is much more possible if you don't have to
go back and re-fight all the old civil rights battles. If you
don't have to confront a Bob Jones situation, or you don't
have to have the kind of fight we had to have on the Voting
Rights Act Extension or you don't have to spend four years
overturning the Grove City decision,2 or spend the ex-
traordinary resources we will have to spend to enact this
year the Civil Rights Act of 1990.

So going into 1989, we were hopeful that the Bush Ad-
ministration would be different in that we wouldn't have to
re-fight the battles as often as we had to do during the Rea-
gan area, and we could focus on our principal January 1989
agenda items, affordable housing, for example. . . . We
passed great Fair Housing Act Amendments in 1988, which
for the first time give us an effective enforcement mech-
anism, provide protection for persons with disabilities and
for families with children, but if you don't have affordable
housing, fair housing doesn't help you very much. So that
is a top priority. Child care is another priority. Family
medical leave, minimum wage bill, Americans with Disabili-
ties Act, which has tremendous economic consequences,
not just for the 42 million Americans with disabilities but
many others. We thought we would be able to devote full
time to that immediate agenda, but also for many of us, for
the first time in a long time, look at the long-range solu-
tions to economic justice issues.

YLPR: Eleanor Homes Norton, in another article3, agrees that en-
forcing civil rights laws is important, but that you need to
take into account the changing economy — an economy
now based on information and services. In what ways will
the civil rights community take into account this new reali-
ty. How do you contend with an economy that's rapidly
changing?

Rights Act of 1964 permitted discrimination in school programs that did not receive
federal funds).

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Neas: I said before that going into 1989 affordable housing was perhaps our first priority legislatively, but I think that most in the civil rights community would state without hesitation that educational opportunity over the long run is the priority for the civil rights community and for this nation. Whether it’s the shifting nature of the economy, whether it’s addressing those other issues we were talking about with respect to drugs and crime and the family, whether it’s any other issue, you have to provide educational opportunities. Education to me is the linchpin if we are going to successfully address the problems of equal opportunity, especially on a long term basis.

THE ROAD FROM HERE

YLPR: Let me pick up on your relationship with Ed Brooke, your mentor. It seems that many young people today are rushing headlong into lives of material gratification — and law students, we’re reluctant to admit, often lead the way. With young people seemingly concerned about BMWs rather than joining SDS, where are the civil rights leaders of the future coming from?

Neas: I don’t know whether what I’ve been reading is accurate. I’ve been told that those who are in college and law school right now are markedly different than those of the late 70s and early 80s. South Africa, abortion, and other issues have energized students across campuses. And many more students are involved in civil rights activities. I hope that is all accurate. Of course, there is the quandary that expenses of colleges and law schools these days limit the options that some of the young persons have. When you have $60,000 worth of debts, it’s not easy to take a $20,000 job at the Leadership Conference or with a House member.

But I think that the progressive movement has been remiss in the last ten or fifteen years. Obviously, during the 60s, there were many causes around which college students could rally, whether it was civil rights or the Vietnam War. Dynamic leaders were able to educate and mobilize and inspire. Sometimes I feel, perhaps because so many of us have been just trying to hold on to what was accomplished between 1954 and 1980, we have not spent enough time with high school students, college students, and law students. This is intuitive. I get the sense that the right-
wing, although much smaller in terms of proportion of the population, has done a much better job of spending time with the younger students, organizing chapters in colleges and law schools, whether it's the Federalist Society or YAF [Young Americans for Freedom].

YLPR: Or funding conservative newspapers.

Neas: Yes. That's a very good example. It's like having a farm system, which of course, is a legitimate and very savvy strategy. But they seem to have, and I hope I am not falling prey to their propaganda, a lot of interns and a lot of young individuals ready to come to Washington, ready to go into government — to undo the workings of government. It's amazing. They seem to be doing a better job than the progressives in sharing their views and educating people.

YLPR: One last question. What do you think will be the greatest civil rights challenge of the next decade and the next century?

Neas: Well, it goes back to what I was saying before. . . . I have to go with my gut and say that it is educational opportunity. How do we get out of this rut with millions of school children who are not given an opportunity to get an adequate education? And as I said before, I am not talking so much about high school or college or law school. I'm talking about pre-school, elementary school, and junior high. Many of the other opportunities in housing and employment are meaningless unless you have an opportunity to educate someone so that they can later take advantage of these other opportunities. I honestly, very deeply, believe educational opportunity in the broadest possible sense is the principal challenge of the civil rights community in the coming decade and coming century.

YLPR: Are you optimistic about that as well?

Neas: Well, generally I am an optimistic person and I have an awful lot of confidence in this country. But we are also talking about something that's going to cost money. And obviously the last 10 years have put us in quite a hole fiscally. It can't be done by just the federal government. It can't be done just on the state level. It's going to have to be at all levels and in conjunction with the private sector. Again, what gives me hope, is that the private sector will understand fully that it's in their interests to get everyone involved in an educational system, because the prosperity
and stability and vitality of our private enterprise system is at stake. We can't have millions of people in despair and relying on drugs or crime, and keep a stable country.

I do believe that the last 25 years in many ways constitute a second American Revolution, one still in process for sure, but many of the ideals embodied in the Constitution have been given some measure of reality. The Voting Rights Act, Title VI, Title VII, Title IX, and Section 504, have given millions of Americans opportunities in education, housing, and voting. It's very important to acknowledge this proud chapter, and thank the people responsible and I am not talking just about the civil rights community, because there have been millions of others involved.

It's very difficult to ever get a positive story into the media and hopefully one element of what you're doing in your journal and your set of articles is to get across that sure, we should be taking very seriously what lies ahead of us and how much we have to do — and it is a Herculean task ahead of us. But we've faced Herculean situations before, and risen to the occasion as a nation.

Some of us forget sometimes that we're one of the few nations that have ever attempted to do something like this. We have such a multi-racial, multi-cultural society. In the laws of the land, for several decades now, we've decided that everyone should be accorded the equal protection of the laws and we've actually made an attempt to implement that. It's been a marvelous success story and we should point out the success stories, acknowledge the failures, and obviously try to do something about the future.