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## Reflections: Fifty Years After Brown v. Board of Education

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## SPEECH

### Reflections: Fifty Years After *Brown v. Board of Education*

BY JANET RENO\*

INTRODUCTION

DEAN ALLAN VESTAL

It is my very great pleasure to introduce Ms. Janet Reno, the 78th Attorney General of the United States. I would like to thank the Fayette County Bar Association for co-hosting Ms. Reno's visit, and thanks to Russell Coleman for helping make the arrangements to bring this to fruition.

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\* Janet Reno, the first woman to hold the office of Attorney General of the United States, spoke at the University of Kentucky College of Law on April 14th, 2004. Ms. Reno's visit was part of the University's commemoration of the 50th anniversary of the U.S. Supreme Court's landmark ruling in *Brown v. Board of Education*.

A native of South Florida, Reno graduated from Coral Gables High School, Cornell University, and Harvard Law School. Prior to her appointment as attorney general, she served for fifteen years as the State Attorney for Dade County, Florida. In 1993 she was appointed to the office of Attorney General by former president Bill Clinton. Today Ms. Reno is involved with issues important to her, including advocacy for children, law enforcement, and elder justice.

I'm going to give you a succinct listing of Ms. Reno's accomplishments. She was educated in the Dade County, Florida, public schools. She has an A.B. in chemistry from Cornell University and an LL.B. from Harvard Law School. Rising above this disadvantaged educational background, she became a public servant. She served as the staff director for the Judiciary Committee of the Florida House of Representatives, served as a staff attorney in the Dade County State's Attorney's office, spent some time in private practice, and then returned in 1978 to become the State Attorney General for Dade County in Florida, and was elected to that position I believe four times. She was, as you well know, appointed to be the Attorney General in the Clinton administration and served throughout the Clinton presidency.

She is an outstanding lawyer and an interesting human being. She may be the first person to ever speak at this law school who has been pretty gently parodied on Saturday Night Live and participated in the show. She is also, I imagine, surely the first person to appear here who has at least one website calling for her impeachment.

And she is a uniquely qualified and appropriate choice to help the University of Kentucky celebrate the 50th Anniversary of *Brown v. Board of Education*. She was, after all, educated in the public schools in the south, pre-*Brown*, and as Attorney General she had a unique position from which to survey the unfinished business of *Brown*—those things promised by *Brown* which we have not yet accomplished.

I want to thank Ms. Reno on a personal note though for one thing, and that is her concern for students. When we started talking about this visit, she and I came to the agreement very early on that the thrust of the visit ought to be the students, and that was in large part because that is what she wanted to come and do. So starting last night, after a fairly hectic day that began with testimony before the 9/11 Commission, Ms. Reno has had a full schedule of events with our students, and for that emphasis we are very thankful.

I want to tell you about one observation that a student who met with Ms. Reno last night made after we were finished. She said that you can't spend five minutes with Ms. Reno without becoming deeply impressed at her reverence for the law, and the more I thought about it the more I think that puts it quite well. I want to give you two very brief quotes that bookend her tenure as Attorney General that I think demonstrate this. On her first day at the Justice Department, Ms. Reno met with the staff of the Justice Department and said the following:

"While I am Attorney General we will address each issue with one question: What is the right thing to do? Let us leave here today resolved to ask that of ourselves as we seek justice. Remembering that sometimes the right thing is very politically unpopular. Sometimes it

will be painful for it will of necessity hurt someone, but with strength and courage let us face the question unafraid and together seek justice for all.”

Eight years later, addressing the same group on her last day at Justice, Ms. Reno said the following:

“Yes I’ve been cussed at, fussed at, and figuratively beaten around the ears, but after eight years in this job, after seeing America, I know two things. I’ve never believed so strongly in this nation’s future, in the righteousness of its ways as I do, and I’ve never believed so strongly that we must continue to fight, so that the law issues from all of the people and not just some.”

On that day, her last day at Justice, two people who had worked closely with her I think had interesting comments. One was Eric Holder, Deputy Attorney General, who said,

“Ms. Reno is the best damn Attorney General in the history of the United States.”

The other was the Solicitor General, Seth Waxman, who said,

“Not a day goes by that I don’t hear Janet Reno’s voice in my head saying, we are going to be criticized anyway, so why don’t we just do the right thing.”

I know of no better introduction than that for Ms. Janet Reno.

#### MS. JANET RENO

#### FORMER U.S. ATTORNEY GENERAL

**T**hank you, Dean. It is such a pleasure to be here. I am so impressed with the students, their questions, their thoughtfulness, their optimism, and the faculty has certainly been a good foundation for it. I am impressed with you all.

I can remember the day *Brown vs. Board of Education* came down. I was in high school. It seemed like it should just happen, and why it had taken so long seemed so confusing to me as a high school student. The future seemed to bode well for all concerns about civil rights. It was like something magical had happened in the nation. I went away to school

and came home. It took one, two, three, four, five years before I started seeing my schools integrated, before I was able to go back and see students from all races walk down the halls, but it began to happen. Then we saw more litigation necessary to implement it, and it appeared to slow down. We have seen such great promise from a decision that has meant so much to this nation.

But I stand before you today to tell you we have some mighty important unfinished business in the tradition of *Brown*, and we should be about achieving it. We have too many children who do not have roofs over their heads, who do not have proper preventative medical care, who do not have proper education, who do not have a foundation for their future laid, and formed, that gives the opportunity to grow in a strong and positive way. I think we should look at where we stand in the context of *Brown* and see what we can do as a nation to move the issue forward.

In 1984, I had to figure out what to do about crack-involved infants and their mothers. The doctors invited me to our public hospital. Miami was one of the first places to face the epidemic of crack. They took me to the nursery at the hospital, and the babies were stacked up because they could not be sent home and there was no place else to send them since their mothers were in treatment. They had not been held or talked to except when changed and fed. The doctors taught me that fifty percent of all learned human response was learned in the first year of life, that the concept of reward and punishment and the conscience was developed in the first three years of life. I looked at the babies in the nursery. They were not beginning to react with human emotion, whereas the child across the room who had been born with substantial birth defects but had her parents with her as much as possible around the clock was beginning to react with human emotion and smiles and recognition.

I went home that afternoon, back to the office, and wondered what good all the prisons are going to be twenty years from now if the child does not understand punishment and does not understand the concept of right and wrong. What good are educational opportunities, what good is *Brown*, if that child does not have a foundation of learning laid in that first year of life that we can build an educational system on? And I resolved to do everything I could to make sure that America focused on the ages of zero to three; to make sure that children born into this world who were one, two, and three years old and could not help themselves had a government that tried to protect them and provide them with what was necessary to grow in a strong and positive way.

I went to industry and to others and said, "You ask what your interest is? Your interest is in having a work force in the country with the skills necessary to fill the jobs to maintain this country as the strongest nation in the world, and you will not have it if we do not provide these children

with proper healthcare, with proper housing, with proper education, with proper safety in those first three formative years.”

The litigation with respect to affirmative action started and I supported it. But my question was, why are we waiting until law school? Why are we waiting until the university time? Why aren't we engaged in affirmative action for the children of America so that all our children in those early years, where they have no voice, will be assured by their government that they have what it takes to grow up? Slowly I saw people recognize the facts, become more supportive. Congress used to call me a social worker. They started deciding that maybe I had some message, because the chairman of the Senate Appropriations Committee called me to one of his hearings to testify about the importance of zero to three so he could get some legislation passed. It became a reality, and more and more was done in those early years. But there are still too many children in America who face the prospect of growing up without the tools necessary to do the job.

As State Attorney in Miami I had the privilege of going often to a different public school on the average of once a week. I had children question me, and I could watch those children. In kindergarten little ones liked to know, What do you do? Do you get the bad guy? And they had so many searching questions. But you would talk to the teacher who had thirty kids in the kindergarten class in a minority school, with twenty of them speaking no word of English, and this kindergarten teacher would be trying her level best to identify kids with problems and do something about it. If you went across town to a school in an upper middle class area, you would not see the problem. We have got to make sure that all our children, regardless of where they come from and who they are and what race they are and what school they go to, have the opportunity for learning in class sizes small enough so that teachers can identify problems with services available to do something about it up front—*before* we drag that child through the public school system in remedial programs and in other programs that would be totally unnecessary if we did it right the first time.

But then, you see, children come—it was usually in the sixth grade that I would watch, when I had been to the school before—their eyes would begin to glaze over, and they would begin to nod off, and they would become uninterested because people were not appealing to their aptitudes and interests. Learning seemed irrelevant to them. And then you would see a teacher, a really great teacher, open the door for learning to that young person because they knew how to touch that kid and spark that interest. That interest sent that child off to learn how to really operate computers for uses other than games and the like. And in using their learning skills they began to see the purpose of and appreciate the

need for education, and they began to use it to open doors for learning and understanding that it was remarkable. But then I would go across town to the school that had the parents who could afford everything they needed, and it was different.

We have got to make sure that as we take our children through the public schools, we give them the education they will need to function at the fullest capacity they can for the rest of their lives. How do we do it? It is going to require all of you, the students I talked with this morning who have so many hopes and dreams, who want to be involved, who are interested in public service. It is going to require America to speak out at the voting booth, for America to speak out in jobs and in other opportunities, so that we provide this foundation upon which we can build lives and upon which we can build America.

But then you run into trouble. I don't dare ask the young men in this room how many people got stopped by police by the time they were fourteen and had the police talk to their parents, so I won't ask. But there are an awful lot of young men who are stopped by police at twelve years old. Let us take two hypotheticals: two kids both commit the same crime together, one lives with his eighty-year-old grandmother, the other has a strong family structure at home. The police call home. The grandmother cannot come down and get him, she doesn't have a car, and she doesn't know what to do. The other parents are down there immediately; they are very supportive. They tell the police they will work with everybody to get the kid into new programs, and that kid goes home that night. There is nobody to take the second kid. How do we level the playing field for that second kid? How do we make life equal for those two kids?

The next time we see them in the system, this collection of people I have seen, is when they commit a further crime. This time everybody is asking for secure detention, but the one with the good family structure will be sent home; the family will work with him. The other one will spend detention in the detention facility. How do we correct that and how do we provide the level playing field, because the next time we see it happen we will see one child transferred to adult court and one given another chance in the juvenile court because of a special program the parents can afford.

How do we level the playing field? I think we can do it by investing in the juvenile justice system and doing everything we can to diminish this nation's attitudes and appetite for criminalizing the youth of America. When you see nine-year-olds charged with a delinquent act for throwing a rock at a school bus instead of having them talked to and worked with by teachers and counselors, you know something is wrong. When you see that people are tried as adults without giving them adequate chances in well-funded juvenile justice systems, you see the

problems that develop. And then if you are the Attorney General of the United States, you see them end up in your lap as you are approving death penalty applications in the Federal system, and you read the pre-sentence investigation and you see the level playing field not adhered to. How do you level the playing field when it comes to the death penalty? And this nation has got to face that issue quickly and importantly and in a comprehensive way.

But then you see the system fail. They end up charged with a serious crime. They end up convicted, sometimes for life sentences, sometimes for minimum mandatory sentences that don't fit the crime at all. This is an example of how we have failed to address the problem up front.

Justice Kennedy, at the ABA last summer, made a call to action. He addressed the assemblage at the time, pointing out that nationwide our inmate population in America numbers about 2.1 million people. For England, France, and Germany, there are about one in one thousand people in prison. In the United States that one in one thousand becomes one in forty-three according to Justice Kennedy. Forty percent of the prisoners in America are African-American. Ten percent of African-American men in their mid to late twenties are behind bars. The cost is over forty billion dollars a year. Think of what would happen if we took that forty billion dollars a year and transferred it into an investment in early childhood, into a school system that worked, into a juvenile justice system that made a difference, and you can see how much we could do to make a difference. It descends into second generations. One half of the people in the prison system are parents of minor children, and one half of those children are under ten years of age.

What do we do? I think one of the first things we do is establish a real effort in this country. I think the ABA and lawyers and all concerned with justice have got to do something about the absolutely draconian sentences that are imposed, and the minimal mandatory sentences that are imposed for relatively minor crimes. And I think we should start using science and behavioral scientific research to understand what sentences will work and what sentences will not work. I think we have got to fashion programs that revolve around what caused the crime in the first place. If it is a drug problem, let us do something about it up front. Let us make sure when the person is first arrested that he is tested, that he is given the alternative to go into a treatment program immediately, that if he goes to prison, he is provided that treatment program in prison. Let us make sure he is provided a re-entry program that brings him back to the community with a chance of success instead of just throwing him out without training, without work preparation, into a world where he cannot possibly compete. Let us take the second step and understand whether there is a mental health problem. We have learned so much about the

treatment of mental illness and if we only did it up front we could prevent so many tragedies, deaths, injuries, and other consequences of failure to treat and understand mental illness. We can make that difference if we work together.

What should be the term of a sentence? Let's ask the psychologists, not the lawyers and the judges who came up with this sentencing structure we have. Let's ask the psychologist, "What is the optimum sentence a person, a first offender, can receive that will give them a chance to learn in prison without becoming dependent upon prison authorities for making their decisions and making them less than self-sufficient when they come out of the prison?" Let us have short, fair sentences that fit the crime. Let us have the backup that makes the difference in terms of identifying the cause of the problem in the first place and doing something about it.

Let us make sure that when women are brought into prison with infant children we have nurseries that can properly care for them and keep them in prison until they are two to three years old, as some prisons have, so that we can effect generations to come. Let us teach them parenting skills. Let us make a difference so that we do not repeat our mistakes.

You say, "How will we do it?" America just loves long prison sentences. But America has not heard from all of its people. America has not heard from young people in sufficient numbers at the voting booths. America has not heard from African-American voters who get turned off when they cannot get their vote registered right, at least in my home state. The African-American community should be voting in numbers that are record, saying "We want to change the prison system of this country and the sentencing processes of this country to provide for fairness. We are the victims most often of this crime, and we want a sentence that is fair and that gives this person a chance to come back to this community with a positive chance of success." Let us make sure that we address educational deficiencies, and instead of just throwing that person back, test and find out if this guy is smart. Let us get him trained in this particular effort before we send him back into the community, so that we know he will have a job. Let us get this country operating on all cylinders again.

Now some people tell me, "Janet, you are a nice lady," and (depending on their political affiliation) "you were a good attorney general" or an "I-could-put-up-with-you attorney general. But you are too optimistic. You are too idealistic. It will not work." Ladies and gentlemen, each one of you can make a difference. I had an opportunity to try to figure out what to do about crack-involved infants and their mothers in Miami in 1987. They were just rotating through the system.

Others arrested were rotating through the system when they were charged with possession of a small amount of crack. We developed a drug court. We had it controlled and evaluated. We had outside people come in and tell us whether it was working—we did not leave it to our judgment—and they concluded that it was reducing recidivism. There are now over 400 drug courts across this country.

Each one of us can make a difference. People ask me how I have confidence. I have it because I have seen problems created that can get solved, and we can solve them if we believe in ourselves and believe that we can make a difference in our communities.

One of the most important lessons that I learned was one that I shared with some students last night. We had four children in my family, a year apart, and we lived in a little wooden house on the edge of the Everglades. We were outgrowing the house, and my father did not have enough money to hire somebody to build a bigger house. One afternoon my mother announced that she was going to build a house. We said, “What do you know about building a house?” She said, “I am going to learn, I am going to go to the brick mason, the plumber, and the electrician, and I am going to learn how to build a house.” She came home and she dug the foundation with her own hands with a pick and shovel. She laid the block, she put in the wiring and plumbing, and my father helped her with the heavy work when he came home from work at night. She and I lived in that house until she died just before I went to Washington. And that house was a symbol to me, when I came down the driveway with a knotty problem to solve, that you can do anything you really want to if it is the right thing to do and you put your mind to it.

That house taught me another lesson. When Hurricane Andrew hit the area head-on in 1992, my mother was old and frail and dying. But she got up as the winds reached an ungodly howl at about 3:00 in the morning, sat down in her chair, folded her hands, and she was totally unafraid, for she knew how she had built that house. She had not cut corners; she put in the right materials, she built it the right way. When we went out the next morning the world looked like a World War I battlefield. The house had only lost one shingle and some screens. The message is: build the lives of all Americans the right way; give them the opportunities of *Brown v. Board of Education*, not just in the school system but in early childhood; not just in the school system but in the juvenile justice system. Make an investment in our children up front and we can save money in the long run. We can build a workforce that can make this nation the strongest nation in the world for years to come, or we can fail to invest and watch our working population become more and more unable to meet the demands of this nation.

My mother and father sent me to Europe when I was thirteen. They sent me to visit an uncle who was an Allied High Commission judge working with the occupation forces. He took me past Dachau and told me what happened before Dachau had been opened. I could not believe it, and that night I went home to talk to my adult German friends that I had made in Regensburg, Germany, where I lived. I asked them, "How could you let that happen?" They said, "We just stood by, we just stood by."

I am so impressed with the students and lawyers of America. They have hopes, they have dreams, they want to do something, they want to make a difference, they want to see a difference, but sometimes they don't believe in themselves. Well here is one former Attorney General turned Saturday Night Live guest who believes in you, believes in your capacity to make a difference. If you come out of law school and join a firm, I believe you are going to be involved in your community. I think you are going to be involved in *pro bono* efforts. For those of you who go into public service, I think you will make a difference in all that you do, because you *can* make a difference.

This nation is in a gloomy mood right now. It sees headlines one after another that we question, and we wonder what is going to happen. But this nation, with your leadership, with your enthusiasm coming along, can make a profound difference for this nation and lead us back to the high uplands where we talk about how we make sure that all our children graduate from high school, that all who are able go on to college, that all have equal opportunities to get jobs and to get housing and to live the kind of life they want to live. But it will require all of us working together to make sure that this nation we love has its liberties defended. We love this nation so much because of its freedoms and we have got to fight for our national security and for our freedom with all our heart and soul. We have got to use the majesty and the magnificence of the law to bring true reality to all we care about in this nation. Thank you very much.