CELEBRATION 50: KEYNOTE ADDRESS

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I. INTRODUCTION

The last fifty years have been pretty remarkable. I think if many of us looked back, we would not have envisioned ourselves as being where we are now or accomplishing what we have. Many of us in the Griswold era know the story of the now infamous dinner, but enough people have asked me about my version of the story that I am going to tell it again today. Dean Griswold invited the sixteen women in the entering class of 1954 to dinner, as he had done with women in previous classes. He said, “I suppose you wonder why I invited you. I have done so because I am partially responsible for admitting women to Harvard Law School, and I did not want to be accused of discriminating. But I don’t know what you’re going to do with your legal education.”

In the spring of 1993, shortly after I had been sworn in as Attorney General, I spoke at the American Law Institute luncheon. Dean Griswold was there, and I spoke to him about how kind he and Mrs. Griswold had been—how they sent me notes and remembered my name during points of crisis and otherwise. I talked about how I appreciated it, but then I reminded him of the story of the dinner and said, “Dean, I hope we have done justice to our legal education.” I am glad he lived to see what I was able to accomplish with my law degree because I think it brought him a great sense of happiness. He was a curmudgeon, but he cared a great deal about us and made it possible for us to be here today. I think he would take great joy at seeing Elena Kagan as the first female dean of Harvard Law School.

Harvard Law School taught me how to think better than any other educational experience I have ever had. It prepared me for March 12, 1993, the day I was sworn in and walked into the Department of Justice for the first time as Attorney General to an inbox that had accumulated for a month and a half. People ask me what it was like to get cussed at, fussed at, and figuratively beaten around the ears for seven and a half years and why I let myself do it. Being the U.S. Attorney General was the greatest opportunity that anybody could have to try to use the law the

right way, to make America freer and safer, and to ensure equal opportunity. I owe so much to people who continued to support me after I left Harvard Law School. Dean Griswold, Dean Clark, I appreciate all your thoughtfulness to me while I was in office.

II. My Path to and from Harvard Law School

A number of people who have been out of law school for some time have asked me today what they can do to become involved in public service, what they can do to make a difference in public life. “What can I best do?” they ask, “How can I do it? When can I do it?” Let me tell you how I did it.

You may wonder how I got to Harvard Law School. My mother, who built the house I live in with her own hands, forbade me to become a lawyer. So I decided to be a doctor, and I majored in chemistry because my freshman chemistry professor was a magnificent teacher. Despite these early intentions, I applied to law school and was accepted. When I called my mother to tell her that I had been accepted to Harvard Law School and that I was going there by hook or by crook, she whooped for joy. I think that she had always secretly wanted to go to law school herself. My mother was a crusading newspaper reporter who covered the juvenile court and other institutions. She constantly wrote about what was wrong and what was needed to correct it. And while she did not have the order of a Harvard lawyer, she always taught me that when you see wrong, try to right it. I have always tried to take her crusading instincts and apply real solutions to them to provide for permanent fixes rather than the temporary fixes occasioned by newspaper stories.

When I went home to Miami from law school, I could not get a job at the firm I really wanted to work for because I was a woman. It took me fourteen years before they made me a partner—so keep trying! But they actually did me a favor: I went to a small firm instead and did not make very much money. Now those of you who talk about loans, I understand loans. In inflation terms, they were probably as much then as they are now—because then it seemed like they were an awful lot. You will work extremely hard to pay them off, but I will tell you it is worth every cent, especially in terms of the experience you get.

My message to all of you who have asked the question today or who might want to ask the question about what you can do in public service is this: pursue the areas that interest you. Remember that money is not the most important thing in the world; it is satisfaction in what you do. Those of you wondering what you are going to be doing when you are four years, eight years, or twelve years out of law school, follow your instincts. Go do what you really want to do. Get satisfaction. Public service has been the greatest satisfaction I have had in the law.
III. Future Challenges and Interdisciplinary Solutions

We still have so much to do. I would like to talk to you about the challenges I see for the next fifty years. The first thing I think we have got to do is to listen to those who are hurting. We must listen to those who are poor, to those who are beaten down, sometimes through no fault of their own, and to those who cannot cope. To them the law seems alien; the law seems worth little more than the paper it is written on. We need to hear from those people. The person with the sick child, the person with the son in jail who would not be there if he were white, the person who does not vote because she thinks it will not count and that corporations control it all, the person whose tiles are falling down from the ceiling into her kitchen below. We need to listen to the domestic violence victim who lives in her car with her children, the victim who has no job or skills, who tries to enter a job training program but then loses her government benefits and cannot make up for them.

The law does not hear from all Americans, and it does not give justice or even access to justice to all Americans in equal measure. Every time I come to this community, I feel like I am sitting on a goldmine of knowledge. Yet it feels like mining in an unsafe shaft. Every time I go down one path, it feels as if I run into a cave within. You wonder how to get the Law School working with the Medical School, with the School of Public Health, the School of Education, the College—how to get them all working together—taking the magnificent knowledge of the University and putting it to use solving problems while at the same time maintaining academic freedom. We can do so much if we take the strength and knowledge of this institution and work together to address issues.

A. Access to Justice

The first issue we need to address as lawyers is access to justice. If we start looking at it, we would realize that a specialist trained in a four-year college on immigration issues, landlord-tenant issues, and social security issues can do a far better job than a lawyer who dabbles in these areas only on occasion, particularly under the supervision of a lawyer who understands the subject and does it right. We have not organized our legal profession to deliver services in an economical efficient way. I think we can do so much better. Part of it depends on listening, and many lawyers are not good listeners. They think they know it all, so they start talking. On the other hand, their secretaries are marvelous listeners, but they have got to get the stuff done. They can serve as listeners who are sympathetic and understanding and get a lot of problems solved, at a lot cheaper cost than the lawyers.

Organize law firms in a sensible way to make a difference. Provide pro bono services in an organized way. A number of communities across
the nation are doing a good job, and I think the programs here in Boston are good. But there are too many communities that send pro bono attorneys out to do tasks that they are ill-equipped to deal with, have not been properly trained in, and thus cause them to be anxious. Make it easy for them to go, make sure the training is appropriate, organize the system the right way, and we can make a difference.

Remember that not all of it is going to court. We can go to court and defend the abused and neglected child from further abuse by the parent or by the state. Or we can start designing programs that prevent the problem in the first place by developing a system of delivering services that can make a difference, that prevent the abuse, that provide for strong parenting, that provide for adequate housing, that provide for proper medical care, that get at the problem in the early formative years before it is too late to make a difference. Let that be part of lawyers’ duty.

We can ensure better access to justice if we as lawyers do more to get our facts straight, which will require cross-disciplinary efforts and critical thinking. I think this is imperative. Such approaches can also help in terms of policy, in terms of what we are trying to accomplish. The criminal justice system is a classic example. If anyone sensible sat down and looked at the criminal justice system, they would say, “Who invented this?” You have got these people in prison for long sentences, they are going to be in prison for so long that it is going to be difficult for them to reenter the community with a chance of positive success. Instead develop short-term sentences that are fair, firm, and fit the crime, reserving mandatory minimum sentences for the confirmed career criminals who have ignored the law in act after act by committing serious felonies despite the opportunities that the system has given them. Develop prevention programs in the early years and intervention programs such as drug courts that make real differences.

B. Evaluation of Criminal Justice Programs

We must then evaluate it all to show what works and what does not. We could make better sense of our justice system, but no. We let state legislatures and Congress get involved, and great discussions of political rhetoric ensue with few facts to guide them in any direction. Let us start focusing in terms of developing policy with respect to education, sentencing, and the criminal justice system. Let us start doing this so we can show, as we did with the drug courts in Dade County, that we can make a difference and make a better system.

In Dade County I looked at people who were rotating through the system. They would come in, charged with possession of small amounts of cocaine. They were way down the list, the courts could not reach them, and speedy trial time was about to run. They would plead guilty to credit time served, no punishment, no prevention, and no treatment. Then they
were right back in the system. It did not make sense. We developed drug
courts to control the caseload, provide for solid substantive treatment, job
training, and job placement. We used a carrot and stick approach, and it
worked. We had independent investigators come down and evaluate it,
and they reported that it was successful. We continued those evaluations.
There are now over 500 drug courts in operation across the country. They
are working, and they will continue to work as long as we monitor them
carefully. But if we let them slide, we will be right back in a pattern of
recidivism. We can make much better sense out of so many of the poli-
cies we address if we used good hard solid facts to get to the truth of the
issue and to provide access to justice.

C. Truth-Seeking Capacity

The second issue we have to address as lawyers is improving our
truth-seeking capacity. Ladies and gentlemen, there is one startling
figure that has been with me for the last three months and has bothered me
more than I can tell you. Post conviction, 123 defendants charged with
crimes resulting in the death penalty, life sentences, or substantial terms
of years have been exonerated by DNA testing from crimes they did not
commit. You think that may be a small number, but it is a huge number
when you consider that these are the high-profile cases and that in most
other cases DNA testing is irrelevant. It is an astonishing number, and
one that I think requires all lawyers to start looking at how we seek the
truth in an adversarial system. Think about it for one moment: this is the
highest test that lawyers can impose for truth seeking—to prove that
someone is guilty of a crime beyond, and to the exclusion of, a reason-
able doubt—and yet look what we do.

In the Department of Justice, when I saw these figures start to de-
velop with sixteen exonerated, we did studies and found false eyewitness
identification procedures. We also found the use of jailhouse confessions
and witnesses who had something to gain by their testimony. Again and
again we found answers, but one of the most prevalent problems we
found was the blinder theory: the investigator discovers a clue, says this
is the guy who did it, starts after him, and then looks neither left nor right
for exculpatory evidence. With blinders on, the investigator goes after a
conviction without the critical thinking that is necessary. I think it is im-
perative that we start looking beyond the discipline of the law, to mem-
ory experts, psychologists, communications experts, media experts, DNA
specialists, and fingerprint specialists to do everything we can in these
types of cases to see how we can better arrive at the truth. From my point of
view, the figures make our efforts at this point truly unacceptable.
D. A Responsibility To Serve

I urge all of you—I do not care how old or how young you are—not to forgo elected office with a “Politics, ugh!” It is the greatest opportunity you have to serve, to try to be responsive, to answer questions, to get out there day in and day out and meeting after meeting, to be responsive to the people, and to try to explain to them why, for example, you cannot seek the death penalty in a particular case. You must be as responsive as you can. This country is not going to work unless the people in this room want to participate and want to make a difference, either as candidates or as supporters of candidates.

It is absolutely vital that we reenergize the American political scene with people who can be responsive, who can listen, who can serve their people and do the right thing. We need people who take care in responding, as opposed to those who just respond based on numbers without substance. I look back on my campaign experience, I look back at the criticism, the name-calling, and then—like the opportunity that *Saturday Night Live* provided—I laugh at myself a little bit and hope America laughs too.

E. A Duty To Speak Up

Finally, I come to the one great issue that we are going to have to face—no lawyer is exempt from this responsibility: if we do not like what we see in this country, we cannot just stand by and say, “I’m not going to speak up.” We have to say, for example, “You can balance national security interests with civil liberties interests without irrevocably hurting either one.” And when they say you are a lesser patriot for speaking out, remind them of what free speech means and how important it is that there are true, thorough, constructive, and positive discussion in this nation about issues that are difficult.

We can find answers to difficult issues if we come together in strong constructive debate. As Attorney General, I was responsible for conveying letters of apology signed by the President and authorized by Congress along with compensation checks to some of the Japanese American citizens who were interned in camps during World War II, some of whom were children and others of whom were drafted at the same time. It took Congress fifty years to correct a mistake that was made a long time ago, a mistake that was made despite there being no information whatsoever in the government’s records to indicate that any one of these individuals was a security risk. It took fifty years to correct this huge mistake; let us do it right this time. Let us come together in thoughtful dialogue with this administration, Democrats and Republicans alike, to talk about how we can preserve our civil liberties, how we can ensure that we do not put
someone in a military brig without charging them with a crime and without giving them access to lawyers.

IV. Conclusion

In conclusion, I was asked recently, “Was it worth it to have to borrow all the money, was it worth it to spend so much time paying it back?” It was worth every bit. Harvard Law School has given me the credentials necessary for entry into so many exciting opportunities. More importantly, it has given me knowledge of what work still needs to be done.