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## EDUCATION: INTEGRATION OR CATASTROPHE?

*Hon. Ramsey Clark\**

It has been half a century since H. G. Wells concluded that "civilization is in a race between education and catastrophe." At this milestone those closest to education, whether in a central city grammar school or a great university, will generally concede that catastrophe has a long lead.

The pace of change in America has placed formidable hurdles in the path of education. Technological advance has made education essential to individual fulfillment. Fifty years ago only the privileged few went to college; this year, half the college age population is in college. Those who failed to make it will be deprived of most economic opportunity and much of their chance to contribute to and enjoy the other aspects of society.

Population increase has made us nearly totally interdependent. Each must rely on the performance of thousands of others to obtain essentials to life: food, water, shelter, electricity, garbage collection, transportation, health services, education, police and fire protection. Mobile, urban, anonymous and interdependent, we can no longer leave masses of population outside mainstreams of American opportunity with impunity. When any suffer, all suffer, and there is no place to escape. Education, indeed civilization itself, is in a race between integration and catastrophe.

Talk of quality education is diversionary. All the advanced calculus, sociology and political science young Americans can absorb will be of little avail unless we learn to live together. The most important lesson for today is to live together. If we fail to learn this all other knowledge will be unable to maintain human dignity.

We have generally failed to appreciate the enormity of the tragedy inflicted by southern segregation in education. The cost in limited

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\* Former United States Attorney General.

and wasted lives is appalling. More than any other public activity, it has perpetuated disadvantage and separation, and has made effective participation by blacks impossible. Of course segregated education is "inherently unequal,"<sup>1</sup> but the dimension of the inequality and its meaning in our national life is barely perceived. To be sent to a segregated southern black school is not unlike banishment to another country. Most so banished will always be aliens to the mainstreams of American experience. All those formative years when we learn, when our potential is developing, are spent—wasted—in undernourished institutions darkly reflecting a dominant culture that is only partially understood.

The millions of blacks who have left the South since 1920—two million in the 1960's alone—have carried generational disadvantages of segregated southern schooling into central city America in the north-east, midwest and west. The severe limitations on their chance for employment has been a major cause of the vast new segregation which has developed in those cities. The schools of the black ghetto, as segregated as in the South, are the poorest and most turbulent in their districts and further perpetuate the crime of segregated education.

Only the most fortunate of the young men and women graduating from segregated black high schools can hope to enter or compete in our best colleges and universities, and few of these will graduate and find acceptance in such vital professional schools as law and medicine.

In proportion to whites, but half as many young blacks go to college. Of these, most still attend predominantly black southern colleges which for all their heart and sacrifice are unable to find resources and provide an education equal to other colleges. Segregated, they, too, are inherently unequal. Fewer than two percent of the law students in the nation are black when blacks comprise more than twelve percent of that age group. The nation desperately needs black lawyers.

Southern school segregation is the major underlying cause of these inequalities with their tragic consequences. Its elimination is no cure-all, but it is an essential part of the cure.

In a country devoted to the rule of law, we have miserably failed

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<sup>1</sup> *Brown v. Board of Educ.*, 347 U.S. 483 (1954):

We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.

*Id.* at 495.

to enforce the constitutional mandate of *Brown v. Board of Education*.<sup>2</sup> For years the courts alone were left to enforce these rights. But litigation is no match for the numbers involved in public schooling. The two thousand southern school districts that have substantial segregation in schooling, with their tens of thousands of schools and hundreds of thousands of students, are too much for two dozen courts. Nine years after *Brown*, in September 1963, only one percent of the black children in the public schools of the eleven states that had comprised the Confederacy were in desegregated schools. "All deliberate speed" at that rate would take nine centuries. With the guidelines promulgated under Title VI of the Civil Rights Act of 1964,<sup>3</sup> the law gained

<sup>2</sup> 349 U.S. 294 (1955):

The judgments below, except that in the Delaware case, are accordingly reversed and the cases are remanded to the District Courts to take such proceedings and enter such orders and decrees consistent with this opinion as are necessary and proper to admit to public schools on a racially nondiscriminatory basis *with all deliberate speed* the parties to these cases.

*Id.* at 301 (emphasis added).

<sup>3</sup> 42 U.S.C. §§ 2000d-2000d-4 (1964):

§ 2000d. Prohibition against exclusion from participation in, denial of benefits of, and discrimination under Federally assisted programs on ground of race, color, or national origin.

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

§ 2000d-1. Federal authority and financial assistance to programs or activities by way of grant, loan, or contract other than contract of insurance or guaranty; rules and regulations; approval by President; compliance with requirements; reports to Congressional committees; effective date of administrative action.

Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed

tools that could finally enforce its word. The guidelines became controversial for one reason—they worked. By September 1968, probably twenty percent of the black students in southern public schools were in desegregated schools. They have shown that we can desegregate schools in accordance with law if we care. In 1968, we were well on the road to finally achieving substantial desegregation in southern public schools. Plans for future desegregation in the immediately ensuing years, if enforced, would have enabled us to begin learning to live together.

Federal enforcement plans have not been fulfilled, however. Reflecting postures taken in the 1968 presidential campaign, the new administration began to strategize with the Constitutional rights of southern black school children. Actions by the administration which have delayed the enforcement of essential rights have been inventoried and detailed in testimony before the United States Senate's Select Committee on Equal Educational Opportunity. They include delay, equivocation and confusion in desegregation policy, weakening of the guidelines, the notorious request for more time for Mississippi school districts to develop plans, setting aside desegregation deadlines

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pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

**§ 2000d-2. Judicial review; Administrative Procedure Act.**

Any department or agency action taken pursuant to section 2000d-1 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 2000d-1 of this title, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 1009 of Title 5, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

**§ 2000d-3. Construction of provisions not to authorize administrative action with respect to employment practices except where primary objective of Federal financial assistance is to provide employment.**

Nothing contained in this subchapter shall be construed to authorize action under this subchapter by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

**§ 2000d-4. Federal authority and financial assistance to programs or activities by way of contract of insurance or guaranty.**

Nothing in this subchapter shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

for many districts in September 1969, the failure for months at a time to cut off funds under Title VI for school districts not in compliance, failure to pursue Court orders with new suits indicated by their holdings, failure to bring suits to prohibit new techniques of segregation such as "in school segregation" and "resource transfer," siding in court with school districts seeking delay, favored treatment for some school districts and efforts to limit and modify decrees ordering desegregation. A more comprehensive strategy to permit segregation is manifested by the position of the Department of Justice taken on the eve of the sixteenth anniversary of *Brown*, May 16, 1970, that federal tax exemption for segregated southern academies does not constitute unlawful support of those institutions.

The southern strategy raises basic questions as to whether we are a government of laws. Can we speak on one hand of law and order and on the other be pragmatically political with fundamental rights of children to equal educational opportunity? Is it that we pick the laws we prefer to enforce for political ends? This is government of men, not law, and an abandonment of the major purpose and function of law—moral leadership.

The purpose of the southern strategy was not lost on those in the South devoted to segregation forever. It has spawned new hope that the tide has turned against integration and a rash of new techniques to evade the rule of law. Northern liberals have been led to say that integration as a goal is dead. There has been no abandonment of efforts to maintain segregation by socially dictated choice under the euphemism "freedom of choice." Bussing and other methods of achieving desegregation are vigorously opposed and every legal defense raised and delay sought. Plans are presented with only token desegregation by districts seeking to maintain many all-black schools. Administration officials finesse figures indicating nearly total compliance without defining the standards complied with, or even seeking accurate measurements of meaningful desegregation. Of greater concern are the new techniques for avoiding desegregation and the failure of the government to test or stop them. The National Education Association estimates more than 5,000 black teachers have been fired. One-way integration from black to white schools has been consistently tolerated. Segregation within schools and classes arbitrarily and by use of the track system and other tests has spread. Children attending desegregated schools have been harassed. New private schools and academies have been created leaving many public schools all black, often with "resource transfers" from public institutions.

We have tortured ourselves with delay for years now. Integration was never easy; it gets more difficult each year. The increment it adds to the general turbulence and unrest of our times causes many to want to turn away from what must be. North, South, East and West—we must integrate our schools. Only by living together can we come to know, trust and love each other—and to share the American dream.

While we strained to achieve school desegregation in the South, immense new segregation set in to central city. In just five years, between 1960 and 1965, the percentage of black students in major public school districts rose dramatically: in Baltimore from 50 to 61; in Boston from 16 to 26; in Chicago from 40 to 52; in Detroit from 43 to 55; in Houston from 26 to 34; in Philadelphia from 47 to 56; in San Francisco from 33 to 43; in St. Louis from 49 to 60. This reflects population migrations and housing patterns and tells us that to be effective we must look at the nation as a whole as it is and as it will be. Declining rural and central city populations and mushrooming suburbs will reflect new segregation of the poor and the minority groups.

If integration is to be achieved, we must act comprehensively and massively; our effort must be on all fronts. Integration in education must have high priority. Six areas of need are discussed.

1. *Elimination of the meaningless distinction between de facto and de jure segregation.* In fact, there is no de facto segregation. All segregation reflects some past actions of our governments. The FHA itself required racially restrictive covenants until 1948. But that aside, the consequences of segregated schooling are the same whatever the cause. Segregated schools are inherently unequal however they come to be, and the law must prohibit them whatever the reason for their existence. The Supreme Court of California pronounced such a rule seven years ago.<sup>4</sup> It should become the law of the land by Congressional action.

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<sup>4</sup> Jackson v. Pasadena City School Dist., 59 Cal. 2d 876, 382 P.2d 878, 31 Cal. Rptr. 606 (1963):

The segregation of school children into separate schools because of their race, even though the physical facilities and the methods and quality of instruction in the several schools may be equal, deprives the children of the minority group of equal opportunities for education and denies them equal protection and due process of the law. . . . Because of intangible considerations relating to the ability to learn and exchange views with other students, segregated professional schools have been held not to provide equal educational opportunities, and such considerations apply with added force to children in grade and high schools. The separation of children from others of similar age and qualifications solely because of race may produce a feeling of inferiority which can never be

2. *Prohibition of segregation in private schools.* There is no place for segregated education in a free society. We prohibit segregation in public facilities and public accommodations. Do private schools have less impact on the general welfare than hotels, restaurants or bowling alleys? Are they less touched with a public interest? Is their impact on commerce less? Will we sit by and watch a resegregation of substantial school populations under the ruse of private education? Congress should prohibit racial segregation in private schools.

3. *An increase in federal funding for education to accomplish integration.* The law will not be fulfilled by force or by merely wishing it so. The federal government should provide funds to train and integrate faculties, to build new schools and school parks in locations where integration is physically possible, to provide remedial education and early schooling to help disadvantaged children, to reorganize and consolidate school districts to achieve integration, to provide more and better teachers and adequate facilities and supplies to areas where schools have been permitted to deteriorate, for scholarships to help youngsters who would otherwise have no chance to finish high school and go to college, and for other purposes which can achieve integration. We cannot ration educational opportunity. Without adequate financing there will be no choice, and the poor and powerless will be denied equal justice.

4. *An assurance of equal protection of the laws in the use of funds for schooling.* Among districts within a state and schools within a district there is often a substantial imbalance in funding favoring schools in wealthier areas. More teachers, better teachers, better facilities, less crowding, more books and supplies, better and broader curricula are most frequently found in suburban schools. Central city

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removed and which has a tendency to retard their motivation to learn and their mental development.

*Id.* at 880, 382 P.2d at 880-81, 31 Cal. Rptr. at 608-09.

So long as large numbers of Negroes live in segregated areas, school authorities will be confronted with difficult problems in providing Negro children with the kind of education they are entitled to have. Residential segregation is in itself an evil which tends to frustrate the youth in the area and to cause anti-social attitudes and behavior. Where such segregation exists it is not enough for a school board to refrain from affirmative discriminatory conduct. The harmful influence on the children will be reflected and intensified in the classroom if school attendance is determined on a geographical basis without corrective measures. The right to an equal opportunity for education and the harmful consequences of segregation require that school boards take steps, insofar as reasonably feasible, to alleviate racial imbalance in schools regardless of its cause.

*Id.* at 881, 382 P.2d at 881-82, 31 Cal. Rptr. at 609-10.

and rural schools already handicapped by inadequate tax bases are often further penalized by the distribution of state and district funds. Expenditures should be subject to equal protection standards. Where greater educational efforts are necessary, greater expenditures are permissible, but our history generally reflects the opposite practice. This should be prohibited.

5. *An expanded federal enforcement capacity.* Lack of manpower cannot be a reason for failing to enforce federal rights. The Civil Rights Division, the Community Relations Service and the United States Attorneys offices of the Department of Justice, and the civil rights units and Title VI compliance offices at HEW and elsewhere within the federal government should be provided with adequate budgets and personnel to enforce the law. Federal judicial manpower should be supplemented to the extent necessary to efficiently process this litigation.

6. *Integration as a national goal.* The thrust of national policy must shift to affirmatively achieve integration in education rather than merely prohibit state caused segregation. If we fail to do this we remain a segregated society. To fulfill this policy, we must act boldly to cause racial mixture and balance and seek to secure some integration in every school as a desirable end in itself. The child who goes to a segregated school is deprived of an essential human experience. He will be the poorer for it, as will the nation. The prejudiced men who preach fear of bussing never were heard to complain when black children were bussed for miles past several white schools, or walked to a little red shack while white neighbors were bussed to all white schools. Busses are an essential service for many schools. We can achieve far more school integration today with less bussing if we choose to. The question is which way the busses run. Of course, there are not busses enough, or time, to achieve the integration needed in schools by bussing alone. But bussing must be used to maximize the chance that exists for school integration. They can begin, and that is important; and they can show we intend to integrate schools by every method available. Rather than appeal to fear of integration, leadership must help us see that justice demands it. We will be an enriched, happy and free people when we learn to live together, when we release the energies of all of our people and give everyone the chance for his fulfillment.

Thirty-one black nations in Africa gained independence in the 1960's. Their population is equal to ours; their growth is greater. Their economic and technological emergence is inevitable. There will



be one billion more people on the earth in ten years and three to four billion more in thirty. Three-fourths will be black and brown and yellow.

There is probably only one place on earth that it can be shown that black and white and brown and yellow can live together with dignity and respect and love. It is here in America. We have no greater challenge. We must quit the petty and endless tinkering with school desegregation and do it. Our character and our survival depend on it.

