



## Graduation Speech May 2015

### GRADUATION

It is now my great pleasure to welcome all of you, distinguished guests, faculty colleagues, families, friends, and members of the graduating class, to the 2015 Commencement Exercises of the Yale Law School.

We gather today to celebrate a moment of consequence in the lives of **207** JD candidates, **27** LLM candidates, **2** MSL candidates, and **6** JSD candidates. When these **242** individuals finish their academic requirements, when the final staple goes through the final paper, and when the last examination is at last graded, they will be, quite simply, the finest new law graduates on the planet.

All the music, all the marching, all the medieval badges, robes, and ceremonies that surround us this day, are meant to mark this single, decisive moment of high transition in the lives of these **242** graduates. As with all such moments of transition, it is an occasion *both* to take stock of the past *and* to assess the bright but inscrutable future that lies before us.

If we gaze backwards to the past, we can see that there is a long and winding pathway that has led to this graduation. Members of the graduating class have had to accomplish a great deal to arrive at this moment.

But it is important to stress at the outset that these accomplishments, however heroic, are not those of our graduates alone. Behind each and every one of our graduates is a story of family and friends: of parents who nourished and sacrificed, who hovered and let go; of grandparents, uncles and aunts who supported and sustained them; of brothers, sisters, cousins, and friends, who stood by them and with them; of partners, spouses, children, and other loved ones who strengthened and inspired them.

The real education of our graduates was earned long before they arrived here at the Yale Law School. We are latecomers in their lives, and we have had them in our care only for an instant.

So, as we call to mind the past that has brought our graduates to this precious time, let us remember first and foremost those who truly made this

moment possible. Would the families and friends of the Class of 2015, many of whom traveled long distances to be here today, please rise, so that we may honor and welcome you?

Let us honor also the faculty of this law school, who sit before you on this stage. On this stage is, by common acclamation, the finest and most influential law faculty in the world. They have worked hard to give you, members of the graduating class, a mastery of the law, so that the law might feel, in your hands, intelligible, familiar and responsive. They have also offered you their passion for the law, and in that way they have forever altered the horizons in which you shall sail forward into your life. So let us now, as they are assembled here all together, thank them also. (applause)

We might take this moment also to thank those many members of the Yale Community who have worked so hard to make your time among us comfortable and secure. They have rescued your computers, piloted you through the maze of our remarkable library, maintained our gem of a building, mailed out your many letters of recommendation, and responded to your room reservation requests--in all caps, and performed a myriad of other services, of which you might or might not be aware.

I want to give special thanks today to **Deputy Dean Al Klevorick**, who has worked so very hard and successfully to assemble a superb curriculum that is comprehensive, challenging, diverse, and responsive; to **Deputy Dean Mike Wishnie**, whose dedication to the creation of a magnificent program of experiential education has been simply awe-inspiring; to **Associate Dean Kathleen Overly**, who has spent night and day tending to the many needs of our students, and who is, I am sad to report, moving on from the Yale Law School; to **Associate Dean Asha Rangappa**, who has handled the requirements of your financial aid with tact and assurance; to librarian **Blair Kauffman**, who has catapulted the services of your Library into new heights; to **Assistant Dean Gordon Silverstein**, whose tender care for our Graduate students has been unrelenting; to our devoted and patient registrar, **Assistant Dean Judith Calvert**, who has organized this day, and who works harder than any of you can imagine to make sure your requirements are fulfilled so that in fact you *will* be able to graduate; and finally to **Associate Dean Mike Thompson**, whose inventiveness and attentiveness and sympathy for every concern, large or small, keeps this complex place running smoothly.

Thank you all. (applause)

Moments of transition, like this, hang suspended between past and future. They are comforting, because they are familiar; they culminate all that has gone before. But they are also bittersweet, because something must end in order for change to take hold. In every ending is the challenge of a new beginning. Moments like this are therefore *charged*, in part with the excitement of new creation, but also in part with the vague disquiet of the unknown.

In *Burnt Norton*, the poet T.S. Eliot observes that

Time past and time future

What might have been and what has been

Point to one end, which is always present.

Present, we might say, in you, here, now, poised at the knife edge between what you *have* achieved over the past several years, and what you *will* make of yourselves in the years to come.

We connect time past, time future, and time present through stories and narratives. Sadly, I know something about what it means to lose the gift of possessing a narrative of this kind.

About two months ago, for some inexplicable reason, a disc came loose in my back, and I collapsed in blinding pain. To my enormous regret, I was forced to miss these last sweet months of the year. But worst of all, I suffered a pain that was so searing that it threatened to obliterate my capacity to encompass it in a narrative. I could feel only the pain. And I found that when my pain destroyed time in this way, it produced a kind of despair.

Emily Dickinson beautifully describes this hopelessness in a poem:

Pain has an element of blank;  
It cannot recollect  
When it began, or if there were  
A day when it was not.  
It has no future but itself . . . .

Blank pain, pain outside time, is mere desolation.

But I also found that when I could frame my pain with a narrative-- when I could say that my pain would grow better because of physical therapy or that my pain might be cured because of surgery or even if I could only say that, yes, I could grow to live with this pain—I could master even the worst suffering. That is to say, my *experience* of pain changed when I was able to tell a story about it that could give it an intelligible meaning in which time future was connected to time present and time past.

This point may be elementary, but it has many implications. I have observed over the past year much real suffering among our students. The pain of Ferguson and now of Baltimore. The pain of what Kenji Yoshino in his Thomas Lecture called covering, of disguising one's real self in order to fit in. The pain of economic inequality or of isolation or of gender stereotyping or of mental health challenges or of being thrown to the outside of the endless networking required for clerkships or other career rewards.

And, to allude to the obvious, the world outside these walls carries the potential for even worse suffering. From the earthquakes of Nepal to the

bloodlands of Ukraine, from the fierce storms of an overheated planet to the threat of nuclear proliferation, our world grows more dangerous and threatening every year. How can we deal with possibility of such terrible suffering?

Let me generalize from the important lesson I learned from my own back. If the anxiety of these dangers overwhelms us, if we merely suffer blankly in their presence, we are lost. But if we respond by situating these dangers in time, which is to say by contextualizing them in narratives that unite time past, time present and time future, then we have the capacity to master them. Our experience of them will change. And the question is how we can do this.

The great German literary critic, Walter Benjamin, writing in 1939 about the poetry of Baudelaire, once contrasted two ways of being in time. The first is the way that a gambler experiences time. For the gambler, time is divided into discrete segments-- the next card, the next race, the next job, the next clerkship, the next government position, the next partnership. The gambler strives to predict and to control these things. He thinks he is being



strategic and calculating. But actually each time the gambler rolls the dice, time begins anew.

The second way to experience time is the opposite of this fragmentation. It is to unify time by creating a narrative. And Benjamin writes that the way to create *this* sort of narrative is to make a wish, which means to envision a different and a better future. Every true wish contains within it a story that unites time present, time past, and time future. Such stories have the potential to integrate our lives. And that is why Benjamin writes that “A wish is a *kind* of experience.”

If it is the right kind of a wish, if it is a wish for something as distant and as unobtainable as, say, a shooting star, then a wish can accomplish something remarkable. It can fuse together the scattered fragments of your life into a coherent and extended temporal arc. It can infuse the entirety of your life with integrity and purpose. And Benjamin’s point is that this kind of wish—call it a true wish or a utopian wish--can deeply change the way you live in your life in the present.

This is precisely the point stressed by the great German poet Rainer Maria Rilke in 1924 in this poem:

My eyes already touch the sunny hill,  
Going far ahead of the road I have begun.  
So we are grasped by what we cannot grasp;  
It has its inner light, even from a distance—  
  
And changes us, even if we do not reach it,  
Into something else, which, hardly sensing it, we already are . .

In these lines, Rilke is telling us that your wishes may, or may not, be fulfilled. But if you find something worthwhile to wish for, and if you pursue that wish, it will change you into something else, something which potentially you may already be. Your wish will grasp you, even if you do not grasp it. You will become the kind of person who lives in the light of your wish.

In the unceasing fragmentation and displacements of our post-modern lives, it is not easy to become the sort of person who has a wish. It is far

easier, as I discovered myself, to be simply overwhelmed by the disquiet of present pain and terror. In so many ways, this disquiet virtually defines our present age.

As far as I can tell, the poet who coined the phrase “Age of Anxiety” was W.H. Auden in 1947. Auden, who was much influenced by Rilke, believed that anxiety in the modern world stems in part from our inability to imagine a distant and desirable future. Instead we lie trapped like a gambler in what Auden calls “the Present’s unopened/ Sorrow,” whose “limits are what we are.”

When we are trapped in the present, like the gambler, like the man with the slipped disc, we are subject to the anxieties associated with hopelessness, drift, isolation, panic, and carelessness. We cannot look to the imagined future for solace and strength. We are easily thrown off course; we despair; we are overwhelmed. No matter what we accomplish, we cannot seem to find fulfillment.

But why are we are trapped in this oppressive present? Auden writes that it is because we have what he calls an “error bred in the bone.” He suggests that our failure to imagine a future occurs when

each woman and each man

Craves what it cannot have,

Not universal love,

But to be loved alone.

This is a profound thought. Some of our greatest leaders may indeed crave to be loved alone. They may yearn for the kind of electric charisma that eclipses everyone around them. And because this seems glamorous, you may also wish to shine in that way. But don’t be fooled. That kind of charisma is fundamentally inhuman. The need to be loved alone is a seductive, misleading desire, a desire that is the opposite of a true wish.

And that is because every *true* wish contains within it the seeds of an imagined future, and there is almost no future worth building that you can build *alone*. Our future is something we must construct *together*. “No one exists alone,” Auden writes, “We must love one another or die.”

So if a narrative is to give your life resilience and strength, you *must* imagine a future in which you join with *others* to construct your dream. That is to say, every true wish contains within it a vision of community, an ideal of politics, of a shining city on a distant, sunny hill. It is only through inhabiting such wishes that we can master the terrors of police violence , or global warming, or international instability, or economic collapse, or economic inequality. No matter how complex or impervious or painful the world may appear to you, you must find a way to imagine refashioning it, of making it responsive to your own true wish.

Law is what makes such wishes possible. That is because law is the background condition for every *social* enterprise. This is why, in a famous poem, Auden oddly compares the law to love. It is a witty, amusing poem that I recommend you read. In it, Auden considers, one by one, all the standard jurisprudential definitions of law, and he rejects each of them. Law is not “the wisdom of the old;” it is not the will of god; it is not the pronouncements of judges; it is not “the loud angry crowd.” Auden takes particular aim at the jurisprudential definition favored by professors who are legal realists. He says:

Yet law-abiding scholars write:

Law is neither wrong nor right,

Law is only crimes

Punished by places and by times,

Law is the clothes men wear

Anytime, anywhere,

Law is Good-morning and Good-night.

In the poem, Auden rejects each of these definitions of law. Instead he affirms, strangely and tentatively, that law is “like love.” He writes:

Like love we don't know where or why

Like love we can't compel or fly

Like love we often weep

Like love we seldom keep.

These are difficult lines. Many scholars, some on this stage, have affirmed that law and love are opposites; that we require law only in the absence of love.

But I read Auden to say something entirely different. I interpret him to say that for all its vagaries and betrayals, love is an essential and *inescapable* dimension of human life. One can't be human without love. And I read Auden to say that law, like love, is *also* an essential and inescapable dimension of human life. Without law we cannot establish a common endeavor or build a common future. Without law we cannot imagine a better community, and so we cannot escape the prison of the present. We may weep for the injustice of the law, and we may violate the law, but we cannot fly from the law without simultaneously flying from the best parts of ourselves.

To lose faith in the possibility of law is therefore to betray our humanity. Without law, as without love, there can be no society worth wishing for on a distant falling star. And without that star, without that wish, you will be lost in the fragmented time of the gambler. You will be thrown back on yourself, and you will experience life as one damn card after another. One damn job after another. One damn threat after another.

Your teachers and friends on this platform hope that during your time among us, we have taught you something about how to use law to achieve your own true wish. We hope we have initiated you into the practices of effective governance, and illuminated for you the inner workings of institutions, the mysteries of incentives, the murky language of social values. We hope we have also given you an understanding of the rule of law, which is one of civilization's great achievements.

We hope you will remember that when law is severed from competence, it cannot long survive; but that when law is indifferent to justice, it becomes an abomination. We hope that we have taught you that law is not merely a means of social co-ordination, but, like love, law is indispensable for human flourishing.

So my wish for you, on this auspicious day, is that you leave here with your own wish, one that will give purpose and shape to your life. My hope is that you will have the competence and confidence to pursue that wish, and that the pursuit will give you always a reason to look up from your books, from your career, from your taxes, from your pain, from your life, and to ask why things can or should be different and better. My hope is that, as my



great predecessor Dean Harold Koh used to say, you will not die with your options open.

When you leave here, you will become leaders in your chosen fields. You will no doubt face insoluble problems. But it is the true wish of all your teachers here on this stage that you may encounter the unimaginable adventures that lie before you with the same verve and intelligence, with the same unfailing self-respect, with the same moral courage, with the same pleasure and delight, that you have displayed during your time here among us. We place our faith in you to construct a new future for all of us. Your success is *our* wish.

After graduation, come back and see us, and, when you do, bring stories. But for now, on behalf of this Faculty, this community, and the proud profession of which you shall soon be a part:

Congratulations!