



Commencement Remarks
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Graduation Remarks

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 2017 Commencement Exercises of the Yale Law School.

We gather today to celebrate a moment of consequence in the lives of 213 JD candidates, 24 LLM candidates, 4 JSD candidates, and 4 Ph.D.s in Law. When these 245 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 245 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 into the past, we can see 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.

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 2017,

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. So let us now, as they are assembled here together, thank them also.

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; responded to your room reservation requests—in all caps—and performed a myriad of other services, of which you may or may not be aware.

I want to give special thanks today to those administrators who have worked with you so intimately throughout your time here.

To Deputy Dean Al Klevorick, who has toiled so very hard and successfully to assemble a superb curriculum that is comprehensive, challenging, diverse, and responsive;

to Deputy Dean Mike Wishnie, who has dedicated himself to creating an innovative, imaginative, and awe-inspiring program of experiential education that is without doubt the very finest in the world;

to Associate Dean Ellen Cosgrove, who has spent night and day tending to your many needs and helping you to navigate through a school year filled with many challenges;

to Associate Dean Asha Rangappa, who has handled the requirements of your financial aid with tact and assurance;

to librarian Teresa Miguel Sterns, who since her very first day has continued with energy and skill and joy to maintain the status of our library as the greatest service institution of any law school;

to Assistant Dean Gordon Silverstein, whose tender care for 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.

This is my last year presiding as Dean at a Yale Law School graduation. In a few moments, I shall hand over the maces of authority to my successor, Heather Gerken. Although Heather does not begin as Dean until July 1, this handing off of maces is as close to a succession ceremony as we have.

Before that time, however, I just have a few observations that I would like to share with the great graduating class of 2017.

You know better than I that you are graduating into a tumultuous world. If in the Spring of 2016 I had written each of you a letter detailing all that has come to pass since then, I'd wager that none of you would have believed it.

A wave of anger is sweeping the world. From the rise of right-wing parties in Europe, to Brexit, to our last presidential election, we are living in what can fairly be called an age of rage. Resentment and partisanship has poisoned our politics; it threatens to undercut our republic. I don't know how we can continue to govern ourselves, if we cannot agree to accept established facts; if we cannot commit to honor country over party; if we cannot regard each other with mutual respect.

These seemingly uncontroversial, even banal, commitments are now, shockingly, contested. It seems that all over the world people are feeling so

unsafe that they can no longer endure the irritation of having to remain side by side with those with whom they disagree.

What has caused the outbreak of rage throughout Europe and the United States is, of course, debatable, but certainly one important factor has been globalization. Those who have felt pushed aside by the free flows of capital across national boundaries; those who have experienced themselves as ignored by elites benefitting from these flows of capital; have responded with a surge of populism that has expressed itself not only in a deep distrust of expertise—the kind of expertise that sustains globalized markets--but also in a powerful reaffirmation of nationalism, with all the attendant re-entrenchment of national boundaries.

Yet in our saner moments, we all know that modern societies cannot survive without expertise; and that bare nationalism has in the last century brought us two world wars that caused immeasurable death and misery.

It is my obligation to inform the Class of 2017 that you will inevitably take your position among the elites of this world. You are even now, despite yourselves, and even in the absence of your final grades, experts in the law.

And that privilege brings with it the obligation to protect the rule of law and human rights. To that extent, at least, you all, after graduation, have a large stake in ending the furious political eruptions of the past few years.

And so my question to the Class of 2017 is: How can you help restore sanity to this exploding world?

In the past several decades, graduates of this school, under both Democratic and Republican administrations, have sought to go to Washington DC to reform the nation. They thought they had the expertise necessary to conceive and to implement *policies* that would cure our ills. But now that expertise has itself been called into question, the entire ballgame has changed. What *you* will need is not so much the right *policies*, as the right kind of *politics*.

At root, *politics* is always local. It rises from the ground up. My advice to you, therefore, is to return to your communities, whether in red states or blue states, and create the kind of politics of which you can be proud. In my opinion, that means a kind of politics that respects

disagreement, that learns from public dialogue, that embraces knowledge, and that affirms the rule of law.

To create *that* kind of politics, you will have to set an example; you will have to overcome whatever rage lies inside you and find the courage to reach out to all members of the public and to become the kind of leader whom all can respect.

I urge you, therefore, to roll up your sleeves and to participate in public debates about the nature of human flourishing that form the core of all proper politics. Our political sphere is one, long, continuous argument about what makes life worth living. In its most fundamental structure, politics is driven by competing perspectives of the good, not by quarrels about technique.

Politics is in this respect different from expertise or policies, because the latter always *presuppose* an idea of human flourishing. Politics, by contrast, is the medium through which a society establishes its understanding of what human flourishing truly is. If you are to lift up our politics from the poisonous atmosphere in which it is currently bemired, you must bring

people together in a common vision of a good and decent life. Once you have done that, *policies*, and the *expertise* necessary to implement them, will follow easily enough.

Those who enter politics, however, are almost always subject to a common and potentially fatal temptation. It is what the poet W.H. Auden calls our “error bred in the bone.” He writes:

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 do indeed seem to crave to be loved alone. They yearn for the kind of electric charisma that eclipses everyone around them. And because this seems glamorous and the true measure of political celebrity, you may also wish to shine in that way. But don't be fooled. The need to be loved alone is a seductive, misleading desire.

There is almost no vision of human flourishing, almost no future worth striving for, 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.”

It is for *that* reason that every convincing account of politics contains within it a vision of community, of a shining city on a distant hill. It is a vision of how we may live together in peace, if not in love. It is ultimately only through inhabiting such a vision that we can master the terrors of police violence, or global warming, or international instability, or economic collapse, or economic inequality.

Law is what makes such vision possible, because law is the precondition for every *social* enterprise. And that is why, in a famous poem, Auden oddly compares law to love. It is a witty, amusing poem, which I recommend that 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 cannot 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. 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 common humanity. Without law, there can be no society that works together.

In making this large claim, Auden has in mind a very specific idea of what law is. We can see this because, in the lines I read you, Auden writes that, like love, law cannot be “compel[led].” This presents a real puzzle. We know very well that we cannot force someone to love. But what does it mean to say that law cannot be compelled, when we hire endless police and construct endless prisons, in order to enforce compliance with the law?

I think that when Auden speaks of law, therefore, he has in mind not specific legal rules, but the rule of law itself, which consists of commitments and practices, and little more. We can force people to stop at red lights, but we cannot compel them to internalize the values of the rule of law. There is all the difference in the world between the rule of law and the law of rules.

The rule of law is a profound complex of values and practices that flow from the need to justify the exercise of force; from the importance of transparently articulating judgment; from the indispensable respect owed to disagreement and participation; from a commitment to equality of treatment; from the necessity of recognizing human expectations and reliance; and so on. There is no simple summary of these values, but you have been exposed to them time and again during your studies here.

We cannot *compel* your adherence to these values because, like love, they live only and entirely within the space of your own personal commitments. They cannot persist without your belief, which means that they exist at your sufferance. Without your affirmation, they will languish and die.

Especially in these times of rage, when we are so tempted to speak in anger, the rule of law is fragile and at risk. I hope after graduation you will come to treasure the complex, ancient values that make up the rule of law. I hope they will undergird your politics, for without them we shall sink only deeper into the mire that threatens to engulf our common future.

When you leave here, you will become leaders in your chosen fields. You will no doubt face insoluble problems. But it is the 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 strong moral compass, with the same pleasure and delight, with the same far-reaching vision, 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.

So on behalf of this faculty, this community, and the proud profession
of which you shall soon be a part:

Congratulations!