

2017

# Klatsky Endowed Lecture, Presented by the U.N. High Commissioner for Human Rights

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one of the most important weapons we have to fight the horror of global terrorism.

With that, I express my great appreciation to Co-Dean Michael Scharf, who has embraced this program with his normal enthusiasm and great intellect. Again, I express my thanks and appreciation to the Commissioner for addressing you today.

I hope to meet many of you next year and our Fellows this summer either in New York or Washington.

Thank you and my best wishes to you all!

## II. 2016 KLATSKY ENDOWED LECTURE IN HUMAN RIGHTS

### *Prince Zeid Ra'ad Al-Husseini*<sup>†</sup>

I am honored to have been chosen to deliver the Klatsky Human Rights lecture, and to accept, on behalf of all my colleagues at the United Nations Human Rights Office, the Award for Advancing Global Justice.

This is a deep and moving tribute, for justice—global justice—means, as you all know, more than simply law alone. For laws themselves can be commandeered for supporting that which is unjust and unworthy of us. Laws have upheld slavery, apartheid, the persecution of others, segregation and the like. Laws that have been both hideous in conception and implemented often without remorse.

Legality is not enough. Justice—maintained by the rule of law, upholding fundamental human freedoms, the equal and inalienable rights with which every human is born—is our necessary condition. To achieve this—to promote and protect the civil, political, economic, social and cultural human rights of every woman, man and child—is the mandate of my Office.

A vast mandate. Humbling really. The work of monitoring, fact-finding and reporting confronts us with harrowing details of torture, arbitrary detention, enforced disappearance, sexual violence, slavery and murder. So many people suffer so much, from discrimination and torture. Only a week ago, I joined the board of the U.N. Voluntary

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† Prince Zeid was appointed U.N. High Commissioner for Human Rights in July 2014. He is the first Muslim to ever hold that position. He previously served as Jordan's Permanent Representative to the United Nations from 2010-2014, as President of the Security Council in 2014, and as Jordan's Ambassador to the United States from 2007-2010. Before that, he served as a political affairs officer in UNPROFOR (the U.N. forces in the former Yugoslavia) from 1994-1996, and as Jordan's Deputy Permanent Representative at the U.N. from 1996-2000. Prince Zeid has argued before the International Court of Justice on behalf of his country, and following allegations of widespread abuse being committed by U.N. peacekeepers in the summer of 2004, he was appointed as Adviser to the Secretary-General on Sexual Exploitation and Abuse. Prince Zeid earned his BA from The Johns Hopkins University in 1987, and his PhD from Cambridge (Christ's College) in 1993.

Fund for the Victims of Torture in discussion, and heard from a group of extraordinary experts, one of whom was tortured as a child, how in this twenty-first century of ours, there were still security forces designing and then engineering specific tools to be used in the torturing of children. I was nauseated.

And then there is the tyranny and capture of political institutions that grind so many people into servility, and the waging of war with no regard for the protection of frightened civilians—not to mention the squalor and deprivation which the vast majority of humanity is forced to experience.

As we advocate for the rights of people to hold their governments to account, we challenge some of the most formidable forces in the world. Despite the massive advances that humanity has notched up—against poverty and disease, against prejudice, against oppression—millions of people, from the manicured avenues of Paris to shanty-towns in Peru, face injustices every day of their lives. No country has an unblemished record of respect for human rights, and every violation suffered is being inflicted unnecessarily, by institutions and authorities which fail to protect their people.

Like many of my colleagues, I often feel overwhelmed by the work we must do, given the misery and inexhaustible cruelties with which we must deal. It would be pleasant for us to retreat—if only for a moment, occasionally—into indifference and slumber. And yet as Elie Wiesel tells us, “We must always take sides. Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented.” And many of you will have seen the bumper-sticker: No justice, no peace. Where there is no justice, there is no stable, sustainable security for anyone, and nobody can truly say they sleep easy.

The cruel mockery and paranoid bombast of Radovan Karadzic strut through the nightmares of his many, many surviving victims. Justice was a long time coming for him.

Two decades after his role in the atrocities which consumed Bosnia and Herzegovina and elsewhere, Karadzic was found guilty last month of genocide, crimes against humanity and war crimes, and sentenced to 40 years’ imprisonment. This verdict was significant to the hundreds of thousands of people wounded, tortured, raped; those who lost their parents and other loved ones; who were driven out of their communities, deported in railway cars to concentration camps and elsewhere—the long list of the crimes committed in the former Yugoslavia 20 years ago, by Karadzic and others, still chokes one’s throat.

It so happens that the Karadzic verdict also has a very personal meaning for me. During the 1990s, after obtaining a degree in History and following a stint in my country’s armed forces, I joined UNPROFOR, the UN force in the Former Yugoslavia, as a low-ranking political officer. I encountered many malignant buffoons—overripe bullies whose vicious and untruthful rhetoric roused people to deliriums

of hatred, feeding the catastrophic escalation of violence. I saw the destruction and pain perpetrated by people egged on by Karadzic and others of his ilk, who gained enormous political and economic profit by whipping up division. I heard the threats, the personal attacks, the hysterical fits of self-pity; the claims of plots; the jeering, screaming crowds. I saw the blackened homes and fields, the hastily covered mass graves that are the ultimate expression of the language and rule of hatred.

Neighbors turned against neighbors; apparently pleasant young men grew up to train as snipers, the better to murder small children playing in the street and elderly women too weak to run. Some of them were psychopaths; others were blinded by hysteria, hatred, and the dehumanising rhetoric of their leaders, who taught them to blame and fear ordinary people—people who were really, in every way, just like them.

As a young man, casting about for a way to cope with this impossibly bitter reality, I began to turn to the voices of those who endured the Holocaust and deprivation of World War II. Stripped of their human rights, people such as Primo Levi formulate deep truths about human nature. They teach us that while it is always possible to descend into monstrous atrocities, from platforms of great lies, it is also, always, possible to rebuild.

Levi was sent to Auschwitz, and endured and witnessed some of the most extreme forms of brutality. And yet his voice when he wrote was also sober and clear as he took the measure of humanity's collapse into injustice and violence. "It happened, therefore it can happen again," he warns. "It is not very probable that all factors that have unleashed the Nazi madness will again occur simultaneously, but precursory signs loom before us."

Levi feels that violence may be endemic in human nature: "it only awaits its new buffoon". A curious word to use—buffoon. But having suffered so starkly from the cruelty of Hitler and Mussolini, this clownish term is Levi's description of those would-be leaders, bloated by unjustified self-importance, who seek to exploit shamelessly the fears and frustrations of their people by using vulnerable outsiders as scapegoats. Karadzic, Milosevic—cartoonish figures, wily and vain, intent on seizing power at any cost, prepared to detonate shock-waves of hatred and lead their followers on the road to violence.

Buffoons are inevitable, Levi tells us. The point is to strengthen the principles of the people, so that they resist these prowling "monsters" who "lust for power." Without followers, the monsters will howl in irrelevance. But when they gather a following, they deepen the divisions that cleave societies into the valuable "us" and the somehow far less valuable "them"—people who have different characteristics, somehow fewer rights, who are therefore, in some mysterious and completely wrong-headed way, human and yet less than human.

In the world's current turmoil, we see a great deal of such howling—cries of xenophobia and racism, religious prejudice and ethnic hatred. And I fear many people are once again succumbing to its allure—the apparent authenticity of the demagogue, and his facile demarcation of a clear target on which people can fixate their anxiety. If we can blame an easily identified, and preferably weak, group for everything we fear, then we are blameless, are we not? And we can evade the complexity and ambiguity of self-examination with that too-simple equation, which is utterly toxic.

Around the world, I see national newspapers stigmatising groups of vulnerable refugees as “cockroaches” and “organised invaders.” Prominent politicians who blog about the supposed negative characteristics and disproportionate influence of Jews, or who publicly declare that gay people are “worse than dogs” and call for them to be killed. Leaders who declare that only people with specific religious beliefs need apply for residency in their country. States that refuse citizenship, and even university education, to members of certain ethnic minorities, though they have lived in the country for generations. Political parties that have begun to veer towards xenophobia, arousing nationalism and a hatred of minorities—ethnic, religious and sexual.

And then there are those who preach a razor-thin ideology like ISIL, desolate of any compassion, brimming with menace and violence of an extreme kind and directed toward anyone who does not think like them: the vast majority of Muslims, Christians, Jews, Yazidis, in fact everyone here this afternoon.

Caught between the dreadful crimes of the violent extremists, and the all-too-many-states throughout the planet (with a heavy concentration in the Middle East) whose leaders brazenly violate human rights law and international humanitarian law—humanity is flirting dangerously with the harbingers of its own destruction. And it cannot be that. It simply cannot be that.

My family and I have proudly and gratefully resided in the United States of America for many years. I went to college here, even vended at major league baseball games when I was a student, and later travelled through much of the U.S., often astride a motorcycle. To me, a non-citizen, this country is embodied by its bonds of inclusion, the freedom to be yourself, represented well and served fully by a government transparent and accountable for all its citizens' individual rights—with laws and a system anchoring its democracy. Eleanor and Franklin Roosevelt are my emblematic Americans: the one, drafting the Universal Declaration of Human Rights, which declares all human beings to be born free and equal in dignity and rights; the other, defeating tyranny and building the foundations of the United Nations, which is, after all, another way of saying working together.

And yet, in what may be a crucial election for leadership of this country later this year, we have seen a full-frontal attack—disguised as courageous taboo-busting—on some fundamental, hard-won tenets of

decency and social cohesion that have come to be accepted by American society. When one is angry and distrustful (and many people have reason to be angry and distrustful), a verbal assault on social and political convention can appear as revolutionary and necessary. The dangerously divisive, or downright disagreeable, nature of the sentiments become—for some—submerged by what appears to be the refreshingly frank reflection of our own most bigoted, but deeply felt, hidden beliefs.

This is also the road to violence, not perhaps visible—not yet. The heavy costs created by those who use this rhetoric will be paid, not by them, the political actors, and not at the ballot box. Instead, they will be paid by many innocent people, sometime in the future, who will fall victim to violent acts. The accumulation of human experience informs us time and again: to malign and degrade people on the basis of supposed characteristics of groups, rather than focus on individual conduct, is profoundly dangerous; and it spits on the souls of all those who, throughout history, were murdered not because they were guilty of any crime, but because they were painted as the enemy and were defenseless.

We have heard these calls to hatred—calls stigmatising and demonising minorities, beginning the validation of violence. Less than 150 miles away from where I speak, a front-running candidate to be President of this country declared, just a few months ago, his enthusiastic support for torture—a *jus cogens* crime, the practise of inflicting intolerable pain on people, in order to force them to deliver or invent information that they may not have. We have heard hateful slander of foreigners, and multiple candidates declaring their support for extensive and intrusive surveillance of people based on their religious beliefs—vast and discriminatory systems to single out and discriminate against Muslims.

The ugly phantom of racial and religious division is flapping across the political landscape of this country—as it is across many other countries in the world.

It is a phantom feeding on fear. The experience and fear of economic insecurities, of change. The fear of economic globalisation—an inevitable force, which enriches many, but creates pain and loss for many others. The fear that a certain moral order is falling apart, that national values and freedoms are under threat from diversity. The fear of a terrorism, which is real, but which also needs to be kept in perspective, in proportion.

Yet in so much of this strident rhetoric, strikingly, there seems to be little concern for justice, in the true meaning of that word—fairness, fundamental equality and respect for human dignity. Real courage would mean standing up for the great and enduring values of this society. They are, if you will permit me to list some of them:

- 1) Equality of all, without any form of discrimination, whether based on sex, race, belief, sexual orientation or any other factor.
- 2) Freedom from tyrannical restraints on thought, conscience and belief.
- 3) The absolute prohibition of torture.
- 4) The impartial and principled rule of law, including refusal of unlawful or arbitrary arrests or detention.

These and other human rights principles constitute the pride and strength of this nation, which is grounded in openness to all, and the rights of all.

The bellowing of hatred I hear around the world sends us back to a time when women, sexual minorities, and racial and religious groups had far fewer liberties. Its discourse—steeped in misogyny and racial and religious discrimination; fed by fantasy and malice—is based on judging people sharply on the basis of delineated groups. It dehumanises. It apportions blame to innocent people on the basis of where they were born, the way they look, or their beliefs. And it casts them out from the freedoms that are the inherent and equal rights of everyone.

It is language I have heard before, in the bleak towns and killing fields of the broken countries of the former Yugoslavia. Violence snakes under and through it. I have seen its divisiveness unravel the impartiality of rule of law, which enables justice. I know that this language, which incites hatred and discrimination, is the nursery for later suffering, hideous and massive.

Bigotry is not proof of strong leadership. It is evidence of the lowest and most craven lack of faith in the principles that uphold a ‘land of the free.’ Hate speech, incitement and marginalization of the “other” are not a tittering form of entertainment, or a respectable vehicle for political profit. To casually toss this gasoline onto the smouldering embers of fear is to risk great harm to a great nation. Discrimination is a powerful, and profoundly destructive, force. Forty-eight years ago, Robert Kennedy made a speech to the Cleveland City Club, just a few miles from where you are seated. “Too often we honour swagger and bluster and the wielders of force,” he said. “Too often we excuse those who are willing to build their own lives on the shattered dreams of others . . . When you teach a man to hate and fear his brother—when you teach that he is a lesser man because of his color or his beliefs or the policies he pursues—when you teach that those who differ from you threaten your freedom or your job or your family—then you also learn to confront others not as fellow citizens but as enemies, to be met not with cooperation but with conquest, to be subjugated and mastered.” He continued, “Our lives on this planet are too short and the work to be done too great to let this spirit flourish any longer in our land.” Two months later, he was murdered.

In July, this city will host an important political convention.<sup>1</sup> The world's eyes will turn to Cleveland, and it is my deepest hope that the people of this country will demonstrate their profound understanding of human dignity and human rights.

For example, this city of Cleveland, so prosperous and secure, was ranked last year among the top five most segregated cities in America. In five mainly African-American neighborhoods on Cleveland's East Side, the available opportunities and services are nowhere near equal to those in other areas. This is not only deeply and intolerably unfair—and thus unjust—for the individuals who suffer discrimination. It also harms the development of all of society, which counts on mobilising the skills, confidence and voice of all its members.

The U.N. Working Group of Experts on People of African Descent has highlighted serious concerns in the United States about police killings, racial bias in the criminal justice system, mass incarceration, and issues related to poverty, which disproportionately affect African Americans. Earlier this year, it found persistent gaps between African Americans and the rest of the U.S. population in “almost all human development indicators” —such as life expectancy, income and wealth, level of education, housing, employment and labour, and even food security.

Prejudice, whether it is on the basis of an ethnic group, religious belief, class, skin color or other characteristics, deprives people of their rights. It denies their essential humanity. And does great harm—to the people concerned, succeeding generations, and to society as a whole. Every country's national interest is served best by working for the common good, not for divisiveness. Equality and fairness must be taught, nurtured and defended, for it is they that build societies that are resilient and strong.

Open and fair societies are poles of sanity in a world of turmoil. We should be nourishing our most precious force, which are the values of human equality and dignity—not manipulating people's anxieties to create scapegoats and division.

Immigrants, to take another example, are not a threat to any society. Every country on this Earth was built with the help of women and men who came from somewhere else, bringing their values and viewpoints to the common task and melding their culture with others. Each of their stories was singular, and many may have been tragic, but they were also stories of great hope.

The task of learning to live together, in equality and justice, is humanity's oldest and most essential challenge. It can be achieved, in a process that is built up by very real, very practical steps.

In our work, my colleagues not only help to identify the gaps in law and institutions that cause wrongful suffering to individuals, but we also try to assist States to change them, strengthening their protection

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1. The 2016 Republican National Convention.



systems so that in law and in practices there is full consistency with international standards. We get out and get close, building trust so we can effectively transmit our concerns. We gather information, identifying and prioritising key gaps—torture, land grabs, discrimination on the basis of race, caste or gender—and we try to assist or pressure States to fulfil their human rights obligations. We train prison guards and police to question people without torture. We help judges apply the principles of fairness and rights that are upheld by binding international law, and to maintain fair trials and due process guarantees. We strengthen grassroots actors and amplify their voices. We help to train military forces, especially when it becomes their duty to protect civilians. We build programs for human rights education.

Here, at the Cox International Law Center, you, as law students, rightly focus on the building blocks of justice: the agreements, and disagreements, that make up law—national law, international law, international humanitarian law, and international human rights law. But observance of the law, in the sense of the letter of the law, is not enough. What matters is its justice. Law should not be driven by wealth, or other undue influence. Its protections should not vary by neighborhood or race, or any other grounds for discrimination. The law should protect the rights of all, including, most especially, the disadvantaged and the vulnerable.

Expressions of intolerance, and incitement to hatred or violence based on ethnic origin or religious belief, wherever they occur, are profoundly wrong. They not only deprive people of their rights to equality and justice; they can also set off an uncontrollable, ferocious escalation of discrimination and persecution. Primo Levi watched this happen and suffered, in body and mind, its consequences. I, too, have witnessed it at work. There is a road to violence—to the uncontrollable explosion of violence that tears apart entire societies, scarring them for generations; and hate speech, which incites violence, is on that road. We know that when we permit the rule of hate to undo the rule of justice, there will be blood.

The U.N. has entered its seventh decade in a sombre landscape of many ongoing crises. Other catastrophes may be looming; many of us feel trepidation for what the future holds.

But the solution is to strengthen—not weaken—the wisdom that humanity has accumulated. The recognition, in the words of the Universal Declaration of Human Rights, that “the inherent dignity and . . . equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace.”

Thank you.