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Yale Law School

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**Yale Law School Commencement Remarks
May 23, 2005**

**Harold Hongju Koh
Dean, Yale Law School**

Distinguished Guests, Faculty Colleagues, Families, Friends, and Members of the Graduating Class:

Welcome, all of you, to the Yale Law School's 2005 Commencement Exercises.

We gather here this afternoon to celebrate an institution, to graduate a class, and to renew a solemn commitment.

The institution is the Yale Law School, the class is the remarkable Class of 2005, and the commitment is to a tradition of humanity and excellence in the study of law that dates back several centuries.

Although this is Yale *University's* 304th Graduation, in truth, we cannot say precisely what number Yale Law School graduation we are celebrating.

The lineal ancestor of the Yale Law School was the Litchfield Law School, which was founded some 50 miles northwest of here in Litchfield, Connecticut. In the years between 1780 and 1830, the Litchfield Law School trained about 1000 lawyers but it held no graduation ceremonies and awarded no formal degrees.

Then, more than 200 years ago, around the year 1800, a Yale college graduate named Seth Staples began taking on apprentices here in his New Haven office. In time, he took on as partners in his combined law office and law school, two former students, Samuel Hitchcock and David Daggett, and the three of them taught in the New Haven law school that eventually became the Yale Law School. Indeed, the seal of the Yale Law School displayed on your commencement program pictures a field of Staples, in honor of Seth Staples, a greyhound in honor of David Daggett (whose original family name was Doget), and an alligator, which the Samuel Hitchcock family took as their symbol after the family moved to the Bahamas.

As early as 1814, the Yale College catalogue began listing "Law students" as studying on the College rolls. And so the graduating class that will march before you in a few moments represents at least the 191st group of law students to receive their legal education at Yale. By way of reference,

legal education here began at least three years *before* Chief Justice Isaac Parker of the Supreme Court of Massachusetts, founded a law school north of here at Harvard in 1817, and 32 years before a law school was founded at Princeton in 1846, which closed just six years later.

In 1826, David Daggett was named a professor at Yale College, and from that year forward Yale University began to identify The Law School in its catalogue of study, along with the Divinity School and the Medical School. In 1843, 162 years ago, Yale University began formally awarding Yale degrees to Law School graduates. About thirty years later, in 1875, the Law School announced a graduate program that would offer a one-year masters of law degree and a two-year doctor of civil law, the precursors to the modern LLM and JSD degrees that we will award today.

What a difference the years make. In the early 1800s, when Yale Law School awarded its first degrees, the School was a proprietary venture operated from a dingy rented room over a downtown storefront here in New Haven. As my colleague John Langbein has memorably written: in those days, we had “a proprietary law school recovering from [repeated] brush[es] with extinction, staffed part-time by four mostly young and undistinguished New Haven lawyers ... a place [which nevertheless] pass[ed] itself off as a temple of advanced legal scholarship ... I am not at all sure [Professor Langbein says] that the Yale Law School of [those years] could have withstood a probe by modern consumer protection authorities.” *

Today, the picture looks quite different. You have seated before you a faculty that is by acclamation the most influential in the American legal academy, and what must be the most dedicated and humane staff at any American law school. Let me ask the members of our faculty and staff to please rise so that you can recognize their excellence and dedication.

But our greatest pride is for the class that graduates today—or more precisely, that *will* graduate in due course, subject to certain conditions subsequent. That group consists of the 200 JD candidates, the 23 LLM candidates, and the 7 JSD candidates of the Class of 2005.

Ladies and Gentlemen: these are, quite simply, the finest new law graduates on the planet. Let me say, with all sincerity, that this is the finest class to graduate from Yale Law School during my term as Dean. Let me also say, just as truthfully, that as the very first class to graduate on my watch, you the Class of 2005 will always and forever hold a very special place in my heart.

* John H. Langbein, *Law School in a University: Yale's Distinctive Path in the Later Nineteenth Century*, History of the Yale Law School: The Tercentennial Lectures (A. Kronman, ed. 2004) at 65-66.

Behind each and every one of these 230 individuals, there is an inspiring story of family and friends: of parents who worried and sacrificed, of parents who worked as partners or in many cases singly or separately to guarantee that nothing would stand in the way of their child's getting a world-class education.

In this courtyard, there are stories of grandparents, and uncles and aunts who watched over you when your parents could not; of brothers, sisters, cousins, and friends who answered your instant messages and took your calls at all hours; of spouses and loved ones who put their own career plans on hold so that you could make the most of this opportunity; and of children who somehow recognized how important law school was for you.

To be here today, family members have traveled from as far away as Australia, New Zealand, Korea, Japan, China, Israel, and South Africa. We on the faculty and staff have had the privilege of educating you graduates, but we all recognize that your real education came long before we met you. And so before we celebrate our graduates, let us celebrate the loved ones *behind* the graduates. Would the families and friends of the Class of 2005 please rise, so that all of us can honor you?

As for you, the members of the class of 2005, you have special reason to be proud because for you, no one made law school easy. On your first day of law school, the university went on strike, and so you found that labor law was not an advanced course that could be put off until second semester. And from that moment on: the law has refused to leave you alone.

By November, you were arguing about issues of discrimination and diversity. By spring, you were studying the international law justifications for going to war in Iraq. The *Grutter* case upheld affirmative action, and the *Lawrence* case struck down the criminalization of sodomy. And as your first year came to an end, you learned what it was like to be at ground zero during a bombing. A few days later, at Ezra Stiles College, you learned what it is like to be refugees, as well as witnesses in a federal criminal investigation. And before your first exam period ended, you learned all about the joys of amnesty. And that was all just in your first year.

By second year, as *Brown vs the Board* turned 50, the Defense Department began enforcing the Solomon Amendment and along with the faculty, many of you learned what it was like to be plaintiffs engaged in constitutional impact litigation. We learned with horror about Abu Ghraib, even while Guantanamo was finally brought under the rule of law. Then in your third year, you survived an election, a tsunami, the first Red Sox championship in 86 years, a new pope, and even a new dean.

Through it all, you ran conferences on animal rights, same-sex marriage, rebellious lawyering and the Constitution in 2020. You wrote your SAW and your substantial paper, you ran journals, clinics, small group Olympics and Law Revue; you applied for jobs and clerkships. And while it happened, some of you lost loved ones, got married, or gave birth to children. And so today, here you all are, together one last time.

So Class of 2005, look to your left, look to your right, and you see what Yale Law School is, and must always be: a community of remarkable individuals, committed to excellence and humanity in everything you do.

From century to century, from graduating class to graduating class, from Dean to Dean, this School remains a *community of commitment: commitment* to the highest excellence in our work as lawyers and scholars, to the greatest humanity in our dealings with others, and to the pursuit of careers not of selfishness, but of service.

In this place, you have comforted one another and confronted one another. You have competed with one another -- very hard -- and supported one another -- very well. You have demanded role models, and when the time came, you have provided role models for each other. And when all is said and done, this class leaves behind a better law school, a better Yale, and a better New Haven than the ones you found three years ago.

And now, the moment you've all been waiting for. The time has come to present the candidates for the advanced degrees in law. And to make that presentation, it is my pleasure to present Associate Dean Barbara Safriet—who admitted you, supported you, and guided you through.

[Awarding of Advanced Degrees]

Before we present the candidates for the degree of Juris Doctor, I would like to pay special tribute to those members of the Law School Administration who have moved mountains to make these graduation ceremonies possible. There are so many who deserve mention, but I must single out just a few:

- Associate Dean Mike Thompson, without whom the Law School literally could not function;
- my Executive Assistants Georganne Rogers and Marianne Dietz, who have so ably guided this school through a decanal transition;
- and our brilliant Registrar and Deputy Registrar, Judith Calvert and Beth Barnes, to whom you owe more than you know for making it possible for you to march in today's procession. If each of them will wave, please pay them a warm tribute.

Finally, we must take this time to say hail and farewell to two of our number, who are, each in their own way, also graduating today. Each has been honored in the last few weeks, but we did not want today to go by without mentioning them by name.

The first is a member of the Yale Law School class of 2002, Associate Dean Ian Solomon. For more than two years, Ian has served this School as its Associate Dean for Finance at a critical time with extraordinary energy, dedication, and skill. He now goes off to serve as legislative assistant to Senator Barack Obama of Illinois, during an equally critical time for our country. As much as we will miss him here, we are so very happy to have him there.

Our second decanal "graduate" is a member of the Yale Law School class of 1985, Natalia Martin. For the past fourteen years, Natalia has served with deep passion and even deeper compassion, as Assistant Dean and Associate Dean of Students. There is no one who has cared more about the students than Natalia, and so it is my special pleasure to ask her to present the candidates for the degree of Juris Doctor.

[Awarding of J.D. Degrees]

Every year, the graduating students elect a member of the faculty to address them at their commencement exercises. The choice is entirely theirs and for that reason, to be selected is an unforgettable honor for the faculty member chosen.

This year's faculty speaker is a member of the Yale Law School class of 1996; he has taught here brilliantly for the past seven years, and was awarded tenure when many of you were first year students. He teaches and writes in the fields of constitutional law, law and literature; sexuality and the law; and Japanese law and society. His new book, forthcoming this fall, is entitled *The Uncovered Self: The Search for Authenticity and the New Civil Rights*. It is a work of enormous passion, power and beauty that I heartily recommend that each of you buy in hardback on Amazon.com.

Ladies and gentlemen, there is no one at Yale Law School who cares more, or who has taught you more, by his teaching, his writing, or his example than the person you have elected to deliver this year's faculty address. I give you our Deputy Dean for Intellectual Life, this year's faculty speaker, my friend and colleague Professor Kenji Yoshino.

[Faculty Speech]

Before turning to our final speaker, there is one final announcement to be made. I mentioned earlier that three years after Yale Law School began, and started awarding degrees in 1843, one of our peer universities, Princeton, also began a law school. If you are wondering whatever happened to the Princeton Law School, the short answer is that it closed in 1852 for lack of resources. Remarkably, a similar fate also nearly befell the Yale Law School several times in our history. In 1845 and again in 1869, the Law School nearly collapsed under financial pressure, before it finally stabilized at the end of the 19th century.

In truth, we are a small private institution that simply cannot survive, much less prosper, without the extraordinary generosity of those who have spent their lives as part of our community of our commitment.

And so I am delighted to announce that the Law School has just received a gift of extraordinary generosity from the estate of Oscar M. Ruebhausen of the class of 1937, who passed away this past December, and his beloved wife Zelia P. Ruebhausen, who passed away 15 years earlier. For those of you who did not know him, Oscar Ruebhausen was a giant of the New York Bar. He was President of the Association of the Bar of the City of New York; for many years, he presided over the New York law firm of Debevoise & Plimpton; he chaired the Yale Law School Fund; and he received the Law School's Citation of Merit in 1978.

Oscar and Zelia leave for us a gift that will total more than 30 million dollars, which is, we believe, the largest gift ever received in Yale Law School's history.

In leaving this gift, the Ruebhausens' specific objective reads as follows:

“to maintain, increase, and assure **intellectual vitality**, creativity and analytic rigor at the Yale Law School and to achieve this in a context of social values . . . that underscore the role of the **legal profession** as a servant of and an advocate for the **public interest** in a society where the exercise of power defers to fairness and decency . . . It is . . . [our] objective that the Yale Law School continue to occupy a position of responsible leadership in our society – a **leadership that is innovative and responsive to changing societal needs and opportunities**, and respected as a force for, and as a voice of, reason, fairness, and decency. . .” None of us could have said it better.

I am delighted today to announce that the Ruebhausen Fund will be used to endow an Oscar M. Ruebhausen Professorship of Law, the first holder of which will be Professor Roberta Romano.

- The Fund will also support Oscar M. Ruebhausen Visiting Scholars or Visiting Fellows, who by the terms of the gift shall be “individuals of great intellectual curiosity and capacity who have demonstrated [greatness] by their work in the public and private sectors outside academia.”
- And third, and perhaps most exciting, the gift will support a Zelia P. Ruebhausen Student Fund to support “good ideas involving students’ intellectual life, and social and intellectual interactions with each other and with the faculty.” This coming fall, we will hold a special Ruebhausen day when we inaugurate this splendid gift with an inaugural lecture by the new Ruebhausen professor, a panel by the Ruebhausen Visiting Fellows, reminiscences by Oscar’s and Zelia’s friends and family, and a special happy hour to inaugurate the student fund.
- And, we will welcome any of you graduates, both old and new, to return to join us on that most happy occasion.

You have heard from Kenji Yoshino of the need for authenticity in life and law.

I am proud to say that there is no lawyer working in America today more authentic, or heroic, than our final speaker today: our honorary degree recipient, who has just earned an honorary doctor of laws degree at the University ceremony.

Our speaker grew up in Delaware, one of three children, whose mother and grandmother gave him an appreciation of the values of justice and peace in one's life. He attended Eastern College in Pennsylvania, where he was an outstanding soccer and baseball player, before attending Harvard, where he attended both the Law School and the Kennedy School of Government. While at Harvard Law, during the January term of his second year, he decided to go to Atlanta to take a class with our friend, colleague and teacher Steve Bright, to work representing death row prisoners at what is now the Southern Center for Human Rights.

Like some of you who have worked with Steve here at Yale, that profound experience changed his life. His work with Steve Bright convinced him of the need to defend the legal rights of the poor and people of color in Alabama, where at the time there was no adequate public defender system. And so in 1989 he began the Equal Justice Initiative of Alabama, of which he remains founding executive director.

Since then, our honorand has devoted his career to providing legal representation to those most in need: indigent defendants, death-row prisoners, and juveniles who have been denied fair and just treatment in the legal system. To give just one measure, he and his colleagues at the Equal Justice Initiative have been successful in reducing or overturning death sentences in sixty-seven cases over the past eight years. They have operated not just in the Southern United States, but also in the Caribbean, and are now looking to set up an office in the Northeast to do community work on race and poverty issues.

Our speaker is not just a great lawyer but an unforgettable teacher. As a professor of law at New York University School of Law, he inspires students to consider the needs of the least privileged. He has written extensively on criminal justice, capital punishment and litigation, and civil rights. For his human rights work, he has been awarded the prestigious MacArthur Prize, the Olaf Palme Prize, the Reebok Human Rights Award, the ACLU National Medal of Liberty, the Thurgood Marshall Medal of Justice, the National Association of Public Interest Lawyers' Public Interest Lawyer of the Year, and the American Bar Association's Wisdom Award for Public Service.

Ladies and Gentlemen, I give you a man devoted to our guiding principles of lux et veritas, Yale's newest doctor of laws, Bryan Stevenson.
[Bryan Stevenson's Speech]

Ladies and gentlemen, that concludes these commencement exercises: whether they be Yale Law School's 191st, the 162nd, or simply your first.

Let me close with a request to our new graduates: It is an old Korean saying: Never let your skill exceed your virtue. As lawyers, you will develop skills that will give you power that few in our society possess: the tools to throw people in jail, to save millions of dollars, and to destroy people's lives. Please use this power wisely. And remember that each of these tools has its time and place.

So use the awesome power of cross-examination to break down a hostile witness, not to terrorize your children. Use your drafting skills to win your clients lawful relief, not to shield them from their lawful responsibilities.

And please learn one simple word: No.

You will find that it is easy to tell a client yes. What is hard is to tell your client no. We all recently learned of lawyers in the Justice Department who were asked to write an opinion asking whether American officials could lawfully torture foreign detainees. Their answer, in effect, was: here's how close you can come and get away with it.

That was the wrong answer. The job of those lawyers was to say no, what you are asking violates the law, and we should not do it. It is illegal, and it is wrong.

So may The Force be with you, yes, but please, never let it take you to the dark side.

How should you live your life as a lawyer? Let me ask you to remember the simple lessons that you have learned here.

- That practice without theory is as thoughtless as theory without practice is lifeless.
- That accomplishment alone, without humility is tragic.
- That excellence alone, without humanity is worthless.
- And as the years go by, please ask yourself Bryan Stevenson's question: don't you, as one of society's most privileged, owe something to the least privileged?

In the years ahead, you will find, there will be bad news and good news. The bad news is that you will face difficult choices, and in making these decisions, you will feel very lonely. For all the love and support that is arrayed around you today, you will find that there are some decisions that only you can make, and those decisions will be for you.

But as always, there is good news: as you make these decisions about life and law, more and more, you will come to trust yourselves. You will

come to believe in yourselves. After years of seeking wisdom from others, you will find it in yourselves.

So before you rise to leave this special place, please take one last moment to look up here at your teachers. Think about the ideas and the hours they have shared with you.

Please take a moment to think of your loved ones--both those who are here and those who could not be here-- and draw strength from their enormous faith and love in you.

Please take a moment to look at one another—your classmates and soulmates—and consider all that you have taught and shared with one another.

Finally, please take this last moment to look inside yourselves. Trust the wisdom that you find there.

Remember your dreams. Remember your values, those values that brought you here, and that brought you through here.

Happy Graduation, Class of '05.

Good luck and God Bless You!