

**Yale Law School Commencement Remarks
May 22, 2006**

**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 2006
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 2006, 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* 305th Graduation, we cannot say with precision exactly what number *Yale Law School* graduation we celebrate today. But the graduating class that will march before you in a few moments represents at least the 192nd group of law students to receive their legal education at Yale. If you are keeping track, that was 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, which then closed just six years later.

The lineal ancestor of the Yale Law School was the Litchfield Law School, founded some 50 miles northwest of here, which between 1780 and 1830, trained about 1000 lawyers for the new American republic. Around 1800, more than 200 years ago, a Yale college graduate named Seth Staples began taking on apprentices here in his New Haven office, including two students, Samuel Hitchcock and David Daggett, with whom he began the New Haven law school that eventually became the law school of Yale University.

To commemorate these founders, the seal of the Yale Law School displayed on your commencement program pictures three fields: a field of Staples, in honor of Seth Staples, a greyhound to honor David Daggett (whose original family name was Doget), and an alligator, which—I kid you not-- was the symbol taken by the Samuel Hitchcock family after the family left Connecticut and moved to the Bahamas.

By 1814, the Yale College catalogue had begun listing “Law students” on the College rolls; in 1826 Yale University began to identify The

Law School in its catalogue of study, and in 1843, 163 years ago, Yale University began formally awarding Yale degrees to Law School graduates.

What a difference the years make! In the early 1800s, when Yale Law School awarded its first degrees, this School was a proprietary venture operated from a rundown rented room over a downtown New Haven storefront. Today we stand in the beautiful Sterling Law Buildings, which celebrate their 75th anniversary this year.

But Yale Law School is so much more than just its buildings. The strength of Yale Law School rests in its people. You have seated before you a faculty that is by acclamation the most influential in the American legal academy. Scattered around this courtyard, in the dining hall, watching from the windows, you have a staff that is surely the most dedicated and humane staff at any American law school. So before I proceed, let me ask all the members of our faculty and staff to please rise so that you can recognize their excellence and their dedication.

But we reserve our greatest pride today for the graduating class—the 198 JD candidates, the 28 LLM candidates, the 1 Master of Studies in Law, and the 6 JSD candidates of the Class of 2006. Ladies and Gentlemen: whenever these 233 individuals complete their requirements, they will be, quite simply, the finest new law graduates on the planet this year. At all the graduations in all the towns in all the world this spring, there is only one place that gets to say that, and happily, it is us.

This ceremony reaffirms that they did not do it alone. Behind each and every one of these graduates, 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 education. Of grandparents, 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 commuted, worked second jobs, or 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.

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. As you watch your graduates finally reach the end of their schooling, how can you not think back to the first day you took them to school?

So before we celebrate our graduates, let us celebrate the loved ones *behind* the graduates. Would the families and friends of the Class of 2006 please rise, so that all of us can honor you?

To the Class of 2006, let me say that yours is a genuinely remarkable class. You have special reason to be proud because for you, no one made law school easy. As your first year began, you arrived at a school that had just been ground zero during a bombing. On your first day of law school, the university went on strike, so many of you started your legal education in restaurants and church sanctuaries across New Haven. 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.

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. Together we watched the horrors of Abu Ghraib and Guantanamo. You survived so many transitions: a presidential election, a tsunami, a new pope, Hurricane Katrina, Kiwi Camara, the Taliban guy, the first Red Sox World Series championship in 86 years, and yes, even a new law dean.

Through it all, you ran conferences on same-sex marriage, rebellious lawyering, Access to Knowledge, Executive Power, and the Constitution in 2020. You wrote your SAW and your substantial paper, you ran journals, clinics, small group Olympics. You encouraged Yale to divest from Sudan. You applied for jobs and clerkships. You founded new things: a new Community Bank, YIPPIE, a new men's singing group, a new opinion journal—Opening Argument--and a social change network. At the Law Revue, you made hilarious fun of your professors --and yes, Sean Young, even of your Dean. And while all this transpired, some of you lost loved ones, got married, or gave birth to children. And today, here you all are, together one last time.

So Class of 2006, 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, 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 confronted one another and comforted 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 far better law school, a better Yale, and a better New Haven than the ones you found three years ago.

Starting tomorrow, many of you begin studying for the bar examination under the benign instruction of DVDs and IPODs across America. Some of you will work at law firms, others will begin judicial clerkships. At least one of you has already been invited to clerk for the United States Supreme Court, and one of you has been invited to clerk for the International Court of Justice. Many of you are off to teaching positions all around the world, consulting firms, investment banks, government jobs, and positions at nongovernment organizations. A significant number of you are starting public interest jobs—more than a dozen as Bernstein, Liman, Skadden Fellows, as well as the first two Heyman Public Service fellows. One of you is off to work in New Orleans on work related to Hurricane Katrina. One of you has already argued a case at the Second Circuit.

But none of these impressive facts quite captures the special charm and spirit of this year's graduating class. To take some examples from just the last few weeks, to anticipate graduation, starting forty nights ago, members of the JD class of 2006 began—in an act of extraordinary collegial dedication--to meet at Sullivan's Bar on Crown Street, and a growing number of your class have met there every night since, in a remarkable display of class unity.

Or take Edward Salazar. Back in the fall of 2003, Nick Salazar '06 carried his infant son Eddie to the top of Sleeping Giant on the hike that started your law school career. Two mornings ago, a three year old Eddie Salazar ran around the top of Sleeping Giant on his own. And at Nick's 50th reunion, we expect that Eddie will carry Nick up the hill.

This unique class includes five students who were homeschooled; one student, John Tye, who called for a carbon-neutral graduation; and another, Judy Coleman, who two days ago wrote an op-ed in the *Los Angeles Times* explaining why the popular television show *Lost* illustrates the defects of a society without the rule of law.

And my favorite fact about the class of 2006: it includes not one, not two, not three, but four citizens of Fargo, North Dakota: Charlie Korsmo, Joe Pull, Tom Sylvester and of course, Dakota Rudesill. And a fifth North Dakotan (also from Fargo), is second-year student Casey Pitts.

Believe it or not, we have more students in this class from Fargo than we have from Chicago, LA, or San Francisco. Let me read you an email from Dakota Rudesill who demonstrates his empirical training here at Yale.

He writes: “To give you some sense of the statistical improbability of all this: with 300 million people in the US and 635,000 North Dakotans and 140,000 people in the greater Fargo “metropolitan” area, on a straight proportional representation basis, YLS should graduate roughly one North Dakotan every three years and less than one person from Fargo per decade. Yet, in fact, remarkably YLS will graduate four people from ND and the Fargo area this year, and five total in the next three years. What explains this phenomenon? Is “The Force” particularly strong in Fargo? Are open spaces good for open (legal) minds?” If you look on our Website, this Yale Law School North Dakota Caucus is profiled in the lead story in this morning’s Fargo Forum, entitled “An Ivy League of their Own.”

Starting today, this remarkable group goes off into the world to join our many other graduates who made a mark this year: a group that includes

- Roslyn Higgins, a Yale graduate who just became the first woman president of the International Court of Justice;
- Sam Alito of the Class of 1975, who became an associate Justice of the United States Supreme Court,
- Cory Booker, who just became the youngest mayor of Newark, N.J.,
- and the Yale Law School graduates (Michelle Anderson, Hanoch Dagan, Hiram Chodosh, and Maureen O’Rourke) who were named dean in the last few weeks of the law schools at CUNY, Tel Aviv, Utah, and Boston University, placing Yale Law School graduates in the deanships of more than half of the law schools in the top rank of American legal education.¹

This list would not be complete if I did not mention three illustrious Yale Law School graduates who have recently passed away during your time here: former Dean and Sterling Professor Abe Goldstein; former Sterling Professor of Law Boris Bittker, the greatest tax scholar of his time; and one of the finest federal judges in the country, Judge Edward Becker of the United States Court of Appeals for the Third Circuit of the YLS class of 1957, who died last Friday. Judge Becker’s funeral is going on in Philadelphia as I speak, attended by many friends and admirers, including former Dean Tony Kronman, whose last year as Dean coincided with your first year of law school. Dean Kronman, who was here at the graduation reception last night, asked me to send you his warmest affections, and thanks you for understanding why he could not be here today.

¹ This number includes three law deans in New England (BU, Northeastern, Vermont), five in NYC (NYU, Columbia, Fordham, Brooklyn, and CUNY), two in Washington (GW and Georgetown), two in Chicago (Northwestern and Chicago), as well as the Deans of UCLA, Michigan, Penn, Vanderbilt, and Ohio State.

Finally, there is no more special subset of this class than the graduate students of the class of 2006-- the LLM's and JSD's --who arrived in New Haven only nine months ago, from nearly thirty countries, barely knowing one another. Just a few days ago, that group took a three hour boat cruise together on the Connecticut River at Mystic Seaport, the most close-knit group of graduate students in our recent memory.

So 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 Maria Dino, our Director of Graduate Programs.

[Awarding of Advanced Degrees]

Before we present the candidates for the degree of Juris Doctor, I would like to take this time to say hail and farewell to two of our number, who are, each in their own way, also graduating today.

The first is Professor Carol Rose, the Gordon Bradford Tweedy Professor of Law and Organization, who retired this year after 17 years on our faculty to join the University of Arizona School of law. The second is a member of the Yale Law School LLM class of 1982, Barbara Safriet, who retired this year after eighteen devoted years as Associate Dean of Academic Affairs. There is no one who has cared more about Yale Law School and its students than Professor Rose or Dean Safriet, so please honor them with your applause.

I also ask you 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 this Law School literally could not function;
- my Assistants Georganne Rogers, Marianne Dietz, Beth Barnes, Carolyn Poole, and Renee DeMatteo who so ably guide this school every day;
- and our brilliant Registrar, Judith Calvert, to whom you owe more than you know for making it possible for you to march in today's procession.

For all the joy that is here today, sadly not all of our news is joyous. Last night, the mother of your banner bearer fell ill and is now in the hospital. We all pray that she will be okay.

A few days I got this email from one of your classmates who is absent today: Saleela Salahuddin. As many of you remember, just weeks after she

started here as a first year student, her father was tragically killed in a bicycle accident. Saleela went home to support her family and finished her Law School work in wonderful spirits. Then just a few days ago, I got this email from her. It read:

“Last week, my mother suffered a severe stroke and was airlifted from Tucson to Phoenix for medical care. My husband and I are currently with her at the neurological intensive care unit ... where she continues to fight for her life. The doctors are telling us that her recovery, should she prevail, will take a very long time. I will remain in Arizona for the foreseeable future to be by her side. Thank you for your help during this difficult time. My mother had been looking forward so very much to the YLS graduation.”

But then she continues.

She writes:

“I did order a cap and gown some time back, but seeing how I will not be at graduation, would there be a way that my cap and gown could be used by a student who perhaps did not order their cap and gown on time? I know that there are some students who missed the order deadline.” With students like that, is there any wonder why the Class of 2006 holds such a special place in our hearts?

What Saleela is telling us is that this is a special class. What she is asking us to do is to treasure this moment. What she is saying is to take nothing for granted. We are all so lucky to be here.

With that, let us proceed to the main event: the presentation of the candidates for the degree of Juris Doctor. And to make that presentation, let me call on Marilyn Drees, our Director of Student Life

[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 has taught here brilliantly for the past eight years, after serving as a law clerk to Judge Harry Edwards of the United States Court of Appeals for the D.C. Circuit (1989-90) and Justice Thurgood Marshall, of the U.S. Supreme Court (1990-91). Although he joined us from the University of Chicago Law School, he is now entirely of Yale. He teaches and writes in the fields of criminal law, evidence, alternative approaches to criminal sanctions, reciprocity in legal relations, risk perception, and what he calls "cultural cognition"—the study of how members of a democracy form opinions and make decisions about questions of risk.

He is an electrifying teacher with a lightning wit, he has run the half marathon in 1 hour, 20 minutes and 22 seconds, and he is the proud owner of Yale Law School's most unforgettable motor scooter and most famous cat, the felicitously (and felineously) named "Ann Richards." This year, he has served our school with extraordinary skill and devotion as our Deputy Dean.

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: our Deputy Dean, my friend and colleague, the Elizabeth K. Dollard Professor of Law, Dan M. Kahan.

[Professor Kahan's Speech]

Thank you, Dan, for that wonderful speech. Let me take this moment to announce that next year, we will add to our faculty ranks a number of exciting new professors, including Michael Wishnie of NYU, Heather Gerken of Harvard, Tracey Meares of Chicago, Yair Listokin, a recent graduate of our own school, and to lecture in labor law for the next few years, someone well known to many of you, Ben Sachs. As you can tell, the future of our school is in very good hands indeed.

That brings me to our final speaker today, who is a landmark figure in American law. Yale's newest doctor of laws was born in El Paso, Texas, and moved at an early age to her parents' cattle ranch in Arizona. The Lazy-B-Cattle Ranch did not have electricity or running water until she was seven years old, a story that she recounts in her memoir, *Lazy B: Growing Up on a Cattle Ranch in the American Southwest*. She attended Stanford University, where she graduated with distinction in economics, with the intention of

applying that knowledge towards becoming a rancher. But after receiving her BA degree magna cum laude, she attended Stanford Law Review, where she graduated at the top of her class, along with her classmate and future colleague William Rehnquist, and met her future husband, John Jay O'Connor, who also honors us with his presence here today.

Even with this sterling record, no law firm in California would hire her. Amazingly, only one offered her a position as a legal secretary. Instead, our speaker accepted a job as the deputy county attorney for San Mateo, California, and a position as a civilian attorney in the U.S. Quartermaster's Corps in Frankfurt, Germany, while her husband served in the JAG corps, experiences that helped fuel her interest in foreign law and her commitment to the rule of law in military matters.

Returning to Phoenix, our speaker gave birth to three sons. Again finding it difficult to find a law firm job, she started her own firm and began involvement with the Arizona Republican Party. Over the next few decades, she worked as an assistant Arizona attorney general, a state senator, and eventually majority leader, the first woman to hold that position anywhere in the U.S. In 1974, she successfully ran for a judgeship on the Maricopa County Superior Court, and a year later, the Democratic governor nominated her to the Arizona Court of Appeals.

In 1981, history touched her, and President Reagan nominated her, and she was unanimously confirmed, to be the first woman to serve on our Supreme Court. *Time* Magazine announced her appointment with the simple words: *Justice—At Last*.

In the quarter century that followed, she came to occupy a pivotal position on our nation's highest court. Her pragmatic case-by-case approach placed her at the Court's center and in the eye of the storm of our constitutional debate: on such issues as federalism, discrimination, church and state, and the role of international and foreign law in our constitutional jurisprudence. Since 1995, Justice O'Connor cast the decisive vote in a remarkable 148 of 193 5-4 decisions.

In *Mississippi University v. Hogan*, she wrote the opinion striking down under the Equal Protection clause a state statute that excluded some applicants from enrolling in a state-supported nursing school based on gender. In *Planned Parenthood v. Casey*, she joined two other Justices in crafting the opinion that reaffirmed *Roe v. Wade*. In *Grutter v. Bollinger*, she wrote that the University of Michigan's law school could constitutionally employ a race-based affirmative action system so long as it considered each applicant individually. In *McConnell v. FEC*, 124 S.Ct. 619 (2003) she cast the deciding vote upholding the constitutionality of most of the McCain-

Feingold campaign finance bill. In *Lawrence v. Texas*, 539 U.S. 558 (2003) she wrote a concurring opinion contending that states violate equal protection when they pass laws that prohibited homosexual sodomy, but not heterosexual sodomy. And in *Hamdi v. Rumsfeld*, she wrote the key plurality opinion holding that even enemy combatants in the war on terror are entitled to due process of law.

Throughout her career, Justice O'Connor had a close connection with Yale Law School. She has hired many Yale graduates as her law clerks, including Professor Oona Hathaway and Tali Farhadian, who are here today, and she has regular and close connection with our China Law Center. She recently led a delegation that included our Dean Tony Kronman to Bahrain. When she ascended to the Supreme Court, she succeeded one of our graduates, Potter Stewart. When she finally retired from the Court this past January 31, 2006, she was succeeded by another of our graduates, Samuel Alito.

Even in retirement, she has been plain spoken and courageous in speaking her mind. Recently, she has devoted her energies to preserving the independence of the judiciary. She has said, "I don't know that there are any short cuts to doing a good job." "Having family responsibilities and concerns just has to make you a more understanding person." "Do the best you can in every task, no matter how unimportant it may seem at the time."

And throughout her career, she gained a reputation as an independent thinker, a good sport, and someone who is just plain fun. She made a surprise appearance as Queen Isabel in a Washington Shakespeare Theatre production of *Henry V*, speaking the memorable line: "Haply a woman's voice may do some good." An avid golfer, she once scored a hole-in-one. Her children's book, entitled *Chico*, gives an autobiographical description of her childhood, and she has another in the works. This year, she was Grand Marshal of this Tournament of Roses Parade and she was recently inducted into the National Cowgirl Hall of Fame. Last night at dinner, someone asked her if she ever showed horses or did dressage. She answered, "Cowgirls don't *do* dressage." And in April 2006, Arizona State University renamed its law college Sandra Day O'Connor College of Law in her honor.

Ladies and Gentlemen, I give you your fellow graduate of the class of 2006, Yale's newest doctor of laws, the 102nd Justice of the Supreme Court of the United States, Sandra Day O'Connor.

[Justice O'Connor's Speech]

Ladies and gentlemen, that concludes these commencement exercises:

No ceremony of this length would be complete without an ancient Korean saying. So let me offer this one: *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.

Please remember that your clients are not just those who pay you. Your clients include the integrity of the law itself.

So please learn two phrases: first, "I don't know." In the years ahead you will often not be sure. Don't fake it; be honest and tell them you don't know. That is not something to be embarrassed about. You will find out and answer them soon.

And then there is a second word: No. You will find that you will want to tell your clients yes. What is hard is to tell your client no. We all recently learned of lawyers in the Justice Department who, when asked to write an opinion asking whether American officials could lawfully torture detainees, could not bring themselves to say no. Instead, they answered here's how. That was the wrong answer. Their job 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.

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

- Find your friends in small groups.
- Remember that practice without theory is as thoughtless as theory without practice is lifeless.
- That accomplishment alone, without humility is tragic.
- And That excellence alone, without humanity is worthless.
- And as the years go by, please ask yourself: 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 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. 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 '06!

Good luck and God Bless You!