

2015 NYU Law Convocation Address -- JD

Welcome faculty, trustees, family, friends, guests, and of course, our graduating class. It's a great honor to be able to address you at this moment, which marks the start of your extraordinarily promising careers as lawyers. It's been an even greater honor to teach, work with, and learn from so many of you during your time here. So I'll start by offering my gratitude to you all for the many ways you have enriched this place, along with my deepest congratulations.

You all know, I hope, that you are entering a deeply worthy profession. Of course, our profession is not free from criticism, and the non-lawyer public does not always see lawyers as estimable. Alfred Nobel (of the Nobel Prize) once remarked that lawyers make a living "only . . . by inducing people to believe that a straight line is crooked." And even Clarence Darrow, himself a great trial lawyer and renowned civil libertarian, is reported to have said that "[t]he trouble with the law is lawyers." But we are all here, celebrating your accomplishments, because we know the value of this work. Today in particular, it is important to say loudly and with pride that ours is an honorable profession.

The noble heart of the practice of law is a shared commitment to – and participation in – the Rule of Law. But what does that mean, exactly? Most people would agree that the Rule of Law is something to which any free society should aspire. And even though it has been discussed and debated for thousands of years, disagreement persists as to exactly what the Rule of Law entails. Indulge me for a moment and I'll try to give a sense of what I mean.

On one conception, often associated with law reform efforts in newly emerging democracies around the world, the Rule of Law refers to the development of a legal system that protects the rights of property and contract sufficiently for economic development to follow.

On another conception, often associated with the influential 20th century legal philosopher Lon Fuller, achieving the Rule of Law has a number of formal requirements: among other things, laws must be general, prospective, stable, and publicly known.

Our colleague here at the Law School, Jeremy Waldron, has added a more *procedural* conception. As Jeremy puts it, wholly apart from the substance or the formal qualities of the law, the Rule of Law requires a kind of procedural integrity. It demands that the institutions charged with enforcing the law and with adjudicating disputes under the law operate fairly, openly, and with an opportunity for those who are governed by the law to be heard, and heeded.

This procedural aspect of the Rule of Law requires lawyers. My point here is so obvious as perhaps to seem banal, but it is vital. If the very idea that we operate under the Rule of Law demands fairness, openness, and even justice in the processes by which the law is enforced and applied, then the legal profession itself is indispensable to the Rule of Law.

I hope you will think about your own practice in this light. On some days, you will work on matters of deep intellectual interest. On others, the assignments may seem more mundane. But

on all days, the legal representation you provide will help ensure the Rule of Law. That is the larger project that you take up by joining this profession.

This is not to say that the legal systems in which you will operate, whether here in the United States or elsewhere around the world, are perfect. They are not. The law is inevitably an imperfect institution, and at any particular point, some laws may be unjust, unfair—even cruel. Your legal training has shown you that the law also contains the tools for redressing its own inadequacies. It has given you expertise not only in discerning the law as it is, but also in advocating for the law as you think it should be.

Current events offer many illustrations of this point, from the same-sex marriage cases now before the Supreme Court to ongoing debates about the use of surveillance in the government’s anti-terrorism efforts. Meanwhile, recent allegations of public corruption have raised profound questions about what to do when those who are responsible for enforcing or creating laws are accused of trying to sidestep or evade them. The many cases of alleged corporate misconduct that have come to light since the financial crisis raise questions about the imposition of criminal liability on organizations for economic behavior. And recent tragedies in places like Baltimore, Ferguson, North Charleston, and Staten Island have provoked renewed scrutiny of policing practices across the country.

The issues underlying these examples are economic, social, political, cultural, moral, even religious. Yet they are also *legal*. If they are to be solved, their solutions must, at least in part, be *legal* solutions. In a pluralistic society like ours, we hold and will continue to hold diverse views on matters of culture, morality, and religion. The framing of these problems as legal problems gives us a way of confronting them, by providing a common language for addressing the deepest challenges of the day.

There will be disagreements, of course, about *how* the law should address them. As you know well, we often debate not only what the law says and what it means, but also and how it should be applied and whether it should be revised. Importantly, these ongoing debates are an exercise in freedom. They underscore that, ultimately, we are free to shape the laws that govern us. And it is the role of lawyers—from public defenders to corporate attorneys, and even law professors—to lead society in hashing out what norms it wants and can sustain – to harness, rather than bypass, the law’s fundamentally democratic nature.

And it is a deeply noble undertaking.

As you take on that responsibility today, we say simply congratulations, and good luck. We will be following you with great pride and great faith.