



Brandeis University

Read the entire keynote: Aharon Barak, president of Israel's Supreme Court, addresses Class of '03

Released on May 21, 2003

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Aharon Barak speaking to the Brandeis class of '03

Delivered May 18, 2003

A great honor has been bestowed upon me today. Receiving an honorary doctorate from this University is, from my perspective, a highlight of my career. I am grateful to this University, in that you have found me worthy of receiving this degree, especially due to the connection between this University and the late Justice Brandeis, who was indeed one of America's greatest jurists and a Zionist, and whom I have held in utmost admiration and esteem throughout my 25 years on the Israeli Supreme Court.

You, the students, set out today, from the warmth of the University to the reality of life. Is it possible for me- as someone who comes from another country and another culture and with a vast age difference between us - to say anything that is relevant and meaningful to your lives? I have my doubts. Please allow me, then, to present before

you part of my life experience, and what I have learned from it. Maybe in this, however slightly, there will be something to guide you.

During World War II, my family and I were placed in the Kovno Ghetto in Lithuania. The Holocaust struck us. Most of my family was murdered. Most of the children in the Ghetto were shot to death in the Ghetto, or were killed in Auschwitz. Out of several thousands of children, only very few survived. I was saved by a miracle, by the grace of a Lithuanian family. What was and what is my lesson from this experience? My lesson was not hatred; my lesson is not hopelessness about the nature of a human being. Quite the opposite: my lesson was a belief in and a love of every human being. Only a belief in our ability to overcome difficulties enabled us to exist amidst the horror. Only a belief in the human being, and his or her dignity, allowed us to live after we left the hell.

And so, my lesson from the Holocaust is the centrality of the human being and human rights are of the highest significance. My lesson was that we are all made in the image of God, and as such we are all equal. Protecting the dignity and equality of the human being - is the North Star which guides me in my role as a judge. Of course, as a judge I do not have an agenda. I do not represent a platform to an electorate on that basis of which I am elected. I am a judge, whose job is to determine, in an objective and independent manner, the conflict that are brought before me. I am neutral. However this neutrality is not indifference. As a judge, part of my job, as I see it, is to protect the social frameworks and to further the needs of society. As a judge, part of my job, as I see it - which I learned from my life experience - is to protect human rights and the dignity and equality of every human being. As a judge, part of my job, as I see it, is to search for and find the appropriate balance between society and the individual.

Today you are going out into life. Each person is setting out on his or her own path. I hope that you take from this University the lesson that I took from my life experience - the centrality of the human being and his dignity, the need to preserve the human rights of every human being as a human being; the tolerance for opposing opinions - even opinions that are not tolerant; the need to treat everyone equally and fairly, and the need to preserve the Rule of Law.

In Nazi Germany there was the Rule of Law. The Fuehrer's word was law and had to be fulfilled. The Nazi government acted upon laws that it created for itself. This is not the Rule of Law that we are asked to preserve. The Rule of Law of which we speak is the rule of democratic law. It is the law that is accepted by the people via their representatives. It is the law that strikes the appropriate balance between the needs of the state and the rights of the individual. Thus, democracy is not only majority rule. Democracy is also human rights. A majority that negates the rights of the minority injures democracy. For me, democracy is not only formal democracy. For me democracy is also substantive democracy. Democracy has its own internal morality based on dignity and equality of all human beings. There is no democracy without recognition of basic values and principles such as morality and justice. Above all, democracy cannot exist without the protection of individual human rights - rights so essential that they must be insulated

from the power of the majority.

The rule of law and democracy must prevail in times of peace. They must also prevail in times of war and terror. The Roman saying that in battle the laws are silent - or the well-known saying that when the cannons speak, the Muses are silent - is wrong. Every battle a country wages - against terrorism or any other enemy - is done according to rules and laws. There is always law according to which the state must act. There are no black holes. And the law needs Muses, ever more urgently than when the cannons speak. We need laws most in times of war. And we need human rights most in times of war and in the fight against terror. Yes, when a democracy fights terror, not all means are acceptable to it, and not all methods employed by its enemies are open to it. Sometimes, a democracy must fight with one hand tied behind its back. Nonetheless, it has the upper hand. Preserving the rule of law and recognition of individual liberties constitute an important component of its understanding of security. At the end of the day, to strengthen its spirit and to allow it to overcome its difficulties. So in the United States after September 11th, and so in my country, Israel, where we are suffering from terrorism for a long time.

In your departure today for life - value the Rule of Law and democracy. Only in this way is it possible to establish social frameworks, which protect the individual and his or her rights.

You are fortunate. America is one of the most enlightened democracies in the world. It serves as a model and an inspiration for other democracies with regard to the appropriate balance between the state and the individual. The American Constitution is an example and model for the entire world with respect to the appropriate protection of human rights in a democratic state. The judgments of your courts are learned in most democratic countries.

My life teaches me that one must fight for democracy and the Rule of Law. Democracy and the Rule of Law cannot be taken for granted. Strong internal and external forces conspire against it. The approach that "it cannot happen to us" can no longer be accepted. Anything can happen. If democracy was perverted and destroyed in the Germany of Kant, Beethoven and Goethe, it can happen anywhere. If we do not protect democracy, democracy will not protect us. With this spirit, I enter my courtroom every day . When I sit at trial, I stand on trial. And you - on your road to new lives - may you be, in body and spirit, the shield of democracy in America and the world. May God bless you.

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