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Prince Zeid Ra'ad Al Hussein

President of the International Peace Institute and
Former United Nations High Commissioner for Human Rights (2014-2018)



Speech

On Decency and Law,

On 12 October 1936, on a stage at the University of Salamanca, the rector of the University, Miguel de Unamuno, did something quite remarkable.

Hosting a ceremony marking a Spanish festival, the *Day of Hispanidad* (which is now Indigenous Day), and with the speeches already underway, de Unamuno suddenly became very irritated and decided he needed to speak immediately, out of turn. So, he stood up, and made his way to the lectern. Minutes earlier, the comments of the previous speaker, a Professor Francisco Maldonado, had triggered a rousing response from the

audience. He had described the Basque country and Catalonia as anti-Spain or even -- as it was once famously reported, ‘cancers on the body of the nation.’ This apparently led someone else in the hall to cry out ‘Viva La Muerte’ -- the motto of the Foreign Legion, which then prompted General José Millán Astray, who was also in attendance, to do likewise. Astray was a senior nationalist commander, the founder of the Legion itself, and the hall in which his voice rang out, was filled with Falangists and Nationalists shouting the same motto. The Spanish civil war was almost three months old.

De Unamuno moved to the podium and standing before Franco’s wife Carmen Polo, he said: “At times to be silent is to lie”. He then pointed out that he, de Unamuno, was born in Bilbao, while the Archbishop of Salamanca, who was also there, was born in Barcelona. De Unamuno also apparently then made a reference to Jose Rizal, a brilliant intellectual executed in the Philippines by the Spanish colonial forces, the very forces in which Astray had served. Astray was said to have shouted ‘the treacherous intellectuals die.’ De Unamuno continued but now his blood was up and placing his life in extreme danger, he pointed his words not only at Maldonado but at Astray too, openly, but politely. He noted how it pained de Unamuno to think their approach would “... dictate the pattern of mass psychology.” “You will win”, he conceded, “because you have enough brute force. But you will not convince. To persuade you would need what you lack, reason and right.”

The room was on the tip of exploding. One report had it that Astray’s bodyguard raised his machine gun and pointed it at de Unamuno. All witnesses would later agree that only the intervention of Franco’s wife saved the situation from turning violent. Nevertheless, de Unamuno was dismissed as rector a short time later and then subsequently placed under house arrest. He died soon thereafter.

My dear Claudio, thank you for welcoming me so warmly, I am grateful to you and all the members of the Association. And may I also applaud my good friend Mark for his extraordinary leadership of the IBA over so many years and for your and his courage in speaking out and I’m delighted to be with all of you here in Copenhagen and to share a few thoughts on decency and a little on law. I like being in the happiest city in the world.

And for the sake of full disclosure, I wish to add that none of what I have already said, or which will follow, is drawn, in any way, from AI. What you’ll hear is the outcome of a normal, error-prone, human mind!

The anxieties now sweeping the globe seem to stem from the actions and decisions taken by about 200 people – virtually all men, some of whom represent countries, others parties within countries, others are from the corporate world in the tech, energy, pharmaceutical and the defence sectors, but not exclusively so, as some are from the investment and banking worlds. Almost all are drawn to profiting from their thinly-tailored interests, and if it means undermining whatever norms and laws stand in their way, many will do so without giving it a second thought -- spraying us with their scoffs and shrugs when we object, even if their actions imperil the whole lot of us. As when they purposefully collapse the nuclear guard rails; invade or attack other countries, make AI swarms of agents capable enough so they can exit sandboxes; the threats to us multiply dangerously – not to mention climate change; the continuing threat of pandemics and the ever-widening circle of dangerous conflicts lassoing us back to the days of absolute war. Only two days ago, Zelensky already conceded: “there are no rules now.”

One of the people Miguel de Unamuno admired most was a man by the name Benedetto Croce. It was Croce who first likened the Fascist government in Italy in the 1930s as being an ‘onagrocracia’, government by asses, both ignorant and arrogant – although admittedly, that may not be fair to the poor asses or donkeys. Had I depended on AI, I’m not sure that would have made it in. And what thinking person now would disagree with the validity of Croce’s description then, and when applied to at least some of the populist governments today.

I would not wish to be so direct and simple as that, focusing rather on the power of decency and a little on the advocacy of human rights law. Even mentioning decency with the wider, gigantic, forces swirling in the background, and tearing away at us, may seem silly or misplaced. Should we not, after all, be opposing some of these modern-day Vandals with the full force of voice, principle and law available to us? – unrestrained and clear. This is what many heads of state and government also said last week in New York, to their great credit. And being decent with the Vandals – well, is that not just being weak?

Yes and no.

But here, I must also be careful not to fall into a trap broadly highlighted by Friedrich Nietzsche, that when emphasizing the virtues which held together peace, or in our case,

the post-war liberal order, we can easily protect a deeper set of injustices that for too long hid within that order – like the suppression of violent histories and the denials of the pains suffered by others at the hands of our forebears. So, we need to be careful.

Returning to that dramatic night in Salamanca, what de Unamuno shows us is the clearest example of moral courage of course -- a portrait of it and something we will all marvel at. He took a position publicly, at extreme risk to himself, when most humans would never do such a thing. What I would like to dwell on, however, is the quiet decency of de Unamuno's courage, his reasonableness and tone of voice. To me these can be the very equal of courage itself – but these are features not often noticed because the bravery is so dazzling. And if recognized at all, the choice of words, the intonation, volume and pace, will often be seen as being just accents, surface features, interesting details, the dressing of the occasion. Now, I have wondered about this, and I believe this view misses a fundamental point.

In September of 2017, as the Burmese army perpetrated the most terrible atrocities against the Rohingya community in Myanmar, I was unsparing in my public criticism of Aung San Suu Kyi, the de facto civilian leader of the country, while I was serving as UN High Commissioner. Her omission in not opposing the horrendous conduct of the Burmese military was to my mind appalling and merited a full condemnation. Many inside and outside the human rights community said the same thing. But there was one individual -- a giant, a moral giant among us, who expressed it differently

Dated 7 September 2017, the late Archbishop Desmond Tutu published an open letter addressed to Aung San Suu Kyi.

Tutu wrote and I paraphrase: “My dear Aung San Suu Kyi, I am now elderly, decrepit and formally retired, but breaking my vow to remain silent on public affairs out of profound sadness about the plight of the Muslim minority in your country, the Rohingya. In my heart you are a dearly beloved sister. For years I had a photograph of you on my desk to remind me of the injustice and sacrifice you endured out of your love and commitment for Myanmar's people. In 2010 we rejoiced at your freedom from house arrest, and in 2012 we celebrated your election as the leader of the opposition. We know that you know that human beings may look and worship differently – and some may have greater firepower than others – but none are superior and none are inferior.

My dear sister: if the political price of your ascension to the highest office in Myanmar is your silence, the price is surely too steep. A country that is not at peace with itself, that fails to acknowledge and protect the dignity and worth of all its people, is not a free country.”

Condemnation alone, of the sort I was using, can never be as devastating as an expression of disappointment from those one hopes never to disappoint. Tutu and myself, we were making similar points – the substance was the same, anchored in law and principle, but his choice of words, the feelings of love and his expression of deep regret, and ultimately disapproval, must have registered sharply and painfully with Suu Kyi. Terribly for her, for the Rohingya, for all of us, she was too weak to step aside and resign.

Perhaps the lesson we can draw from these two examples, is that we would do better not to express an opposing position, in a style only mirroring or mimicking those we are arguing against, because to those we aim most to persuade: the broader public, who may be unsure of what to think, we should not sound as absolute and uncompromising as those who seek to destroy the legal order we cherish.

I therefore believe there is power to be found at the rim of our experiences – over which, or across which, the substance passes. So, what is the decency I am actually referring to? To me, it expresses a complexity of tone and word structure that does not alter the fundamental properties of the point – and the condemnation may -- or even must -- be there. However, that condemnation can be reinforced with a more subtle, emotional, draw of energy – a gentleness in the rebuke that makes the disapproval even more biting. There is a caveat, and it is this -- it is not simply how de Unamuno or Tutu said or wrote their words, but also, critically, who they were as people.

They were not perfect human beings, none of us can be, but they did try to be consistent over time in their moral positions. Without that essential stubbornness, a reasonableness of tone might come across as politeness only. To be convincing, the words must draw from the clarity of moral position expressed over time, and it becomes even more pointed, if there was once loneliness too and sacrifice along the way.

I would like to think that law over the span of human history, has been the traveling companion of decency. Both have emerged in the last three millenia from the practice of the human experience stretching back almost 300,000 years -- the sum of all the mistakes, the successes and accumulated understanding of what works and fails to work, belief and custom.

We know, and knew after the end of the Second World War, that power politics alone or absolute sovereignty, running on a fuel of half-truths and lies, the manipulation of real anxieties, to deepen fears and sharpen hatreds, were not the formula to guarantee a more permanent global peace. Both unrestricted power and sovereignty, had already plunged the world into a cataclysm, and therefore had to be banished from our future. So, a new set of legal statutes were negotiated -- along with institutions, like the UN and various other organizations, created to promote and protect them, to in effect prevent great power politics, and absolute sovereignty, from ever making a return.

That the post-war period was still extremely violent in many parts, is well understood. The Cold War rivalry, the ending of colonialism – with the former colonial powers largely maintaining informal economic controls over their previous dominions, guaranteed that progress was not going to be entirely smooth or linear. Nevertheless, the world did change for the better, rights were codified, economies grew, health indicators climbed, transportation ballooned, technology made some of our life experiences easier, while others were left unchanged or worsened.

Sadly, some very human weaknesses remained; foremost among them was the sand-like nature of national memory, especially if the World War's more shameful lessons were not fully and properly conveyed from the lived experience into a national curriculum. And, true enough, they were not fully and properly conveyed. The overall lessons were thus only half-learned.

In Europe, from the 1960s and through the 1980s, right-wing political parties – like the National Fronts in the UK and then in France, campaigned vigorously against immigrants and immigration; but they remained largely confined to the edges of political life. It was the Austrian politician, Jörg Haider who -- starting in 1986, set the alarm bells really ringing.

Haider was telegenic and cast a broad appeal, well beyond that of the die-hard xenophobes, through his sharp, well-articulated attacks on “the free-loaders”, the migrant communities – ninety years after Karl Lueger, the populist mayor of Vienna, did the same against the incoming Jewry of Galicia, Poland and Hungary, and with a much greater sophistication, perhaps even lethality, than his contemporary and overt Anti-Semite George Schönerer.

Lueger’s formulae was simple and now very recognizable: identify the economic grievance, pin the blame on a single group -- as opposed to an individual and do so not just via direct attack but also, by inviting the often more hidden bigotry, racism or intolerance of the listener or reader in the audience, to seep into the very spaces Lueger left conspicuously in a speech, for that very purpose. In other words, he was using innuendo or dog whistles; and he discovered his popularity would just soar. Now he was also an effective, pragmatic, mayor, and used deficit spending (cleverly) to make Vienna even more beautiful than it had been. That notwithstanding, his political ambitions were assured principally as a result of his meanness of spirit.

Returning to Haider and the 1990s, when Liberal-Conservative Wolfgang Schüssel invited Haider’s party, the FPÖ, into a coalition government in 1999, it sent a shock wave through Europe. Within a year, European sanctions were imposed on Haider’s party; although if other Europeans felt no desire to see themselves sucked into the traumas of the past, the measures they slapped on Haider were weak, and certainly not strong enough to stem this new momentum. For all his charisma, however, Haider alone couldn’t change the face of Europe; he was still too extreme in his views. For Europe to go dangerous, someone else was needed.

If you were a ‘thinking’ right-wing European chauvinistic nationalist in the mid-1990s, what you hoped for was someone less like Jean-Marie Le Pen in France, or Haider in Austria, what you wanted was a sort of celebrity, entertaining, flamboyant and rich, and they did not have to be an extremist themselves, not at all! All they had to do was lay waste to those other load-bearing pillars of governance -- a basic sense of order, propriety, and decency, and that would be enough. Enter stage right Silvio Berlusconi -- a billionaire who offered a politics served with chaos.

While for years another party, the Italian Radical Party, had specialized in being eclectic, it was Berlusconi's ownership of much of the popular media in Italy -- control of the sort the Radical Party did not have, that elevated him above the rest. He flouted the rules and was revered for it in many quarters. Even before Schüssel in Austria, Berlusconi had invited back into the heart of Europe its old companion: hatred. He had flung open the gate of government first to the Northern League in 1994 and then to the Brothers of Italy (Italy's present ruling party) in 2008. Ironically, the current Prime Minister Giorgia Meloni has seemingly tempered her party's worst instincts, but hatred once released, will find a way to flow around the impediments, as is now happening with the rapid rise of Roberto Vannacci, and his National Future Party.

So Berlusconi had not just picked up the hatred laying on the fringe of Italy's political life, he went further than that, he escorted it back into the center, and -- with the continued smothering of memory, the memory of fascism in Italy in the 1920s and 1930s, came the killing off of any corresponding sense of general alarm. The inflammation spread to other countries and quickly.

There are some who will point out, ah yes, but now these right-wing European extremists, are not Nazis as many of these politicians or parties are supportive of Israel. Yes, that is true, in many cases; and bizarrely enough, quite a large number of them seem to be both Anti-Semites and pro-Israeli, at the same time.

But these right-wing populist leaders in Europe are still using emotional mechanisms in the production of hatred similar to those practiced in earlier times. The target this time around, the so-called 'serviceable enemy image' comes predominantly in the form of the Arab, African, largely Muslim, immigrant populations. And these populations were never helped of course by the atrocious terrorist attacks perpetrated by Al Qaeda and ISIS on European soil ten and twenty years ago. It is important to remember however -- what the populists conveniently leave out when they leverage this point, and it is this -- by a large margin, most of the victims of these terrorist groups were also Muslim, in Iraq, Syria and across the Middle East and Africa. In not including this basic fact, the extreme populists use a version of Lueger's dog-whistle to stir hatred -- the half-truth, and this is also at work in the United States.

At this point, I should also make it very clear, these approaches are also used by extremist populists on the Left too, the same approaches, but different targets of course.

Why am I raising all of this?

The international human rights legal framework was spurred by the human blood spilled violently in the first half of the twentieth century and yet this very framework is loath to dwell on history itself. It just doesn't figure into it. Perhaps this is not surprising, after all, most countries have failed to properly reckon with their own pasts. And I always thought how easy it would be for a Sudanese official representing Omar Hassan Al Bashir -- when Bashir was still in power, to deflect the pressure being exerted on Sudan by European states, shocked by Darfur. All they would have had to say is: "have you reflected your own country's complicity in the Holocaust, in your national curriculum?"

When advocating for international human rights law and the need to uphold it, we should, to be sure, condemn the worst of the violations. On other occasions, however, mindful of history, we ought to be more careful about using an absolute tone, so righteous and pure. A measure of decency would be welcomed here.

For states in whose name some of the worst of crimes were once authored, namely slavery and wanton murder in colonial times, a recognition and atonement via formal apology is needed, desperately. Yet in many international negotiating spaces today, when countries from the so-called Global South bring the question of equity to the center of the discussion, they are rebuffed by others who will have none of it, fearful it would lead to reparations, is thus something politically unattainable, and therefore opposed. Many of these rejectionists nevertheless see themselves as the standard bearers of universal human rights.

Perhaps, equity needs to be advanced differently, with a different tone, and also heard differently, with a more open mind.

I have tried to follow the vector of so-called wokism closely, and felt it was entirely justifiable that specific, long-suffering, communities were really standing up for themselves, communities who for so long felt their history being white-washed, their identities not recognized, their abuses not understood, and abusers protected – and they

were not accepting it, not for another minute. The anger and frustrations were authentic and raw, and if you felt threatened by prejudice or misogyny, you spoke out, and that has been the right thing to do. But after a while, something else was creeping in, a discernible intolerance over honest mistakes. The failure to recognize that perhaps a little time was also needed on the part of many who simply found the issues themselves difficult to grasp, or were deeply religious, or had prejudices we all have as humans, to overcome.

It was obvious for example, many older people have in some countries found it difficult to understand what gender identity or what a family today actually meant, and some were maligned for it – and this can go awry in very many directions. I was in a supermarket in New York one morning making simple conversation with a fellow customer; when I remarked their family must have liked a certain bread type, I was berated for assuming they had a family. I was apologetic because I understood I slipped up, even if contextually nothing I had said earlier was even remotely malicious. I had screwed up, but I felt I was also being treated a little too harshly, but maybe I was also being too sensitive.

While I was High Commissioner, I also had to apologise to the Disability Rights Community because in a press conference, when pressed by a journalist, I said that-the-then President of the Philippines, Rodrigo Duterte, needed a psychological evaluation. The community was upset I would assume Duterte's miserable actions and words, automatically connected him to them. My apology was the right thing to do, and I understood them completely, but I also feared others -- in an analogous situation, would not quite grasp it.

That stark, angry, tone has a place in our lives, but it can also mirror at times the uncompromising tone of those whose agenda priorities are deeply concerning.

One only has to look at El Salvador to see how a Head of State, Nayib Bukele, has forced a harshness into his criminal justice system, most specifically against gang members, and has remained very popular for it. Many others in Central and South America are seemingly following his example, the new president of Colombia among them. Clearly, there should be no place in our societies for the extreme violence brought on by the gangs or criminal groups; but do we need the excessive cruelties within the criminal justice systems?

In many parts of the Middle East, the accused in criminal trials will often in a courtroom be placed in a cage! A cage! In many other countries, including some OECD jurisdictions, pre-trial detainees are held in the most terrible of circumstances, which almost voids those countries claim to any sense of decency. Even Article 14 of the ICCPR on the right to a fair trial, remains an aspiration for many countries, sixty years after it was inked into the International Covenant.

But there are also some basic features, in how criminal trials are held, which need review in a whole host of countries. Does a judge's dias still have to be so high? Must we express the power of the state in a manner so intimidating? Could the justice system not function without it, without it having to radiate fear? Bukele may see logic in the extreme form of it; and his supporters are clearly fond of it. But it cannot be that.

We must therefore find a different angle to confront it. Screaming at Bukele will not help, not without first building up a store of moral credibility.

Over the past few years, Western governments have especially been accused by other states of being quick to condemn the dictators and the populists who are judged to be adversaries or enemies and then excuse or be silent over those considered to be friends. Perhaps the most glaring example of this has been Israel's attacks on the Palestinians of Gaza – which the UN International Commission of Inquiry led by my predecessor Navi Pillay, believed could not be explained by anything other than genocidal intent. Triggered by Hamas's abominable attacks of 7 October, the events in Gaza had early on drawn a muted European response, very much in contrast with the widespread condemnation in the wake of Russia's war of aggression against Ukraine. And the criticism aimed at Europe was justified of course, especially at the beginning.

But, drawing from my long experience with these matters, European states are not unique in their hypocrisy. All states have sadly practiced double standards in recent times – all of them. I saw it in Syria and Yemen. The countries most vocal in their condemnations over the terrible crimes perpetrated by the previous Syrian government, were also some of the quietest when it came to the appalling attacks inflicted on civilians in Yemen.

Now this is beginning to change, with a large number of European countries now speaking out about the horrors of Gaza, and possibly also about the unilateral and unlawful US-Israeli attacks on Iran, notwithstanding Iran's own brutal treatment of its people.

So we return to that which is so rare and so needed: moral consistency and clarity. They are the very scaffolding which decency requires to make our advocacy for human rights, for the law, all the more likely to succeed. And when put together, these features may still win over those who believe rule of law is only a campaign poster for the liberal elites, largely from the Left.

Being consistent however, can often mean placing oneself, or one's own state, in a lonely position. Indeed, after his intervention in Salamanca, de Unamuno wrote to a friend, 'No, I am neither Fascist or Bolshevik, I am alone! ... Like Croce in Italy, I am alone!'

Let us therefore hold on to our decency and express it in the most generous of tones while turning the wheels of justice and law – and especially when promoting the rights contained therein; even at the cost of being alone like a de Unamuno or a Croce; at least we would experience a loneliness together, but perhaps happier too for feeling what it still means to be a human.