

CHARGE TO THE CLASS OF 2012

Believe it or not, you're almost done, and all that remains is our final charge. Relax: it's not that kind of charge. Today we charge you in an altogether different manner. For as we confer your degree, we entrust you with a task and assign you a responsibility. The task and the responsibility are straightforward, and can be simply stated: We charge you to use your training well and to make a difference for the better.

The world is deeply troubled. And that's not boilerplate commencement talk. Things feel different, to me at least; the scope and scale of our problems seem greater today, and the most daunting of these problems seem more daunting, certainly than at any time in my life. Whatever side of the political divide you're on, challenges like energy, health care, the national debt, joblessness, international peace and stability, and more are huge—and they require a seriousness of purpose and a willingness to take action that the world's current, feckless leadership is apparently unable to muster.

So you must do better. Fortunately, if history teaches us anything, it's that great challenges bring great opportunities. Which means you leave here with opportunities to make a difference that are rare. So we say to you: rise to the challenge. Be ambitious, take chances, do something that makes the world a better, safer place.

I could actually end here, because there's not much more to our charge than that. Some of you probably wish that I would. But I don't want to send you off with nothing more than this simple, timeworn, albeit important, refrain. I've made it a practice to write a fresh speech for each graduation: to find some angle, something to say, that is unique for each graduating class and that captures its moment in some meaningful way. But while this year's speech is new, it nevertheless replicates a theme and repeats some ideas from last year.

Now, I didn't have to tell you that: none of you was there last year, after all, and I could easily have just gone ahead with no one the wiser. So, you may wonder, why do I mention it? Because, as I hope you'll understand, the fact that last year's topic is still relevant—is, indeed, more relevant—is itself germane to the point.

Last year, I spoke about the deterioration of public discourse, and in particular the waning of “reasoned empathy” in political debate. By “reasoned empathy,” I meant a habit of mind that we try to teach you here, because it is in fact central to being an effective lawyer: namely, the ability to understand—and I mean to truly comprehend—that, when people disagree, there are always arguments on both sides, and people on both sides genuinely believe their point of view to be both reasonable and right. It is a grave mistake, and one I implore you not to make, to assume that people who disagree with you “really” know that they are wrong and you are right, but have some evil or self-interested motive for pretending otherwise. On the contrary, they almost certainly find their positions authentic and convincing, and for reasons that (at least when they are shared by large numbers of people) probably have something to them: something you need to understand before you can be sure about your own position.

I single out this quality of “reasoned empathy” because I think it has never been more important—or more absent—than today. And things are getting worse. We live in an age of ideology: a time when, for too many of us, but especially for political leaders, facts are determined and controlled by preexisting ideological commitments, rather than the reverse, and a genuine exchange of ideas has practically ceased.

You see this all around you: in the politicization of science; in the way public officials dismiss evidence that conflicts with their preconceived beliefs by attributing conclusions they don’t like to corrupt motives. We see it in the emergence and now dominance of media with overt political agendas, and the growing audiences these media attract, as people confine themselves to information sources that dependably tell them what they already want to hear. We see it in the increasing willingness of officeholders to say things without actually caring whether or not they are true. Most worrisome, we see it in the perpetual campaign that now passes for governing. It used to be that, once an election was over, political advisors moved to the sidelines. There was breathing space between elections, time for elected officials from both parties to leave the grandstands (for a while at least) and work together: the minority fighting to have a say and not simply to obstruct the majority, knowing that when its turn came it would get the same consideration.

That’s no longer true. The distinction between policy and politics has collapsed. What is true has increasingly become what those who share an ideology want to be true, with no quarter given or taken. Nor for anyone out there who thinks I am talking only about conservatives or only about liberals, is this tendency confined to one side or the other. For if one side has been worse, both have been bad enough. Nor, finally, for all the international students, am I speaking only about the United States, and we see a similar incapacity to govern in Europe and many other parts of the world. Democratic politics is failing, and none of our leaders is willing to take responsibility. It’s “the other side” that is at fault: the other side that is not just wrong but dishonest, which means its positions can be ignored; indeed, must be ignored.

These developments matter because they undercut a—no, *the*—fundamental precondition for democratic government in any complex society: that it be a community of individuals who, because they inevitably will disagree on important matters, are willing to reconsider their stances and to compromise based on respectful discussion with people who believe differently.

I recently read a collection of speeches by the Attorney General of the United States. Among other things, he lamented how people on both sides of the political divide have become so preoccupied playing tit-for-tat that politics has become simultaneously overheated and ineffectual—a process he noted is exacerbated by new forms of communication that “emphasize the immediate event” and tend “to make of discussion the declaration of opinions suggesting that the complexity of a problem is always the result of bad motives.”

The Attorney General who made these comments was not Eric Holder, by the way. It was Edward Levi, Gerald Ford's Attorney General, speaking in 1975.

The mid-70s were a difficult time in politics, not unlike today. After reaching a high point of prosperity and power in the mid-1960s, the country had suffered one crisis after another: the souring of the civil rights movement and the riots that followed, a catastrophically failed war in Vietnam; recession, inflation, our first energy crisis, and the abrupt rotting of a counterculture movement that seemingly overnight turned from the Fab Four and Woodstock into the Manson Family and Altamont. But above all, there was Watergate. The passage of years seems to have softened the edges of the Watergate scandal, causing us to forget how truly demoralizing it was when it happened. In part, that's because we have seen even worse government misconduct since Nixon resigned, while his strengths have actually come to look better in retrospect. But at the time, Watergate was a shattering event. It wasn't just the breadth and depth of Nixon's wrongdoing, though it did sometimes seem as if criminal misconduct pervaded every part of his Administration. It was also the sleazy quality of it all: all those "expletive deleted" and White House "plumbers" and CREEP (which was "the Committee to Reelect the President—an acronym only Richard Nixon could have adopted).

One result was that political debate in the mid-1970s grew extremely acrimonious (though nowhere near as ugly as today). Another was that public faith in government reached what seemed to be an all time low (though, here too, we have managed to outdo our predecessors by a very considerable margin). Many of Levi's speeches sought to counter these developments and rebuild the confidence of the American people not just in the particular agencies of government that had failed, but in our constitutional system generally. And, as his diagnosis of the problems suggests, much of what Levi had to say is still relevant.

The cure he proposed for the nation's political ills, one I urge you to embrace, is in some sense obvious, but no less difficult for that. We must begin, Levi said, by "putting ourselves to the test of finding out what is wrong with what we think—an unsettling, a disconcerting, at times a most unwelcome pursuit of knowledge." We should do so, he continued, because "government by discussion requires mutual respect. It requires mutual understanding. It requires a culture held in common—a culture not unitary but composed of many differences. The base for understanding must be built and rebuilt over time."

Which brings me back to the idea of "reasoned empathy." We need to understand those whose views differ from ours. We need to apprehend how and why they believe as they do. And we need to work with them. Compromise is not at odds with values in a democratic society. On the contrary, compromise is one of such a society's paramount values. It reflects respect for the responsibility of others and recognition of the need, the unavoidable need, for flexibility and reconciliation of competing interests, ideas, beliefs, and commitments.

Nor can mutual respect be reserved only for the substance of our disagreements, not if we are in this for the long run. Andre Malraux wrote that “a civilization can be defined at once by the questions it asks and by those it does not ask.” But we should add one more item to Malraux’s list, namely, the tone in which a society asks and answers its questions. For the tone can be just as important. It may be that mutual affection is too much to ask. But compromise will not suffice unless concession and conciliation are accompanied at least by mutual acceptance of the good faith of those with whom we are working.

In one of his last speeches, Levi talked to an audience of lawyers about their special responsibilities for making democratic politics work—a lesson as necessary in 2012 as it was in 1976. “Behind the courts and behind the legislatures,” he said:

are the influential mechanisms of society that set or distort the debate, and that enlighten or, by a delight in induced or assumed antagonism, cheapen every discussion—so that immediate reaction is never troubled by a later thought. These are harsh words, too harsh perhaps, but the freedom our society has given places a responsibility, particularly upon our profession, to clarify the issues—and not in a spirit of antagonists or adversaries—so an enlightened public will understand not the catch words, not the chosen disagreements, but the basic issues which are involved. If one believes in a government by reason or discussion, the victory comes when there is understanding. The problems we have are not easily solved, but a beginning is made when they are understood. This is, of course, much to ask. But it has a great deal to do with the role of our country if it is to continue to be the best hope in government for mankind.

Take that thought with you as you leave. Make understanding our problems the place where you begin your new lives as citizen-lawyers. Then help solve them.

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So we didn’t begin our time at Stanford together, but we will, as you know, end that way. And though today is your day and not mine, I hope you’ll forgive me if I close with a few personal reflections.

A member of our community recently asked for my help with something. He did so sheepishly: reluctant to bother me because, he said, I undoubtedly had more important demands on my time. I answered that I was happy to help—just as he would have been had our situations been reversed. The truth is that, if anything, life affords most of us too few occasions to help others in meaningful ways, and one of the best things about being dean has been the countless opportunities the position has presented to me in that regard. In ways both large and small, I have had the chance as dean—the privilege really—to do things for others and to become part of their lives: things I could do only because I was dean, with access by virtue of the office to resources I would not otherwise have had.

The ways I could help have been more varied than you might think: not just school-related matters, but helping people find jobs, get access to medical care, launch companies, make films, deal with personal tragedies. They have ranged from the profound experience of helping a young woman diagnosed with terminal cancer at the end of her third year make the most of her last months, to getting a faculty member the desk chair he wanted. The fact that, most nights, I could go home knowing I had been able to do something that day that made someone's life better has been a very special thing. It made being dean a joy, and I could wish nothing more or better for all of you than that you find careers that offer you similar satisfaction.

That said, the best thing about the last eight years has been the opportunity to lead and be part of this very wonderful community. I want to offer a few thoughts about the kind of community it is. You have probably heard me say some of this before. But this is my last chance to play a role in defining who we are, and these are not just things I think Stanford is. They are things I think it should be, and things I want it to be.

Stanford is a community that values collaboration over competition, a community in which the successes of any are, and are felt as, the successes of all. It's a generous community and a supportive community, in which I have witnessed people extend themselves for others in exceptional and unexpected ways over and over again.

Stanford is, at the same time, a community that prizes excellence and holds its people to the highest standards of achievement and ethical conduct. We expect our faculty, our staff, our students, and our alumni (whom you will join in about five minutes) to reach for the sky and to accomplish extraordinary things. But we don't have a narrow definition of what that means. One of Stanford's most distinctive qualities is its openness to the many forms of excellence that may be achieved in law. Our faculty is unlike the faculties of most other top schools in the way it embraces many kinds of work: from normative scholarship to clinical teaching, from sophisticated empirical work to direct engagement with the profession and the world outside the academy. One of the most important realizations I had upon arriving here was that every single member of this faculty makes valuable contributions to the school and to the world, contributions that should be supported and appreciated and cherished for what they add.

So, too, our students. We are not a school that values some careers more than others, and part of our strength is the enormously varied ambitions our students bring. We are not, and do not want to be, a place where everyone wants to be an academic, or everyone wants to be a Supreme Court Justice, or a big firm lawyer or a public interest lawyer or even a lawyer at all. We are a place of people who want to be all those things, and the resulting mix of attitudes and aspirations is an important part of our culture.

Stanford is a place that prizes risk-taking and values new ways of doing things. We are, quintessentially, part of Silicon Valley. Of course, everyone today boasts about how "innovative" and "entrepreneurial" they are—catchphrases that have become so overused that by now it's a cliché even to call them clichés. But Stanford Law School has long been a genuine innovator in legal education and an incubator for creative people.

We encourage our students and faculty to take chances and try new things. It's a quality encoded in the school's DNA, and one I hope we've passed on to you.

Finally, Stanford is part of the West: not mired in tradition or tied to other people's definitions of success and prestige. I meant what I said when you got here, about not making the pursuit of "gold stars" the measure of your achievements in life, and I have felt enormous pride and satisfaction watching so many of you take that advice to heart. I hope you do so throughout your careers, and I'm certain you'll lead happier lives if you do.

At the end of the day, though, it's not the "institution" or the "culture" or the "community" in some abstract sense that has made being at Stanford special. It's the people—the chance to get to know and work with the many singular, and singularly interesting and creative characters that populate this place that I have loved most about being here. This includes everyone I have had a chance to work with: our faculty, our staff, our alumni, and, of course, our students. So many people—so many individuals—make Stanford the vibrant, exciting, embracing place that it is.

There will, I hope, be other times and places to express my gratitude to the faculty and staff, whose support and good will have been more than I or anyone could possibly have ever hoped for or deserved. For now, since this is your day, let me say just this: I think you're amazing. I honestly do: You are creative, passionate, and brilliant. You are earnest and sincere and driven by such good intentions. Best of all, you are always surprising.

As dean, I spent a great deal of time with alumni, which is to say with the students of the past. I got to see the countless different ways in which they went on to do remarkable things; I got to hear first-hand the countless different ways in which they surpassed us, their former teachers. I love that our graduates go on to surpass us. I love even more that the time they spent here played an important part in shaping who they became and what they accomplished. We get you now, while you are still young, still forming your values and ideals and making the plans that will shape your future. The privilege of teaching is the privilege of having a role in that process. I am honored to have had that role and can only say that I tried my best—both as a teacher and as dean—to be worthy of it.

You are the remarkable alumni of the future. I can't wait to see what you do. So, please, make us proud. Make your families proud. Most important, make yourselves proud. Good luck and I wish you all happy, wonderful lives.