

Gregory Ablavsky  
2019 Hurlbut Award Address

Thank you, Alexandre, for that kind introduction. And thank you all, deeply, for this honor.

One of the first things that happened, moments after I received word of this honor, was that I got a bunch of congratulatory emails—and one Dropbox invite. The invite was from Prof. Ouellette, last year's recipient, and it was to a folder that contained all the previous Hurlbut speeches stretching back nearly two decades. For those of you who had pleasure of studying with Prof. Ouellette, this will surprise you not at all, and helps explain why she so richly deserved last year's award.

One thing that struck me when I looked at this folder was that I believe I can say, with some confidence, that I am, technically speaking, the first millennial recipient of the Hurlbut. And I have three things to say about that.

First, for all you non-millennials out there, yes, we're taking over, and we're destroying all your beloved institutions. First, we came for your landlines and doorbells; now, we're coming for your graduation speeches.

Second, the past speeches reiterated to me that my colleagues are, as I'm sure you all know by now, a hugely accomplished bunch with remarkable life experiences to relate. Whereas I'm pretty sure that I got this award by knowing that a PowerPoint slide shouldn't be a wall of text, and also by knowing what memes are. And, so, you all rewarded these skills by putting me in a situation where I can't use either. I mean, I could just say "Damn, Daniel," over and over, but then you'd just ask why I'm three years behind the times.

Finally, I learned that, to write a good graduation speech, you need a compelling quotation from someone famous and inspirational as its centerpiece. So, here's my choice: "There's nothing more powerful in the world than a good story. Nothing can stop it."

Yes, that's right. As some of you have figured out, in classic millennial fashion, I'm quoting Tyrion Lannister from the final episode of one of the key texts of my generation, Game of Thrones. I'm going to pause here to offer a spoiler alert, since, as I discovered in my seminar this quarter, people take these things very seriously. So if you have not yet watched the final episode, please cover your ears so that we can all see who you are and mock you shamelessly.

OK. So, if there was a key moral to the last episode of *Game of Thrones*, it's that dudes who know a bunch of history should be placed in unearned positions of honor and responsibility. In that spirit, what I'm going to do now is tell you two stories, both about how we got to this moment right now.

The first is the story of this spot where we're sitting, and it might be familiar to those of you had me for property. Since time immemorial, this area was the homeland of the Muwekma Ohlone people, who were among the thousands of indigenous peoples who owned and governed what we now call California. Then, in the late eighteenth century—the same year, actually, when thirteen rebellious colonies on the other side of the continent proclaimed themselves the United States—the Spanish came to colonize. Where we are right now became, by Spanish decree, part of the lands of Mission Santa Clara, while El Camino Real—the royal road, which many of you probably drove on to get here today—became the highway linking these remote outposts to distant Mexico City. These missions disrupted the Ohlone people's culture and economy, and often resorted to coercion and violence against their indigenous converts.

In 1821, Mexico proclaimed its independence, and secularized the missions. The new Mexican governor granted this land, called the Rancho Rincon de San Francisquito, to a soldier, Juan Pena, who then sold it to another man, Secundino Robles, for whose family we have a gym, a hall, and a garage named here on campus.

In 1846, the United States invaded, with a force led by John C. Fremont, another prominent name around here. One of the things that then happened was that the United States unleashed what historians have convincingly called a genocide against the indigenous Californians who survived Spanish rule. Another thing that happened was that *Californios* like Robles had to prove their rights to their land before federal commissioners. This was a long process—it took over fourteen years for Robles. In the meantime, Robles lost much of his property—through swindles and open threats by his new Anglo neighbors.

Eventually, as probably know, Robles's former lands became part of Leland Stanford's stock farm, and ultimately this University. What you may not know is who worked that farm and built this campus. This year, over in the Arboretum on the other side of campus by El Camino, Stanford archaeologists have begun excavating the site of a camp of the Chinese laborers. *They* were the ones planted the trees on Palm Drive and constructed much of Stanford. Yet despite this, in his inaugural address as governor of California, Leland Stanford became one of the first public officials to call for the categorical exclusion of Chinese immigrants. California's demands ultimately helped secure a ban on Chinese immigration to the United States.

Obviously, there's much more of this story to tell, but I think you grasp its key themes. We're able to enjoy this beautiful spot, this beautiful day, only because of a long history of dispossession and violence.

Why tell such depressing story on such a happy occasion? In part, my hope is that it will serve like the moment in the Jewish Seder when, in the midst of our celebration, we spill drops of wine from our glasses to recall the suffering that made our joy possible. But, also, because this is a story, about law: the California Land Act of 1851, the Act for the Government and Protection of Indians, the Chinese Exclusion Act, the Geary Act, and many, many more that made this process possible. Law, in other words, has long been a highly effective tool not just for facilitating power and inequality, but for justifying and masking it. I know this is not news to many of you: I have watched you struggle, in my classes and in your conversations, with what this means for you becoming lawyers, particularly at a moment when we're daily bombarded with reminders that this role for law is not a thing of the past.

The story I've told you is largely one of *facts*. What is its moral? In my view, it is that it imposes an obligation on us, all of us, as the beneficiaries of this history. And what is that obligation? That question I can't answer for you—and I would argue that none of my distinguished colleagues up here can either. That's a question that you each have to answer individually, for yourself, and that we have to answer collectively as a society. For me, that answer starts—but does not end—with the obligation of acknowledgment. One of the reasons I told this story was to serve, I hope, as a bit of that acknowledgment—for the Ohlone, Latinx, and Chinese peoples, and many more, who made this moment possible.

So that's one story. Now let me tell you another.

So, another thing that happens when you win this award is that suddenly everyone has advice. At a table at the faculty dinner the other night, my tablemates told me two things. First, my brilliant colleagues told me I should work the word “mutton” into my speech. To which I say: mission accomplished.

Second, they told me that this speech was not about me. But remember, I'm a millennial. So, to hell with that. The second story is about me, or, more accurately, about my family.

Unlike the first story, this story begins far away, although, like the first story, it is also, at points, tragic. As when my great-grandfather watched his father killed in front of him during a pogrom in his shtetl in what is now Ukraine. As when my great-uncle,

my namesake, died fighting the Wehrmacht in WWII. Or when my great-aunt was massacred by the Nazis outside of Kiev. Or when another great-uncle, also fighting in the Red Army, was captured but managed, miraculously, to escape. Or when my father's first grade teacher lowered his grades because a Jewish kid couldn't be the top of the class, or when, later on, he had to hunt for a university that would be willing to accept Jews. As when, still later, after my father met and married my mother, an American, he was not allowed to leave Soviet Union and meet his newborn son—me—for nearly three years.

The point of this story is not to buy gravitas for this occasion, nor is to tell some story of suffering or adversity overcome. For me, adversity these days is when someone else has beat me to the last cheese biscuit in the faculty lounge.

Here's the point. The obvious moral of this story is how much I've been the beneficiary of extraordinary good luck, and also the deep debt of gratitude I owe to my forbears. But I also want to stress that this story, like the first, is also a story about *law*: the marriage laws that forced governments to recognize my parents' connection; the principles of human rights that pressured the Soviet government to allow my father to leave; the U.S. family reunification laws, now under attack, that allowed me to get to know my grandparents and my great-uncle, Lev, the one who escaped from the Nazi captivity; the education laws that funded the public schools that I attended and supported me in graduate school. The great challenge I have, my cognitive dissonance I face, is that, even as I recognize and teach all the ways that law has failed, law has *worked* for me.

And here's where I try to make this not, in fact, all about me. Recently, I was walking around our beautiful campus with Leroy Not Afraid, a visiting judge from the Crow Tribe of Montana, where nearly a third of people live below the poverty line. He described Stanford as "Bilawaashíalatuk," which he translated as "a dream." Now, I should also tell you that my colleagues at this dinner also told me that this term was verboten in a graduation speech—although they probably didn't mean in the Crow language--but Judge Not Afraid wasn't talking about the future, about the graduation-speech cliché that you should follow your dreams. He meant right now, this place, this life, is a dream that those of us here get to enjoy.

In this way, I would argue, my story is your story, too. More than me, you are all hugely talented, and have worked tremendously hard, and you and your families have surmounted even greater obstacles to be here today. But by definition, by sitting here today, by partaking of this dream, at some point along the line, law also worked for you.

Like my first story, I would suggest to you that this story, too, imposes an obligation, but like the first story, I can't tell you what that obligation is. All I ask is that you continue to think about it after you leave here.

So, there you have it: two stories. Which one is true? You've all been in law school long enough to know the answer: it depends. The sad reality is that these two stories are very unequally distributed: one story is a lot truer for some people than the other.

In my seminar, when confronted with the story of centuries of legal violence, your classmate, Margot Adams, took comfort in the idea that we don't yet know how the story ends. I think this is a very wise idea. So, let me end with Margot's profound thought. One way that I think about these obligations is that we should try to make the story of law working a lot truer for a lot more people. Maybe, with the skills and tools that you've gained here, you can help create a better, more just part of the story. This is not an easy task, and I can't promise you'll succeed. But I will say that having had the immense pleasure of watching you think, and grow, and develop these past three years, what gives me hope and comfort is the thought of all of you going out into the world. Thank you, and congratulations.