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Introduction to Keynote Address: A Community of Reason and Rights

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KEYNOTE ADDRESS:
A COMMUNITY OF REASON AND RIGHTS*

INTRODUCTION
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Dean, Fordham Law School

KEYNOTE ADDRESS
Harold Hongju Koh
Dean, Yale Law School

DEAN TREANOR: I am delighted that this Symposium is being held here at Fordham. I would particularly like to recognize Catherine Powell for the extraordinary job she has done in putting it together. It is just amazing. These are the most important issues that we, as lawyers and legal academics, face today. This is a conference that I think, overall, has two overarching themes in the various programs.

One is a separation of powers question: Which part of the government makes decisions about things like war and treaties? The other overarching theme is, how does the question of constitutional interpretation intersect with international law?

We have had law schools in this country for more than two hundred years. The most pressing issues change over time. But these are the most pressing issues today, and they are going to be the most pressing issues for all of our lifetimes. Partly, that is because of globalization and the fact that the intersections between nations are at a level that was inconceivable a short time ago. Part of it is because, in the wake of 9/11, we have a whole series of questions concerning the war on terrorism and relations between foreign states, which are at a level of great urgency. So these are the most important questions that we have.

Catherine and all of you have put together a program that brings together the most extraordinary speakers. It is really jaw-dropping for me to look at all of the people who will be appearing here today and tomorrow. Our keynote speaker is foremost among them: Harold Koh. There are just a couple of things that I want to say about Dean Koh before I turn matters over to him.

* This is a lightly edited and footnoted version of the Keynote Address that was delivered on October 4, 2007, at Fordham University School of Law.
First, of the 184 deans of American law schools, Harold is my favorite. I think, frankly, all of us can probably say that. He is my favorite, in part, not just because he is this great world human-rights champion, but also for reasons that are totally family-related. Harold’s father-in-law, Bill Fisher, was a very distinguished graduate of Fordham Law School who went on to a terrific career in business and who really embodied the Fordham ideals. Fordham always meant very much to him. Harold is very much a part of the Fordham Law School family. He wears the Fordham Law School tie.

Secondly, our Leitner Center, which Tracy Higgins and Martin Flaherty started originally as the Crowley Program, is one of our cosponsors. It has gone to warp speed in the last few years with the help of Jim and Sandra Leitner. Jim Leitner and his father were reading Storming the Court,¹ which is the story of how a group of remarkable Yale law students, including our own Catherine Powell, brought suit against the United States government concerning the treatment of Haitians trying to come to the United States. Harold Koh, as a young law professor, was the pivotal figure in moving this forward. Jim Leitner said, “We should be doing this at Fordham,” and gave us a $1 million grant to start a clinic like that. So I have very personal reasons, in terms of Fordham governance, to be grateful to Dean Koh.

Third, and the reason why you all are here, is because he is somebody of vision and a leader in the human rights area who is really without peer. I can testify to that from personal experience. My first job as an attorney after I clerked was to work in the Iran-Contra Special Prosecutor’s Office. One of the things I was trying to figure out was why what Oliver North and others had done violated the law and was inconsistent with the constitutional framework.

Twenty years ago, there had not been a lot of careful thought about these issues. What I found—and I did a lot of the basic background work in framing a conspiracy charge—was that there had been interference with normal government operations. The Bible, for me, was Harold’s book, The National Security Constitution²—the most remarkable, the most thoughtful, the most careful, serious, and deeply committed work of scholarship in the area. It was fabulous. I still, more than twenty years later, think of it as the absolute model of committed and flawless scholarship.

Since that time, I have followed Harold’s career. When I was at the Office of Legal Counsel, where I had the privilege of working with Martin Lederman, a remarkable and brilliant attorney who was on our last panel, we had the privilege of working with Harold when he was the Assistant Secretary of State for Human Rights. What he did there was breathtaking. It was government service of the highest order. He is someone who is so profoundly committed to the cause of human rights and to getting the

¹. Brandt Goldstein, Storming the Court: How a Band of Yale Law Students Sued the President—and Won (2005).
United States on the right side of the crusade for human rights that he was an inspiration to all of us.

I introduce a lot of people here. I have never had a greater privilege than introducing Harold Hongju Koh.