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CLOSING REMARKS AT THE DEPAUL LAW REVIEW SYMPOSIUM†

Niamh King & Amila Golic***

Thank you to DePaul University's College of Law for the opportunity to take part in this celebration of Cherif Bassiouni's life and legacy.

We knew Cherif in a different realm and approached his work and legacy from a different perspective.

We had the chance to work with Cherif at the Chicago Council on Global Affairs, where we cherished his significant involvement with our members, the wider Chicago community, and our own team through our public programming and research projects.

Over the years, the Council was lucky to host Cherif a number of times for conversations about the many issues he studied and advocated for—and let us tell you, Cherif always drew quite a crowd.

We spent some time going through the Council's archives, and we want to briefly recount a few of Cherif's appearances at the Council and highlight the moments and insights that have resonated with us over the years.

In 1994, he was interviewed at the Council about his work on the war in Yugoslavia, which was then at its height and in which Cherif was already deeply engaged through his role as the Chairman of the United Nations Commission to Investigate International Humanitarian Law Violations in the Former Yugoslavia.

† This speech was delivered on March 23, 2018 at the DePaul Law Review Symposium titled *The Intersection of International Criminal Law and Gender: Progress of the Past for the Goals of the Future*, which was hosted in honor of Professor Emeritus M. Cherif Bassiouni.

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We still did not know the full horrors of that war then, and Cherif's comments felt like an essential public service as he shared with the audience what he had seen of the conflict and the way it unfolded through concentration camps, mass rape, and persecution.

But more than that, even at that early stage of international awareness about the extent of the war, and even as he himself was clearly still processing what he had seen, Cherif synthesized its horrors and the response they demanded from the international community.

He recounted participating in the exhumation of a mass grave, finding himself "literally up to [his] knees in dead bodies with the stench and the smell and decomposed and partially decomposed bodies and the bones sticking out."

"Where do you look for [the] grace of God here?" Cherif recounted asking.

He explained his struggle navigating the UN bureaucracy in the process of setting up the ICTY, and how painful the contrast between this "civilized reality" of "being concerned with the proper paperwork" was with his work in the field interviewing women who had been raped repeatedly or visiting maimed children in the hospital.

He called this "the great indifference" of government leaders, politicians, and the public.

The gap between the horror of what had already happened and what would have to be done to allow for justice, reconciliation, and reconstruction must have felt so insurmountable to everyone—especially because there had been no existing international framework or tribunal to deal with genocide since World War II and the Nuremberg Trials.

But, as we well know, Cherif was not fazed. The clarity of his purpose and of the principles guiding him shone through when he explained how he thought peace could be achieved in the former Yugoslavia.

He said, "You cannot have peace without justice, and you cannot have justice without truth. . . . This is elementary."

What a privilege it was for the local Chicago audience in that room to hear from the person who would end up being so central to bringing a

measure of justice and reconciliation to the Balkans—as well as revolutionizing international criminal law.

* * *

In 2010, Cherif was at the Council again, this time interviewing fellow jurist Louise Arbour on her work and experiences as a prosecutor and head of the International Crisis Group.

The topic was “Peace, Justice, and the Rule of Law,” and their wide-ranging conversation touched on everything from the technical details behind the workings of the Security Council to the tough questions over how to heal post-conflict societies and what to do with perpetrators.

They reflected on the achievements of the international tribunals they had worked to set up, but pushed each other to address what it would really take to get international leaders to summon the political will necessary to act and prevent atrocities before they happen in the first place.

Watching these two giants of international law on stage almost felt like an intrusion on a private fireside chat; they engaged with each other as two colleagues at the top of their fields, enjoying and respecting each other’s opinions and creative ruminations on how to make progress.

They were cognizant of the seemingly intractable challenges of their work but hopeful and persistent about pushing to find solutions, however gradual and incremental they are.

Indeed, as Cherif said to Arbour during that conversation, “You and I are optimists. We look at the problems and we say: How can we fix them? How can we move ahead? We take courage and solace and comfort by looking at what happened in the past and saying, well, it’s building up.”

* * *

A year later, in 2011, Cherif was at the Council to present his research on the pursuit of torture as a policy in the years following September 11.

He had just written a book on that topic—*The Institutionalization of Torture by the Bush Administration*—and on that day, he was sharp, fiery, and passionate.

His remarks took the audience from Revolutionary Era American history to our contemporary struggle with terrorism.

Cherif recounted the story of the Boston Massacre, when British troops fired into a crowd of colonial patriots, killing several of them. Put on trial for murder at a time of rising tensions between Britain and its colonies, it was expected that they would be found guilty. Yet the British troops were successfully defended by lawyer John Adams, who insisted that they receive a fair trial.

For Cherif, that insistence on a fair trial and a correct judicial process is essential to the American system.

In his lecture, he strove to instill how essential our collective attitude towards war, torture, and prisoners of war is to our country's moral compass. The question of torture was "a national issue" that "goes to the very character of our nation."

He told the audience that, "The soul of any nation does not reside in the strength of its treasury or the power of its military. It resides in its moral fortitude, and we have not lived up, in this case, to the moral and legal obligations of our country."

It was clear how important it was to him to continue to speak about this issue and advocate for what he believed was the right way to address it.

Debate about the wars in Iraq and Afghanistan and about Guantanamo had, by that point in 2011, receded from America's social consciousness. But it remained an enduring and critical issue for Cherif.

He made a final plea to the audience at the end of those remarks. He said, "For the benefit of our country, we need a day of reckoning. We need to find out what happened."

As ever, he also offered a tangible plan for this reckoning, advocating for a truth commission and congressional hearings.

* * *

And, of course, when the Middle East experienced the tumult of the Arab Spring, the Council very much relied on Cherif's insights on how the protests were unfolding across the region and how they would change its landscape.

He shared his analysis with our audiences in 2013, explaining the historical parallels he saw between the Arab Spring and the previous 1919 and 1952 revolutions in Egypt's history, which also started as secular, democratic movements. He commented, wisely, that "of course there is a price to pay when you move fast in a democratic process."

Cherif believed that the way to strengthen democracy in Egypt was to strengthen the rule of law and that this could be accomplished by training judges and prosecutors.

He had a plan, and, in this case, too, he worked hard behind the scenes of the international community to try to secure funding and make it a reality. He ended up being disappointed by the lack of response and interest, but he kept trying.

The last time Cherif spoke at the Council was in 2015. This time, he was not the featured speaker, but generously and graciously introduced writer and activist Mona Eltahawy, who sought to make her case that the Middle East needed a sexual revolution.

In his introduction, Cherif noted how much the Western world fails to recognize the leadership and activism undertaken by Muslim women, but agreed wholeheartedly with Eltahawy that, in many Arab and Muslim countries, Muslim women still face a whole host of social and legal prejudices.

"Yes, indeed," Cherif said, "a revolution of this sort is needed in the Arab world."

What a fitting arc for Cherif, who was of course one of the first to bring to light how systematically rape was used as a tool of war in Yugoslavia.

* * *

Cherif was deeply engaged with the Council and was always a valued partner and resource to our colleagues. But we wanted to highlight

these of his presentations because they illustrate much of what was so striking, so great, so inspiring about Cherif and his impact on moving the cause of international human rights forward.

A few years ago, Eric Posner wrote a thought-provoking argument against the discourse of human rights and the architecture of treaties, courts, and organizations that we have marshaled in the decades since World War II to support it.

As Posner said, the “discourse of human rights continues to flourish” while “human rights violations remain widespread.”

Yet as thought-provoking as Posner’s words are for those who are a touch more skeptical, Cherif’s actions and his life cannot but counter them.

As his presentations at the Council over the years illustrate, within law, his professional interests and his expertise ranged widely, and his mastery across the spectrum of legal fields was evident. His dedication and passion to the pursuit of justice, of course, even more so.

He was both a formidable scholar and a formidable advocate, always seeking to apply his scholarship in a way that tangibly moved policy forward, contributed to public debate, and made a difference in people’s lives.

Cherif fought to bring justice to the victims of the wars in the former Yugoslavia; he strove to build capacity for rule of law in Egypt; he took a blistering stand on what continues to be a controversial topic in the U.S.; and he was a strong voice of support for women’s rights.

In short, as much as some may appreciate Posner’s argument that our discourse on human rights is often ambiguous and hopelessly idealistic, Cherif made it relevant and tangible in a very real way, on the ground, for the people most affected. He changed many lives.

We want to repeat, one more time, what he said to Louise Arbour on the Council stage in 2010: “You and I are optimists. We look at the problems and we say: How can we fix them? How can we move ahead? We take courage and solace and comfort by looking at what happened in the past and saying, well, it’s building up.”

“It’s building up.” A simple, humble statement, but one that captures the essence of what drove Cherif, what he hoped to achieve, and how he lived his life.

He refused to give in to cynicism, but he also wasn’t a hopeless idealist. He toiled and celebrated the gradual progress in the right direction.

He was a giant. Yet if we can’t all make a difference at the grand, cosmopolitan level he did, the way he lived and strove to “build it up” can serve as a model to us and many others on how to live, and we are grateful to him for that example.

Thank you.

