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HUMAN RIGHTS AND THE CLIMATE CRISIS: INTERNATIONAL AND DOMESTIC LEGAL STRATEGIES

SYMPOSIUM KEYNOTE SPEECH

Kumi Naidoo*

The following is an edited transcript of the keynote speech delivered by Kumi Naidoo on February 28, 2020. The Human Rights and the Climate Crisis: International and Domestic Legal Strategies Symposium was held on February 28, 2020 at the UCLA School of Law. The Symposium was a collaboration between UCLA's *Journal of International Law and Foreign Affairs*, the Promise Institute for Human Rights, and the Emmett Institute on Climate Change and the Environment. Building on the interconnectedness of human rights and the environment, the symposium explored the potential of rights-based legal mechanisms to both halt and seek remedy for environmental harms with a particular focus on climate change.

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Today, I stand before you with some trepidation because this is the first time that I have appeared in public since the 5th of December, 2019, which was when I announced my resignation as Secretary General of Amnesty International. While my decision to step down from Amnesty is due to health-related issues, today's anxiety is rooted in a far more profound reason—one that is best told as a story.

I was speaking to an audience in the United States a couple of years ago and was outlining this critical moment that humanity now finds itself in, one of a convergence of crises: climate crisis; deepening poverty and inequality crisis; gender crisis; a financial crisis; and so on. The audience was looking at me as bewildered and beleaguered as you are looking at me now.

Nevertheless, when it came time for questions and answers, a woman raised her hand and said, "Dr. Naidoo, have you heard of Martin Luther King?" To which I responded, "yes, I have, and he inspired me and very many others in my country, South Africa, when we were resisting the injustice of Apartheid." And then she asked me, "Do you know what his most famous speech was called?"

Thinking it was a trick question, I hesitantly answered, "I Have a Dream."

With great exuberance she responded, "Yes! But when I hear you speak it sounds like you are having a nightmare. Oceans are dying, the forests are collapsing, and so on."

This anecdote clearly expresses the great challenge of leadership within this moment when a plethora of injustices are gripping our world. It also highlights the conundrum that we are now experiencing as leaders in the climate justice movement—on one hand, finding the right balance between speaking truth to power, and on the other, not sanitizing the magnitude of the crisis. Furthermore, it begs the question, "How do we as climate justice leaders inspire action and remain truthful and sincere about the urgency of this moment, while not totally demotivating, overwhelming, and ultimately paralyzing people with fear?"

The reality is that this moment requires bold, strategic acts if we are to overcome the barrage of challenges that we are facing. Miniscule, incremental solutions are well-intentioned and are a step in the right direction, but these are in no way solutions that offer structural, systemic, and transformative changes needed to build a better world for all.

On a more positive note, I am sure that you have heard rhetoric such as "save our planet," "save our environment," and so on. The good news is that the planet does not need saving. The planet has survived near

destruction before, and it will survive near destruction again. Human beings, on the other hand, are definitely in jeopardy if we continue on this trajectory. Our beautiful planet—the oceans, the forests, the soil—will replenish once we are extinct and no longer a threat.

Understand that the struggle to avert catastrophic climate change is nothing more and nothing less than securing a future for our children and their children. Climate change is the biggest violation of intergenerational human rights in our history on this planet. Furthermore, our political and business leaders are governing this planet as if we do not have children and grandchildren coming after us. This is morally unacceptable, and it is therefore not surprising that young people around the world are standing up with such passion and clarity.

In my opinion, the only constituency of activism today that genuinely understands the urgency of the moment is the activism of our youth, who take to the streets week in and week out, lobbying leaders and adult communities to make better decisions about their futures on this planet. When you look at their reasoning, their language, their understanding of the impact, the science and legal strategies, and so on, it is nothing short of inspirational.

In order to propose a way forward, I would like to share with you four challenges to our current ways of thinking and acting as a species: cognitive dissonance, intersectionality, affluenza, and creative maladjustment.

The first challenge is cognitive dissonance. The Intergovernmental Panel on Climate Change (IPCC) said in 2018 that we have twelve years to get carbon emissions to a reduced level by fifty percent. My question is, does anyone in this room truly believe that we are going to get there in the now ten remaining years, considering that global leaders have just spent an entire year exclusively in discussion, with no action? I should add that there has been some progress from global leadership on this front. At least, most are now not denying that the issue of climate change exists. However, there is still the lingering dilemma of the timeline. This is where cognitive dissonance comes into play. Although many leaders openly accept climate change as an issue, the expediency for structural change is evidently not a priority. Most industry tycoons are paying lip service to climate change and will likely try to draw out this process for as long as there is still profit to be made in oil, gas, coal, mining, and other polluting industries.

The reason we are not gaining enough momentum is that people who control the dominant industries, including the military complex,

mining, pharmaceuticals, and so on, also control our governments. We will only see a real shift in climate change and the balance of power once we see more spirited resistance by ordinary people, complemented by a range of strategies, including litigation, which needs to be realized on a global level.

As a side note and concerning the area of litigation, which I just mentioned, I highly recommend reading Howard Zinn's "The Problem with Civil Obedience." In his famous speech, Zinn said, "the rule of law basically has become the darling of the powerful and the tyranny of the powerless." He goes on to note that the rule of law consolidated all of the power relationships that existed when conventions were first put into place. Now, I am not suggesting that we discard the rule of law in its entirety, but we need to be more analytical and intellectually astute in terms of trying to understand the nuances of the rule of law.

I would like to add at this point, and before I introduce the second challenge, that I welcome the fact that these wonderful institutions at UCLA have come together to do this conference. However, please ask yourself this question: "Why is it only happening now?" I would have to say that it is because of intersectionality, which is the second concept that I will be discussing today.

Decades ago, when the feminist movement gave us this very powerful concept, it encouraged us that we need intersectionality to advance gender equality. This is still true today. We need to have gender intersect with race, class, and so on, in order to fully understand all of the complexities and to eventually make progress.

It is apparent that this is what is happening here at this conference, and I commend you all for your efforts. Furthermore, I encourage an intersectional approach at all levels, in order to break down the silo mentality that has developed in activism. Civil society has actually mimicked the structures of governments. As such, civil society tends to default to these very same silos. As a result, we do not find as much connectivity, synergy, and creativity that we need in order to advance our movements and organizations.

Since my first protest at the age of fifteen, which was focused on equality in education, I have been perplexed about why society has not been able to enact the necessary changes that many of us all desire. When I joined Greenpeace International, I was utterly dumbfounded by how many times I would be asked the question, "Why did you give up on human rights, gender equality, poverty, and so on, in order to focus on the environment?"

My answer then is the answer that I would still give now. I never gave up on any of these critical movements. Instead, I have transitioned across organizations with the same mindset of intersectional thinking because inequality and oppression cannot be resolved in isolation. Inequality intersects at all levels of society and political life. As such, I implore you all as intellectuals: step up and provide the world with the much-needed guidance and understanding of the kinds of necessary initiatives and discussions about intersectionality that are still required, such as the one you are having here today.

I would like to share with you an alarming statistic released in a 2018 Global Witness report. As many as 168 environmental activists were killed in 2018. This averages out to three activists killed per week. This was actually fewer than the previous year, which saw an average of four environmental activists per week. Just stop for a moment and process this number. Four environmental activists are killed every week on this planet, at a time when the vision, passion, and creativity of environmental activism should be protected. These people should be revered and heard. Herein lies the importance of our legal system to protect our vulnerable environmental activists.

Some years ago, a good friend of mine and leader in the global trade union movement, Sharan Burrow and I attended the Rio+20 Conference in Rio de Janeiro, Brazil, along with global leaders and civil society leaders from across the globe. Sharan and I were both speaking at this event and we decided to swap notes. As such, we had a leader from the global trade union movement talking about climate change and a leader in the climate justice movement speaking about workers' rights. You can imagine the surprise on the delegates' faces, especially that of Mr. Ban Ki-moon, the former Secretary-General of the United Nations. Sharan quickly cleared up any confusion, adding, "Secretary-General, you might wonder why, as a trade unionist when my job is to fight for decent work, better working conditions, and so on, why then I am so passionate about climate justice? Because, as a worker, as a human being, and as a mother, I believe there are no jobs on a dead planet. And I would say to you, there are no human rights on a dead planet either because there are no human beings on a dead planet."

The current economic system has given us the worst global disease you can imagine. It's a disease—not influenza and not Coronavirus. It's our third challenge, a disease you can call "affluenza." Affluenza is a pathological illness where people have been led to believe that a good, decent, meaningful life comes from more and more and more

material acquisition. As such, we have to rethink and recast our beliefs about life. I am therefore convinced that the knowledge, the wisdom, and the experiences of indigenous peoples around the world are critically important for us to make progress.

As a young exile in the United Kingdom at the age of twenty-two, I was in my dorm room at Oxford University. I had a poster on my wall. The words on the poster came from the Cree people: “Only when the last tree is cut, the last fish has been caught, the last river has been polluted, will humanity realize that we cannot eat money.” I want to believe that we can get to that realization quickly.

I want to just ask the question briefly about our readiness to make the necessary changes. The collective global leadership, from Trump, to the Saudi Prince, to Bolsonaro, all work together and operate from the same playbook, sharing the same strategies on how to suppress, depress, and control the narrative on climate change interventions. If the problem is at the very top, we need new wisdoms, new frameworks, and ways of thinking.

Moving on to the fourth challenge. One of the best wisdoms to draw on at this moment is Dr. Martin Luther King Jr. from a speech he gave in the United States in the mid-sixties. He said, “modern psychology has a word that is probably used more than any other word in psychology. It is the word ‘maladjusted.’ Certainly, we all want to live the well-adjusted life in order to avoid neurotic and schizophrenic personalities. But I must honestly say to you tonight, my friends, that there are some things in our nation and some things in the world which I am proud to be maladjusted, in which I call all men of goodwill to be maladjusted until the good society is realized.”

He went on to say, “I must honestly say to you that I never intend to adjust myself to segregation and discrimination. I never intend to adjust myself to religious bigotry. I never intend to become adjusted to economic conditions which will take necessities from the many to give luxuries to the few. I never intend to adjust to the madness of militarism and the self-defeating effects of physical violence . . .” If that was relevant to the United States in the mid-sixties, his poignant words are a thousand times more relevant not only in today’s America, but also in a global context.

In a longer version of this speech, he said, “I now call upon decent men and women around the world to come together to set up a new international organization, to be known as the International Association for the Advancement of Creative Maladjustment.” Colleagues, I invite and implore you to be creatively maladjusted.

Furthermore, I ask you to recall what Albert Einstein once said about the definition of insanity. He said, “Insanity is doing the same thing over and over again and expecting to get different results.” Just stop there for a second. Close your eyes again. How many of you feel that your life meets that definition? In all honesty, I have to raise my hand and ask, “Have I done enough? Have I been doing the same thing, over and over again, expecting to get the same results?” The reality is that there are people in this world who have sacrificed and reformed more than we can ever imagine, some even paying the ultimate price—their lives. The real issue is that most of us are in denial about where we are right now. As such, we have to dream big and imagine differently, in order to break the cycle of repetition, of which Einstein so eloquently warned us.

I want to conclude with a legal example. There was a typhoon in the Philippines in 2014, Typhoon Hagiput. At the same time that this disaster was taking place, I was supposed to go to Peru for the United Nations Climate Change Conference, COP19. My colleagues in the Philippines suggested that I do something more effective and meaningful with my time—to stand with the people of the Philippines. I naturally agreed with their sentiments.

We ended up trying to get ahead of the typhoon, and instead of being on site after she hit, we decided to be there *before* she hit and to provide what little help we could with solar lights and solar driven telephone chargers when the cell phone reception had been damaged. We stood alongside people on the ground, who like millions of others around the world had lost or were about to lose everything, all because of this phenomenal surge in natural disasters over these past decades. It was this moment that then inspired a few others and I to see whether or not global industries escalating climate change, such as the fossil fuel industry, could be sued for their immediate connection to climate change, especially in areas such as Southeast Asia.

I am pleased to report that when we attended COP21 in Paris, in 2015, one of the most memorable events was the launch of the legal efforts by the Philippines Human Rights Council. Their efforts are a long way from a resolution, but I ask you to reflect on the process of tobacco litigation. We are in the same phase right now. The reality is that litigation is crucial. We will have to take on many industry giants and often risk losing. I would argue that losing in court is a necessary risk. Over time, we will build a body of law and legal precedent. The contribution of the legal community in terms of high-level creative,

strategic, innovative litigation, and other legal efforts in the coming decades is going to be one of the most critical undertakings in making a difference in the fight against industry's role in climate change.

I have had the honor of serving on the board of EarthRights International, where I learned a lot about the power of strategic and environmental litigation. I have brought these insights into the organizations, movements, and boards in which I have served. In my experience, I can honestly say that litigation and legal strategy has been a critical part of ensuring that the activist community is much stronger than we otherwise would be without these measures.

I am not going to be very controversial and say that I am a fervent supporter of Steve Bannon. However, I think Steve Bannon understands something that many of us who would define ourselves as progressives, liberals, actually don't yet effectively understand. What Steve Bannon and a segment of the Republican party understood in the run-up to the 2016 election was that culture leads politics; politics does not lead culture. Would you think about that for a second? Culture leads politics; politics does not lead culture.

In the 1970s, French philosopher Louis Althusser argued that one of the biggest mistakes that we make in terms of analyzing the world and our efforts to make it more just and equal, is that we mistakenly think that governments and big corporations control us through the deployment of what is known as the repressive state apparatus. This includes the army, police, legal systems, and the rest of the heavyweights of repression. It is true that the state's repressive apparatus does constrain the theater of political life. However, Althusser would argue that actually, the more insidious and more powerful form of control is in fact not the repressive state apparatus, but the ideological state apparatus, by which he meant the framework for religion, the framework for education, and most critically and most importantly, the framework for the media. If that was an important observation to make in the mid-1970s, given what we are now experiencing with the complex media landscapes on a global scale, this means that, in fact, we are in a deep, deep crisis.

We need to press the "reset" button right now, even in terms of our activism. We have to be asking, why is it that so much effort is not yielding results? I believe a more important question that we should be asking is: how do we use culture and art much more meaningfully to inspire the necessary mindset shifts?

One of the biggest errors of activism is when activists project their consciousness on the people that they are trying to mobilize and

organize. Good activism is not about being the holder of absolute truth and getting people to blindly follow. Good activism is humbling yourself, understanding where people are, as well as their concerns. I would argue, for example, in the United States, that we as activists and human beings need to learn to love the people that voted for Donald Trump. If we do not understand the humanity of the people that we disagree with, we are no different from the worst impulses of the conservative right-wing forces in society. We have to respect, love, and understand the vulnerabilities and the fears that caused people to vote in particular ways, which inevitably was so damaging not just for the United States, but for the world.

I would like to now conclude with a true story. It is a sad story, but it is intended to be motivational. When I was twenty-two years old, I had to flee South Africa, where I would live in exile abroad. My best friend at the time, Lenny, said to me when we were both in hiding and about to flee in different directions out of the country, “Kumi, what is the biggest contribution we can make to the cause of humanity?” I said, “That’s a simple question. It’s giving your life.”

He said, “You mean, when participating in a demonstration and getting shot and killed and becoming a martyr?”

He said, “You know, Kumi, that’s the wrong answer. It’s not giving your life but giving the *rest* of your life.”

We then hugged each other, shed some tears, and fled the country in different directions. A year later, I received the news that my friend Lenny and three young women from my home city were brutally murdered by the Apartheid regime. There were so many bullets in their bodies that their parents could not properly identify them.

As such, over the years, I have had to think critically about the distinction he made between giving your life versus giving the rest of your life. In this distinction is a very profound lesson. What he was saying is that the struggle for justice—environmental, social, economic—we must accept that these struggles are marathons, and that they are not sprints. Believe that each and every one of us can make a difference, once we have had the privilege of understanding the problem. Furthermore, we all need to believe that action is necessary, change is necessary, as well as enduring the pressures that come with activism, and maintaining the commitment to the cause until injustices are eradicated.

In closing, I would like to remind you all of what I tell young people, in particular. Do not buy into the notion of being willing to

die for your country. Buy into *living* for your country and ensuring that your country performs in a just way. This does not mean, though, that you do not take necessary risks associated with civil disobedience and standing up against injustice. Rather, remember these words that I would like to share with you. These are the words engraved on my dear friend Lenny's tombstone: "We shall pass this way but once. Any good therefore that we can do, or any kindness we can show to our fellow human beings, let us do it now, because we might very well not pass this way again."