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Tribute to Owen Kupferschmid and Opening Address

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a person to admit to any of this, but by his actions he set an example of decency and commitment for which law students and lawyers everywhere should strive.

The universal message of the Holocaust/Human Rights Research Project is quite evident in the religious, ethnic, racial, and national diversity of its past and current student coordinators. Owen was always very proud of this diversity, and proud as well that the Project and its annual Conference have been sponsored since their inception by a Jesuit-founded institution. Owen believed it was vital that an inquiry into Holocaust-related law not be a uniquely Jewish concern, but one with implications and applications for all people.

As the Project looks to the future, much work remains to be done. Efforts are currently underway to publish transcripts and produce videos of past Conferences. Thanks to the support of Dean Daniel Coquillette and the entire Law School administration, the proceedings of this year's Conference will be published in their entirety in a forthcoming volume of the *Boston College Third World Law Journal*.

Many questions are now being raised by an inspired and devoted core of students that warrant further research and exploration by future Conferences. As more and more nations gradually move toward democracy, legal accountability for state-sponsored persecution will truly become a more universally experienced issue calling for further study and discourse. This Project stands as the rich legacy of Owen Kupferschmid, and the continued need for its work is self-evident. In order to ensure the long-term survival of the Holocaust/Human Rights Research Project and to fashion it as a living memorial to Owen's life, the Law School, together with Owen's family, friends, and colleagues, is very proud to announce the commencement of an endowment fund honoring Owen Kupferschmid. The donated proceeds of this fund will be exclusively used to support the ongoing efforts of the Project, as my friend Owen would have wanted.

At this time I would like to introduce Professor Ruti Teitel of the New York Law School—Owen's partner and colleague in many human rights and academic efforts, and his wife.

*Ruti Teitel:*⁴ This is our sixth International Conference, and over the seven years of the Project's existence, it has flourished. The

⁴ Assistant Professor of Law, New York Law School; J.D., Cornell University, 1980.

Project had its origins in a handful of law students who wanted to do research on the question of local Nazis, and Owen was very proud that new generations of students have worked to keep the Project going. The Project has not merely kept going; it has expanded to encompass work on a great variety of legal responses to state crimes in a large number of countries. The Project's work ranges from crimes committed during World War II, in countries such as Holland, France, Australia, and New Zealand, to countries experiencing post-war human rights violations, such as Cambodia, Burundi, and the post-dictatorship regimes in Argentina, Chile, and Uruguay. The Project's continuity and growth over generations of law students is, I believe, a testimony to the founding vision of the Project and the Conference. Perhaps this vision emerged naturally for Owen, who was nurtured in a home where, on the mother's side, the Holocaust robbed the lives of family members living in Dresden, and where, on the father's side, successive authoritarian governments robbed the possibility of country or citizenship from family members living in Argentina.

For Owen, the very fact of the crimes of the World War II era, and the responses nations have taken in the post-war period, had something to say about human rights abuses today. I would like to take a moment to explore that connection, drawing upon Owen's many keynote addresses to this Conference in recent years.

Human rights lawyers have seemingly forgotten the traces of World War II persecutors over forty-five years. There is no other Project in the world that analyzes on a systematic basis the nature of legal responses to the Holocaust. "Why is this important?," asked Owen. Legal responses to the Holocaust provide a consistent set of cases regarding persecution by the state, particularly persecution of civilians by mass murder. Holocaust related law, Owen said, comprises the largest body of applied human rights law in the modern era. In the world in which we live, where human rights are violated on a daily basis, where mechanisms for redressing rights violations are few and far between, where efforts to prosecute persecutors are increasing, and where models for justice are being sought, the precedents of the Holocaust merit examination.

Owen said these gatherings assert that the development of human rights law is best served by a good historical memory and a broad comparative perspective. We are not indulging here at this Conference in statements about what the law ought to be. Rather, we are going to look at real cases with real defendants in real courts

in order to see what the law is. In short, we engage here in comparative legal analysis from a positivist perspective.

To truly understand the workings of accountability, Owen said, it is necessary to traverse the globe, to break through linguistic barriers, and to move through history. This year, our study of responses to persecution has been further expanded to include non-legal responses: historical inquiry, journalistic inquiry, and the role of private parties. Although we have found that grave crimes of the state involve ordinary criminal and military law, because it is the state that both commits and controls these crimes, accountability for human rights abuses can sometimes simply mean uncovering the facts, simply finding out what happened. Our speakers, particularly in the last two panels of this Conference, are an impressive group of human rights advocates, historians, and journalists from Canada, Austria, France, Chile, Peru, and Argentina. They will explore the question of how records of human rights abuses are created—not just through judicial opinions, but also through historical inquiry and journalistic investigation.

In this year's Conference, and particularly in the first two panels, we will also reflect on the enormous change in world events that we have witnessed over the past year. Just one month ago the *International Herald Tribune* suggested that with Baltic independence and the collapse of the Soviet Union, almost all the vestiges of World War II have been eliminated. Some have called this period "the end of history." Perhaps they were speaking of land transfers. And yet this is the same year—almost fifty years after the events of World War II—that numerous countries in Central and Eastern Europe have for the first time admitted any national responsibility for the terrors of the Holocaust: East Germany, Czechoslovakia, Poland, Austria, etc. And while on the one hand, England, Scotland, and New Zealand have continued to move forward with the project of securing justice for these atrocities, on the other hand, Lithuania has already begun to pardon—along with political prisoners—those responsible for crimes against humanity.

Our two panels today will help explore the issue of accountability between regimes and the connection between accountability and transitions to democracy. This year was also the year of the Persian Gulf War, and many optimistically proclaimed it the year of the triumph of the rule of law. Yet, if this victory over the man who committed crimes against humanity in his own country, against the Kurds, but also against gas-masked Israeli children cowering in

bomb shelters, gave us some sense of justice, it could not temper our horror following the war in discovering our ally Kuwait's mass graves. With this discovery came the numbing realization that, in many parts of the world, the rule of law is far from a reality.

Though we cannot jump on the rule-of-law bandwagon, neither do we join the post-modernist rage for indeterminacy. Primo Levi wrote of National Socialist ideology—and I think it is also true of latter Pol Pots and Pinochets—that “all of them, teachers and pupils, have become progressively removed from reality, as little by little their morality came unglued from the morality common to all times and all civilizations—an integral part of our human heritage which in the end must be acknowledged.” For the next two days, through our broad spectrum of speakers, including prosecutors, jurists, human rights advocates, historians, and journalists, we will explore the question of accountability, pushing our understanding of the law further, and of the extent to which there can be said to be an enforceable morality to all times and in all civilizations. Thank you.