



Guido Calabresi was born in Milan, Italy, in 1932. He lived there until the age of seven, when his family fled from fascist Italy to the United States. Calabresi's father, a medical doctor and a professor of medicine, was active in an antifascist group and decided to leave with his young family after his associates were murdered in France by Mussolini's henchmen. An opportunity presented itself when he was offered a one-year fellowship at the Yale Medical School. The Calabresi family arrived in New York on September 16, 1939, and 55 years later—to the day—Calabresi was sworn in by Justice David Souter as a judge on the United States Court of Appeals for the Second Circuit.

GUIDO
CALABRESI

CHOICES

Calabresi graduated summa cum laude from Yale College with a degree in economics in 1953. He was afterward a Rhodes Scholar at Magdalen College, Oxford, where he earned a BA with First Class Honors in 1955. He then enrolled at Yale Law School and graduated at the top of his class in 1958. After graduation he clerked for the Honorable Hugo Black of the United States Supreme Court before returning to Yale as a professor. He later became the youngest tenured professor in the law school's history and was one of the founders of the law and economics movement. In 1985 Calabresi was appointed dean of the Yale Law School, a position he filled until his appointment to the federal bench by President Bill Clinton in 1994. He is generally regarded as one of the most influential deans in the history of Yale and in all of American legal academia in the latter part of the 20th century.

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GIANNI DE CONNO

IT IS A JOY to be here in this remarkable place and to tell you some stories—because those who know me know that I’m a storyteller and that I always tell stories about myself. I will tell these stories primarily to the graduates seated behind me, even though I’m looking at the rest of the audience. ✦ My stories today are about choices.

THE IMPACT OF A NON-CHOICE

My family left Italy because we were anti-fascists. My father was not simply a quiet antifascist like so many people and most of my relatives who stayed in Italy. He was an activist and a democrat with a small *d*, and he did not belong to any *-ism*, but he was an active antifascist and a danger. I always wondered how he chose to do that. The courage that must have taken! It was easy enough to oppose a government that was evil, but to go out and stake your life on it! How did that happen?

So I asked him, and he told me: “Guido, everybody talks about the banality of evil; very few people talk about the banality of good. How did I become an active antifascist? It was not a choice; it just happened.

“I was 22 years old and at the University of Florence. The fascists had kicked out the president of the university because he was tough and wouldn’t do what they wanted. They replaced him with a perfectly good person—a teacher of anatomy—who was very nice but not as strong. We were his students, and we went to his inaugural because we liked him. He gave a good speech, and we applauded.

“Then the fascist minister of education got up and gave a terrible speech. He said that everybody would do what they were told and that they weren’t allowed to think

It was an awful speech! In the middle he stopped, as politicians will, for applause.

“I didn’t applaud; there was nothing to applaud. I didn’t hiss or boo—we were all much too polite to do anything like that. I just didn’t applaud. Somebody behind me said that the next time he stopped we had better applaud because there were people in the back who were taking down the names of the people who were not applauding.

“I was 22 years old. If somebody had told me that if I went to this event and didn’t applaud that I’d get into trouble, I would have stayed home—or maybe I would have gone and applauded. But I hadn’t applauded, and now I was being told that I’d get into trouble if I didn’t applaud. I couldn’t do it. So I didn’t applaud, and when I went out they picked me up with three or four others, and they beat us up.”

I asked, “What did you do then?”

He said, “We went to wash in a fountain.”

And I asked, “Why?”

He said, “Well, in Italy one lived at home, and we didn’t want to go home bloody and scare our parents, so we went to wash.”

And I asked, “Why did you pick that public fountain? Did you want to show you had been beaten up?”

He replied, “No, no! I don’t think so. It was just the closest fountain. But the fascists thought that was what we were doing, that

we were showing we had been beaten up. So we were picked up again, beaten again, and tossed in jail. At that point I was a marked man; I was no longer a passive antifascist. I might as well do what was right.”

Fast-forward to 50 years ago and the March on Washington. I wanted to go; I cared passionately about integration, and I was planning to go. And then what we now don’t remember was how frightened we all became. There were bombings in Alabama, little children were killed, and Congress fled town. People got scared that it would become a riot and spawn horrible things. I had been married for just a couple of years and had a baby girl. I thought, “You don’t want to go down and get yourself beaten up or killed or something. There will be thousands of people.” I decided to stay home.

During the week I talked to my dad on the phone, as I did every week, and in the middle of our conversation he said, “Oh, by the way, this weekend I’m going down to Washington.”

I asked, “Why?”

He said, “I’m going to the march.”

I said, “But it may be dangerous!”

He said, “Well, I’m going anyway.”

I thought, “This old man (he was much younger than I am now) is going by himself.” Then I said, “I’ll go with you!”

My dad said, “I thought you would.”

And so we went. And so we marched. At that magnificent Sunday school picnic we marched together with all sorts of people from all over, and we heard Martin Luther King’s speech. And we came home. That non-choice has made a tremendous difference to my life in the same way my father’s non-choice had done to his.

THE IMPACT OF AN ACTIVE CHOICE

The second story is more dramatic. Fifty-two years ago—almost 53—on our wedding trip, my wife and I went to my father's mother's family house in Ferrara, Italy, in the north. The family house is a collection of buildings that date back to the 13th century. There are frescos of the vices and virtues with Christ in the center, painted in the main living room before 1370 by a pupil of Giotto. In the center below that is a 17th-century organ.

We walked in to see my father's cousin who owned the house. His wife was playing Bach on the organ. Can you imagine two young Americans arriving in a setting of that sort? We then went to dinner in the great dining room. There was just my father's cousin, his wife, and their daughter, who still lives in those buildings. Their son was away studying in Germany.

At that point my father's cousin handed me a letter and said, "Guido, you read German better than I; read this letter to us."

I thought that was strange because my German was not that good, and his German I knew to be quite good.

The letter began, "My dear little Minerbi family."

I thought, "That's strange. This is a very self-important group of people to be addressed as 'my dear little Minerbi.'"

The rest of the letter went on in the most patronizing of ways. It said, "I am so glad to have found you after all these years; I have opened up a butcher shop in Germany."

I asked, "Who is this butcher?" I wondered who was speaking to these very self-important, very wealthy people in this way. I looked around, and the people at the table looked as though they were smelling a very bad smell.

The end of the letter said, "I do hope that I may see you again."

My father's cousin said, "Good, we must tell Marco, our son, who is in Germany, to go call on this man and give him all our best." They were still looking as though they were smelling a bad smell. Obviously there was a story behind this, and obviously the reason he had made me read the letter was because he wanted to tell me the story.

So we went for a walk through the medieval parts of Ferrara, and I asked him what was up.

He said: "In 1943, when Italy surrendered, the Nazis moved in, and anyone who was of Jewish ancestry had to hide. Before that, things were not good, but they were all right. And as you know, our family is an ancient Jewish family, although we are now Catholic. But we had to go into hiding. We went to my wife's family's villa, since they were an old Catholic family, and we took assumed names, we faked papers, and we lived there in hiding.

"At a certain point the Germans took the villa over as a headquarters. It was an incredibly difficult situation, and the captain in charge of the German troops there was a dreadful, dreadful person. He would get drunk, and he would steal things. He would try to break the door down to my cousin's wife's sister's room to attack her. We had to do everything to protect ourselves. He was just terrible.

"One day my son, Marco, who was then four years old, was playing in the garden, and the German captain called to him by his assumed last name. My little boy had forgotten his assumed last name. So the German captain called him by that name again, and he forgot again. Then the German captain went and grabbed him by the shoulder and said, 'That is not your name!'

"And little Marco said, 'No!'

"The captain said, 'That is not your name because you're Jewish!'

"And little Marco said, 'Yes!' and broke away. He ran into the house, and we expected then to be taken away. But nothing happened. Nothing happened.

"This captain, who was so evil, risked his life in not telling on us, because if any of the other soldiers who were around had heard that exchange and he didn't turn us in, he would have been dead. But he risked his life and did not turn us in."

I'd like to tell you that the captain behaved better in other ways afterward. He didn't. But in that transcendental moment he made a choice—a choice that was saving, dramatic, and in some ways unexplainable. My cousin tried to find out if this captain had a Jewish relative or

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Jewish friends. None of those! He simply couldn't bring himself to do something that was so deeply wrong, even though he himself was so flawed. Of course, it was the captain who had written that letter, and that's why he was being patronizing. He knew he had saved them. That is why he, a butcher, could speak as he did. That is why my cousin and his family all looked as though they were smelling a smell. And that is why they also sent Marco, now a grown man, to give him their regards, because they knew that he had risked his life to save theirs.

THE IMPACT OF A BAD CHOICE

My last story about choices is one of an opposite choice. Many people, I must say myself included, think of Franklin Roosevelt as an extraordinary and, on a whole, very good person. And they think of Earl Warren in the same way: maybe limited as a legal scholar, but as a person for whom fairness was terribly important—a good person. And I certainly think of the United States Supreme Court Justice I clerked for, Hugo Black, as a person who is very courageous and very good. They were all very good. And yet they are the three people who are responsible as much as anybody for one of the worst choices that was made in our history: ordering Japanese Americans into internment camps during World War II. These men were behind it—Warren, as attorney general of California; Roosevelt, as the president who approved the order; and Black, who wrote the *Korematsu* opinion upholding it.

Now, it would be easy to say these weren't really good people who made such a terrible choice, but I think we would be fooling ourselves. They were good people—they were very good people—who in a dramatic situation made a terribly, terribly bad choice.

THE IMPACT OF YOUR CHOICES

What's the point of these stories? You "kids"—and I call everybody kids, including people who have been presidents of the United States (I'm that old, so I get away with it)—are about to go out into the world, and in the world you're going to be faced with an awful lot of choices. The first thing I would ask of you is to be aware of all the non-choices that may shape you. Be aware of those situations in which you don't even think you are choosing but in which if you decide not to applaud, if you decide to tell your son, "Oh, I'm going to Washington," if you decide to do all those things, then you are making choices that will shape you as you want to be shaped.

The second thing I would say is that no matter how good you feel about yourselves—and I hope you will feel good about yourselves, because I hope you will do many, many good things—beware that there are none so dirty as those who do not wash because they know they are clean. You know? You start to smell. Beware especially of when you feel you are good and are doing good; beware of choices that may face you that are really evil ones.

And then, most important of all, no matter how bad you feel about yourselves sometimes, no matter how much you feel that you are bad and are not living up to what you should, and no matter how much you feel you have failed, remember that you will be offered choices. Perhaps these choices will not be as dramatic as the one the captain was offered, not as transcendently changing, but you will be offered situations in which you can do something unexpectedly and truly good. And when you do that, you will not only do something that is extraordinarily important in itself, but you will also make your family, your friends, your teachers, your school, and your faith profoundly proud. Thank you.

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