The Museo de la Memoria y los Derechos Humanos (Museum of Memory and Human Rights) is a striking, contemporary building on the edge of downtown Santiago, Chile. Its simple rectangular form — glass, steel, and concrete sheathed in green metallic mesh — seems to hover over a sunken, open-air plaza that spans a city block.

As you approach the museum, walking down the gentle slope toward what is appropriately called “Memory Plaza,” you pass alongside the 30 articles of the United Nation’s Universal Declaration of Human Rights, engraved article-by-article on a concrete wall. Article 5 states that “no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.” The declaration frames the building as you arrive and confronts you again when you leave. The museum, located in Santiago’s gritty Barrio Yungay, is embedded in the cacophonous city but, with its compelling architecture, open spaces, and flowing water, encourages reflection. While very different in form and function, it has the haunting quality of the “Vietnam War Memorial” in Washington, D.C.

Upon entering the building, you are met with the words of President Michelle Bachelet, who inaugurated the museum in the final months of her presidency. “We cannot change our past, we can only learn from what we have lived. This is our opportunity and our challenge.” These words define the mission of the Museo de la Memoria: it was created to focus attention on the human rights horrors of Chile’s recent past and, thereby, to help ensure a democratic future.
The museum, which details the trauma of Chile’s bloody 1973 coup and the 17-year dictatorship that followed, proved to be an exceptional place to display 38 of the paintings and drawings from Fernando Botero’s Abu Ghraib collection on their first showing in South America. The exhibit, on loan from the University of California, Berkeley, opened on March 15, 2012 for a three-month run.

“The theme of human rights is universal,” commented the museum’s director, Ricardo Brodsky, in an interview about the exhibition with La Tercera, a major Chilean newspaper. “Through art, we can touch these same themes in a more open, modern, and rich way.”

Art proved to be a powerful window on critical issues: torture and institutions; the rule of law and democracy; and memory and human rights. Botero has said that great art is meant to provoke, and these works do just that. They draw you into their world and force you to confront your own. In the process, they touch the soul and engage the mind. The art raises critical questions: What circumstances led to these horrific events? What toll does torture extract on a democracy? How can human rights abuses be prevented in the future?

Botero is arguably the world’s best-known living artist, and he is particularly iconic in Latin America. David Ebony, the managing editor of Art in America magazine and a noted critic, called him “one of the world’s most significant artists,” noting that “Botero has managed to be profound and popular at the same time — not an easy feat.” Speaking at the presentation of the International Sculpture Center’s Lifetime Achievement Award to Botero in late October 2012, Ebony called him “one of the most courageous artists of our time,” recalling “as the stories and images of the atrocities and abuse of prisoners at the Abu Graib facility near Baghdad first came to light in 2004, I was stunned that most contemporary artists remained silent on the subject.”

Botero broke that silence with his graphic, brilliantly executed paintings and drawings about what took place. He spent 14 intense months creating this series, which Roberta Smith, The New York Times art critic, called “among Mr. Botero’s best work, and in an art world where responses to the Iraq war have been scarce — literal or obscure — they stand out.”

How did Berkeley become involved? After Botero completed the series, it was shown at prestigious museums across Europe to strong
reviews. Museums and galleries throughout the United States, however, passed on exhibiting the works. The Center for Latin American Studies organized the first showing at a U.S. public institution in January 2007 on the Berkeley campus, leading Botero to donate 60 paintings and drawings — virtually the entire Abu Ghraib collection — to UC Berkeley.

At the opening in Chile, visitors who had lost loved ones during the dictatorship or who themselves had been horrifically tortured were visibly moved by the art. Among them was Carolina Toha, who has since been elected mayor of Santiago. Her father, Salvador Allende’s vice president, was arrested, tortured, and murdered in the aftermath of the coup. A new generation was also in attendance. Young people, many of whom were born after the return to democracy, were also deeply impacted by the art.

The combination of great art, an iconic artist, and a new, path-breaking museum sparked intense interest and discussion throughout Chile as well as elsewhere in the Americas. It provoked a flurry of major media articles, radio discussions, television segments, tweets, and blog posts. The exhibit became a must-see event and sparked a national discussion on human rights, torture, and democratic
values. President Piñera visited the museum for the first time to see the exhibit.

At a small dinner held the evening before the opening, a Chilean professor mused about the major impact the exhibit was already having. All the excitement and attention stemmed from the fact that “it’s not about Chile,” he said, “but it is.” The art universalizes torture. Chileans and Latin Americans were horrified at what happened at Abu Ghraib, he reflected, and the fact the U.S. was involved made it all the easier to critique. Once the discussion about torture starts, however, it leads inexorably closer to home.

In a program at the museum the day after the opening, José Zalaquett, a professor of Law at the Universidad de Chile and co-director of its Human Rights Center, placed the discussion in historical context by describing art’s shifting representation of torture and war. He displayed slides of artworks from the Middle Ages that displayed gruesome images bearing a striking resemblance to the Abu Ghraib works, and he presented photos of contemporary horrors around the world. Eduardo Vio Grossi, a judge on the Inter-American Court of Human Rights, laid out a contemporary vision of the continued relevance of these issues in Latin America. Christopher Edley, dean of the Berkeley Law School, examined torture and the rule of law. Edley, who played a key role in bringing the art to Berkeley in the first place, has displayed four of the largest and most riveting paintings at the law school. They sit just outside the dean’s office in a major corridor between that office and the law library.

“Art offers the possibility of serving a need that law has failed to serve,” he said during the museum program in Santiago. “How can we be sure that we will continue to debate what is right and what is wrong? I believe that the answer lies, in part, in art. That is what Señor Botero has done for us.”

Harley Shaiken is the Class of 1930 Professor of Letters and Science and chair of the Center for Latin American Studies. He is a faculty member in the Graduate School of Education and the Department of Geography.
Dear Friends,

Unfortunately, I cannot be present at the opening of my Abu Ghraib exhibit at the Museum of Memory and Human Rights in Santiago, Chile. Due to several commitments this year, in which I am turning 80, it was not possible for me to attend this very important event. The day prior to the opening of the exhibit in Santiago, I am inaugurating another exposition, the largest of my life, at the Fine Arts Palace Museum in Mexico City. Thus, due to reasons beyond my control, I cannot be there with you this time.

However, I am glad to know that two great friends of mine are there on my behalf: scholars Harley Shaiken and Beatriz Manz, both professors at the University of California, Berkeley. What is more, I can say that to a great extent, I owe to them the wide publicity this collection has received in the United States. Harley and Beatriz knew about this series of paintings and drawings because it had already been exhibited at some European museums, but they also knew that it had been rejected by several American museums, which is why they decided to contact me and suggested presenting it at Berkeley. Delighted, I accepted, of course, and in that moment, they made the miracle happen. In only seven weeks, they were able to arrange the exhibit in the university’s facilities. The exhibit caused a significant impact and met with great interest, both on the part of the faculty as well as the students, because they all shared the same indignation that this atrocious news, that of the tortures in the Abu Ghraib prison, 32 kilometers away from Iraq’s capital city, had generated everywhere.

In reality, the main reason for my anger, and that of the civilized world, was that this outrageous event was not limited to an isolated case of a perverse and corrupt vigilante group, committing atrocious crimes unknown to their superiors, but something much more complex. Everything seemed to indicate that the world power that presented itself as the guardian of dignity and human rights had orchestrated a system of abuses from the highest echelons of power. Even though American troops had invaded the country under the pretext of freeing the nation from Saddam Hussein’s tyranny, they had ended up torturing the Iraqi people in the same prison where Hussein had tortured his fellow citizens. Without a shadow of a doubt, it was precisely this hypocrisy and double standard that led me to paint these pieces. The basis for my information was Seymour Hersh’s article, which I read in The New Yorker, as well as other European publications, and these readings gave me the energy, which stemmed from anger, to work on these paintings later.

Finally, thanks to my friendship with Harley and Beatriz, and due to the fact that the University of California, Berkeley, was the first place where I could exhibit this series in the United States, I decided to donate the collection to this institution’s prestigious museum. That is where these paintings are now and where they will be forever, and I am glad they have been left in good hands.

Thank you very much,
Fernando Botero
Art and Law in a Time of Torture

by Christopher Edley

The following is an edited transcript of Dean Edley’s talk at the opening of an exhibit of Fernando Botero’s Abu Ghraib series of paintings and drawings at Chile’s Museo de la Memoria.

It’s a privilege to be here representing Berkeley. We are so proud that Señor Botero gave us these paintings and the honor of stewardship for decades, and we hope centuries, to come. Let me make three brief points. First, a little something about God. When I was studying for my confirmation — I was about 11 or 12 years old — I had a bit of an argument with the minister. I said to him: “You say that God made man in His image.”

He said, “Yes.”

“And God is perfect.”

“Yes.”

“But man is not perfect. Can you explain that?” So he called my parents and complained that I asked too many questions.

Forty thousand years of religion have not managed to remove evil from humanity. In a sense, it is not surprising, then, that 4,000 years of law have failed to remove evil or even prevent its consequences. And too often, law even fails to punish it. But my law school was excited to be able to support the Botero exhibition at Berkeley and to support this show here in Santiago. It’s because of that old saying, “If you have a hammer, every problem you see looks like a nail.”

So when I took a helicopter ride into the Andes and saw the retreating glacier, I thought, “Law could do something about this. We need law to tackle the problem of climate change.”

When I study the inequalities in schools, I think that law can play a role in helping to address these problems of inequality, injustice. When I first saw the images of Botero, I thought, “Here is law that has failed. It has failed to protect, and it has failed to teach the basic morality that underlies human rights.” To me as a lawyer, the images show what happens in the moral void created when we have no law. And it is for this reason that my law school has supported this exhibit, and it is for this reason that we will be displaying four of the Botero paintings on a permanent basis at my law school. Hopefully those images will haunt and instruct law students for generations to come.

So God did not make us perfect in his image. Religion has not cured us. Law has not cured us. But both religion and law help us to try to overcome and grapple with the evil within us.

The second point I want to make is that as important as law is, it is deeply flawed in certain respects. There is an internal tension, an inherent and internal incoherence, that makes law imperfect, which of course is to be expected given who creates it. There are three basic ways to think about the realms of law: One is that law can create what we call “rules of the road.” The law says that green means go and red means stop, and we find this very convenient because it helps order society. Law also plays that function in business. The law helps structure the way businesses interact with each other.

Law also plays a role in deterrence and in punishment. That is obvious, and I won’t belabor this point, but this, too, is an effort to create order. If the laws are legitimate in the political sense and in the moral sense, then this legal ordering is all to the good of society.

But the third role of law is actually to teach. For example, during the Civil Rights Movement in the United States, when Martin Luther King, Jr. and many others argued that the Congress should enact antidiscrimination statutes, many people objected and said, “We can’t legislate morality.” Well, to a lawyer that’s just wrong, because law has a pedagogical function. You can pass an antidiscrimination statute, and you can pass an anti-torture statute. Even if it is not welcomed immediately and accepted by the general public, over time, such laws can stand as instruction, perhaps even as a beacon, so that people grow to understand the normative impulse, and it begins to help order society. In that sense, you are legislating morality through a process of instruction and an inculcation of higher values, higher social aspirations.

So those are the three functions of law, and yet when we go to apply the law and live under the law, a lot of problems arise. For example, it is part of the discipline of law to try to make everything as complicated as possible. This is how lawyers manage to be fully employed and why we can charge such high fees — because we are experts at complicating.

You say that torture is illegal. So let me ask you: At what point does degradation become torture? Does it require physical pain? Is there a distinction between abuse and torture? Are all forms of abuse torture? Are there gradations of torture and circumstances in which some forms of torture may be permissible? I could go on for days about how complicated this simple proposition is — that torture is illegal. That is my disability as a lawyer.

The interesting point I want to emphasize is that law tries to reflect morality, but law is not really driven by the same kind of calculus as moral discourse. Law is informed by moral discourse, but it has its own rules of argument, its
own rules of evidence. And for that reason, law alone can never do the job we fully want in a moral sense. In some respects, I am offering an excuse for my profession and discipline, an excuse for the law. But I am also stating this as a challenge. We make a serious mistake if we expect too much of the law, just as we make a serious mistake if we expect that the traffic lights, the traffic laws, will protect us from all automobile-related injuries. The law is not enough.

The third point I want to make is a bit more complicated. During the presidential transition in the U.S. in 2008, I was among a small group of people who were responsible for helping President Obama plan the beginning of his administration. Although my responsibility was to worry about health care, immigration, and education, when his board of advisors was meeting and the principal national security advisor was talking about her team’s priorities for the first two months of the administration, I raised a question. I asked: “Well, tell me, what are you planning in the way of investigation or prosecution of Bush administration officials with regard to issues of torture and abuses of human rights?”

And she said in response: “We are not going to do that. We are not going to go on a witch hunt.”

I said: “Well, I am not interested in a witch hunt either, but I am interested in the rule of law.” If we don’t explore both the facts of what happened and the legality and morality of what happened, if we don’t debate where to draw the lines, then how will we learn for the future? Even if no one ends up going to prison, it’s important for the American people to know, to understand, to argue. But this was a very smart and savvy group of advisors. We all understood the legal argument, but also the stakes in terms of partisan politics and morale in the national security agencies. Not surprisingly, the group quickly went on to talk about the budget and the economy.

So, when I look at the Botero paintings… I realize that here is a respect in which art offers the possibility of serving a need that law has failed to serve. Because we have not applied the rule of law to the full extent, I believe, we should have. Therefore, how can we be sure that we will remember? How can we be sure that we will continue to debate what is right and what is wrong? I believe that the answer lies in part in art. That is what Señor Botero has done for us. That’s what he’s done for my university and my law school. And I will be eternally grateful.

Christopher Edley is The Honorable William H. Orrick, Jr. Distinguished Chair and Dean of the Berkeley Law School. He spoke for CLAS at the Museo de la Memoria in Santiago, Chile, on March 16, 2012. He has since installed four of the Abu Ghraib paintings in a highly visible corridor of the law school, between the Dean’s Office and the library.