DE GRUYTER OPEN

DOI: 10.1515/tfd-2017-0023

THE FEDERALIST DEBATE
Year XXX, N° 2, July 2017

Interview

The Reckoning: The Battle for the International Criminal Court

Interview with Ben Ferencz

It does not often occur to have the chance to meet a man who holds a place in history like Ben Ferencz. He's 97 years old and is the last Nuremberg prosecutor alive today. When he was a 27-year-old lawyer he served at the Nuremberg Tribunal where 22 German war criminals were put on trial for murdering over a million men, women and children shot down in cold blood during World War II. But he does not confine himself to be proud of the role he played in 20th century history. He talks about his passion to end war in this world, his role in the development of international justice and why every country – including the United States – needs to be subject to the rule of law.

Do you think the Nuremberg Trials avenged the Nazi victims?

Ben Ferencz: You never can avenge – and it never was our goal to avenge – their victims. When I considered something similar to that question – what do I ask for? – I didn't ask for the death penalty, because it seemed to me there was no way in the world that I could balance the murder of over a million people with the lives of 22 defendants. Would I suggest they be chopped into a million pieces and hung on the chandelier of all the victims' survivors?

So I asked the court to affirm, by international law, the right of all human beings to live in peace and dignity. Because the reason these people were killed was because they didn't share the race or the ideology of their executioners. And I thought that was a horrible thing – and I still do. So I simply asked for a new rule of law, which would protect humankind against that type of criminal abuse.

You seem to get emotional when you talk about that and the victims.

B.F.: Well, it is very emotional – and, of course, I get flashbacks of specific scenes that I – I have witnessed these atrocities very close. Because as a liberator of many concentration camps – beginning in Buchenwald, and Mauthausen, and going on through ... that was my job, toward the end of the war – to get into those camps and collect the evidence for military-commission trials, which we had in mind at the time.

I saw the crematoria going, with the bodies in them; I saw the dead bodies all over the place. I experienced the horrors of war itself. And I have come to the conclusion there's only one answer to this: We must stop war making.

You have a great sense of humor. How do you approach such serious subjects?

B.F.: It's very simple. If you are crying on the inside, you better be laughing on the outside, or you'll drown in tears. [Pause] That's it.

Over the years, what was your continuing role in the development of international justice?

B.F.: My vision was very clear: I wanted to create a more humane and peaceful world. Being a lawyer, I believed that law was the

way to do that, and my slogan was that: Law is better than war. It seemed to me very simple. And if people shared that vision – if you can call it a vision – it seemed to me common sense: If people agreed with me that law was better than war, then what they should do is stop glorifying war and do everything they can to uphold and support and build up the rule of law. And I know how easy it is to add up a million people murdered and butchered. So my goal is to create a more humane world – that's all there is to it.

Are the U.S. fears of criminal persecution warranted? Could Americans face trial in the ICC?

B.F.: If any country violates the law, they should be tried – whether it be the United States or Israel or Egypt or China or anybody else. That's what law means: You lay down the rule, and those who violate the law are held accountable. Those who don't want to be held accountable are opposed to the rule of law.

That brings us back to [the] Wild West. We had [the] Wild West in this country – we went away from it. We have [the] Wild West internationally today. Look at the world that we have! Is this the kind of world you want? If you want it, fine – you've got it. I think it's terrible. That's why our young people are dying today in different parts of the world – because we have failed them, failed to build the institutions that we need in order to create a peaceful world. And it can be done! It can be done. Don't tell me that we don't have the intelligence to organize this planet in such a way that its resources can be shared equitably, to eliminate the causes of discontent which drive people to kill and be killed for their own particular causes.

How do you avoid war? No one's ever avoided war before. Well, no one has ever invented anything which was invented for the first time: We never landed on the moon before; we never flew with airplanes before; we never had the Internet before. We have all these things – miraculous. What's so difficult about organizing our affairs so you don't have to go out and kill somebody because he's different? People are entitled to their religion and their nationalism, but they're not entitled to kill their neighbors because they're different. They're not entitled to do that, and they shouldn't be entitled. And they should know that those who preach such policies will be brought to the rule of law. There's nothing difficult about that – it's just common sense. So use your common sense. Be courageous. Don't adopt the propaganda that's handed out to you all the time, by all governments. Challenge it. Look at it and ask yourself, isn't there a better way?

How would you ask young people to carry on the work that you started 60 years ago?

B.F.: When I went to school, there was no such thing as human rights law – humanitarian law didn't exist. I knew the man who invented it – René Cassin. He won a Nobel Prize for that. There was no such thing as genocide, the crime of genocide – nobody [had] ever heard the word. I knew Raphael Lemkin[1] – the man who invented that.

So, I have seen these changes coming in our lifetime. It's a long life – I'm in my 97th year – but it's very short. It's a blink in the eye of time – of historical time. We need several generations to continue working on it. And I hope someone will pick up this torch when it slips from my hand, which may be soon. So it can be done, and we should never be defeatist and say it can't be done. It's so obviously correct that law is better than war – and that it's better to live in peace, with human rights, than to live in war, killing people whom you don't even know.

[1] http://www.pbs.org/pov/discoveringdominga/excerpt-a-word-is-a-word-is-a-word