

STATEMENT OF BENJAMIN B. FERENCZ

Background

1. My name is Benjamin Berell Ferencz. I am over the age of 18 years old and competent to make a statement.
2. I am the sole surviving prosecutor from the Trial of War Criminals before the Nuremberg Military Tribunals ("Nuremberg Trials"). I was Chief Prosecutor at the *Einsatzgruppen* Trial of 1947-1948, in which 24 senior leaders of the *Einsatzgruppen* (death squads of Nazi Germany responsible for mass killings during World War II) were charged with crimes against humanity, war crimes, and membership in the *Schutzstaffel* ("SS"), the paramilitary organization under Adolf Hitler and the National Socialist German Workers' Party ("Nazi"), which had been declared a criminal organization. The *Einsatzgruppen* Trial was referred to in the press as the biggest murder trial in history.
3. I witnessed firsthand the horrors of World War II as an investigator of war crimes at the headquarters of General Patton's Third Army, before later participating in the Nuremberg trials.
4. Following Nuremberg, I worked on the setting up of reparations and rehabilitation programs in Germany for the victims of Nazi persecution. I assisted with the negotiations leading to the 1952 Reparations Agreement between Israel and West Germany, as well as the German Reparations Law of 1953. I returned to the United States in 1956 and practiced law privately as the law partner of former General Telford Taylor, who had served under Justice Robert H. Jackson at Nuremberg and who was responsible for overseeing the Subsequent Proceedings at Nuremberg.
5. I have dedicated my career to the promotion of international criminal law and the development of the rule of law as a deterrent to illegal war-making. In that vein, I worked for years on the establishment of the International Criminal Court. I have published extensively and am considered an expert on the topic of international criminal law.
6. The many awards I have received include the insignia of the French Legion of Honor; the highest civilian medal of honor from Germany; the Erasmus Prize from the Netherlands; and the Medal of Freedom from Harvard Law School, where I obtained my law degree in 1943.

Statement

7. In 2016, on the occasion of the 70th anniversary of the Nuremberg Trials, the world hailed the precedent set by the United States. The perpetrators of the crimes committed during one of the worst wars the world has ever known, were held

accountable in a court of law. The United States was represented by one of its most respected legal leaders, Supreme Court Justice Robert H. Jackson, and the conclusions of fact and law founded by the Nuremberg trials established the reputation of the United States as guardians of the rule of law.

8. The guiding principle of the Nuremberg trials was that every defendant was entitled to absolutely fair trials. We worked hard to avoid falsification of evidence or torture of the defendants because as lawyers, we wanted nothing to taint these historic trials. We also ensured that the defendants had access to their lawyers and were given all evidence against them well in advance of their trials in order to mount proper defenses.
9. From my understanding, it appears to me that there is very limited comparison between the fair trial procedures which were applied at Nuremberg trials compared with the current military commission being convened at Guantanamo Bay. For example, evidence tainted by torture was certainly not utilized in the prosecutions at Nuremberg. Defense counsel were certainly not prevented from seeing their clients or accessing evidence against them. Though some criticized Nuremberg as a case of "victor's justice", there were never allegations that the trials were procedurally unfair or that the defendants' rights were violated, as they certainly would have been had torture been used as a means of procuring evidence against them.
10. Allegations with respect to detainee abuses and prolonged lack of access to legal counsel, as well as other deviations from internationally accepted fair trial and due process practices and standards have made the Guantanamo military commissions appear suspect in the eyes of much of the world. For many, the very word "Guantanamo" has become synonymous with prisoner abuse and justice delayed, if not entirely denied. It would be a great tragedy if the goodwill generated by the United States at Nuremberg and by its subsequent leadership in international law were to be undermined by abuse of prisoners at Guantanamo (or elsewhere) or by any other practices or procedures which may fail to comport with internationally accepted standards. For proceedings to be perceived as just, they must not only be just, but they must also *appear* to be just.

I respectfully declare that the foregoing is true under penalty of perjury under the laws of the United States of America.

Dated this 15th day of April, 2017



Benjamin B. Ferencz
Former Nuremberg Prosecutor and Peace Advocate