

Benjamin Ferencz, last surviving Nuremberg war crimes prosecutor, dead at 103

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Benjamin Ferencz, the last living prosecutor of the Nuremberg trials that convicted Nazis of war crimes after World War II, died on April 7 at the age of 103.

Ferencz had been residing in an assisted living facility in Boynton Beach, Florida and his son, Donald Ferencz, confirmed his death. The son described his father as someone who dedicated his life to "trying to make it a more humane world under the rule of law."

Born in 1920 in Transylvania, a region of central Romania, Ferencz emigrated with his family to the US as a child and was raised in the Hell's Kitchen neighborhood on the west side of Manhattan. After graduating from City College in 1940 and Harvard Law School in 1943, Ferencz served in the US Army as a war-crimes investigator at the Nazi concentration camps at Buchenwald, Mauthausen and Dachau.

Ferencz would later describe his experience entering the death camp at Buchenwald, "I saw crematoria still going. The bodies starved, lying dying, on the ground. I've seen the horrors of war more than can be adequately described."

At Mauthausen, Ferencz found documents maintained by the Nazis that recorded the number and manner of prisoners killed each day, on starvation rations and on the shocking conditions in the lice-infested barracks. He wrote of the camps, "There is no doubt that I was indelibly traumatized by my experiences as a war crimes investigator of Nazi extermination centers. I still try not to talk or think about the details."

Ferencz's most significant and historic accomplishment was his work as a chief prosecutor in the Einsatzgruppen case at Nuremberg, Germany from September 29, 1947 to April 10, 1948. The ninth of twelve Nuremberg trials prosecuted 24 defendants and established the principle that individuals could be held accountable for war crimes, regardless of their official positions.

Einsatzgruppen (Operational Groups) were SS (Schutzstaffel) paramilitary mobile death squads that roamed behind the front lines of Nazi-occupied Eastern Europe. From 1941-1945, the Einsatzgruppen murdered an estimated 2 million people including Jews, Romani, partisans, Soviet prisoners of war, Slavs, homosexuals and people with disabilities.

The scope and scale of the barbarity meted out by these gangs of approximately 3,000 murderers, aided by local police and

other authorities, is difficult to comprehend. On September 29 and 30, 1941, the Einsatzgruppen killed 33,771 Jews at Babi Yar, a ravine in the Ukrainian capital of Kyiv. This slaughter has been called the largest single massacre of the Holocaust.

The Einsatzgruppen typically operated by shooting their victims and burying them in mass graves. They also used gas vans to kill people in some locations. The mass murder carried out by the Einsatzgruppen was a key part of the Nazi regime's "Final Solution" strategy, i.e., the systematic extermination of European Jews.

Ferencz charged the defendants, who were all commanders of Einsatzgruppen units, with war crimes, crimes against humanity and membership in criminal organizations. In his opening statement in 1947, Ferencz said, "Vengeance is not our goal, nor do we seek merely a just retribution. The case we present is a plea of humanity to law." The Nazi defendants were all found guilty on all counts but two.

The Nuremberg trial judgement said: "The defendants are not simply accused of planning or directing wholesale killings through channels. They are not charged with sitting in an office hundreds and thousands of miles away from the slaughter. It is asserted with particularity that these men were in the field actively superintending, controlling, directing, and taking an active part in the bloody harvest."

Fourteen were sentenced to death and the others were given prison sentences of 10, 20 or life. In the end, four were executed by hanging and many of the others were out of prison by the early 1950s. They had all been released by 1958.

In the postwar decades, Ferencz spent much of his time working on the establishment of an international criminal court that would be dedicated to preventing war crimes and crimes against humanity by holding responsible those who commit them. He published several books, including *Defining International Aggression: The Search for World Peace* in 1975, and worked as an adjunct professor of international law at Pace University in White Plains, New York.

Although the International Criminal Court in the Hague, Netherlands was established on July 1, 2002, it was never fully endorsed by the US government as well as five other governments including Russia, China and Israel.

Ferencz publicly opposed the US war in Iraq that began on

March 20, 2003. Upholding the principles of Nuremberg before the war, he wrote in a letter to the *New York Times* in 2002 that the plans of the Bush administration for “a preemptive military strike [on Iraq] not authorized by the Security Council would clearly violate the UN Charter that legally binds all nations.”

In March 2003, just as the invasion of Iraq was starting, Ferencz gave remarks at the opening of the International Criminal Court in which he said that the United Nations charter is “international law binding on all nations. We owe it to the memory of the dead to honor these commitments to peace.”

In a radio interview in December 2003, Ferencz said the US invasion of Iraq “would also qualify under the Nuremberg principles as a violation of international law. ... If you’re going to have that kind of a factual situation as we have in Iraq, I think the first trial should be a trial which is absolutely fair and should include all the principal perpetrators and planners of the crimes which occurred.”

Ferencz agreed with and remained a steadfast proponent throughout his life of the opening remarks of Robert Jackson, chief justice of the Nuremberg tribunal, who said: “If certain acts of violation of treaties are crimes, they are crimes whether the United States does them or whether Germany does them. And we are not prepared to lay down the rule of criminal conduct against others which we would not be willing to have invoked against us. We must never forget that the record on which we judge these defendants is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our own lips as well.”

The fact that Ferencz believed the top officials of the Bush administration—which included Vice President Dick Cheney, Secretary of Defense Donald Rumsfeld, Secretary of State Colin Powell, National Security Advisor Condoleezza Rice and President George W. Bush himself—should be prosecuted for the illegal aggressive war against Iraq has been sanitized from numerous obituaries of the former Nuremberg prosecutor published by the corporate media since his death.

For example, as pointed out by the *Intercept*, the *New York Times* published a lengthy obituary on April 8 that “somehow includes the sentence, ‘Critics say the [International Criminal Court] has focused on prosecutions in Africa while American wars have not even been investigated,’ without mentioning that one of the most vociferous critics of this was Ferencz.”

The same is true of the *Washington Post*, BBC, CNN, NPR, CBS, *Bloomberg*, the *New York Daily News*, the *Guardian*, AP, UPI, the *New York Post* and the *Daily Mail*. Many of these publications omitted Ferencz’s views on Iraq while, at the same time, only made reference to his statements regarding atrocities committed in the Ukraine war.

The erasure of Ferencz’s opposition to the illegal occupation of Iraq and overthrow of the regime of Saddam Hussein is not accidental. The journalists and editors of the corporate media are responsible for maintaining a false narrative about the wars conducted in the drive for American global hegemony, which

today threaten the world with nuclear annihilation.

The *World Socialist Web Site*, however, has a spotless record of telling the truth about the crimes of US imperialism over the past three decades. In October 2004, David North, chairman of the international editorial board of the WSWS, gave a speech at the annual debate of The Philosophical Society of Trinity College in Dublin.

In his remarks, North denounced the war in Iraq and said, “Inevitably, the criminal decision to go to war against Iraq has led to further crimes, such as the brutalization of Iraqi citizens at Abu Ghraib prison. Under international law, the authors of the Iraq war are fully culpable for the sick, sadistic and perverted abuse of Iraqi citizens.

“There is another critical aspect of international law, arising out of Nuremberg, that is highly relevant in judging the legal culpability of the American decision makers responsible for the war against Iraq. A crime against peace is a criminal act. But the crime is not completed unless it is accompanied by criminal consciousness. It must be established that there was an intent to undertake an aggressive war.

“When legal proceedings on the Iraq war are finally held—and that day will come—it will be possible to demonstrate that the war in Iraq was planned and implemented by high officials in the American state for the purpose of achieving long-term geo-strategic political, economic, and military objectives entirely unrelated to the bogus self-defense arguments that were later concocted to provide some legal cover, however threadbare.”



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