



Tom Hofmann. *Benjamin Ferencz, Nuremberg Prosecutor and Peace Advocate.* Jefferson: McFarland, 2013. Illustrations. 284 pp. \$45.00, paper, ISBN 978-1-4766-0363-6.

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Commissioned by Charles L. Zelden (Nova Southeastern University)

Benjamin Ferencz had and continues to have an extraordinary legal career.[1] Maybe his most famous moment came when he was just twenty-seven years old and he served as chief prosecutor in Nuremberg at one of the greatest murder trials in history. The twenty-two men sitting in the dock, leaders of the infamous Einsatzgruppen, stood accused of the murder of at least one million persons in Eastern Europe.[2] Today sixty-six years after Tribunal Number Nine pronounced fourteen death sentences, Ferencz, in his nineties, is still engaged with the further development of international law.

Tom Hofmann has crafted an intimate biography that considers the life and professional career of the prosecutor before, during, and after the trial. In the introduction, Hofmann states that this book “tells the story of Ferencz’s experiences, the people he interacted with, and the results of these interactions” (p. 1). The book fulfills its stated purpose. It tracks Ferencz from the time of his birth in Romania (Transylvania) to his childhood in New York. The reader learns about Ferencz’s high school and college years. There is a good section of chapter 1 devoted to Ferencz’s time at Harvard Law School that mentions the luminaries who taught him there as well as the critical reading he did on war crimes as a research assistant for Professor Sheldon Gleuck.

In chapter 3, Hofmann follows Ferencz from law school in Boston to World War Two in Western Europe. The reader learns that as a supply clerk for the 115th AAA Battalion, Ferencz did not use his Harvard training much. However, this changed in December 1944 when he was transferred to Patton’s Third Army’s Judge Advocate Section. The text does a good job at recounting how Ferencz initially became involved as an investigator of war crimes committed against American soldiers and airmen. As the U.S. Army liberated Buchenwald, Dachau, Flossenbürg, Mauthausen, and Ohrdruf, he was sent to secure evidence of war crimes for what would become the Nuremberg trials. While the text mentions that Ferencz worked at gathering evidence for the Dachau trials in the fall of 1945, it leaves the reader wondering exactly what this task entailed.

Hofmann, whose wife’s brother was Ferencz’s lifelong best friend, provides a number of interesting family anecdotes in the biography, some of which might be considered as personal interest stories, rather than standard legal and/or historical analysis. For example, the author tells about the time when both Ferencz and his wife had to parachute down to East Berlin because the U.S. Army airplane carrying them experienced engine trouble. A more relevant story—in terms of its considerable legal significance—concerns Fred Burin’s

discovery at the Berlin Documentation Center in Dahlem of the daily reports of the activities of the Einsatzgruppen. These signed reports provided irrefutable proof concerning how many persons each unit murdered and who commanded the troops carrying out the genocidal orders. When Ferencz brought this critical evidence to the attention of Telford Taylor, Hofmann notes, General Taylor made the decision to hold one additional war crimes trial dedicated exclusively to punishing the commanders of these murder brigades.

In chapter 8, the book does a good job at introducing the general reader to the Einsatzgruppen trial and Ferencz's role as chief prosecutor. It mentions the critical role that the documents from the Berlin Documentation Center played. As well the reader is introduced to Judge Michael Musmanno and his famous Penguin Rule regarding the admission of evidence. For more detailed information specifically on the trial and its defendants, one might wish to consult Hilary Earl's very thorough text, *The Nuremberg SS-Einsatzgruppen Trial, 1945-1958: Atrocity, Law and History* (2009).

Hofmann's book, pursuant to its aims, tracks Ferencz's career after the verdict and sentencing. In chapter 9, Hoffman explains how Ferencz managed and organized the claims of the Jewish community in Germany for the restitution of the property confiscated by the Nazi regime. The text recounts that Ferencz served as a legal advisor at the Conference on Jewish Material Claims against Germany. It notes that he was present in Luxembourg, in fact Konrad Adenauer used Ferencz's pen, when the chancellor on behalf of the Federal Republic of Germany signed the treaty in 1952 with Israel providing reparations for victims of the Holocaust.

In part 2 of the text, which is considerably shorter than part 1, Hofmann considers the life of Ferencz after he returned to the United States and started working in private practice. Hofmann tells the reader that "much of his practice revolved

around weak cases that were morally justifiable" (p. 180). The reader might wish to hear more on this topic and how this assertion can be substantiated through specific examples of cases. It is interesting to learn that for a number of years Ferencz's law partner was Taylor. Hofmann emphasizes that during Ferencz's time in private practice, he continued to work on claims by victims of the Holocaust for reparations. This work culminated with Ferencz's critical book published with Harvard University Press on this topic, *Less than Slaves: Jewish Forced Labor and the Quest for Compensation* (1979).[3] Hofmann shows that Ferencz's efforts were not limited to Jewish restitution claims. The prosecutor from Nuremberg also successfully represented a claim by Polish Catholic women who had been victims of medical experiments at Ravensbrück.

The final two chapters look at the lawyer in "semi-retirement." It illustrates that Ferencz has been devoting his intellectual skills and energies to public speaking, writing law journal articles and books, and teaching.[4] Hofmann correctly emphasizes Ferencz's tireless advocacy on behalf of the creation of an International Criminal Court. At the Rome Conference in 1998 Ferencz delivered an opening address to the delegates coming to draft the treaty. This speech is reproduced in the introduction to the book. In the last few pages, Hofmann considers the lawyer's life today and his work for his PlanetHood Foundation, which promotes "replacing the law of force with the force of law" (p. 230). A critical Internet site related to Ferencz's current work and the biography by Hofmann is found at <http://www.benferencz.org>. There one finds information that sometimes covers similar ground to the contents of Hofmann's book at the link called "Benny Stories." As well, some of the stories of Ferencz's life are covered in another text that should be mentioned, Heikelina Verrijn Stuart and Marlise Simons's *The Prosecutor and the Judge: Benjamin Ferencz and Antonio Cassese, Interviews and Writings* (2009).[5]

There is no question that Hofmann has done considerable research both in terms of personal interviews and archival work. However, the chapter notes found on pages 258 to 262 are thin and the bibliography confines itself almost exclusively to Ferencz's books and papers. Hofmann often employs a nonstandard format for documentation. Nonetheless, there is a fine appendix to the book that lists in considerable detail the archival holdings of the U.S. Holocaust Museum related to Ferencz. This appendix will be very helpful for any researcher who wishes to delve further into Ferencz's life, the Einsatzgruppen trial, or Holocaust-related property, as well as restitution and reparations claims. Hofmann also provides a number of critical speeches made by Ferencz. About forty photographs punctuate the text and a creative use is made of excerpts of letters from Ferencz to his wife.

Hofmann's book certainly is accessible and directed to the general reader. Any library with critical holdings on war crimes or international law should be interested in securing a copy because the book succeeds in connecting the reader with the biography of a critical jurist in relation to the development of international humanitarian law. For scholars who have done research on war crimes, this biography provides a number of anecdotes, contexts, and details one normally does not get from more traditional law journal articles, treatises, or monographs.

Notes

[1]. The review title comes from page 6 of the book under review. It is quoted directly from the opening statement of Ferencz in the Einsatzgruppen case. See Benjamin B. Ferencz, "Ferencz Opening Statement at Nuremburg," *Trial of the Major War Criminals, Nuremburg*, vol. 4, 1947, 494, <http://www.benferencz.org/index.php?id=4&article=96>.

[2]. The indictment listed twenty-four defendants. The defendant Emil Haussmann "committed suicide before the arraignment" and the de-

fendant Erich Naumann was "removed from trial on February 5, 1948, due to medical reasons" (p. 145). At the time of sentencing, there were twenty-two defendants left in the dock.

[3]. This text, with "a retrospective evaluation" by Ferencz, was reprinted in 2002 by Indiana University Press in association with the United States Holocaust Museum.

[4]. A number of critical books include the following: Benjamin Ferencz, *Defining International Aggression, the Search for World Peace: A Documentary History and Analysis* (Dobbs Ferry: Oceana Publications, 1975); Benjamin Ferencz, *An International Criminal Court, a Step toward World Peace: A Documentary History and Analysis* (Dobbs Ferry: Oceana Publications, 1980); Benjamin Ferencz, *Enforcing International Law, a Way to World Peace: A Documentary History and Analysis* (New York: Oceana Publications, 1983); and Benjamin Ferencz, *A Common Sense Guide to World Peace* (New York: Oceana Publications, 1985).

[5]. Stuart and Simons wrote this book upon the occasion of Ferencz and Cassese winning the Erasmus Peace Prize in 2009. Hofmann's text contains a discussion of the prize and a photograph of Ferencz with the Dutch Royal family.

If there is additional discussion of this review, you may access it through the network, at <https://networks.h-net.org/h-law>

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