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## **At The Hague, Ferencz Defends The Nuremberg Principles and the Rule of Law**

### **REMARKS BY BENJAMIN B. FERENCZ March 11, 2003**

I have come to pay tribute to the Dutch government and to the many nations, organizations and individuals who have joined in creating the International Criminal Court. I regret that the United States is not among them. I come not to defend against an imaginary assault by the United States but to defend the rule of law as epitomized by the four international courts now established in The Hague.

Nearly sixty years ago, wearing the uniform of the United States army, I landed on the beaches of Normandy to fight for freedom and justice. I have seen horrors and devastation beyond human imagination. At Nuremberg, as a war crimes prosecutor for the United States, I peered into the remorseless eyes of mass murderers who deliberately slaughtered over a million innocent men, women and children. The victims were killed simply because they did not share the religion, race or ideology of their executioners. From this trauma came a relentless determination to strive for a rule of law where all could live in peace and human dignity, regardless of their race or creed.

After some forty million people had been killed in World War II, the victorious powers, led by the United States, agreed upon new rules "to save succeeding generations from the scourge of war." The use of armed force was specifically outlawed, except in self-defense against an armed attack, or when mandated by the Security Council. These Charter provisions became, and remain, international law binding on all nations. We owe it to the memory of the dead to honor these commitments to peace.

In addition, certain binding legal principles, affirmed unanimously by the UN, emerged from the Nuremberg trials. Innocent civilians would be spared. Only leaders who were found guilty after a fair trial would be held responsible. Aggression, genocide, war atrocities and crimes against humanity would never again be allowed to go unpunished. It was made absolutely clear that law must apply equally to everyone. Putting the captive enemies on trial was seen by America's Chief Prosecutor, Justice Robert Jackson, as "the greatest tribute that power has ever paid to reason." His successor General Telford Taylor, my chief and later law partner, was more succinct: "Law is not a one-way street."

The current leadership in the United States seems to have forgotten the lessons we tried to teach the rest of the world. As Germans learned to their sorrow during

the Nazi period, accepting the doctrine "My country right or wrong" is a recipe for disaster. The true patriot will support his country when it is right and have the courage to stand up and help it find the right path when it has gone astray.

The reasons given by the United States to oppose the ICC are not shared by other nations and are not persuasive. The public should be told the truth. There are more controls on the ICC prosecutor than on any other prosecutor in human history. The ICC provides more protection of human rights than contained in the US Constitution. No person and no nation has a sovereign right to commit genocide or crimes against humanity. The innocent need never fear the rule of law. American Bar Associations and leading jurists all agree that it is in the interests of the United States to accept the International Criminal Court. In a democracy, sovereignty belongs to the people and is not impaired by accepting rules of the road that benefit everyone. Opinion polls show that most Americans support the ICC and the rule of law. The government should heed the voice of the people.

America is a great democracy and it is inevitable that there will be honest differences of opinion. Some believe only in the law of force. They are the realists who have given us this world filled with fear. They are trying hard to kill the ICC, by fair means or foul. Others believe in the force of law. Of course, improvements are needed. But the ICC is a new born babe and it must be helped to maturity. We must give law a chance. Arrogance and threats do not encourage friendships. The trash cans of history are filled with the ashes of nations that were the superpowers of their day. It should be clear to all that law is better than war.

Let me close by citing only two very distinguished Americans. On May 15, 1958, my Supreme Commander in war, General Dwight Eisenhower, after he became President of the United States warned, "If civilization is to survive, it must choose the rule of law," Another distinguished Republican President said: "We have before us the opportunity to forge for ourselves and for future generations, a new world order, a world where the rule of law, not the law of the jungle, governs the conduct of nations." These words came in the Address to the Nation on Jan. 16, 1991 by US President George H.W. Bush. I think the current President would do well to listen to his papa.

Good luck!