Interview with Thomas Buergenthal
February 27, 2001

Beginning Tape One, Side A

Question: **United States** Holocaust Memorial Museum interview, **Jeff** and **Toby Herr** collection, this is a follow-up interview to an interview with **Thomas Buergenthal** conducted by **Katie Davis** in 1995. This follow-up interview is conducted by **Regina Baier**, with Judge **Buergenthal,** on February 27th, 2001. My first question is very open and we'll see how simple it is. But it is, where are we?

Answer: We're at the International Court of Justice, in **The Hague**, in my office at the court, on a very sort of dark, dre -- dreary day.

Q: And this is your place of work, and what do you do here, what is your work?

A: Well, my work on the court -- I'd have to actually go back and explain a little something about the court. The court was established already by the League of Nations in -- in early 1920's. It's a court where you deal only with disputes between states. And we also render advisory opinions for the United Nations, but basically disputes between states. We -- we have quite a number of cases pending now, and we hear cases. Since getting to the court in March, I've already sat on -- on five very important cases, including a case involving **Germany** and the **United States**.

Q: That was a very good lead-in to a follow-up question I had. Could you give us one or two examples of the kinds of cases that you're working on right now?

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A: Ri -- at this very moment, actually, we -- we are in the process of finishing a dispute between **Qatar** and **Bahrain**, those are disputes relating to territorial and maritime -- the limitation questions. That is to say, the countries want the court to determine certain disputed issues relating to their territory and also to their -- their sea. At the same time we are dealing with a case between **Germany** and the **United States** in which **Germany** brought an action against the **United States** because of the execution of two young Germans who were not given -- or allegedly not given an opportunity to consult the German consular authorities. So the allegation is a breach of the -- of the **Vienna** convention on that subject. We've also recently dealt with a case that is still -- well, we'll be hearing oral arguments involving an international arrest warrant issued by **Belgium** against the foreign minister -- former foreign minister of the **Congo**, charging him with crimes against humanity and war crimes. And the issue is whether **Belgium** had the right to -- to issue these -- these arrest warrants. So those are the type of cases we deal with, we -- the first case on which I sat here related to an aerial dispute between **India** and **Pakistan.**

Q: And you took me on a lovely tour for the Peace Palace here, you mentioned as an aside that when you sp -- began working here. Or years ago, I forgot now, there were very few cases, you worked on just one or two, and now you have very m -- a lot of work to do. Why is that?

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A: Well, I of course am -- am new at the court, but in the days of the Cold War, basically since the second World War, initially there were very, very few cases coming, and that was because of the Cold War. And I think governments had the sense that this would be an ideologically divided court, and that justice would not really be done properly. Once the Cold War ended, cases started to come, and also I should tell you from what I've heard that the atmosphere on the court is very different than it was at the height of the Cold War. I-It's a much easier, much more judicial type of -- of environment than it must have been, I -- I don't know.

Q: When were you appointed?

A: I was elected by the United Nations on March second of 2000. And it's interesting, the -- it's an election both by the security council and the general assembly. By both bodies, voting separately.

Q: And now you live in **The Hague**, or in **[indecipherable]** for good?

A: Well, until my -- my term is up and -- but it seemed to u -- to my wife and me important that we be here in town while the court -- and -- and there is so much business now that one really couldn't afford to be living in the **United States** and be sitting on this court. It's basic -- it is a permanent court. And life in **The Hague** is -- it's new for us, but very exciting.

Q: What -- do you consider this -- this new work, or this job as sort of a crowning continuation of your very distinguished career in international law, and international human rights, or is it also -- or is it a difference -- somewhat different direction?

A: In many ways it's -- it's a different direction. I've -- as you know, I -- I was a judge on the inter-American court of human rights. I've also sat on the **UN** Human Rights Committee. And thi -- this is very much an strictly international court, but human rights issues can arise, but a lot of other cases come as well. So, f-for an international lawyer like me, this is a dream court, and a dream come true.

Q: Is it in some sense a relief not to be related so closely to very painful experiences, to -- or is it -- what do you mean when you say a dream?

A: It's a dream in the sense that I think there isn't an international lawyer who wouldn't want to be on this court, because it is really -- i-it's like being on the Supreme Court of the **United States**. This is the court that determines what is and what is not international law. Not that we are that im-important, but in -- in terms of those of us who believe in international law, and -- and practice international law, this is the -- the **Mecca** to which you look.

Q: Have you ever imagined that you would be in this position?

A: N-Not at all. Well I -- as a matter of fact I was -- I-I visited -- I had a meeting at the court, not with the court but in the building, in November bef -- of 1999, and I had -- I didn't at that point believe that I was going to be here. I -- I think it would be totally

arrogant for anybody to believe that you're going to be here. You dream about it. At my age you stop dreaming about it even, and then suddenly I -- I was named. Actually, I should tell you that the notice to me that I was going to be the nominee of the **United States** for the court came to me while I was -- had just done a visit to **Auschwitz**, my second visit. And I was in **Kraków,** had just come back from it, in the evening, in the hotel when I received the call from the legal advisory. That was very special.

Q: Is it strange, or is it strangely appropriate that you are now living and working in **Europe**?

A: I don't know. My wife and I have always said that we -- that we could live almost ev -- anyplace, but I -- I think as we get older we probably should be a little more restrictive. But -- but it's certainly a -- a -- one -- one couldn't ask for a more enjoyable environment. We miss our children, we miss our grandchildren, we have eight grandchildren and they keep coming, so that part. But life here, and the working environment is certainly wonderful. I miss my students, actually. I don't miss exams, I don't miss that part, but I miss not having classes and seminars. Because this existence here, to some extent is quite lonely. Like many other judicial -- many other courts have this -- judges have that same experience. You work basically by yourself.

Q: I guess my question was also aimed a little bit at knowing your background, that you originally came from **Europe** and now that you live in **Europe** again, did you ever have the desire never to live in **Europe** again or is it --

A: No, we -- w-we -- I've come back many a time. I didn't think that I was going to live here. I -- I once had a possibility, it looked like a possibility to -- to serve on the European court of human rights, and we debated the issue of whether we would live in **Europe**. But it never seemed like a difficult choice if one had -- if the -- if what one was asked to do was interesting enough, the -- the living environment didn't play that much of a role. But I must say, one couldn't really ask for a nicer place to be than here in the -- in the **Netherlands**.

Q: Now I would like to go back into the past, and I would like to ask you about the -- the time when you came over to **America,** about the boat trip, what you remember. You were 17 at the time?

A: Yes, it was in -- in December of 1951, that's exactly 50 years ago this year. We were on one of the troop carriers, the transports, the liberty boats. It was the **SS General Greeley**, I still remember the name. And I think it was a -- a 10 day trip from **Bremerhaven** to -- to **New York,** with a lot of refugees, people from all over, from eastern **Europe**, **[indecipherable]** even -- I have some pictures still. And it was a very scary experience except that I knew I was coming to -- to live with my uncle, and in that sense it -- it -- and I was young, so it wasn't as scary as what it must have been for -- for a lot of other people. But also the life on the boat was very interested. I -- I managed to get myself a interpreter's job so I didn't have to paint and scrub the floors. And it was a lot of fun, and va -- I was writing for the -- for the news -- ship newspaper. So from that point

of view it was all exciting. I really had no idea what awaited me in the **United States**, whether I would stay in the **United States**. It was adventure at the age of 17.

Q: Why were you supposed to -- I -- were ev -- was everybody supposed to -- to work there? Was it because you didn't have money for the fare, or wa -- just --

A: It was strange, we got on the boat and people were told they had to scrub the decks, paint the ship and do all these things. But they needed people who could annou -- make announcements in different languages and so I volunteered for that. That's --

Q: Looks like you're a survivor of **[indecipherable]**

A: It -- it was -- it -- well, at least it kept me above deck, which -- which was nicer then, because the ship was very crowded. One thing that we were all served American food, of course, for breakfast and they had these lovely boxes of cereal, these single cereal things. None of us knew what to do with that, and so after we ate breakfast, we hi -- we carry -- walked around with these boxes and thought that that was dessert. That's what I remember from my ship experience. But arriving in **New York**, you know, the -- and we -- we s -- we sat -- we actually arrived in the evening, so we -- we weren't unloaded, couldn't disembark until the next morning. And to see **New York** with the -- all the lights and everything, was quite -- i-in some ways exciting, in some ways it brought back memories of the past, and I -- I've often thought about that -- that moment, and it's -- it's further and further away now, I had to reread what I had written at -- at that moment about it. But I think -- when I saw the lights, I thought of the crematories in **Auschwitz.**

Q: You -- you did write an article for -- for a -- could you s-say that you wrote an article about a newspaper, or something? Or several people actually put together a newspaper, right?

A: Yes, wh-what we did on this ship, we put together a newspaper in all the languages that were represented on the ship, and I think there must have been 37 different languages. Some had to be handwritten because there were no -- no typewriters in those languages. I -- I wrote it in German.

Q: Who -- who got the -- who got those newspapers, actually, in the end?

A: Everybody on the ship. I still have mine. I -- I found a copy the other day. That's the advantage of moving around, because you find things you think you've lost many, many years ago.

Q: So then you arrived, and you were picked up by family?

A: No, I -- I wa -- I -- I -- I was picked up by a Jewish social service organization. The -- there must have been some sort of quarantine system, because I came over on the **U.S.** -- rather, children's displaced person quota. And wi -- I -- I spend a few days in a home in the **Bronx** where we were. I don't know wh -- what the purpose was, and it was there that my uncle then came and -- and picked me up. But there were quite a number of kids who had ri -- arrived a little earlier, who were Americans already because they'd come there a few weeks before I did, and showed me **New York**. But then my uncle came and -- and

picked me up. And then I -- I lived for a year and a half in **New Jersey** with my uncle, in **Patterson, New Jersey**.

Q: Quick question, what did they show you in **New York**? Did anything happen -- I mean, did you understand what you were supposed to do in this weird place?

A: Well the -- I -- I -- for one thing, we -- we got on the subway and they got out of the train and I didn't. And I didn't know where I was and where I was going and what the address was. But the impressive thing to me were, of course, at that time, coming from **Europe**, to see these big cars in **America**, and these big buildings. It di -- wonders to -- it was a marvel, you just couldn't get over it, that sort of life. And also the thing that, to me, somebody who's gone through the camp was the most striking, if you ordered a salami sandwich, you got about an inch of salami, whereas I remember at home, i-if you were lucky you got a very thin slice of whatever meat there was on the -- on the sandwich. Or liverwurst sandwiches. And ice cream. Those were things that I just hadn't seen and couldn't believe that that existed. So that was the most impressive part.

Q: Was eating important to you then, for -- for awhile at least?

A: Yes. Not so much eating as knowing that -- that there were all these things that were available. And in the **Bronx**, at that point, there were just about every second store and restaurant had a kosher sign outside the door. If you asked somebody f-for instructions in English, they answered you in Yiddish, or in some other language. It was a very different

life from -- I -- I came from **Greding** in -- which is my mother's home town. All of this was just like having come into totally different worlds.

Q: You did not speak Yiddish, you spoke -- do you speak German?

A: I spoke ger -- yes, I understand Yiddish, I can speak it if I have to, but it's -- it's really a distorted German, more than -- than proper Yiddish.

Q: Did you get along with your uncle? How was it living ow -- living there, and what happened with regard to school?

A: Oh no, I got along wonderful there, they are wonderful people. My -- my uncle is my -- the brother of my mother, and they had -- th-they were not well off, really. My -- my uncle, and my aunt worked in a -- in a textile factory at the time, and my uncle in a aircraft factory and they had a little daughter there tha -- when I came that -- we didn't have an extra room for me. But they -- they shared everything with me, and -- and took me in, and -- and really were my parents for -- for that period of time. I arrived, as I mentioned, in December. I was in school already in January, in high school in **Patterson, New Jersey.** And I was given one of these strange tests, because the -- the teachers didn't know, you know, where I came from -- I'd had very little schooling before, anyway. I -- I went to high school in **Germany**, but -- for two and a half years, and I had a year of private tutoring. So they didn't know where I would fit in. So I would meet with different teachers from -- or heads of departments, say math department, English department. And they would give me, sort of tests on their own or speak to me, and so -- and then they

decided where to put me, and they put me in the junior class. And then, you know, I -- I graduated there in -- in a year and a half and went to college.

Q: How did you get along with your classmates, I mean could you -- did you relate, did they -- did you talk about where you came from at all? Did you understand where they were coming from?

A: Oh they just looked -- you know, th-this was some -- in those days there were not very many foreigners. So I was the green immigrant. Everybody asked you how do you like **America**, and I hadn't seen much of anything. But no, they were extremely friendly, except for the fact that they tried to sell me elevator tickets, they were all very nice, and I -- I participated in sports, I -- on -- on the varsity team, and -- no, I felt very much at home within -- very reason -- very short time, and the teachers were just wonderful, I must say th-the cr -- the climate was so different from **Germany**. The -- the school in **Germany** was very formal, the teachers -- everything was done in a very disciplined, formal way. This sort of class president or speaker was designated by the -- by the teacher. And there was this very democratic life in -- in the American, everything was voted on. The academics may not have been as high possibly as in -- as in **Germany**, but as a -- as a teaching ground for -- for democracy**,** it -- it was quite an experience, it opened my eyes to -- to what a good high school can do in teaching citizenship more than necessarily academics. So i-it was a great experience, I found the teachers extremely helpful.

Q: Did -- did you ever speak about your experience, or did you have a desire even to do that?

A: No, I didn't, actually. But what was interesting when I reflect -- you ask this question about it now. Nobody really wanted to know in those days about the past. Nobody asked. They wanted to know where I came from, what I did, and when they -- a-and -- but it went sort of -- it was like asking how are you, you know, you don't really expect, for one, to get an answer. And no, it -- it -- it really, there was no great interest in finding out, it was just here was somebody new, he's come to **America** and he is now our buddy and that was it. But no interest. I mean, the interest, it's suddenly over the last 10 years in -- in the Holocaust. It was totally nonexistent e-even among older people. Even my -- my uncle and aunt, my uncle comes from **Greding**, and my aunt from **Berlin**. They had a club of basically German Jews who -- who'd come from there. They took me in, but nobody really asked where I was, or cared. That came -- I think you -- much, much, much later.

Q: Do you think it had to do with not wanting to hurt you, or was it just they did not really have a full understanding of -- of what happened, and just wanted to kind of let it be, or was it also th-the 50's to some degree, it wasn't done then?

A: Yeah, I -- I think -- no, they had an understanding because many of them, of course, had come -- my uncle came to the **U.S.** in '38, which was already quite late. No, it -- it wasn't that I -- I -- and I don't think that it was that they'd wanted to hurt me. They were

just too busy making a living, and life was pretty hard. They had come, like my uncle and aunt at the -- during the depression basically, it wasn't easy -- it wasn't an easy life, they came with nothing. And the others were in the same -- same boat, and they -- they still -- I mean, they would eat on a Saturday or Sunday morning, they would eat all the things that they would have eaten in **Germany**, and -- but -- but one didn't very much discuss the war at all. Maybe they didn't want to be reminded of it either.

Q: So you graduated from high school, and what were your plans? You wanted to go to college? If so, was it easy to get in?

A: Well, I have -- or --

Q: I'm sorry, it's --

A: -- I have to tell you f-funny stories about this, because first of all the -- the Jewish social service person who was supposed to be in charge of me in **Patterson, New Jersey** said to me, "Oh, you want to go to college, but in **America** you cannot do that. You have to go and work first and earn enough money to go to school." Well, that was the last I ever went to see her again, because I didn't -- I thought that was just a complete waste of time to get that sort of advice. I -- I -- I did well in -- wi -- my grades were good, and I had a very good advisor in the -- a college advisor i-in the school. And she said -- and I knew I wanted to go to college, I mean there was no question that I wanted to do it, and how I was going to do it, that was another thing, but I knew I was going to do it. A -- so she said, well, I'll give you -- and I had no idea how you went about it, I -- you know, i --

and since my relatives had not gone to college here, they ha -- couldn't really advise me. So the -- the advisor, the academic advisor said, "I'll give you the names of 10 schools. And they are smaller schools because it would be better for you to go to a smaller college where they'd have -- where you'd get acclimated, you'd be part of amer," -- which was very wise advice. And she gave me those 10 schools, and I -- and she told me what to do, so you write in and I asked for the catalog. I did that, and I -- and da -- there was some very fine schools like **Colgate**, **Hamilton** College and s-schools of that type. And one of the schools was **Bethany** College in -- in **West Virginia**. The other schools that I'd written to, most of them with -- I knew I couldn't go unless I had a scholarship. All the other schools admitted me, but they said we can only give you a scholarship in th -- in a year when we know how your academic performance is going to be, which I guess made sense because I really didn't much of an academic pedigree. But it meant that I really couldn't -- couldn't go. And **Bethany** College was a school to which I'd written and asked for the catalog. The catalog came back and it started out by saying this is a Christian college, and so coming from Europe I assumed that that was not a college where they wanted me. And so I didn't do anything, I put it aside. Then one day in -- when I was in class in high school, I get a call from the academic advisor saying that there is somebody from **Bethany** College downstairs in her office and he wants to speak to me. So I went and spoke with him, and the first thing he said to me was, "Why didn't you send -- fill out your application?" And I wasn't quite sure how to put this, because it

was a little delicate, and finally I said, “Look, I am Jewish. You are a Christian college, and I imagine you’d -- you wouldn’t want me.” And he said, “Well, you’re missing the point, this is **America**, w-we -- we -- we find your background interesting, we want you to come, we can arrange scholarships for you, and if you work, you can -- and none of this costs too much, you could come to **Bethany** with no money at all and get through school.” And they were -- so I applied, I got the scholarship, they -- they gave me a job and for the next three and a half years I spend one semester in **Washington**. I was there and loved it.

Q: And it was in **West Virginia?**

A: In **West Virginia.**

Q: Yeah.

A: There are two **Bethanys**, but th -- the one I went to was in **West Virginia**, it’s a Disciples of Christ school, and I must say it was the most tolerant environment from a religious point of view, any place where I’ve ever been. So it -- it was a -- and it was actually very good for me because it was small enough in those days, the entire college had 500 or 550 students. I had some classes with professors where there were just two of us. And French literature, or German literature, there were just -- or in history of **[indecipherable]**. So it -- it was a very good experience for me.

Q: What was sort of your -- your plans for life at that point? Was there a strong focus on wanting to get a profession or did you also start to live, in terms of parties, friends, what -- whatever.

A: No, I knew -- I knew that if I was going to get any place, I really had to have top grades. Which doesn't mean that I lived the life of -- of a monk, but I -- I worked pretty hard. And it wasn't that easy, English was -- so I had to really learn to read and write English, and so it took -- took a lot of work. But it was most interesting, I -- I found, for example, I -- I found American history extremely interesting, I -- and -- and I -- I majored in history and sort of emphasized American history, political science, were the things that I just found fascinating. So i-it was a lot work, a lot of time, but it was also -- it wasn't -- I wasn't bored, I -- it was very exciting. And I had minored in -- in English, so that I could read things that I wanted to read, so --

Q: And then you went onto law school.

A: Then I went onto law s --

Q: **NYU**?

A: Yes, but there is another story to it. I was -- I g -- I graduated first from **Bethany** College, and **Bethany** College recommended me for the **Rhodes** Scholarship. And -- but I wasn't a citizen yet. So the initial recommendation went to the state of **West Virginia,** and the person in charge meant I was already qualified to be a citizen so they rushed

through my citizenship to qualify me for the -- for the **Rhodes** Scholarship, and then I went and part -- and participated in the interview for the regional **Rhodes** Scholarship.

End of Tape One, Side A

Beginning Tape One, Side B

A: -- and the big problem was that they asked me a lot of questions, but one question which I couldn't answer satisfactorily, they said, "Why do you want to go to **England**, to **Oxford**? You just got here." And I couldn't -- I couldn't -- I hemmed and hawed, but the truth was that why would I want to go to **Oxford** if I wanted to be a lawyer in the **United States**? So I didn't get the scholarship, not -- not surprisingly. But on the way out, as I was walking out, one of the members of the committee said to me, "I'd like to recommend you for a scholarship at **New York** University." And that was the route til -- the scholarship at **New York** University, for which I applied, and -- and which I then was awarded. And it paid for my entire three years of law school. And in those -- it was unbelievable because it paid for -- for everything, and I had 72 dollars a month spending money, books or whatever, which I was the ri -- I was richer than I've ever been before.

Q: Now, I don't ask you what did you do to deserve that honor, I ask you what did you -- how did you get their attention, what did you do so well? I mean, was it the grades, or was it also a particular interest in certain areas, or --

A: Well the -- the -- the **Ruth Tilden** scholarship was relatively new in those days and you had to -- you had to have a -- your -- grades was one consideration, but also general

interest in the -- career interest that -- that were different, backgrounds that were different. And there were -- we were selected on the basis, again, two people from each judicial circuit in the **United States**. And the selection was made actually wi -- wi -- usually presided over by a committee that was chaired by the chief justice of a federal -- of a court of appeals in that judicial district. In my case it was in **Richmond, Virginia.**

Q: So you were interested in law at that point already. Why law? And I think you were also already interested in international law. Was that true at that time, or was it -- did it come later with **Harvard**?

A: No, I was interested -- I -- I always thought at this point already that I would do something where I could use my languages and my -- my -- and my interest in international affairs and -- and politics. I knew I was -- wanted to do something in -- in international already in -- when I was in law school -- and I almost left law school because th-the first year particularly there was nothing that was international and it was quite depressing. But then with every year in law school, I -- I got more interested in it. And then I knew that once I got my basic law degree, th-the **juris** doctor degree, that I wanted to do -- to specialize more, because we only had one course in international law in my law school during my time. And that's when I went on -- I went on to **Harvard.**

Q: You had specialized at that time already in international law, and you were also interested in -- in human rights, international human rights at that point. What was sort of the standing -- you alluded to it a little bit already, but what was sort of the standing of

international law within the law community? Was it -- didn't -- did it play a bigger -- a bigger role? Was it popular? Was it just beginning to -- to come up, or --

A: The truth of the matter is that if you as a law student were interested in international things, you had no chance in hell to get a job in an int -- in a f -- in a law firm, because they thought that you were just interested in traveling. International was just a luxury that you -- you didn't practice international law, at least according to the -- to the people in -- in these law firms. And so, you know, if -- if you expressed an interest in international like I did, you were looked upon as some odd character, and they didn't expect you to have much of a chance of getting anything. As a matter of fact, when I was once asked to interview in one firm, my friends advised me for heaven's sake, don't say anything about international, that you're interested in that. Say you want to be a tough corporate lawyer, and then, you know, you might slip in the fact that you have some interest in international, but never say that's what you want to do. So in that sense, things have changed tremendously in the **United States**. Today, law firms take great pride in the fact that they have international law departments. But in -- in my day, there just didn't -- didn't exist. Even though there were a number of law firms that were doing international work, but they didn't see it th-that way.

Q: Now, that you recognized the potential in this field, s -- at such a young age, do you think that had also to do with your Holocaust experience?

A: I think so -- I -- I must say, I didn't recognize the potential as -- as I recognized that I was going to do what I wanted to do in terms of my own career plans. And I -- I feel very strongly that I should do something in the international area where I had to -- where I felt that I had -- could make a contribution. So I was going to do that, regardless of -- of the -- of the obstacles. And I -- I figured I was going to be able to do it, I mean in retrospect you sort of wonder how foolish one was to think that one could do those things, because it -- i-it -- if you think of all the obstacles that -- that were there, you m -- you might have decided to do something altogether different. But I just couldn't see myself practicing -- practicing law. I -- I wanted to do something where I -- where I could sort of -- where I had an advantage in many ways, and where I thought I -- I could do some good. And to practice law like everybody else, I -- I didn't have much of a contribution to make, and I wasn't going to find it very interesting.

Q: But it wasn't just specialize in international law, it was also specializing -- specializing in human rights, which wasn't exactly on the --

A: No, that didn't even exist, and there I -- it started out, I think, with the perception -- I-I don't know, I've often been asked, wa -- is it my experience that drove me to it. I wou -- I'm never quite sure. But i -- what I think is true is this, that I felt from my concentration camp experience, where we always looked to the **U.S.** and to **England** to save us, really, that one had -- that in a situation where one was in trouble from a human rights point of view, one couldn't rely on the domestic scene or the domestic environment. And you had

to look -- you had to have some international mechanisms that could protect you. And so I was fascinated to see what was happening in those early days. This was in the -- in the late 50's. Really, the Universal Declaration of Human Rights had been adopted in '48, but nothing much was happening. And then in the early 50's, the European Convention on Human Rights came into being. And I was fascinated, I wanted to see how did this work, really? Is there a chance that this might prevent what I went through? And that began to interest me, but it wasn't only human rights, it was also -- and this is fascinating considering where I am today -- what also interested me was international tribunals. As a matter of fact I did my master's thesis at **Harvard** on the European court of the -- of the -- the common market court. Bec -- I was fascinated to see how this court operated. It -- it wasn't until a little later that I got interested in the work of the European Court of Human Rights. But it was the europ -- what is today called the European Court of Justice, and in the early days it was still the **[indecipherable]** community court. That's what I wrote on, is how they went about forcing governments to comply with their decisions. So I was interested in compliance mechanisms, how international institutions can have an impact on -- on states and on individuals, and protect individuals.

Q: So from the very beginning really, bringing two things together, which is the academic interest on the one hand, but also very practical how -- how could policy be influenced, how could -- how could it become a tool, really.

A: Yes. I -- wi -- yo -- when you said only academics, the truth of the matter is that I wasn't sure I was going to go into teaching. It was a p -- s -- a-actually an accident that I ended up in teaching, because I -- I was at that point working on my masters at **Harvard** and there was a -- and I thought of a government job, or a corporate job in international, and there was an opening at -- at the -- wi -- in the **U.S.** government for an international lawyer who spoke Polish. And because the **U.S.** had just signed an agreement, a compensation agreement with **Poland**, and I -- I knew I could get the job because there weren't very many people around. So I applied for that job, and -- but they had their usual government budget problems, and I was told the job was mine, the -- if the budget came through. And so I waited and waited for the -- for the job and it was about March or April and people around me were getting very nervous and I still didn't have a job. Then one day a visiting professor from the University of **Pennsylvania**, who was visiting at **Harvard**, came in and said, "I heard you're still waiting for a job. We have a one year teaching job for legal method, available at the University of **Pennsylvania**, and if you want it, it's yours." So that's how I got into teaching. And I was teaching legal method, which is really -- the most boring thing is to teach people how to write like lawyers and to research law.

Q: **[indecipherable]** on the teaching aspect, I just want to throw in two questions that are related not to **Harvard**, but to the period, to the time, which is the early 60's. Did you follow the **Eichmann** trial?

A: Yes.

Q: What -- what -- what -- did that have any kind of impact, did you analyze it in some way, or what was sort of your relation to -- what --

A: I had a very, I suppose, idiosyncratic approach to the **Eichmann** trial, in which I got into trouble with a lot of people who couldn't understand my point of view. I thought it was not a good idea for **Israel** to try **Eichmann.** I thought it would have been better for **Germany** to try **Eichmann**, because -- I -- I must say, the fact that **Germany** didn't have the death penalty, or that **Israel** had, that is totally irrelevant from my point of view, because whether you kill him or give him a life sentence, y-you're not going to make up for -- for what he's done and you're not going to revive the people that died. But symbolically it was very important, I thought, for **Germany** to face up to this horrendous -- to what this man had done. And so doing it in **Israel**, while the trial was fair and everything else, was not the same. I-It didn't achieve in my view -- it may have educated Israelis to what happened, but they didn't really need to be educated as much as the Germans needed to be educated. So I've always thought that was a mistake. I thought German -- the Israelis should have handed him over to the Germans. I don't think the Germans wanted him, and si -- th-that's the problem -- that was **Germany**'**s** problem, but not -- not our problem. So th-th-that was my approach to -- to the **Eichmann** case.

Q: Very interesting. The other question was late 60's, mid-60's, what impact did the civil rights movement have on you, if any?

A: Well the -- i-in a sense, not very much. You know, in some ways I was already more preoccupied with what was happening on the outside. On one hand. On the other hand, the -- the civil rights -- I mean, I was shocked when I came to **America** that you s -- one still had separate fountains and all of that. You know, coming from where I came from, ou-out of a Nazi concentration camp, and finding these terrible things that people -- for example, the movie house in **West Virginia**, African-Americans had to sit on one side of the movie house, and -- and whites on the other, I mean that to me was shocking, I couldn't believe it. As a matter of fact, the water fountains in **Virginia** when I went for an interview were still -- still had segregated signs on it. That was just totally, you know, shocking to me. But I didn't -- you know, I didn't get into it, into the civil rights movement. I -- I believe very much in what -- what was -- what they were doing. But it wasn't something I'd -- I had much to contribute to. And so I didn't get -- get involved in it. Emotionally I was involved, but not really. I mean, I was there in spirit, but not --

Q: That's fair enough. Okay, let's go into teaching a little bit. You were a reluctant teacher at first, but then you became quite an inspired teacher in terms of trying to get the two fields that you had chosen, international law, and human rights -- international human rights law incorporated, or strengthened in the curricula and so on. Could you speak a little bit about the development of your aspirations or your interest as a teacher?

A: Well, once I started teaching at the University of **Pennsylvania** I -- i-in that one year, I knew I -- that's where I belonged, and I knew then what I was going to teach. And

actually, the courses I wanted to teach are -- interesting reas -- I wanted to teach about the European Union, th-the Common Market, which was in those days a really revolutionary development. When you think that **Germany** and **France** could get together after the second World War, and create this union with this purpose, and the European and human rights, of course, the mo -- the emphasis on the European c-convention, and international law, the **UN.** To some extent, to -- I think to many people, all of this seemed to be -- certainly it wasn't bread and butter for most law students. They wanted torts, contracts, property law. And you know, I d -- I tried to make it as interesting as possible, and I suppose since it was interesting to me, that I was enthusiastic about it, I could always get some students interested in it. But at first when you started -- my -- my first real teaching job after **Pennsylvania,** which was a one year wel -- was at the State University of **New York** in -- in **Buffalo**. And I was told when I was hired that I would get one course, and the three other courses would have to be in American domestic law. And two of those were courses I'd never even had in law school. So it was only gradually that I was allowed -- that -- that there was any interest in the curriculum to add courses in international law. And t --

Q: Were there textbooks, actually? On human rights, for instance?

A: No, I actually -- together with a former **Harvard** pr-professor of mine, we wrote the first American international human rights case book. It was published in '73 and that

really started teaching of international human rights in American law schools. Before that, there were three people teaching human rights in the **United States**.

Q: Say something a little bit about that teacher, because he seemed to have had an impact on you, and he was an important person.

A: Yeah -- yes, the -- th-the teacher was -- was Professor **Louis Soane** at the **Harvard** Law School, who i-inspired me f -- f -- and has been sort of my -- was my mentor for -- for many, many years, and a wonderful person. The background is interesting. He came to the **United States** in ’39 from **Poland**. Had a terribly hard time, ended up holding the most important chair at -- at the **Harvard** Law School in international law. A-And was a pragmatic idealist, if you -- if there is such a thing. A person who always -- others thought he just -- he was just way ou -- out of it. Yet, he always proved to be right, five, six, 10 years later. About the **UN**, about human rights, about international developments. And I found -- when I found him, I found a -- a spirit that could inspire me. So it -- and he is still alive, he is 87 years old. When he retired from **Harvard** he went initially to **Georgia** and then I managed to talk him into coming to **George Washington** University, where he’s been as distinguished research scholar, professor and still a person from whom I learn a great deal when I see him.

Q: You also managed to twist a few arms at the American Society of International Law to allow you to establish a study panel because you thought that was important. Could you

say something about the panel that you established and why it was important to you to do that?

A: Yes, in -- during the period in -- in the 60's, really, the American Society of International Law was very traditional, conservative if you will. And human rights, international human rights law was not really considered law. It wasn't my -- the -- the older professors who -- who were the establishment in this society just didn't believe that -- that that was really something that the society should be studying, this -- this was politics. And Professor **Soane** actually encouraged me to write a memorandum to the society, saying that a study panel should be established, and in those days the **Ford** Foundation was funding these study panels. Th -- asked me to -- suggested that I write this memorandum, urging the establishment of the study panel, and lo and behold, despite some opposition from various people in -- in the society, the panel was established, and it gave a legitimacy, a credibility to human rights as a -- as a discipline, or branch of international law, which was very important because the society -- the American Society of International Law is a -- is a sort of the body of the **United States** that determines what is and what isn't international law, and what is important. And we brought together 30 - some people and produced various papers and held conferences and regionals. And sort of put human rights, gradually, on that little map.

Q: Okay, I would like to divert -- divert --

A: You want to take a break?

Q: No, I don't want to, necessarily, but w-would you like one? I just want to switch to your private life now for a change, and then go back to **UNESCO** and all the other wonderful things that we can talk about. But what happened in the meantime? So you had definitely your vision fairly clear, on what it is that you wanted to do in your career and your profession. What happened in the meantime? Did you have a -- a relationship of sorts? Did ha -- did you -- have you married, did you want to have a family?

A: Well, I -- I married in my third year in law school, and -- in 1959. Actually, wa -- i-it was very strange. The -- the scholarship that I was on, the **Ruth Tilden** scholarship, in those day di -- days, did not allow those of us who had scholarships to get married. The class ahead of us, in the third year, about six of them decided to get m -- and incidentally it was all male. No woman. Now it i -- now it's a very different program, but in those days only males were admitted. And six of the upperclassmen got married in their third year. And they couldn't throw them all out because they would have thrown out one-third of the -- of the program. So they did the next best thing, which was to reduce the scholarship by 500 dollars or something like this, but they -- so the next class, when we -- when we got to this stage, I met my then wife, still in -- in **Bethany** College. She transferred to **NYU** where I was in -- in law school. And we got married actually in the law school, in -- in the dormitory by a judge who -- who had been my -- who was my sponsor. We -- and all my classmates from the program were -- were all there. And we were married in -- in '59, then a -- we went together to **Harvard** in -- in '60. Wi -- my --

my wife was a music teacher and we had a deal that we would -- we would start a family, or rather she would stop working when I earned about what -- a little more, about half more than sh -- what she was earning as a music teacher, which wasn't very much so it wasn't all that difficult in those days. She taught in -- in **Cambridge** while I went to -- while I was at -- at **Harvard**. And then when I got to the University of **Pennsylvania**, we decided at that point that we should start a -- a family. And our first son, our oldest son was still born in -- while we were in **Philadelphia**, so that was in 1962. Then we moved -- he was only six weeks old when we moved to **Buffalo.**

Q: What was -- what was her name, just for the record, and h -- and the name of the son?

A: **Dorothy Coleman** was her name. She came -- she was born in **South Dakota**, actually, but she lived -- family had moved to **Seattle, Washington**. And she was a musician, who basically had played in the **Wheeling** w -- symphony and decided then to teach music. And the -- my oldest son, his name is **Robert**, he is a lawyer, but not practicing, he works in **Washington**. And then in quick sus -- succession, the two other sons were born, **John** who -- who lives in **Baltimore** and has two children of his own. And **Alan**, who lives in **Columbus, Ohio**, who is a lawyer. Who just today just had a baby -- baby girl. **John** is a director of human resources for a company in -- in **Baltimore**.

Q: What did you like about each other when you met? What was the -- the attraction, and also then -- well, let me ask this first.

A: Well, what I -- what I found so interesting about her, I-I suppose it explains maybe -- she was so very American. That optimism, the -- the thing that there were no limits to what one could do. And she had actually been an exchange student in **Germany**. Quite early on she'd won a scholarship and she spent a year in **Braunschweig** living with a family and -- and spoke German, had been -- but she was so American in terms of -- of -- and that had a -- had a tremendous appeal to me, of course. It was so different. None of the repressive things that -- you know, th-the -- my earlier girlfriends, who still had European backgrounds, they were very different.

Q: Okay, at -- oh, one question -- I was just so absorbed in da -- nodding my head here, that I forgot my question, but the question was, did you talk about where you were coming from, did -- did -- was that -- did that come up, sort of step by step, or did you not really touch much on it?

A: Oh yes, no, we talked a great deal about it, because actually I started writing some of my experiences about that time, writing them down. A -- as -- I'd written one article about the Death March already in college, but all the other pieces that I wrote, she actually typed and -- and revised, edited them. And so we -- we talked about -- about that quite a lot.

Q: And she was -- and she was a sort of underst -- I mean, y-you felt that she was unders -- sort of trying to understand? Did she --

A: Oh yes, no, she understood, and the fact that she'd lived in **Europe** -- no, she ha -- she was -- she was in many ways much more understanding than many people -- many other people I -- I met. I mean, she took this -- she knew -- she knew my mother, she could -- you know, she had heard all the stories and -- no, there was -- no, I've -- I've never had the feeling -- first of all, she -- she was always interested in it, and she had a -- well, she -- she was very impressive in -- in those days when really most people weren't interested in any of that. She -- she was.

Q: On that positive note, I shall change the tape. This is the end of tape one, follow-up interview with Judge **Buergenthal.**

End of Tape One, Side B

Interview with Thomas Buergenthal
February 27, 2001

Beginning Tape Two, Side A

Q: And this is tape two of the follow-up interview with Judge **Buergenthal,** conducted by **Regina Baier** on February 27th, 2001. And in 1970, I believe, I seem to remember in 1970 you began representing the **U.S.** government at the **UNESCO** in human rights matters. And how did that come about and what -- could you give us an example of the kind of things that you were involved in then.

A: Yes, it -- it was around in the early 1970's, that I -- I was teaching -- at that point I was still teaching at **Buffalo**, at the state university of **New York**, and one of the lawyers in town who became a good friend of mine was -- received a political appointment to serve on the **U.S.** delegation to the **UN** Human Rights Commission. And he knew very little about international human rights, but was very interested. And so he asked me to brief him, and give him backgrounds on -- on what was happening in the human rights field in the world at the time, which I did. And then after that experience that he had, he became a member of the **U.S**. National Commission for **UNESCO,** which was sort of the state department's private support body for -- for **UNESCO**. And he involved me in the work, and he -- he is -- he became the chairman of their human rights committee, and made me a member of the -- of the committee. And than I was elected, eventually, to the -- to the **U.S.** national commission, and then I succeeded him as -- as chairman of the commission. In the meantime, in 1974, I was asked to chair a **U.S.** delegation to a **UNESCO** meeting. And what we were doing there basically -- this was of course at the height of the -- of

Cold War, were the -- human rights was not something -- human rights was basically used in many quarters just as a propaganda tool, one way or the other. And m-my delegation, we -- we tried to -- to do it right. We -- we managed to get -- they had a draft that had been prepared, we managed to get 82 amendments adopted for it. My -- my -- my colleague at the time was a -- was a professor of child psychology who had done a lot of work on children's attitudes -- international attitudes. And we worked this -- and we lobbied, and we managed to actually get a great deal done, to everybody's surprise because I think when we were put on this delegation everybody thought this was just giving a few people a free trip to **Paris**, but nothing was going to come out of it. And when we came back, we suggested to the **U.S.** government -- because we then managed to adopt the resolution that -- that should be written up. The -- and the -- the people at the state department, in charge of **UNESCO** said to us, well why don't you write it up? And that produced a book on this recommendation that had been -- that had been adopted, and led to my involvement and -- on human rights issues -- anything relating to human rights at **UNESCO** at that point, I was involved in one way or the other. Eventually, up to really 1960 -- no, let me see, '78 - '79, when I was elected to the inter-American court, and I was -- I dre -- I was part of the -- I was th -- chairing the delegation of the **U.S.** that managed to adopt rules for private appeals to **UNESCO** for human rights violations. Again things that nobody thought we were going to be able to get through, but it was adopted. It was very exciting, it was my first experience in an international gu -- inter-

governmental forum. And that's where I began, really, to get some practical experience in international human rights as a government representative. And it was -- wa -- in sense, wonderful to be there representing the -- the **U.S.** because I could see my colleagues from the east particularly, who had to continuously check their instructions and had to adhere to their instructions and I also had the feeling that if they made a mistake they would end up being in **Siberia**, whereas all that could happen to me would be that I wouldn't be put on the next delegation. But you had much more freedom to negotiate, and I thought we -- we achieved some things, and it -- in these -- this context, I learned very early in those days that you -- you c -- you shouldn't have great expectations of great achievement, but step by step, you put one brick on top of the other, a-and you get some things done. And in those days it was easier to talk about human rights education, because it was not seen by many of the dictatorial governments as being threatening. What they didn't realize is that in the long run human rights education is much more dangerous to them than some more advocacy oriented course, because if you begin to teach children about -- that they have rights, that can have an impact. And so we f -- I focused on that for -- for awhile. But that was -- I found that as a -- a fascinating experience. Then of course, at some point, the **U.S.** withdrew from **UNESCO**. I was elected to the inter-American court of human rights, and had to stop my involvement with **UNESCO.** I always thought it was a mistake that we left **UNESCO**, the **U.S.**, I mean.

Q: You also, I think, tried to involve parents in this **[indecipherable]** didn't you?

A: Yes, we -- what we did, actually, when we came back from this first conference, we decided in connection with the book we had written that we should get American schools involved in teaching about international human rights. And so what we did was we organized a number of meetings with curriculum writers for high schools and grade schools and we got some fundings from various foundations. And th-that proved to be quite interesting, because within a few years you could see international issues like the universal declaration **[indecipherable]** coming into textbooks that were used in -- in American high schools. It's now probably much more -- I've lost track, but in those days that -- that was quite unique. But we -- we did that for a number of years and got a lot of people interested in it.

Q: You infiltrated.

A: We infiltrated.

Q: And then came --

A: Because you know, I -- I think what is -- what is so often lost to the **United States**, we have as a country so much to offer in this field, in terms of our experience with -- with human rights, with civil rights, and -- and with the court system over the fact that these issues are litigated in courts, that -- that they are not fought on in the streets. Yet, when it comes to making a contribution, on our contributing also in other parts of the world, a-and getting involved in these activities, we shy back and we -- we think that this is somehow threatening to us. On the contrary, we have an obligation to contribute what we

know in this area. So I -- I've always felt that this was a very important job, I -- and I liked it very much, it was great.

Q: And then c -- and then came a period, late 70's until '91, I believe, that you called in the earlier interview, in some way -- quote now, in some ways one of the most in-interesting periods in your life, and that was your -- that you became a member, and eventually also president of the inter-American court of human rights. Could you say something about that particular court, and what -- what you did was -- what your involvement was there?

A: Well, I should tell you first how I got on the court, or rather it -- it's just interesting. I -- at that point I was teaching at the University of **Texas** in **Austin** at their law school. And I -- I used to teach a seminar every year on international human rights, and one part of the seminar dealt with the inter-American system. And I would in every seminar say what a pity it was that the **U.S.** had not ratified the American convention on human rights, because it meant that an American would never sit on the inter-American court of human rights. And then one day I was sitting in my office on one of those sunny days in -- hot days in **Texas** and the phone rang, and somebody with a Latin American accent identified himself as coming from the embassy of **Costa Rica,** and said that he was calling to ask whether I would permit **Costa Rica** the honor of nominating me to the inter-American court of human rights. And I was sure it was one of my students playing games with me. So I very carefully said, "Of course, Mr. Ambassador, I'm profoundly

honored, but I need to speak to my wife." You know, one of those things. And, "Would you mind giving me your telephone number that I -- I will call you back." And of course, as soon as he gave me the telephone number, I checked to see what the telephone number was for the embassy of **Costa Rica**, and it was really **Costa Rica.** And I -- I think I accepted the next day. I thought it was nice to -- to wait. And that's how I ended up on the court. I had actually been interested in being on the commission, like -- the inter-American human rights system has a commission and a court, and on the commission, the **U.S.** does have a representative. A -- a member. And so I tha -- that was my hope, I never expected to be on the court. The great thing, and the reason I said it was such a wonderful experience, I was one of the seven first members of the court. We established the court. We held our first meeting in the bathhouse of the Costa Rican bar association. We had one typewriter, that's how it started. And it's now -- and then for the next -- I had two terms, and I was re-nominated by **Costa Rica** and by **Columbia** and I served for -- for 12 years on the court, and we really laid -- in those -- we had some bi -- I had some wonderful colleagues, and we laid the groundwork for a human rights tribunal which today is playing an important role. It's not as significant still as the -- as the European Court of Human Rights, which is much older now, but it is doing some good, and it's trying to -- to have an important role in -- in **Latin America**, particularly. So in that sense, to -- to be at the inception of all of this, it was a tremendous experience.

Q: Did you deal -- did you deal with cases of disappearance at that time? That was --

A: Yes, as a matter of fact, the -- the f -- the f -- important disappearance cases, the first three came to the court when I was still president of the court. And it -- it was -- this was -- these were cases involving disappearances in **Honduras** that had taken place in -- between 1979 and ’82, in -- during that period. And the -- the cases carried on for a number of years, but the decision that we rendered was -- was really the f -- the first international decisions dealing with the whole issue of disappearances. And we awarded damages to the families of the disappeared, they were -- they were killed. And I had then the great satisfaction, after I was no longer on the court, of receiving the payment on behalf of the court, from the government of **Honduras**, the compensation payment that was still due to the victims. That was much later, th-that was -- took place in **Washington.** That is a -- you have a sense you’ve done something. And th-those were terrible days, and of course in **Honduras** the disappearances were much less than what had happened in **Argentina** for example. But **Argentina** was not part of the system yet at that time, whereas **Honduras** was. And -- and, you know, having played that role, and having had to listen to the witnesses, and we lost a number of witnesses who were killed in **Honduras.** So it was a -- a terrible experience in one way, and a **[indecipherable]** gratifying experience in the sense also of laying the foundation for the **[indecipherable]** subject, and also establishing the principle that the government has responsibilities and has to compensate the victims.

Q: At that time I believe, a disappearance sort of emerged, or the disappearances emerged as sort of the new phenomenon to some degree, but was it also -- did it also remind you of the Holocaust in some ways? Were there aspects that were sort of similar to --

A: Less so there than -- than on the truth commission, where I s-served later on. Of course, you know that when they describe tortures and things like this, you -- but -- but the -- the killings were not on the mass level that the things that we encountered in -- in **El Salvador**. The -- the thing that -- that stru -- has struck me always in my work in human rights is the different -- that some of the people who commit these acts have no -- no s-s -- I don't know, i-it's not question of conscience, but if we -- j-just to give you an example, we -- we had one man who testified as a witness, had been involved in this, and we asked, were they tortured? And he said, "No, they weren't tortured," But -- and we said, "Well you had this woman standing there for 24 hours naked in this cellar, trying to get a confession in front of men." "Well, that wasn't torture." Y-You know, the different notion of what is torture, if y -- if you don't hit somebody over the head, then it's okay. It -- It -- it's just form of interrogation. And the justification, how you can justify all of these acts because some notion of national security is involved. I-It -- it runs through, and -- and there is -- there are no national borders in that, it -- you find it every place, from -- from **Germany,** where you could justify murdering Jews because they were **unterMenschen**, they weren't human beings, to what happened in -- in **Salvador** or someplace else, different ethnic groups. Communists, or fascists or whatever. In that

sense there is a universality among these criminals th-that is shocking in some re -- to some extent.

Q: You just mentioned that you also worked for the **UN** truth commission for **El Salvador**, that was also almost 12 years that you were involved in that?

A: No, no, that was -- we had a mandate of -- of six months. The -- the war in **El Salvador** lasted for 12 years, but we were asked after the -- the peace accords had been signed to investigate what had happened during those 12 years. And th-there were three of us, basically, were the members of the commission,; a former president of **Columbia** and a former foreign minister of **Venezuela** and I, with a staff. And basically our job was to -- to try to determine responsibility on both sides, on the guerilla side and on the government side for some of the terrible acts that happened, for example, the killing of the archbishop **Romero**, the killing of the Jesuits, the -- the rapes and killings of the church women. The **El Mozote** massacre, the killings by the **[indecipherable]** of various mayors, and so that -- that was our job. And there, in various contexts, the Holocaust came back. I -- I remember the one survivor whom we interviewed on the massacre of **El Mozote**, it was in the -- in the hills where they murdered -- it's very hard to say, I would think about 800 people. The woman who was describing that started talking about how it happened, and I could have finished the story in terms of my own experience, what the soldiers were doing, how they were doing it. It was just as if I -- if I had been there. Similar things with, for example, the killing of the Jesuits. I remember -- I had just been

in **Auschwitz** about a year earlier and had told my wife how -- we -- we came to **Auschwitz**, this was in May, and I said to her, you know what is most unbelieving about **Birkenau** where I was, that the grass is growing, it's about two, three feet high and birds are flying. When I was in **Auschwitz**, there was not -- there was only mud, and there were no birds because of the smoke from the crematorium. When we were in **El Salvador**, in the courtyard where they had executed the Jesuit fathers, somebody pointed to a tower where supposedly there'd been ob-observers, and he said -- this was a -- a -- th-the courtyard they had planted roses. And they said, right over there, over the bushes, and -- but it's now overgrown, you can't see it. And it brought back **Auschwitz**. You couldn't see what had happened in **Auschwitz**. So one doesn't lose those things in different environments, but -- and it came back in many contexts, in context of people in **El Salvador.** I've never heard in -- anybody in **El Salvador** say that they were sorry for what they did. They only said that it was a mistake. Wa -- I've never quite understood what that meant, that it was a mistake that if they had done it better, I suppose they could have -- and those are the things we are struggling with, we are dealing with when we are dealing with human rights violations, that we have to create in the world a sense that these are no -- not mistakes. These are terrible things for which people should be sorry, and they should know that they will be, that they'll be on their conscience and they shouldn't be doing them. That'll take a -- a long time. But it -- it was striking to me, I'd --

I'd never thought about it until I had to interview some of these people on both sides. Never heard the word sorry.

Q: Germans **[indecipherable]**

A: Yes, never --

Q: **[indecipherable]** just hadn't done it with the Jews, **Hitler** was not so bad.

A: Yeah, you know. That --

Q: Yes.

A: So all of those things -- an -- and on that point what is -- what is also interesting, there is a universality among these criminals. That is to say, wh-when I read **Solzhenitsyn's** a-about the gulag, it was no different from the camps. Th-There was -- there are limits to the lack of ingenuity in which human beings commit crimes. And -- and you see it, I think, what we saw in **Rwanda,** what we now saw in **East Timor** with -- what we saw in **El Salvador**, what we saw in -- the terrible things that happened in **Argentina** during the so-called dirty war. Where you -- where you have, for example, people murdering a pregnant woman and then taking the child of the woman as their own, which I -- to-to me is the most -- it's the ultimate in -- in insanity, in criminal insanity. That's the kind of work I was doing.

Q: So how do you -- under those circumstances, how do you keep your resolve, your belief in -- in the worthwhileness of everything. I mean trying to -- trying to push for policy changes, I guess, then.

A: Well, what choice do we have? It -- it's really -- I mean, we either accept that this is how it has to be, or you say, we're going to try to see whether we can improve it, whether we can prevent this from happening. For our children, our grandchildren, it -- it has to stop. And even if you know that it's -- it -- it may not -- you may not be always successful, it's important to do it. And it -- situations have improved, I mean it's -- there are -- you know, when I -- when you see many of the young people in **Germany** today, things -- I -- I find the German youth to be more European than the youth of -- of many countries in **Europe**. Human rights education, democracy education had -- had a serious impact. I think the problems that **Germany** has today is that -- that education, which was done in **West Germany** on democracy, was not done with the East Germans when they joined. And they just assumed that if they watched West German television and -- and ate West German food that suddenly they would be democrat. And so now you have the skinheads and some of these problems. But I think the German experience, at least in the west, is gratifying in many ways. And, you know, there is hope. And what is happening in countries in **Latin America**, where you suddenly see **Argentina** today, for example -- even **El Salvador**, things have -- have improved now, they have a lot of crime and other things, but politically things, they have elections and so, you know, you -- you have reason to go on.

Q: I just have a cu -- while I'm listening to you I just have couple of different kinds of questions related to that. You just said **Latin America**, did you bring -- you brought your

own perspective, experience as a Holocaust survivor to this to some degree, but you also are bringing, probably, a North American perspective. Did -- did you ever feel that you have sort of North American perspectives in -- in your work?

A: You know, I've -- I've -- it's strange, I -- I've never se -- I'm very proud of being an American in the sense that I -- I've often thought it's -- p-proud in the sense that if you -- that I had to become an American. Others were born into being an American, and -- and -- and I -- there's enough about the country -- the country has been very good to me. I admire a great deal that has happened, that the country does and has done and that it stands for in many ways. There's a lot of things that I -- that I don't find admirable. But I've never thought of myself in any way when I go someplace, as an American in the sense of somebody who's wrapped around the flag. I -- I think of myself a-as a American citizen who is asked to do a job and tries to do it in -- in the way he thinks it should be done. But not thinking of it that, you know -- I certainly don't feel that I have to bring **America** to **Latin America** or anything like this. But I think that in some areas countries could learn a great deal from **America**, but I think it's true also the other way around. And w-we -- we don't have a monopoly on -- on wisdom, and -- and we sometimes think we do, an-and I -- I think that's -- that's bad.

Q: I guess I didn't mean it quite so crudely, I was just thinking a strong emphasis on individual rights, for instance, tends to be a part of -- of the outlook of the -- this country, but --

A: But a -- but I think, in my case, the -- the cr -- the commitment to individual rights is probably less influenced by **America** as much as by my own experience. I -- I've sort of start with the assumption that -- that people should be treated the way I want to be treated, and would like to be treated, and -- and that is universal a notion, I think, in -- that's how you can build a whole human rights system on that basis. So when people come to me and say human rights are relativistic I always ask, does that mean that the people who say that want to be -- that in some countries that they really want to be killed, that they want to have their arms chopped off, that they want to have these things done to them? Or are they just excuses by the leaders who -- who want to violate their rights?

Q: What makes for a good human rights lawyer?

A: First of all, somebody who really knows his stuff as a lawyer. One of the big damage that -- mu-much damage has been done to human rights advocacy by people who politicize it as lawyers. I mean, it's all right if you're a politician and you want to politicize it, but the job of a lawyer, particularly in investigating and bringing claims has to be one that is as professional and sound, professionally lawyer-like as you can be, because you -- if you're not, you open yourself up to charges your -- you weaken your case. And that -- a lot of that used to happen because we didn't have trained human rights lawyers around, so people would make big speeches and claim that they had found certain things, and then they were proved wrong and -- and they suffered in terms of prestige. So to my mind the most important thing is for lawyers in this business to

recognize that they have to be as good lawyers in that field as if they ran in corporations, anti-trust lawyers, tax lawyers. So that's -- that's the first requirement. The second requirement is that you really have to have empathy. You have to feel that -- that this is something that is important, that this is -- this isn't just like any other field of the law, that this is something where you -- you have to put your heart into it, and you don't have to necessarily work as a human rights lawyer to do that, you could work for a corporation, you can be in a big law firm, and you can on the side do a lot of good, human rights work. But you have to believe in it.

Q: So now I think we should go to family again. You just mentioned your wife, that you went to **Auschwitz** in '92, I believe, we will talk about that too, but my first question, is that still your first --

A: I think it was '91, I'm not sure, ni --

Q: I'm te -- I -- I'm telling you what -- what **[indecipherable]**

A: I can't remember now, I'll have to ask her.

Q: Okay, well let's just stick with your wife. Is that th-the first wife you talked about, or is that --

A: No, this is my second wife. We -- we married in 1983. I -- I met her in -- in **Costa Rica**. She is originally -- she was born in **Peru** of a British father and a Peruvian mother, grown -- grew -- grew up speaking English and Spanish. Went to school in **England**, was sent to school in **England** very -- very young. And then left **Peru**, a -- she -- she had two

small children, left **Peru**, was divorced and in **Peru --** left **Peru** and then lived in **Costa Rica** because **Peru** was under a military regime at the time. And she went to **Costa Rica** and lived there for eight years when we met.

End of Tape Two, Side A

Beginning Tape Two, Side B

Q: So what did she like -- what -- what di -- that attracted you to her? Or to each other?

A: An unbelievably intelligent human being with a great sense of humor tha -- a person who has the tremendous ability to make me feel less important than I've -- want to feel. Who is extremely -- extremely warm, and loving and who -- who has the same, in a sense, background as I do, that you can put her in any environment and she feels at home. She came to the **United States** and within no time she -- you'd think she'd lived there all her life. What else could I tell you?

Q: Well, that's good enough for the **[indecipherable]**

A: Don't tell her though.

Q: Yeah, I won't, I won't. Let's talk about your children. Now, when they were young, did you -- did you talk much about where you came from? Were they interested, or did that come about at a later --

A: We have great disagreement ama -- about that in my family. My kids will say to me sometimes, why didn't you tell us that? And I will say, you guys were never interested in hearing anything about it. Now, I don't know who's right, but I -- I thought that -- that I

tried to tell them, and we speculated, my wife and I about it. We -- we do every so often now, really, and her sense is that the kids thought it was so painful that they didn't want to -- to hear about it. And that's why they didn't ask, and I took that to mean that they were not interested, and that they were, in fact, interested. And she has some of that be -- you know, of talking with them. But it's quite clear that they know much less about my background still, than they really should, and I am afraid. What worries me in many ways is that when I am gone they suddenly realize there was a chance to find out a lot of things, and we've never really -- a-and maybe it's -- the dynamics of family life are such that you just don't have time, and you don't want -- it's -- you have family reunion, you don't want to talk about all of those things. Although, what is interesting now is that my youngest son has begun to be very -- now that he has his first child, very interested in family roots and backgrounds. And has asked my uncle who's -- who is in his late 80's now, to put together an album and -- and has asked me to -- to do that. So there -- there is interest, but it's -- it's sort of interest on the run, it's not -- I had wanted to take my children to the Holocaust Museum, and I realized I could not do it. I -- I wouldn't be able to last. I had been asked by **Mary Magrory** to take her on a tour, and when -- before the o -- before it opened, and I declined to do that, I was afraid to do it. I only once went through the Holocaust Museum, I was always afraid to do it. And I was sort of forced to do it when the president of **Honduras** came to **Washington**, and -- who had been a friend of mine, and he was -- he had been on the court with me in the first few years. And

he -- he went -- came on a state visit to **Washington** and asked that I would be the one to accompany him. What he didn't realize was that I'd never gone through, that I didn't want to do it. And so I asked the -- the person at the Holocaust Museum to arrange for the tour. He knew that I -- my reluctance. And we went -- fortunately, it was a relatively brief tour, and -- and it was a nif -- I had no pr-problem doing it. But at the end he said to the -- he said, "Mr. President, you know, Professor **Buergenthal** had never done this before." And -- and I said, "I couldn't do it with my children, I'd break down."

Q: It is -- it is interesting because you -- I'm jumping a few years ahead now, but --

A: I'm sorry yo -- I should tell you, beca -- I'm very tired today, but anyway, go ahead.

Q: Oh. W-Would you like to stop?

A: No, no, no, I'm just -- I didn't sleep last night, I -- I don't know why, but I --

Q: I didn't either.

A: No, no, so we --

Q: So we're both tired, but I'm still --

A: But no, keep going.

Q: **[indecipherable]** but -- but let me -- let me know when --

A: No, no, **[indecipherable]**

Q: -- if you're almost -- just -- there are just a few things because you said roots were -- well, I want to ask you about the -- the subject a little bit later, but -- a little bit later, not much. But you did say roots, and I know that you and your wife decided at one point to --

to go back to your roots, and investigate a little bit. Could you say something about when that was, and what you actually did?

A: Yes, I think that was in 1992 or ’91, I’m not sure, we’ll have to ask her. We -- we decided to go to my birthplace, which is in **Slovakia** in ot -- in a little resort town called **Lubochnia**. And we decided to go to -- to **Auschwitz**, and to **Kielce** where I was in -- in the ghetto, and some other towns where I had been during the war. **Lubochnia**, where I was born, m-my father came there, and he and a friend of his brother bought a hotel there, believing that **Hitler** wouldn’t last more than a few years, and so they would be close by, and I -- I was born there, but -- and I left there when I was four years old. So going back to this little place in the mountains in **Slovakia**, in the lower **Tatra** mountains wa-was sort of a surrealistic experience. I knew I was born there, but I had no connection to it. There was nobody there that lived there that -- that knew my family. My father had been there for a relatively short time, from 1933 until ’38. We couldn’t find the hotel, because it -- th -- we think we found the hotel, but it looked very different from the picture we had. And so i-it was a strange experience. I took a picture of myself standing under the sign that said, **Lubochnia** as you entered the town, but there was no -- i-it -- it’s really a strange experience, I -- I never thought that it would be that strange an experience, because you -- this is where one was born, these are one’s roots, but they are not really roots, they’re just like somebody cut the -- the roots and left them in the ground, but there is no -- no connection at all. **Auschwitz** turned out to be easier than I expected. I was at

that point thinking seriously, and I was doing some writing on the subject. And we -- we went to **Auschwitz** debating whether I should go or not because of memories that would be destroyed in some ways by seeing it now from what I had envisage. And we came in -- we went first to **Auschwitz I,** which was really not the camp where I was, but I was in -- in **Birkenau**. And -- and I was very afraid of the impact it would have on me. And then my wife saw a sign that said archives, and she said, "Why don't you go in and introduce yourself?" And I said, "No, I don't want t -- I want to be a tourist, ye -- I just want to go through." And she insisted, and when she insists, I usually end up doing what she wants me to do. So I went in and I introduced myself, and they got very excited because they were just working on a project relating to children in **Auschwitz**. So they wanted to know where I had been. I didn't know exactly when I arrived in **Auschwitz**, and I thought by looking at where I came from and my name, that they would have it. And they said by the time I arrived, it -- they no longer had names, but what was my number? And by reference to my number they pinpointed exactly when I had gotten to **Auschwitz**, the date, the number of people that were on my transport, and suddenly my stay in **Auschwitz** had become an academic exercise, and was you know -- you know, we were discussing, the director came and wanted to know, you know, where -- they had a big map and they wanted me to find where I had been in different camps and -- in **Birkenau**. And then they actually put a -- gave us a guide, and we -- we -- we did the -- did the trip together. But what was so -- first of all, of course, ous -- **Birkenau** looks very different

now than it was, apart from the fact, you know, the trees and the grass that I mentioned. Most of barracks are not there any more. You just have a few examples, and I -- I had pointed out to my wife that I remembered we used to go in to the latrine, which was the only warm place in all of **Auschwitz,** to warm ourselves, and that they would chase us out after five minutes. Nobody could stay there, and I tried to describe it to her, and there it was, th-there was the barrack on -- as I'd remembered, and the mud. That, you know, was striking. We went to -- to a place in **Birkenau** when -- where we came in, the -- the sauna where we -- and I remember saying -- the -- the fellow said, this is the entrance. And I said to him no -- I said to my wife, this isn't the entrance, I came in through an entrance that had a pool, where you had to -- disinfecting pool, and it was quite deep and you had to go in -- and he said, "No, no, this was the entrance." And we walked around, and there is another -- there is a pool, and there is a door that was blocked off, and that was where I'd entered. He said, "Oh yes, this is the door." And of course it wasn't deep at all. It was maybe 10 centimeters pool. But to me as a child, you know, I was 10 years old -- not even 10 years old, it seemed like a very deep -- deep pool. I wi -- I had the same experience in the ghetto in **Kielce**. What my wife found so surprising was, I am very bad on directions. I -- I can -- i -- by -- in my family if I say turn left, all the kids say turn right. So, you know, nobody ever listens to me when I say how you find something. We drive into **Kielce**, this town in **Poland**, and my wife says, "Well what now? Should we ask somebody where the ghetto was?" And I said, "No, just drive down," -- **[tape break]**

Q: So your wife was -- was saying what -- what now.

A: Right. And we end up a block across where the ghetto was. And on the way, actually driving into **Kielce**, I suddenly remembered the name of the camp commandant, and a number of other names. And then we f -- I find the street -- the house where I was in the ghetto, where we stayed. And I'd remembered -- I kept saying to -- to **Peggy**, this is a very -- it was a very tall building, and if -- we got in and it was a three story, small three story apartment house, with -- I remembered the courtyard. It looked just as bad now as it looked then, it -- it wasn't in any better shape. What was disheartening to me was that this was a ghetto in which more then 20,000 Jews had been -- had been shipped to **Treblinka** from there, including my grandparents. There wasn't one monument to indicate where the ghetto was. Disgraceful, really. It's really part of the history of **Kielce** and I -- I went to the museum then, to -- to try to find something about the ghetto and they did say, oh yes, we had an exhibit here not long ago. We have this little book that was still prepared in communist days. But nothing that shows this is where there was population that has been killed. We -- there were only about five hundred that survived the -- the ghetto of **Kielce**. That's disheartening, you know. It -- it's -- it's disheartening because it shows at -- it's a continuing insult to -- it -- it sort of adds insult to injury when -- when that is -- when there is no attempt to remember what happened here. It's as if we obliterated all cemeteries. Just think what that would mean to societies, suddenly say there are no cemeteries. And thi -- this is what I felt in -- in that ti -- I couldn't wait to get

out of there. I -- I found it harder to take than -- than **Auschwitz**. I should tell you that I went back to **Auschwitz**, because I mentioned that I was actually called in right after an -- a sec -- my second visit to **Auschwitz** that I was going to be sitting on this -- or that I was nominated by the **U.S.,** and that was because a -- a British journalist and -- who decided that he wanted to write a book about me insisted that I go to **Auschwitz** on the -- to coincide with the date of the Death March out of **Auschwitz**, on which I was. And th- that was -- it was easier when my wife and I went, because it was summer and it was easier to take. When we were there on the 20th of January, an -- 21st -- 20th of January of -- of nin -- of 2000, it was just as it was -- as I remembered it, in terms of the cold, the road was all ice and all I could think about was, how did I ever survive this? Because I was dressed in the heaviest jacket with sweaters, with hat, and I was freezing, and I was there as a child with a little blanket and thin prison uniform. And -- and I made it. It -- it's hard to believe.

Q: Is it -- is it harder, now that you get older, to remember, to deal with it? Is it less easy to push things away a little bit, with work, or whatever? Do -- are you becoming more -- more sensitive?

A: Yes, I think so. I-It's strange, because in many ways, memories fade. And I -- I remember going back -- I'd -- I'd written this article about the Death March in 1956, when it was still very clear in my mind, because that was 1945, the Death March. And I had all of the details. I reread it because I -- I -- there were things that I hadn't

remembered any more. At the same time the emotional impact today is -- is much greater. I also think we get softer in our old age, in terms of **[indecipherable]** experience, it's -- but y-you know what is interesting is that while the memories of details fade, what doesn't fade is the -- the memory of the episode as a -- as a whole. And I wish I could -- I -- I could have the poet's soul to write about it, to capture that, because I -- I think -- I'm not sure that one -- that that is coming through in the literature. I don't know. As a matter of fact, I haven't read any books about the camp, I can't. I can't go to movies that show it, it's -- I never could. So -- but I think mor -- I think I have a harder time today facing up to it in many ways, than I did when I was younger.

Q: And now --

A: It's old age, you see, when you -- when you see veterans breaking down.

Q: In that context let's go back to the o -- in terms of time ahead, but in terms of what we talked about, back to the -- your work with the Holocaust Museum. In '96, I believe, you became a member of the council?

A: Mm-hm.

Q: And from '97 to '99 -- I tried to do my homework a little bit, you were a -- a member of the Committee on Conscience?

A: I chaired the -- the committee.

Q: Y-You chaired -- you were the chairman, yes. The -- the significance of the museum, speak to that a little bit, and the kind of work you did there.

A: First of all, I was a member of an advisory group originally that was involved when President **Carter** established the -- the Holocaust Commission, he also established an advisory group to the commission, and I was member of that. And the issue at that point was debated whether to have a Holocaust Museum in **Washington** or not. And I thought it was a mistake to have it in **Washington.** Again, I thought it should be in **Germany** and -- and not in **Washington.** Since then I've come to the conclusion I've been wrong. Not that it shouldn't -- that there shouldn't be one in **Germany**, but they -- the museum has been a tremen -- has had an tremendous educational impact on people in the **United States,** in terms of educating them to what happened. When I would go to meetings at the museum to -- to -- you know, we had council meetings and committee meetings, it was always impressive to see the thousands of kids lining up to go to the museum. And the hush that fell over them when they -- when they went in. So -- and -- and I think in -- in five years there were more than eight million people that had come to the museum. So I think it's had a tremendous impact. That Committee on Conscience was something that was very close to my heart, because I feel very strongly that the museum shouldn't be just a -- a cemetery. The museum has to be a living organism that tries to make sure that these things don't happen again. And that means also, speaking out to -- to where other crimes against humanity and genocide is being committed. And we have an obligation as survivors, and we owe it to the people who died to make sure that these things don't happen in other places. And so -- and that was really the function of the Committee on

Conscience, and I felt that I -- if -- if -- if that's not what the Holocaust Museum was doing, then I didn't want to be connected with it, because I had other things to do. But the establishment of the committee -- and it took a long time, they -- there were internal squabbles which I wasn't involved in, to establish it. But once it was established, I found that was really worthwhile, and ith -- and very important. And I'm glad I -- I of course had to resign from the Committee on Conscience because it speaks out on issues today, and on this court I -- I cannot be involved in anything. But I think it's very -- it's a very important role, very important what is happening there. Was something else I was going to mention to you. It is -- well --

Q: Maybe it'll come back to you. We are kind of winding down, but of course I always have a couple of additional questions that -- you just said, I have other things to do. Now, over the last eight years at least, you had a lot of things to do. You were on separate commissions and I'm not sure we have to mention them necessarily, but if you think about those last six to eight years, what do they mean in the context of your overall work? Is there anything in particular that you would like to say because something has come to a conclusion in the way you -- in your philosophy of international rights, or -- or human rights, that you have taken a new direction, or just something, anything that comes to mind that you might want to --

A: No, what comes to mind, less dramatic, is the fact that it -- there seems to be some sort of poetry -- not poetic justice, but a certain justice that has poetic, or non-legal aspect to

it. And that is that somebody with my background should be involved in these things. That I should be on the Truth Commission for **El Salvador,** that I should be on the Inter-American Court of Human Rights, that I should sit on the **UN** Human Rights Committee. That -- in a sense wh-what is impressive about it is not my career in that those things are often happenstance and anything else. But what is significant about it that it should give faith to people who believe -- who do -- people who are cynical a-about what can be done. The fact that a survivor of these things can still today have a role in trying to prevent some of these things from happening. That, to me, has always been the sort of significant aspect of -- of my activities. I would sit there and sometimes say gee, this is really, you know -- why was I granted this privilege? That -- that, to me, has been the -- the sort of most significant aspect. This is an -- an example of the fact that one can overcome si -- n-not per -- I personally, but that we can overcome some of these murderous things that have happened, and still be able to work for a better world. And -- and the fact that I could serve on these things indicates that there is reason to be optimistic about things. I -- I spoke once in -- in **Germany,** I think, in connection when I -- when I got the honorary degree, and I said I -- I thought -- it's so wonderful when you think that when you go down the **Rhine** and when you remember that the **Rhine** was reinforced on both sides between **France** and **Germany** with cannons and today you don't even need a passport. There's tremendous things that have happened, that should give us a sense of optimism. Yet, you know, the cynics keep saying nothing is changing.

Lots of terrible things happening, but then, a lot of good things have been happening and that -- that should inspire people to -- to want to do things. In my current position I -- I can no longer be an advocate, I -- I have to sit on my hands, try to apply the law. And that in itself is -- is a good discipline.

Q: I have to -- I should always --

A: Oh, you know what I wanted to say.

Q: Yeah, yeah, please. We -- we still have a little time left on the --

A: You may want to throw it out, but it -- but it's moved me, the other day. I got a telephone call the other day from a friend of mine who is a agent for authors in **Switzerland**, I met her when I -- you know, I was doing -- I was serving on -- running this tribunal for dormant accounts in **Switzerland**. And she had been the person who represented **Wilkomirski**, the man who was accused of -- of having lied. And she was in contact with the person in **Israel** who has collected all information about children, as -- in -- during the war. And they -- as they were talking, they were talking about somebody else, she said, "You know, I met somebody by the name of **Tom Buergenthal**. Do you have anything on him?" And I think she probably thought, you know, maybe my story is -- is also fake. So this woman says to her, "If I have something, I'll call you back in five minutes, because I have my files here." And she calls her back -- this is my friend in **Switzerland** telling me this. She calls her back and she says, "Yes, I can tell you all about him. I've got complete s-story from the orphanage in **Poland** where he was. And I -

- you know, and here is the story in his own words a-as he told it when he was interviewed at the orphanage in 1946 -- ’45 - ’46.” So she gives me the telephone number of the woman, and I get in touch with her, and she sends me some of this material, which is th-the -- all the documents from the orphanage were turned over to the archi -- Jewish archives in -- in **Poland**, and she got it from there, including a list of children, which was the way I found my mother, which is -- but on it, orphans, and they are asking people in **Israel** who wants to adopt the children, and I’m on that list. S -- and this is -- I -- and things that happened are unbelievable. I was sitting in **Zurich**, doing the work of the Holocaust bank accounts, when suddenly, click on my computer, there is a email that says, I knew your father. A man in **Australia**, 87 or 88 years old, who was with us -- with my mother and father in the ghetto of **Kielce**, in -- in **Auschwitz**, and who saw my name in the **Jerusalem** Post, connection with an article that was written, and remembered me as a -- as a child.

Q: That’s remarkable.

A: And -- and the -- and not long ago, a -- an email from **Israel** saying, is it you? And it was an American woman who had gone to **Israel**, who received me in **Czechoslovakia**, when I was smuggled out of **Poland,** to be reunited with my mother. She was the person who took me into -- took charge of me in **Prague** to ship me to the American zone in **Germany**, to the British zone. And she’s in her 80’s and she said, “When I saw that picture of you, it was you.”

Q: Do you remember her name, by any chance?

A: Yes, I -- her name is **Corin**, let's see, what's her first name. I have it on the -- on the computer.

Q: Okay, I would like to stop here, tape two, follow up interview with Judge **Buergenthal.**

End of Tape Two, Side B

Conclusion of Interview