

By Benjamin B. Ferencz

For the first time in history, it lies within man's power to destroy all life on earth. National and economic rivalries, competing political ideologies and contemporary outbursts of racial and religious intolerance lacerate the fabric of international society. Unless change by non-violent means is made possible, change by violent means becomes inevitable. If peoples of differing persuasion cannot learn to live together in peace, they will probably die together in war. It is reasonable to assume, however, that the mortal mind which was able to invent devices powerful enough to threaten world survival is also capable of devising measures to prevent the immolation of civilization. Means must be found which will make it possible for differences to be respected without jeopardizing the security of humankind. How this can and must be done is the subject of this book.

To begin with, I ask the reader to approach the topic with an open mind. The belief that intractable problems are best left to the experts or government leaders, may prove to be a fatal assumption. Professional diplomats and elected officials who are paid to protect a parochial interest can hardly be expected to favor innovations that may entail sacrifices by their constituents; the common sense of the common man may prove to be a better protector of the common weal.

It is a conviction widely held, particularly in the United States, that with sufficient determination and application, all problems can be resolved in a fairly brief period of time. The enormous strides made on the American continent since 1776, the landing of American astronauts on the previously unreachable moon, and the nearly unimaginable feats of modern technology all lend credence to this pervasive sense of human invincibility. Despite such feelings of euphoria, no one should expect quick or easy solutions to problems that have plagued mankind for centuries. But I shall offer a frame of reference which I hope will stimulate thought and thereby help to illuminate the path to future peace. My approach is a cautiously optimistic one; both as a matter of principle and because I believe it is justified by the facts. Without faith that human betterment is possible, despondency would stifle the initiative required to avert the prophecies of doom. Hope is the motor that drives human endeavor and only through confidence in the future can humankind muster the courage and strength to do what is

required for survival. With all due respect to those of contrary opinion, I have therefore, deliberately chosen to view the historical glass as half-full rather than half-empty.

It is my contention that – despite all of the vicissitudes and strife – an objective analysis of the facts will show that humankind is experiencing an erratic and turbulent evolutionary movement toward a more rational world order. I shall point out some of the landmarks along the historical road to demonstrate that more progress has been made during the past four decades than in all of previous recorded history. Only in fairly recent times have people begun to understand the interdependence, complexity and fragility of life on this planet. New organizations and instrumentalities are being created and improved in an effort to enhance the quality of life everywhere. There has been a gradual awakening of the universal human conscience. I do not mean to suggest that improvements in the human condition are inevitable – quite the contrary – but awareness that changes for the better are taking place, and the ability to see the wavering line of progress, should lend encouragement to those who are determined to make such advances even more effective. These new-born creations are frail babes that must be nurtured with loving care if they are to reach maturity and play their proper role in an enlightened world. We must not be tempted to abandon a babe just because it was not born full-grown.

In order to understand the action that is required now, it is important to master the lessons of history. Misinterpreting the past leads to misunderstanding the present and misjudging the future. There are those who will point out that ever since man began to roam this earth, he has never managed to eliminate the terrible evil of war as a means of settling disputes. They may argue that the historical record proves that killing other human beings is an immutable characteristic of man's nature and that all efforts to curb this natural destructive tendency are futile. I am not inclined to accept this melancholy Hobbesian theory of inherent human brutality. I do not believe that we are all foredoomed to share the fate of the dinosaur. The human instinct for survival, coupled with the intellect that distinguishes man from beasts has, thus far, intervened to protect humankind from extinction. Despite lapses and regressions, we can learn, and are learning, from errors of the past. There is nothing inevitable about either war or peace; whether

we survive or not depends on us.

The harsh reality we face is that close to five billion people of vastly different cultures and values – of varied national, religious, racial and ethnic attachments – now inhabit one planet and compete for its benefits and blessings. A few have great wealth, while hundreds of millions suffer hunger or malnutrition. Some nations have great strength, others are weak. Tyranny and fear dominate large masses. National pride swells in the hearts of newly independent nations, while self-determination remains an unfulfilled dream of oppressed minorities in all parts of the globe. By fair means or foul, hostile political and religious ideologies vie for acceptance and power. Acts that are condemned as illegal aggressions by some are hailed as wars of liberation by others. One group's terrorism is another's heroism. The challenge we confront is whether we can subdue this explosive mélange long enough to fashion the conditions needed for a peaceful world. Perfect solutions should not be expected; it is inevitable that conflicts will continue to arise, just as they do within many families and inside the most orderly of nations. The fact that remedies are less than perfect does not mean that the search for improvements should be abandoned; to do so would invite consequences that would be infinitely more disastrous. Though the situation is fraught with peril, it is far from hopeless. The eager and discerning eye can find, in the lessons of the past and the needs of the present, new policies that can help guide us out of our dangerous morass.

In our search for the path to world peace, it may be simple common sense to focus on what has already been universally accepted as the essential structure for all orderly societies. Since ancient times, every village, town, city and nation-state has come to recognize that a peaceful domestic society requires: 1) laws (to specify what may or may not be done), 2) courts (to resolve disputes and decide whether the codes have been violated), and 3) a system of effective law enforcement. To the extent that these three conditions are met, there is relative tranquility; to the extent that they are absent, there is turmoil. In the much more heterogeneous and complicated international arena, we find, unfortunately, that laws are inadequate, courts lack binding authority and enforcement is practically nonexistent. Small wonder that upon taking office in 1982, U.N. Secretary-General, Javier Perez de Cuellar, is not quite as bleak as

may appear on the surface. I shall explore the developments in each of these three vital areas to show what has been accomplished and what still needs to be done.

My thesis, simply stated, is that the arch or bridge to peace consists of these three major interlocking components – law, courts and enforcement – but they must all be set in place before the structure can be expected to stand. The foundation-stone of law remains barren without courts, and courts remain ineffective without enforcement. Each part is connected and depends upon the other for support. But the problem is even more complex; each major buttress also requires additional reinforcing elements. Thus, before international law can become more meaningful, there must be greater clarification and acceptance of the norms which are to govern international behavior. This, in turn, requires more universally shared values, mutual trust or confidence and a willingness to reach agreement through compromise. Until there is general consent to codifying the basic minimum norms of international behavior, one cannot realistically expect broad acceptance of independent courts to interpret those standards – or the granting of power to any independent agency to enforce rules of national conduct. Before international courts can become more acceptable, there must also be increased respect for the judicial process itself and greater willingness to rely on courts rather than on arms to resolve international disputes. If international law enforcement is to become a reality, the United Nations Organization and similar organs for international cooperation must be improved. Nations cannot be allowed to decide for themselves when they will use armed force to protect their interests. National arms must be brought under international control and self-help through warlike action must be replaced by a system of overwhelming might of the world community. An International Peace Force must be created as the ultimate international law enforcement agency. Those who are expected to comply with such a design for international law and order must be convinced that the proclaimed standards are as fair as can be expected under the circumstances and that the objective of the system is not exploitation but social justice for the betterment of all humankind. Each supporting component of the structure depends upon the other. The coherent and cohesive plan produces a strengthened or synergistic effect. If essential parts of the edifice or lacking, the structure is in danger of collapse.

The most immediate and compelling requirement is for a drastic reduction in the nuclear weapons that pose an impending threat to civilization. If the human house is undermined and faces a risk of imminent explosion, it is common sense that defusing the hazard must be given top priority. The most impressive blueprint for an improved society of nations would become meaningless if widespread nuclear warfare should destroy all of humankind. Arms control and disarmament are urgently imperative for other reasons as well budgetary deficits, caused primarily by the enormous expense of preparing for war, pose a threat to the economies of the world and an arms race squanders vast resources that are desperately needed to ameliorate economic and social privations that give rise to national unrest. As we have indicated, without enhanced social justice one cannot expect passive acceptance of the prescribed order. Peace is essential, but there can be no peace without justice and no justice without peace.

If one recalls that the present international community consists of nearly 160 sovereign nations, it will be apparent that obtaining universal, or near-universal, concurrence to a major revision of the prevailing order is not something that can be easily achieved. As prevailing educational and economic inequalities are diminished, and as ideological rivalries gradually become less strident and intolerant than they are today, the pace of progress may be enhanced – but it will take time. As long as the required elements of law, courts and enforcement (including its related components: improved international agencies, disarmament, sanctions and social justice) are lacking, powerful international adversaries will see no choice but to arm themselves and prepare for the defense of their perceived vital interests. Like an intricate jigsaw puzzle, all of the pieces must fit together and be in place before the picture of a more tranquil world can emerge as an acceptable alternative to the present system of terror.

This study has been divided into three parts. Part One seeks to set forth the historical evolutionary trends to demonstrate how far we have come in developing each of the components required for a peaceful world. The reader interested in history should be able to

confirm that the development of international law was a slow and erratic process that was based on many centuries of thought and that only during the past 200 years has it begun to flower. International courts only began to be accepted after the first World War. The process of enforcing international law – together with its supporting elements – was only seriously acted upon during the last few decades. All of these developments must mature and become functional before anything resembling international peace can be anticipated. The fact that progress is being made should encourage those who might otherwise despair. The Second Part outlines what needs to be done – what should be done to strengthen the components that must be in place before peace can become a reality. These suggestions are not inflexible nor definitive mandates. They appeal to the reader's common sense and should enable him or her to focus on the essence of what is required. The Third Part – examining what really can be done – is the most difficult. We must deal with the world and its problems as we find it. But there are many constructive steps that should and can be taken to help ameliorate contemporary conflicts and to build a more peaceful world in the future.

It is my hope that readers will gain sufficient knowledge and confidence that they will not succumb to the temptation to leave these difficult matters to the so-called experts. Sovereign states, both large and small, should come to realize that it is in their own self-interest to support all those measures that point toward a society in which the role of international law, courts and enforcement is strengthened. All actions or proposals by governments or bureaucrats that move on an opposite direction should be resited. Rational human beings everywhere – regardless of nationality, political or religious persuasion – long for peace. If Decision-Makers do not see clearly in which direction nations should be moving, they will never lead the people to their desired goal. If leaders are unable to satisfy the common aspirations of humankind, it will be up to the people themselves – better informed, better educated, better organized and more united – to assert their democratic and human right to live in peace and dignity. In this interdependent world, the sovereignty of the state must yield to the sovereignty of the law. If the common sense reasoning I have expounded seems to be Utopian, let the reader ponder the alternatives.

There are those who may argue that the effort to construct a global consensus capable of constraining the aggressive behavior of states is a futile enterprise. They will point out, no doubt correctly, that ever since the time of Thucydides, national leaders have always done what they believed – rightly or wrongly – to be in their own best interests. Only in rare instances, when strength was nicely balanced, did sovereigns recognize that war was a hazardous enterprise and that they therefore refrained from the use of force. The argument fails adequately to take into account that, if fear served to deter wars in the past, it should serve as an even greater deterrent in the nuclear age. The non-use of force is now a matter of EVERYONE’S self-interest.

I am grateful to many distinguished scholars and statesmen who have, in their writings, recognized that reason must triumph over rage if we are to survive. I have tried to reinforce their arguments by adding the historical proof that progress is in fact being made. Demonstrating that everything is linked may help to explain some of the difficulties and encourage a broader sweep of effort. Bureaucratic tyranny can never be allowed to be the last word. I have noted in conclusion that there is no reason to despair. Whether we choose to walk toward the high ground or over the precipice depends on us.

Teachers – particularly of peace studies, political science or public international law – may find in the present focus on law, courts and enforcement a common-sense concept within which to embrace the facts that must be mastered for a comprehensive and realistic appraisal of the obstacles to be overcome. It is hoped that this small volume will lend some measure of encouragement as well as enlightenment to all those concerned with resolving the difficult and urgent problems of world peace. I wish to express my appreciation to Professor Myers M. McDougal of Yale whose writings on behalf of human rights have been an inspiration and for his comments regarding an outline of this book. Steve Wasserman, Editor of New Republic Books, made a number of perceptive observations that have helped to sharpen my thinking on critical issues. My wife, Gertrude, has – as always – been consistently helpful and encouraging. And special thanks to my publisher, Philip F. Cohen.

Benjamin B. Ferencz

Adjunct Professor
Pace University School of Law
Teaching "The International Law of Peace"
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