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Transcript of Interview with Thomas Buergenthal

Narrator: The Netherlands, February 27, 2001.

Thomas: We are at the International Court of Justice in The Hague in my office at the Court. Ahm, on a very sort of (laughs) dark, dreary day...

Narrator: Judge Thomas Buergenthal is well known as a leading advocate of international human rights law, and for his pioneering work in international law. In March of 2000, he was elected the American judge for the principal judicial organ of the United Nations; the International Court of Justice.

Thomas: It's a court where you deal only with disputes between states. So, for an international lawyer like me, this is a dream court and a dream come true. 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're that important but in terms of those of us who believe in international law and practice international law, this is the Mecca to which you look. 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 Cracow, had just come back from it, in the evening, in the hotel, when I received the call from the legal advisor. So, it was very special.

Narrator: Buergenthal's first visit to Auschwitz after the war was with his wife, Peggy. He returned again, close to the 55th anniversary of the day when, as a 10 year-old, he left the camp on a forced march. It was one of the infamous "death marches" that the retreating Nazis forced on most concentration camp prisoners, rather than leaving them to be liberated by the advancing Allied forces.

Thomas: 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 19 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's... hard to believe. [Thunder is heard, then sounds of war.]

Narrator: Those prisoners from the Auschwitz men's camp who survived the death march, ended up in the concentration camp Sachsenhausen, near Berlin, Germany. In March, Thomas entered

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the infirmary, where two of his frostbitten toes were amputated. In April, when the battle over Berlin had already begun, Sachsenhausen was evacuated, and Thomas was left behind with the other prisoners who couldn't walk.

Thomas: The next morning I got up, and it was very, very quiet except for the shooting coming closer. I crawled out, went out and looked up and saw in the entrance of the camp, over the entrance on the inside—they always had a machine gun mounted with SS guards sitting on, and there was nobody there, the machine gun was empty. I came back and told people. Of course, nobody believed me (laughing) that this was happening. And then we just waited. And the shooting came closer. Then we began hearing small arms fire and suddenly sort of, I think it was in the early afternoon... the camp had a big bell in the middle of this field, and a Russian soldier was ringing—was driven in with a jeep and was ringing the bell saying, "You're free." You know when I see pictures of people who were liberated by American troops, by British troops, they were liberated. We were sort of... there were none of these scenes as far as I remember. The Russians just told us, "You can go." I mean, we felt a great sense of relief, because we expected to be shot. But I didn't have any sense of the tremendous joy that other people must have experienced. I was alone in many ways. I think if my parents had been there it would have been different.

Narrator: Thomas had been separated from his parents for several months. He was taken in by members of a Polish Army unit under Russian command. The soldiers assumed that he was a Christian Polish child. And Thomas had experienced enough discrimination to know that it was not safe to tell them that he was Jewish and from Czechoslovakia. The Polish he had learned in the ghetto of Kielce and in Auschwitz proved good enough for his new comrades.

Thomas: They made me a small uniform. And I had shoes. They even gave me a small revolver—not a revolver—automatic pistol. I had—they had found a circus horse some place, a pony, and—because much of the army was still horse-drawn. They had—supplies of the Russian and Polish army was still brought in by horse-drawn carts. There was a lot of horses. And I had my horse, and I could keep up with the soldiers. And I had a wonderful time. (Laughs). The strange thing is that the sort of—the absurdity of it, the comic aspect of it never occurred to me as a child. And, you know, at the same time I—all of this I thought was going to lead to my being reunited with my parents. And I never even thought that this wasn't going to happen. This was all part of a process. And in the meantime I could eat and I no longer had to be afraid and I had fun.

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Narrator: The soldiers fed him vodka to stimulate his appetite. They also shared bacon and bread. For the 10-year-old, none of it seemed out of the ordinary.

Thomas: And I think it has a lot to do with having, being a child and taking a lot of these things for granted. This is life and this is what happened. One day you don't have anything to eat, and the next day there's suddenly food. What I remember though is that I for years afterwards would always think that you should always eat before you did anything of importance because you never knew when you were going to eat again.

Narrator: Only one of the Polish soldiers, a Jew himself, found out that Thomas was Jewish. Eventually, he made arrangements for the boy to be taken to a Jewish orphanage. In 1946, his mother tracked him down, and Thomas was smuggled to Germany to be reunited with her. They settled in Goettingen, his mother's hometown. And suddenly, life took on different shades of normalcy. Going to school, catching up...

Thomas: With my mother we discussed—there was a lot of reminiscing about the camp and you know, "Where was this and that. What happened...?" The truth of the matter is that we often laughed about things in retrospect, about things that happened that were funny, about this or that that happened. So ahm, the human spirit—you couldn't take all of this, if it were only reminiscences about all of the terrible things. I saw the fact that I survived as a victory, that we had won over them. They wanted to kill us and we made it; we didn't give them the joy of killing us. So there was a tremendous sense of satisfaction, that of survival, unlike what one reads now that people supposedly feel bad that they survived and others didn't. We never had that feeling. Neither did my mother. Because my mother survived. I mean, we felt very bad that, for example, my father didn't survive. He died just shortly before the end of the war. But we never felt that—guilty about the fact of surviving. On the contrary.

[German reporter heard in background, "Goering ist gefragt worden, ob er hoeren kann.]

Narrator: In 1946, at the war crime trials in Nuremberg, 19 out of 22 German war criminals were convicted. Twelve were sentenced to death.

[1946 sentence is read "... The International Military Tribunal sentences you to death by hanging..."]

Thomas: The first, almost first English words that I remember was "by hanging." I remember listening to the radio when they—when they announced the sentences. And we were, we were listening to that and with sort of, with joy... And sitting on the balcony on a Sunday and seeing

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the German families taking a walk and my father hadn't come back. And at that point, you know, the desire of sort of seeing—when I first came back I would love to mount a machine gun on that balcony and shoot all of them. But then you realize that, you know these are people you don't know whether they killed your father. Most of them probably didn't. And you make friends. And you find for example, we lived in the house with somebody, who ah, a Catholic family that had actually helped the Jews in town, and had been in danger themselves. And so you—the sort of abstract hatred becomes transformed into the fact that they're human beings regardless of whether they're Germans or not Germans. And not every German was guilty.

Narrator: The only Jewish student in class, he never experienced antisemitism, yet never felt quite comfortable either. In 1951, Thomas left for America.

Thomas: We were on one of the troop carriers, the transports, the Liberty boats. It was the SS General Greely, I still remember the name. And I think it was a 10-day trip from Bremerhaven to New York. With a lot of refugees, people from all over... from Eastern Europe.

Narrator: His mother had decided that the 17-year-old should broaden his cultural horizon and his academic opportunities. He was to stay with her brother and sister-in-law in New Jersey, and return after a year.

Thomas: And it was a very scary experience, except that I knew I was coming to live with my uncle. And in that sense it—and I was young, so it wasn't as scary as what it must have meant for a lot of other people. 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... announce—make announcements in different languages. And so, I volunteered for that (laughs). At least it kept me above deck, which was nicer then, because the ship was very crowded. But arriving in New York, you know... and we set—We actually arrived in the evening, so we weren't unloaded. I couldn't disembark until the next morning and to see New York with all the lights and everything was... quite... in some ways exciting, in some ways it brought back memories of the past. When I saw the lights, I thought of the crematories in Auschwitz.

Narrator: Living with his uncle and aunt in Paterson, New Jersey, was not a problem.

Thomas: Oh no, I got along wonderfully! They are wonderful people. And they had... they were not well off, really. My aunt worked in a textile factory at the time, and my uncle in an aircraft factory. They had a little daughter there. When I came, they didn't really have an extra room for me. But they... they shared everything with me and took me in. Ahm, and really were my parents

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for that period of time. Narrator: He went to high school and made friends. Yet again, a sharp division between the past and the present remained.

Thomas: Nobody really wanted to know in those days about the past. Nobody asked. They wanted to know where I came from, what I did. But it went sort of... It was like asking "How are you?" you know, you don't really expect to get an answer. No, really, there was no great interest in finding out. It was just "Here is somebody new. He's come to America and he is now our buddy." And that was it! But no interest. Ahm, even my uncle and aunt, my uncle comes from Goettingen, my aunt from Berlin—they had a club of basically German Jews who'd come from there. They took me in, but nobody really asked where I was or cared. That came, I think it much, much later. They were just too busy making a living. And life was pretty hard. They had come, like my uncle and aunt during the depression basically. It wasn't easy. It wasn't an easy life, they came with nothing.

Narrator: Thomas too, was busy getting on with his life, college on a full scholarship, New York University Law School, Harvard Law School. Citizenship in 1957, marriage two years later. He never returned to live in Germany, but he remained in close contact with his mother until her death in 1991. At home, Thomas focused on his three sons who were born in the early '60s. At work, he was drawn to international law—a discipline of little interest to most American law students and lawyers at the time. He was also interested in human rights law, a relatively new discipline.

Thomas: I don't know, I've often been asked, well, is it my experience that drove me to it. I'm never quite sure. Ah, but what I think is true is this; that I felt from my concentration camp experience where we always looked to the US and to England to save us really, that in a situation where one was in trouble from a human rights point of view, one couldn't rely on the domestic scene, on the domestic environment, and you had to look—you had to have some international mechanisms that could protect you. Really the Universal Declaration of Human Rights had been adopted in '48, but nothing much was happening. And then in the early '50s the European Convention on Human Rights came into being, and I was fascinated... 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. I was interested in compliance mechanisms. How international institutions can have an impact on states and on individuals and protect individuals.

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Narrator: It was the Inter-American Court of Justice in Costa Rica that provided Buergenthal's first real experience in this fledgling field. One of the first members of the Court, he spent 12 years laying the groundwork for a human rights tribunal which today is playing an important role, particularly in Latin America. Under Buergenthal's presidency, the Court rendered a landmark decision; it awarded compensation to the families of victims of "disappearance" in Honduras—people who were kidnapped by government forces, murdered, and their bodies hidden.

Thomas: So, it was a—a terrible experience in one way, and a gratifying experience in the sense also of laying the foundation for the law on that subject and also establishing the principle that the government has responsibilities and has to compensate the victims. You have a sense you've done something.

Narrator: In Costa Rica, he also met his second wife, Peggy—an interpreter of Peruvian and British descent. And a divorced mother of two. With Peggy, he talked extensively about his past. More than he had with his children when they were growing up.

Thomas: We have great disagreement in my—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 I tried to tell them. And we've speculated, my wife and I, about it. And her sense is that the kids thought it was so painful that they didn't want 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... talking with them. But, it's quite clear that they know much less about my background still than they really should. 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 is in his late 80s now to put together an album. And had asked me to do that. So, there is interest... Ahm, but it's, it's sort of interest on the run.

Narrator: The same man who unflinchingly studied and prosecuted human rights abuses against other people has difficulty looking at representations of his own past.

Thomas: It's strange, because in many ways, memories fade... At the same time, the emotional impact today is much greater. I also think we get softer in our old age in terms of one's own experience. But—you know, what is interesting is that while memories of details fade, what doesn't fade is the memory of the episode as a whole. And I wish I could—I could have the poet's soul to write about it, ah... to capture that. Because I think... I'm not sure that one—that

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that is coming through in the literature. I don't know, as a matter of fact I haven't read any books about the camps. I can't. I can't go to movies that show it. I never could. I had wanted to take my children to the Holocaust Museum. And I realized I could not do it. I wouldn't be able to last.

Narrator: But his work with the US Holocaust Memorial Council and its Museum dates back to the late 1970s. From 1997-99, for instance, he was chairman of the Committee on Conscience.

[Recording of Buergenthal's introduction is heard: "Good evening, ladies and gentlemen. I would like first of all to welcome you to the Museum and to this program on Kosovo: Options and Obstacles. This program, as you know, is sponsored by the Committee on Conscience. The Council of the Museum is the governing body of the Museum. And the Committee on Conscience is one of its principal standing committees. Through the Committee on Conscience, the Council seeks to relate the suffering of the Holocaust to contemporary genocides and crimes against humanity. For who better than the victims of the Holocaust..." recording fades out.]

Thomas: The 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 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 where other crimes against humanity and genocide are being committed. 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 that I felt... that I found that was really worthwhile and very important.

Narrator: In addition to teaching and writing landmark books and articles on human rights law, Buergenthal has been a key member of several international bodies, including the United Nations Human Rights Committee; the Truth Commission for El Salvador, and the Claims Resolution Tribunal for Dormant Accounts in Switzerland.

Thomas: What is impressive about it is not my career. I mean that, those things are often happenstance than anything else. But what is significant about it this is an example of the fact that one can overcome certain... not 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! That to me has always been the sort of significant aspect of my activities. I spoke once in Germany, I think in connection when I got the honorary degree. And I said, "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 canons, 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

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know, the cynics keep saying, nothing is changing. Lots of terrible things happening. But a lot of good things have been happening, and that—that should inspire people to want to do things.