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STATEMENT OF THE HOLY SEE DELEGATION BEFORE THE GENERAL DEBATE OF THE INTERNATIONAL CRIMINAL COURT, REVIEW CONFERENCE OF THE ROME STATUTE (KAMPALA, 1 JUNE 2010)

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Here below the Statement by H.E. Alain Paul Lebeaupin, Apostolic Nuncio, Head of Holy See Delegation, before the general debate of the International Criminal Court Review Conference of the Rome Statute, held in Kampala, 1 June 2010:

Mr. President,

My delegation would like to join those thanking the government of Uganda for its hospitality and willingness to host this important meeting to review the Rome Statute.

Twelve years ago delegates went to Rome to undertake the goal of creating a new international legal structure which sought to ensure that gross violations of human rights would no longer be tolerated by the international community and that those responsible for perpetuating such violations would be held accountable for their actions.

Now, we come to Kampala to measure the effectiveness of these efforts and to continue to improve judicial systems to ensure that true justice is available to everyone in all corners of the globe.

At the heart of this exercise is the need to fully understand what it means when we speak of "justice." Justice is the virtue which recognizes the need for people to give due to God and each other and demands that each person respect the rights of each other and establish in human relationships the harmony that promotes equity with regard to persons and to the common good.¹ This justice is not based merely on legal determinations or juridical instruments but rather is based on the moral law which recognizes the inherent dignity of the human person.

This justice recognizes many forms: commutative justice, which regulates exchanges between persons and between institutions with strict adherence to their rights; distributive justice, which determines what the community owes its citizens in proportion to their needs and contributions; legal justice, which determines what a citizen owes the community, and social justice, which takes into account social, political and economic concerns as well as their corresponding structural dimensions within society². By recognizing that the work for justice requires actions in many areas, we recognize that justice cannot be limited to the realm of legal accountability but also requires society to work positively towards creating a more just society in all aspects of the social order.

When translated into national and international criminal and civil legal systems, this justice requires that legal and juridical bodies put into place rules and institutions which seek to actualize these principles in a way which respect objective moral truth and place the human person at the center of decision making. In this regard, the Rome Statute marked an important contribution to respect for the human person by recognizing that human rights are not limited by national borders, political position, religious background or cultural heritage but rather are inherent in every human person.

Mr. President,

The promise of the Rome Statute ultimately lies in its ability to further refine the law of nations (*ius gentium*) in which universally recognized norms are superior to the laws of States and which requires accountability to the entire global community. However for this promise to bear fruit, States must continue to work to build trust between and amongst one another. Failure to build this trust ultimately will give rise to selective justice or retribution. To build this trust, States must respect the norm that agreements must be kept (*pacta sunt servanda*) as failure to fulfill commitments leads to greater mistrust between States by escalating blame and friction, ultimately undermining global peace and security.

Further, respect for the principle of subsidiarity allows States and communities to take action with accountability and provides for victims and affected communities participating in the judicial process for the sake of addressing the harm caused by gross violations of human rights, which fosters restoration and broader long-term peace. In this forum, this notion is addressed under the concept of complementarity, which recognizes that local national systems must be the primary source for holding individuals accountable. In so doing, we recognize that subsidiarity helps to restore local communities but also fosters trust between States as national governments retain the responsibility to hold perpetrators accountable.

During this Review Conference, States Parties are working to adopt an amendment which recognizes the Crime of Aggression and delineates jurisdiction by the Court over such crimes. This amendment seeks to institutionalize, in international juridical instruments, a principle which rejects war as a means for resolving disputes and seeks to replace the *law of force* with the *force of law*. In learning from the better tradition of peoples and nations engaging in peaceful discussion and creating agreements, this amendment builds upon the tragic lessons learned around the world that recourse to force, or even threat of force, has undermined global and personal security of individuals and nations. To this end, The Holy See has long been an advocate against wars of aggression and rejects the flawed logic of violence and destruction as factors for progress or political advancement.

In discussing this amendment it is imperative that efforts be made to balance the prevention of wars of aggression with the rights of nations to legitimate self-defense. This balance can only be achieved if the outcome of these discussions is an amendment which truly reflects the concerns and thoughts of the entire international community and which promotes the pursuit of justice rather than retribution. Efforts to create jurisdiction mechanisms that are governed by the political vote of majorities would replace military might with political might and would ultimately serve to harm trust between nations and undermine long-term peace and the long-term viability of multi-lateral legal bodies. Thus, these discussions must weigh these urgent concerns and make sure that these discussions are not motivated by a desire to seek greater political or military influence but rather by a genuine desire to promote a justice which protects human rights and fosters greater trust between nations.

Mr. President,

While the efforts during these meetings to adopt and finalize the amendments to the Rome Statute are important, equally as important is the need to take stock of the work that has been accomplished since the adoption of the Rome Statute, especially in promoting peace and justice.

The Holy See has stated consistently that peace not only is possible but that *peace is a duty* which must be built upon the pillars of truth, justice, love and freedom. *Law favors peace* and, so, the two are intricately linked. Thus peace and justice are not in contradiction with one another but rather justice is a foundation for peace and just laws provide the means for fostering greater justice. In this context, justice must not be limited merely to the realm of "legal justice" but must also address the need for commutative, distributive and social justice.

For its part, the Holy See continues to call on all individuals within society to be peacemakers and to work towards justice. These efforts focus on the truth that every human person has inherent dignity and worth which must be respected regardless of racial, ethnic, religious, political or social distinction. The Holy See considers that, through teaching peace and justice, educational institutions can play an important role in fostering a social situation which sees our neighbors not as outsiders to be mistrusted and reviled but as fellow brothers and sisters to be respected and loved.

Mr. President,

The Holy See welcomes this conference and it is our hope that it ultimately serves to promote respect for international justice, provides for better recognition of human rights and fosters greater trust between people and States.

Thank you Mr. President.

1 Catechism of the Catholic Church, 1807.

2 Ibid. 2411.[00849-02.02] [Original text: English][B0371-XX.02]
