

National Council of the Churches of Christ in the USA

July 8, 1998

The President
The White House
Washington, DC 20500

Mr. President:

As the Rome Conference proceeds towards designing a treaty for establishing an International Criminal Court (ICC), we ask leaders of our government to consider carefully the moral, legal and political reasons for American acceptance of the jurisdiction of such a court.

Like many people all over the world, we regard the ICC as an important step towards the time when, for at least a limited number of atrocious crimes, a rule of law will finally prevail over some dimensions of national sovereignty. We believe that from its beginning ICC authority will be seriously crippled by an insistence by any nation especially the United States, that it have the right to veto any case brought against itself in the court.

We say "especially the United States" because (1) U.S. traditions of law, (2) our status as a chief world power, and (3) our claim to world moral leadership are all on the side of admitting to ICC jurisdiction over some potential actions of our own nation as well as others.

Our Declaration of Independence asserted that as a new nation we owed "decent respect to the opinions of mankind." Implied in all current religious traditions is the conviction that there are standards of law that apply to all human beings. The 1948 Universal Declaration of Human Rights expressed just such a conviction, and we are proud of American leadership in bringing that Declaration to pass fifty years ago. ... Our tradition of respect for law entails respect for law enforcement. The place to begin such steps short of international war is legal prosecution of persons and groups guilty of atrocities such as those committed recently in Rwanda and Bosnia. Special courts for individual prosecutions are not enough. The world needs a permanent criminal court.

If the U.S. exempts itself from the jurisdiction of the court whenever we deem it to our self-interest to do so, we will be handing other nations, large and small, an excuse to follow our example. We cherish that feature of our own legal tradition that forbids anyone to be judge of their own case. An American acceptance of some

degree of subjection to this principle will offer a powerful example of our integrity in our advocacy of limited government as indispensable in a true democracy. By so accepting at least a limited jurisdiction of the ICC we will imply to the rest of the world exactly what Judge Learned Hand meant when he said, "The spirit of liberty is the spirit that is not too sure it is right."

We have great confidence in the American judicial system, however, and we applaud the principle, now in the proposed Treaty, of jurisdictional parallelism, whereby a national court will have full freedom to hear cases involving its own laws and its own citizens. We remember with pride that the United States military judicial system ultimately acknowledged the gross injustice of the My Lai incident in the Vietnam War. As Americans we have to applaud the fact that this case is now taught as a violation of the rules of military engagement in the curricula of West Point and the United States War College. The very existence of an international tribunal, we believe, will prompt such action in many national legal systems, a resort to local jurisdiction that is much to be desired.

The moral fiber of individuals and nations is all that stronger when, on occasion, they have the capacity to admit they are sometimes wrong. In Psalm 15:4 we read that the "righteous" are those who "swear to their own hurt and do not change." We believe that this nation is unlikely to be a perpetrator of war crimes, genocide, and crimes against humanity. But we will have the best chance of persuading other nations of their own vulnerability to gross wrongdoing if we concede that our own powerful nation may conceivably be capable of the same.

We know that the originating jurisdictional powers of an ICC can be abused by those who mean political harm to the United States rather than honest pursuit of genuine grievances. But even a single case in which this country risks "swearing to its own hurt" will set a powerful example to other nations that none of them is above the law, especially the law that forbids the atrocities on which this court's concern will be focused

Grace and Peace,
(The Rev Dr.) Joan Brown Campbell, General Secretary