

FRANCISCO REZEK: [Interpretation] My name is Francisco Rezek, formal General Prosecutor, Brazil. I am the Brazilian judge at the International Court of Justice at the present time. In the framework of the thoughts which we must consider at present, there are three aspects which seem to me of particular interest as far as judicial policy is concerned.

I would, first of all, like to underscore the universal and permanent character of the International Criminal Court. What was the will of the founding states in doing so? Certainly, to learn from the ad hoc international criminal courts which had been created before, but mainly to have at hand today a forum which is not marked by specificity, as was the case for post-war tribunals and as is the case for those jurisdictions in charge of judging crimes in the framework of certain situations of civil war when others are occurring besides; a forum which is also not that of a domestic or municipal criminal justice, founding its jurisdiction on the sole basis of the principle of universal justice; more often, a jurisdiction which favours human rights and which displays the best of intentions, but whose efficacy remains doubtful given the present state of an actual law and which shows, given the historical background of the countries at present, the very difficult disadvantage of having to refer to the colonial factor.

The International Criminal Court, Mr. Prosecutor, should be shielded from any criticism that would tend to criticise us for not having taken into account the entirety of international society, or, from the point of view of the victims, the entirety of human gender in the exercise of its responsibilities, in the fixation of its priorities, in the selection of its emergency cases.

The second point deals with the issue of complementarity. One would need to avoid a situation where the exercise of the ICC's

jurisdiction be understood as a statement of failure of the judicial system of the territorial state concerned. It is often the case that the fact that the justice of a state refuses or is unable to act is simply due to the fact that it is an inconvenient forum, which may justify that the jurisdiction of municipal justice would require delocalisation be transferred without causing a major trauma to international justice, on the basis of rules of criminal procedure which are well established and thoroughly known in all judicial systems.

The third and last point. It may be the case that accusations may be made against an agent of the state whose actions or policy may have been submitted to the sanction of popular vote in the framework of a regime that is recognised as being a democracy. I believe, Mr. Prosecutor-in-Chief, that soon you will be confronted with this dramatic question: Is it the case that the popular vote has the virtue of extending amnesty for crimes which would otherwise fall within the realm of action of the International Criminal Court?

Thank you.