

AMERICAN BAR ASSOCIATION
SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES
STANDING COMMITTEE ON LAW AND NATIONAL SECURITY
SECTION OF INTERNATIONAL LAW AND PRACTICE
CENTER FOR HUMAN RIGHTS
CRIMINAL JUSTICE SECTION
THE BAR ASSOCIATION OF METROPOLITAN ST. LOUIS

REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

1 RESOLVED, That the American Bar Association recognizes the principle of universal criminal
2 jurisdiction as an important tool in the worldwide effort to strengthen the rule of law by
3 providing the means for the prosecution of persons who have committed serious international
4 crimes, regardless of where they are committed or by whom or against whom, and supports the
5 principle when it is exercised consistent with the limitations set forth herein;
6

7 FURTHER RESOLVED, That subject to such other limitations as may be imposed by
8 international law, universal criminal jurisdiction should be exercised only (a) for serious
9 international crimes that clearly are recognized by treaty or customary international law
10 authorizing such jurisdiction, (b) where there are facts supporting a reasonable belief that such a
11 crime may have been committed by the suspect, and (c) when exercised in accordance with
12 international norms on the protection of human rights in the context of criminal proceedings;
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14 FURTHER RESOLVED, That in exercising their jurisdiction whether to prosecute in such cases,
15 nations should not prosecute a citizen or lawful permanent resident of another nation where (a)
16 the case is being investigated or prosecuted by that nation, unless that nation is unwilling or
17 unable genuinely to carry out the investigation or prosecution and to do so in accordance with
18 international human rights norms or (b) the case has been investigated by that nation and that
19 nation has decided not to prosecute the person concerned, unless the decision resulted from an
20 unwillingness or inability of that nation genuinely to prosecute and to do so in accordance with
21 such international human rights norms;
22

23 FURTHER RESOLVED, That since the United States has adequate procedures to investigate
24 and prosecute serious international crimes in both its federal and military courts and to do so in
25 accordance with international human rights norms, so long as the United States Government uses
26 those procedures in the fashion set forth herein, no other nation should prosecute U. S. citizens or
27 lawful permanent residents for crimes on the basis of universal criminal jurisdiction; and
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29 FURTHER RESOLVED, That the American Bar Association urges the United States
30 Government to work with governments of other nations to take all reasonable steps to ensure that
31 the application of universal criminal jurisdiction by all nations is uniform and consistent with the
32 foregoing.

REPORT

I. Introduction.

This Report with Recommendation proposes that the American Bar Association recognize the importance of universal criminal jurisdiction as a tool to strengthen the rule of law and to end impunity for serious international crimes and also proposes safeguards against its abuse and calls upon the United States Government to work with other nations to ensure its proper exercise.

The Recommendation proposes policy for the proper exercise of universal criminal jurisdiction by nations and by the courts of those nations and expresses support for the doctrine when properly exercised within the confines of the Recommendation. The Recommendation also proposes a procedure by which a nation or its courts may preempt the exercise of universal criminal jurisdiction by another nation over one or more of its citizens or lawful permanent residents, including members of its military, suspected of committing serious international crimes. The Recommendation acknowledges the adequacy of procedures in U. S. federal and military courts to preempt the exercise of universal criminal jurisdiction of foreign courts if the United States elects to follow such procedures as set forth in the Recommendation. The Recommendation also proposes that the ABA urge the United States Government to work with governments of other nations to ensure that the application of universal criminal jurisdiction by all nations is uniform and consistent with the policies and procedures proposed in the Recommendation.

II. Universal Jurisdiction in International and American Law.

A. International Law.

Universal criminal jurisdiction is the principle of international law that permits any nation to prosecute certain serious international crimes, regardless of where they are committed, by whom or against whom, or of any other unique tie to the prosecuting nation.¹

Customary international law long has recognized universal criminal jurisdiction over piracy, slavery, slave trading and, more recently, genocide. In the last half century, numerous treaties

¹"Pure" universal jurisdiction is sometimes understood to cover only cases where the accused is not present on the territory or otherwise in the custody of the investigating nation; this concept views presence or custody as a sufficient jurisdictional fact, even though the crime has no other link to the investigating nation. The ABA Recommendation, however, covers all forms of universal criminal jurisdiction, regardless of whether an accused is present or in custody. Where the accused is not present or in custody, a nation such as the United States may investigate, indict, issue an arrest warrant, and seek extradition. But it may not conduct a trial; human rights norms generally bar trials of persons whose physical presence has not been secured. Universal jurisdiction also exists for purposes of civil suits. However, this Report with Recommendation addresses only universal jurisdiction for purposes of criminal investigations and prosecutions. Additionally, this Report with Recommendation does not address or seek to modify in any way the current international law respecting immunity of governmental officials and heads of state from process or prosecution before foreign national courts under the doctrine of international criminal jurisdiction.

have recognized universal jurisdiction over such serious international crimes as “grave breaches” of the 1949 Geneva Conventions and of the 1977 Geneva Protocol I,² certain acts of international terrorism such as aircraft hijacking,³ and torture.⁴

The list of universal jurisdiction crimes is not closed, but expands with the development of international law. For example, the most recent treaties, ratified by the United States in 2002, authorize universal jurisdiction over terrorist bombings and financing of terrorism.⁵

B. American Law.

Current U. S. law confers universal jurisdiction upon U. S. civilian courts over at least the following crimes: piracy;⁶ torture;⁷ air hijacking, destruction of aircraft and violence at international airports;⁸ violence against foreign officials, official guests and internationally protected persons;⁹ hostage taking;¹⁰ violence against ships or against fixed maritime platforms;¹¹ financing of terrorism;¹² and terrorist bombings.¹³

In addition, general courts-martial have universal jurisdiction over war crimes to the extent permitted by the law of war,¹⁴ which includes grave breaches of the Geneva Conventions and Protocol.

III. Contributions of Universal Criminal Jurisdiction to the Rule of Law.

A. Generally.

Universal criminal jurisdiction has developed over time in response to the recognition that perpetrators of certain serious international crimes otherwise were likely to escape prosecution. The first such crime was piracy. All nations were authorized to prosecute pirates, wherever found, both because of the heinous nature of their crimes and because of the ease with which pirates otherwise might evade the jurisdiction of nations that ordinarily would exercise

²E.g., Convention (IV) Relative to the Protection of Civilian Persons in Time of War, adopted 2 August 1949, art. 146; Protocol Additional to the Geneva Conventions of 2 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), adopted 8 June 1977, art. 85.1.

³Convention for the Suppression of Unlawful Seizure of Aircraft, adopted 16 June 1970, 22 UST 1641, art. 4.2.

⁴Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted 10 Dec. 1984, art. 5.2.

⁵International Convention for the Suppression of Terrorist Bombings, adopted 9 Jan. 1998, 37 I.L.M. 249 (1998), art. 6.4; International Convention for the Suppression of Financing of Terrorism, adopted 9 Dec. 1999, 39 I.L.M. 270 (2000), art. 7.4.

⁶18 U.S.C. 1651, 1653.

⁷18 U.S.C. 2340A(b)(2).

⁸18 U.S.C. 32(b)(4), 37(b)(2); 49 U.S.C. 46502(b)(2)(C).

⁹18 U.S.C. 112(e)(3), 878(d) and 1116(c).

¹⁰18 U.S.C. 1203(b)(1)(B).

¹¹18 U.S.C. 2280(b)(1)(C) and 2281(b)(3).

¹²18 U.S.C. 2339c(b)(2)(B)(2003).

¹³18 U.S.C. 2332f(b)(2)(C)(2003).

¹⁴10 U.S.C. 818; see also Manual for Courts-Martial United States (1998 ed.), R.C.M. 201(f)(1)(B)(i)(a) and 202(b).

jurisdiction, such as the country of nationality of the pirate or the country in whose ports or against whose ships the piracy was committed.

Much the same dual rationale—heinous crimes otherwise left in impunity—has fueled the modern extension of universal jurisdiction over war crimes, genocide, torture, and acts of international terrorism.

Other bases of jurisdiction frequently are inadequate to ensure that persons who perpetrate grave international crimes are brought to justice. The two main alternatives to universal jurisdiction are (a) prosecutions of suspected criminals by their national courts and (b) prosecutions before international criminal courts. Neither to date has proven sufficient to bring the world's worst criminals to justice.

B. National Courts.

National courts often are incapable of prosecuting international crimes committed by their own citizens, although an increasing number of courts are recognizing their responsibility, under international law, to do so. Genocide and acts of state-sponsored terrorism, by nature, are committed by order or tolerance of high-ranking military or civilian leaders, who then often shield themselves and their subordinates from prosecution by national courts. Friends in high places often shield war criminals and torturers as well. No Iraqi court, for example, could or did prosecute Saddam Hussein or the security officers who carried out his orders to commit these crimes—at least until invasion brought his reign to an end.

Similarly, international terrorists often are sheltered by governments that refuse to prosecute or extradite them to the countries whose peoples they victimized. The Taliban regime in Afghanistan, for example, sheltered Osama bin Laden despite his indictment in the United States.

C. International Criminal Tribunals.

In the last few decades, International criminal tribunals have made valuable contributions to the rule of law. But they, too, are frequently inadequate. *Ad hoc* international criminal tribunals, such as the Nuremberg and Tokyo tribunals and the recently established tribunals for Yugoslavia, Rwanda, Sierra Leone, and East Timor, are limited to prosecuting only certain crimes committed in particular wars or countries. Even if it made economic sense to establish a new international court for each such event constituting those kinds of crimes, the international community currently lacks the political will to do so.

In theory, the solution could be a permanent International Criminal Court (ICC) with global jurisdiction over the most serious international crimes, a concept previously endorsed by the ABA. But the existing ICC, within its current jurisdictional and financial limitations, will not be able to fully address all serious international crimes. For example, it has no jurisdiction over crimes committed before July 2002, and it can prosecute crimes committed after that date only by consent of the nation where the crime was committed or whose citizen is the suspect. To date, only about half the world's nations (the United States is not one of them) have consented to ICC jurisdiction by joining its statute. Although the ICC also can act in situations referred to it

by the United Nations Security Council, any one permanent member of the Security Council may veto such referral; regardless of the potential for veto by a permanent member, the extent to which such referrals will take place in the future remains unclear.

In any event, the ICC currently has jurisdiction over only three crimes: genocide, war crimes, and crimes against humanity. It cannot prosecute other heinous international crimes, such as terrorism and torture, except insofar as they happen also to be included within the definition of one or more of the crimes over which it does have jurisdiction.

Additionally, even where the ICC has jurisdiction, its resources are limited. Currently and in the foreseeable future, it cannot prosecute all of the world's serious international crimes because of these fiscal limitations.

Neither the national courts of the perpetrators nor international courts, then, currently are up to the job of curbing impunity for the world's worst crimes. Hence, there is a real need for an additional prosecutorial option—universal criminal jurisdiction exercised by courts of nations not directly involved in the crimes.

IV. Limitations to Prevent Abuse.¹⁵

A. Reasons for Limitations.

Although universal criminal jurisdiction is necessary to serve justice, safeguards must be designed so that this jurisdictional power is not abused by prosecutions that are frivolous, politically motivated, or violative of basic due process protections. For example, in early 2003 a candidate for public office in Belgium filed complaints in Belgian courts against U. S. officials pursuant to a universal criminal jurisdiction law that allowed Belgian investigating magistrates no discretion to decline to investigate the complaints. Although Belgium later dismissed or referred all such cases to the United States and has since repealed this objectionable law, this situation illustrates the need for prudential principles to ensure proper use of universal criminal jurisdiction.

B. Limitations Proposed.

The Recommendation proposes adoption of three such safeguards, reflecting principles of legality, necessity, and due process of law. The Recommendation also proposes that each of these safeguards must be present before universal criminal jurisdiction may be exercised properly.¹⁶

¹⁵As previously stated, this Report with Recommendation does not seek to address or modify in any way current international law respecting the application of the doctrine of immunity for certain governmental officials and heads of state from process or prosecution in foreign national courts for official acts on behalf of their country.

¹⁶Similar safeguards have been proposed by three respected judges of the International Court of Justice. *Democratic Republic of Congo v. Belgium*, ICJ General List No. 121, Judgment of February 2002, Separate Opinion of Judges Rosalyn Higgins, Pieter Kooijmans, and Thomas Buergenthal, pars. 59 and 60. The full court did not reach the precise issue of universal criminal jurisdiction in that case (the issue of immunity, which is an integral part of universal criminal jurisdiction, however, was discussed). Issues of the proper scope and extent of universal criminal jurisdiction now are pending before the ICJ in the case of *Democratic Republic of Congo v. France*, in which a

1. **Principle of Legality: The Legal Obligation Must Be Clear.**

First is a *principle of legality*. Under this principle, universal criminal jurisdiction may be exercised only with respect to “serious international crimes that are clearly recognized by treaty or by customary international law authorizing such jurisdiction . . .”¹⁷ Many such crimes already are recognized as authorizing universal criminal jurisdiction; however, there are international crimes that are not recognized as authorizing universal criminal jurisdiction. For those who wish to add more crimes to the list authorizing universal criminal jurisdiction, the proper remedy is to propose new treaties or to promote a “general practice of states” that authorizes universal criminal jurisdiction over additional crimes. Under long-established principles of international law, a “general practice of states,” for purposes of establishing customary international law, emphasizes the practices of the relevant population of states. Just as coastal states are the primary relevant states for purposes of customary law on maritime territorial boundaries, states with forces experienced in armed conflict are the primary relevant states for purposes of the customary international law of war.

Under this principle of legality, as envisioned by the proposed resolution, no person can be prosecuted under universal criminal jurisdiction for acts not recognized clearly by treaty or customary international law as crimes authorizing universal criminal jurisdiction at the time they were committed.¹⁸ The United States has for many years concurred with the concept that a person may be prosecuted criminally for acts for which universal jurisdiction currently is recognized by treaty or customary international law.

In addition, crimes subject to universal criminal jurisdiction also must comply with the general principle of international law that they must be defined with sufficient clarity to provide fair notice to all concerned.

2. **Principle of Necessity: Complementarity as a Basis to Ensure the Nation and Its Courts Having Nationality Jurisdiction May Preempt Exercise of Universal Jurisdiction by Another Nation.**

Second is a *principle of necessity*. Under this approach, universal criminal jurisdiction may not be exercised where a nation having nationality jurisdiction (a nation whose citizen or lawful permanent resident is a suspect) conducts a genuine investigation and, if warranted, prosecution, provided its procedures meet “international human rights norms” for fair criminal trials. National courts exercising universal jurisdiction, therefore, have only secondary jurisdiction (as used in this Report with Recommendation, courts authorized to exercise universal jurisdiction only if not preempted by the nation having nationality jurisdiction). They thus are constrained in

judgment could come in late 2004 or 2005. See ICJ, General List No. 129, Order of 11 July 2003 (French counter-memorial due in May 2004).

¹⁷Crimes in violation of customary international law were prosecuted by the United States at Nuremberg and, at the urging of the United States, by the International Criminal Tribunal for Yugoslavia. *The Nuremberg Trial*, 6 F.R.D. 69, 130 (1946); *Tadic Case*, ICTY No. IT-94-1-AR72, 2 Oct. 1995, 35 I.L.M. 32, Judgment of the Appeals Chamber on Jurisdiction, pars. 75, 134, 137 (1995).

¹⁸E.g., International Covenant on Civil and Political Rights, art. 15.

a manner similar to the ICC, which likewise may exercise jurisdiction only over matters that have not been or are not being properly investigated or prosecuted by national courts. In the ICC context, this principle is called "complementarity." The language of the present recommendation largely parallels the complementarity language in article 17 of the ICC statute.

3. **Due Process of Law: An ABA-proposed Additional Limitation.**

Third is a *principle of due process of law*. Under this principle (not currently specifically recognized in customary international law, but suggested in this Report as a proposed requirement under the proposed resolution), a nation may not exercise universal criminal jurisdiction if its own courts fail to comply with "international norms on the protection of human rights in the context of criminal proceedings," such as judicial independence and impartiality and the right to an adequate defense.¹⁹ This proposed limitation, by its very nature, will limit significantly the number of courts of nations that otherwise may exercise universal criminal jurisdiction because many such nations and their courts do not, in fact, at this time comply with "international norms on the protection of human rights in the context of criminal proceedings." The Recommendation provides that, absent compliance with this requirement, no nation properly may exercise universal criminal jurisdiction.

In summary, the proposed ABA Recommendation provides that only if all three principles are satisfied could universal criminal jurisdiction be exercised properly, and the failure to meet any one of these three criteria would prevent the proper exercise of that doctrine.

C. **United States Military Personnel.**

This Report with Recommendation also addresses the potential for misuse of universal criminal jurisdiction to bring unwarranted criminal prosecutions against American military personnel. The Recommendation, if adopted and implemented, would allow the United States and other appropriate nations to preempt another nation or that other nation's courts from prosecuting U. S. military personnel. In fact, the Recommendation specifically recognizes that the United States has in place adequate procedures by which the United States could preempt any other nation from exercising universal criminal jurisdiction over its military personnel (or any other citizen or lawful permanent resident of the United States), should it choose to do so.

Although all three principles identified above would protect American soldiers, the key safeguard for our soldiers is the *principle of necessity*, by which no foreign court properly could exercise universal criminal jurisdiction over American soldiers so long as the United States conducts an investigation and, where warranted by the evidence, a prosecution, in accordance with the requisite standards. In effect, the United States, as the country having nationality jurisdiction, could at any time, should it chose to do so, preempt any foreign court from properly exercising universal criminal jurisdiction over Americans.

Under the Recommendation, the United States, should it elect to do so, would be entitled to take preemptive jurisdiction because American courts meet international norms for fair trials and due process of law. Not only do American constitutional standards for its federal civilian courts meet

¹⁹E.g., International Covenant on Civil and Political Rights, art. 14.

applicable international norms,²⁰ but due process protections for the accused in American courts-martial are also among the strictest in the world. As mentioned above, the Recommendation recognizes specifically that U. S. federal and military courts meet this requisite standard.

An issue could arise if the United States failed to investigate or, where warranted, to prosecute cases. The United States has an independent interest in avoiding such lapses. During Vietnam, for example, the United States successfully prosecuted more than 20 cases involving war crimes, including the My Lai massacre.²¹

The proposed resolution, if adopted as customary international law or treaty law, would not restrict the ability of a nation to implement the death penalty, should it choose to do so. Some nations (in particular, most European nations) decline to extradite suspects to the United States without assurances that they will not face the death penalty.²² But this is a matter of the law and policy of those nations, not international law.²³ Accordingly, the ABA Recommendation, if adopted, would not support the refusal of another nation to return a U. S. citizen or lawful permanent resident, including a member of the U. S. military, because the person may be subject to the death penalty in the United States for the crimes the person is suspected of having committed.

Under the policy proposed in the Recommendation, then, American soldiers are protected against frivolous or politically motivated universal criminal jurisdiction prosecutions abroad.

V. Conclusion.

This Report with Recommendation embraces a balanced approach toward the concept of universal criminal jurisdiction. It recognizes universal criminal jurisdiction as an important tool in the worldwide struggle to establish the rule of law globally and to end impunity for the commission of serious international crimes. At the same time, it adopts principles limiting jurisdiction by which nations properly may exercise universal criminal jurisdiction; it recommends procedures by which nationality nations may protect their citizens and lawful permanent residents, including their military personnel, by being willing genuinely to investigate and prosecute such allegations in accordance with international human rights norms; and it recommends that the United States Government work with other nations to ensure that universal criminal jurisdiction is applied uniformly consistent with the Recommendation.

²⁰*Id.*

²¹On March 16, 1968, in the Vietnamese village of My Lai, a U. S. patrol massacred as many as 500 unarmed civilians. The investigation of My Lai led to the prosecution by court-martial of Army Lt. William Calley and his officer-in-charge, Captain Ernest Medina. Medina was charged with murder of 102 Vietnamese civilians based on the theory that if Medina knew or should have known that a massacre was taking place and did nothing to stop it, he should be found guilty of murder. After an instruction from the judge requiring that Medina have actual knowledge of the massacre before he could be held culpable, he was acquitted. Lt. William Calley, the officer in charge of the patrol that actually participated in the My Lai incident, was found guilty of murder in a jury trial.

²²E.g., *Soering v. United Kingdom*, European Court of Human Rights, 161 Eur. Ct.H.R. (Series A) (1989).

²³International law, including article 6 of the International Covenant on Civil and Political Rights to which the United States is a party, expressly permits the death penalty.

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Respectfully Submitted,

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Jerome J. Shestack, Chair
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Norman K. Maleng, Chair
Criminal Justice Section

February 2004

GENERAL INFORMATION FORM

Submitting Entities: Section of Individual Rights and Responsibilities
Standing Committee on Law and National Security
Section of International Law and Practice
Center for Human Rights
Criminal Justice Section

Submitted by: Joan F. Kessler, Chair, Section of Individual Rights and Responsibilities
Suzanne E. Spaulding, Chair, Standing Committee on Law and National Security
A. Joshua Markus, Chair, Section of International Law and Practice
Jerome J. Shestack, Chair, Center for Human Rights
Norman K. Maleng, Chair, Criminal Justice Section

1. Summary of Recommendation

The Recommendation proposes policy for the proper exercise of universal criminal jurisdiction by nations and by the courts of those nations and expresses support for the doctrine when properly exercised within the confines of the Recommendation. The Recommendation also proposes a procedure by which a nation or its courts may preempt the exercise of universal criminal jurisdiction by another nation over one or more of its citizens or lawful permanent residents, including members of its military, suspected of committing serious international crimes. The Recommendation acknowledges the adequacy of procedures in U. S. federal and military courts to preempt the exercise of universal criminal jurisdiction of foreign courts if the United States elects to follow such procedures as set forth in the Recommendation. The Recommendation also proposes that the ABA urge the United States Government to work with governments of other nations to ensure that the application of universal criminal jurisdiction by all nations is uniform and consistent with the policies and procedures proposed in the Recommendation.

2. Approval by Submitting Entities

The Council of the Section of Individual Rights and Responsibilities approved the Report with Recommendation in principle on October 26, 2003. The Standing Committee on Law and National Security approved the filing of the Report with Recommendation on November 20, 2003. The Council of the Section of International Law and Practice approved the filing of the Report with Recommendation on November 25, 2003. The Executive Board of the ABA Center for Human Rights approved this Report with Recommendation, in principle, by conference call on October 30, 2003, and approved its final draft on November 17, 2003. The Criminal Justice Section Council approved the Report with Recommendation on November 15, 2003.

3. Has this or a similar recommendation been submitted to the House or Board previously?

Yes. The Standing Committee on Law and National Security submitted a Report with Recommendation addressing certain of the issues covered by this Report with Recommendation

for consideration by the House of Delegates at the ABA Annual Meeting in 2003. The Report with Recommendation was tabled by the House of Delegates, with the expectancy that it would be reconsidered at the Midyear Meeting of the ABA in 2004. On November 17, 2003, the Standing Committee on Law and National Security gave notice it would withdraw that Report with Recommendation in favor of this Report with Recommendation and shortly thereafter gave notice that it also would support this Report with Recommendation.

4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?

The House of Delegates previously adopted a policy supporting the creation of a permanent International Criminal Court (ICC). The issue in this Report with Recommendation with respect to complementarity—referral of a case from one court to another court—is similar to the one contained in the structure of the ICC. This Report with Recommendation also proposes adoption of a principle by which a nation that otherwise would have universal criminal jurisdiction over the citizen or lawful permanent resident of another nation should not exercise that jurisdiction so long as the nationality nation is genuinely able and willing to investigate and, where warranted, prosecute in such case in accordance with the procedures and norms proposed in the Recommendation.

5. What urgency exists which requires action at this meeting of the House?

It is important for the House of Delegates to consider this Report with Recommendation at the Midyear Meeting of the ABA in 2004 for several reasons. First, at the 2003 ABA Annual Meeting, the House of Delegates tabled a Report with Recommendation offered by the Standing Committee on Law and National Security in order to provide opportunity for further consideration and discussion of the issues by all interested ABA entities. It was expected that the Report with Recommendation would be reconsidered at the Midyear Meeting of the ABA in 2004. The interested entities since have discussed the issues in exhaustive consultations and have reached a consensus that is reflected in this Recommendation. Second, there has been increased activity in recent years with respect to the development of the principle of, and implementation of the principle of, universal criminal jurisdiction, and the ABA previously has not adopted a policy on this very important issue. Third, some issues addressed in the Report with Recommendation also are before the International Court of Justice at this time.

6. Status of Legislation

Not applicable.

7. Cost to the Association

Adoption of this Report with Recommendation would result in only minor, indirect costs associated with Governmental Affairs' and sponsoring entities' staff time devoted to advancing the policy as part of the staff's overall substantive responsibilities.

8. Disclosure of Interest

No member of the Council of the Section of Individual Rights and Responsibilities, the Committee of the Standing Committee on Law and National Security, the Council of the Section of International Law and Practice, the Executive Board of the ABA Center for Human Rights, or the Council of the Criminal Justice Section is known to have a material interest in the Recommendation by virtue of a specific employment or engagement to obtain the results embodied in the Recommendation.

9. Referrals

Following submission of this Report with Recommendation to the House of Delegates, the proposal will be distributed to all sections and divisions and other interested entities by copy of this form.

10. Contact Persons*Section of Individual Rights and Responsibilities*

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11. Contact Persons (who will present to the House)

The individuals listed in paragraph 10 above.

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12. Contact person regarding amendments to this recommendation

No amendments have been received, but if any are submitted, any of the persons listed in paragraph 10 would be an appropriate contact person.