RESOLVED, That the American Bar Association urges all countries, consistent with international law, not to apply statutes of limitation with respect to (1) genocide, (2) crimes against humanity, and (3) serious war crimes.
REPORT

“Moral duties have no term.”—Robert Kennedy


At the present time, the American Bar Association does not have a clear policy statement regarding the statutes of limitations for genocide, crimes against humanity, and serious war crimes. Having such a statement could have been of great benefit to Haiti in encouraging the proper application international law in the Duvalier matter. Such a statement is consistent with the ABA’s record of promoting human rights around the world and developing and advancing the rule of law for the protection of these rights.

The following report demonstrates that the proscription against statutes of limitations for genocide, crimes against humanity, and serious war crimes is well established within the international community. By encouraging all governments to apply this international legal standard, the ABA can (a) minimize the likelihood that relevant authorities will misapply or misunderstand this well-settled and important legal principle; (b) advance the deterrent objective of the proscription by promoting a proper understanding of this legal principle; and (c) contribute to the betterment of human rights around the globe.

I. International Law Proscribes Statutes of Limitations For (1) Genocide, (2) Crimes Against Humanity, and (3) Serious War Crimes.

International law proscribes statutes of limitations for the most serious crimes of international concern, namely genocide, crimes against humanity, and serious war crimes. Not only do treaties and conventions embody this principle, but national legislation, judicial

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decisions, and policies provide evidence of widespread state practice and a belief that exempting these crimes from the relevant statutes of limitations is obligatory.

As Jean-Marie Henckaerts and Louise Doswald-Beck have noted, state practice and opinio juris establish this rule as a norm of customary international law:

The recent trend to pursue war crimes more vigorously in national and international criminal courts and tribunals, as well as the growing body of legislation giving jurisdiction over war crimes without time-limits, has hardened the existing treaty rules prohibiting statutes of limitation for war crimes into customary law.

Such state practice reflects a widespread concern that providing limitations periods for the most heinous crimes would prevent their prosecution, which is necessary to deter commission of such crimes, provide redress to victims, and ultimately protect fundamental human rights.

A. International Law Proscribes Statutes of Limitations For the Crime of Genocide.

It is an established principle of customary international law that there is no statute of limitations for the prosecution and punishment of the crime of genocide. The Convention on the Prevention and Punishment of the Crime of Genocide, which calls on states to prevent and...
punish genocide during times of war and peace, has reached near universal acceptance (with 142 states parties, including the United States) and “is undeniably considered part of customary international law.”\(^8\) Reflecting widespread state practice, many national laws prohibit statutes of limitations for the crime of genocide. For example, the following are among some of the countries that have national legislation limiting the application of statutes of limitations to the crime of genocide: Armenia, Belgium, Burundi, Colombia, Croatia, Democratic Republic of the Congo, Ethiopia, France, Germany, Israel, Lithuania, Mali, the Netherlands, Korea, Russia, Rwanda, Slovenia, Spain, the United States, and Uzbekistan.\(^9\) In the United States, the Genocide Convention Implementation Act of 1987 expressly states that there is no statute of limitations for the crime of genocide.\(^10\)

International treaties, conventions, and guidelines also embody this proscription. For example, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (with 54 states parties) provides that “[n]o statutory limitation shall apply” to genocide “irrespective of the date of ... commission.”\(^11\) Adopted shortly following the Nuremberg trials, this Convention recalls numerous resolutions of the General Assembly and the Economic and Social Council that affirmed the “principles of international law recognized by the Charter of the International Military Tribunal at [Nuremberg]” and notes that “none of the solemn declarations, instruments or conventions relating to the prosecution and punishment of war crimes and crimes against humanity made provision for a period of limitation.”\(^12\) This

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10 18 U.S.C. § 1091(e) states that “in the case of an offense under this section, an indictment may be found, or information instituted, at any time without limitation.”

11 Convention on Non-Applicability of Statutory Limitations, supra note 4, at art. 1(b) (“No statutory limitation shall apply to the following crimes, irrespective of the date of their commission: ... the crime of genocide as defined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, even if such acts do not constitute a violation of the domestic law of the country in which they were committed.”). The United States has neither signed nor ratified this Convention, but it is a party to the Convention on the Prevention and Punishment of the Crime of Genocide, supra note 6.

12 Id. at Preamble.
Convention further states, “it is necessary and timely to affirm in international law, through this Convention, the principle that there is no period of limitation for war crimes and crimes against humanity, and to secure its universal application.” Some states viewed this Convention at the time of its adoption as the embodiment of previously existing law, while others have since recognized that it represents customary international law. The Rome Statute similarly provides that crimes within its jurisdiction, including genocide, “shall not be subject to any statute of limitations.”

International criminal tribunals and hybrid internationalized tribunals, which apply a compound of international and national substantive and procedural law, similarly prohibit statutes of limitations for the crime of genocide. For example, in a frank warning in March 1999 to those suspected of committing such crimes in Kosovo, the President of the International Criminal Tribunal for the former Yugoslavia (“ICTY”) stated:

I wish to be very clear. The Tribunal has jurisdiction over violations of the laws and customs of war, grave breaches of the Geneva Conventions, crimes against humanity and genocide. There is no statute of limitations on these crimes.

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13 Id. at art. 1.

14 See Pradhan, supra note 8, at 237-38 (“Despite the fact that the United States is not party to the U.N. Convention, there were many other nations at the time of promulgation that believed that ‘the principle of the non-applicability of statutes of limitation to war crimes had already been recognized in international law.’”)

15 One U.S. federal court has stated:

The principle of non-applicability of statutory limitations to certain violations of international law has been recognized in international instruments. The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity provides that “[n]o statutory limitations period shall apply” to war crimes and crimes against humanity, including genocide. Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, Nov. 26, 1968, art. 1, 754 U.N.T.S. 73, 75 (entered into force Nov. 11, 1970); see also Rome Statute of the International Criminal Court (“Rome Statute”), July 17, 1998, arts. 5, 29, U.N. Doc. A/Conf. 183/9 (1998) (entered into force July 1, 2002) (“The crimes within the jurisdiction of the Court [(i.e., genocide, crimes against humanity, war crimes and ‘the crime of aggression’)] shall not be subject to any statute of limitations.”). Although the United States is not a signatory to either the United Nations Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity or the Rome Statute, these instruments suggest the need to recognize a rule under customary international law that no statute of limitations should be applied to war crimes and crimes against humanity.


16 Rome Statute, supra note 5, at art. 29.
Persons indicted by the Tribunal thus remain indicted until they are brought to trial. While the situation on the ground may change, the law does not. Crimes will be investigated. Where appropriate, persons will be charged and tried.”

In the case of atrocities committed in Cambodia between 1975 and 1979, the law establishing the court to investigate and prosecute the senior leaders of the Khmer Rouge states that “acts of genocide … have no statute of limitations.” In the case of atrocities committed in East Timor, the Special Panels for Serious Crimes in East Timor, established by the UN Transitional Authority in East Timor (“UNTAET”), employ similar rules. Specifically, Section 17.1 of Regulation No. 2000/15 on the Establishment of Panels with Exclusive Jurisdiction over Serious Criminal Offences provides that genocide is not subject to any statute of limitations.

B. International Law Proscribes Statutes of Limitations for Crimes Against Humanity.

It is similarly an established principle of customary international law that there is no statute of limitations applicable to crimes against humanity. The Nazi atrocities at Nuremberg became known as “crimes against humanity,” and these crimes remain some of the “most serious crimes of concern to the international community as a whole.” Evidencing state practice and

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20 The Rome Statute defines a “crime against humanity” as “any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack,” including, but not limited to, murder, extermination, enslavement, deportation or forcible transfer of a population, torture, rape and other forms of sexual violence, and apartheid. Rome Statute, supra note 5, at art. 7(1).


opinio juris, the following are among some of the countries that have national legislation proscribing statutes of limitations for crimes against humanity: Albania, Argentina, Belgium, Burundi, Cuba, Democratic Republic of the Congo, Ethiopia, France, Germany, Hungary, Israel, Mali, the Netherlands, Niger, Poland, Korea, Russia, and Rwanda.23

The United States has also stated on a number of occasions its practice of proscribing statutes of limitations for crimes against humanity:

- In 1967, during a debate in the Third Committee of the UN General Assembly on the question of the punishment of war criminals and of persons who have committed crimes against humanity, the representative of the United States stated:

  Her delegation supported the basic human rights objectives sought through the adoption of a convention on the non-applicability of statutory limitation to the kinds of crimes of which Nazi criminals were prosecuted and convicted at Nürnberg, namely war crimes and crimes against humanity and would co-operate with other delegations which wished to approach the question in a constructive manner.24

- In 1977, in reply to a question from the Embassy of France, the U.S. Department of State stated:

  It is the view of the United States Government that neither the [1945 London Agreement], with the [1945 IMT Charter (Nuremberg)] annexed, nor [the 1945 Allied Control Council Law No. 10] … contain any provisions setting a time limit for prosecution or punishment. The United States further regards [the 1945 Allied Control Council Law No. 10] as revoking the benefits of any statute of limitation in respect of the period specified; and in

International Military Tribunal, art. 6(c), Aug. 8, 1945, 59 Stat. 1544, 1547, 82 U.N.T.S. 279 (defining crimes against humanity as “murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.”).

23 ICRC, supra note 8. See generally Pradhan, supra note 8, at 240-46 (discussing state practice for atrocity crimes).

24 ICRC, supra note 8, at § 9.
light of the absence of any provision to the contrary, the offenses covered in these instruments are considered not to be subject to limitation concerning their prosecution and punishment.

United States Federal law contains no statute of limitations on war crimes and crimes against humanity.\(^{25}\)

As with the crime of genocide, international treaties, conventions, and guidelines confirm the proscription against statutes of limitations for crimes against humanity. For example, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity and the Rome Statute both proscribe statutes of limitations for crimes against humanity.\(^{26}\) As Professor William Schabas has stated in his commentary to Article 29 of the Rome Statute, “The non-applicability of statutory limitations to war crimes and crimes against humanity has been well recognized in international law since the 1960s.”\(^{27}\) Similarly, under the European Convention on the Non-Applicability of Statutory Limitations to Crimes Against Humanity and War Crimes (with seven states parties and one additional signature), crimes against humanity are not subject to a statute of limitations. Specifically, Article 1 of this Convention states that “[e]ach Contracting State undertakes to adopt any necessary measures to secure that statutory limitation shall not apply to the prosecution of ... crimes against humanity specified in the Convention on the Prevention and Punishment of the Crime of Genocide adopted on 9 December 1948 by the General Assembly of the United Nations.”\(^{28}\)


\(^{26}\) Convention on Non-Applicability of Statutory Limitations, supra note 4, at art. 1(b) (“No statutory limitation shall apply to the following crimes, irrespective of the date of their commission: ... Crimes against humanity whether committed in time of war or in time of peace as they are defined in the Charter of the International Military Tribunal, Nurnberg, of 8 August 1945 and confirmed by resolutions 3 (I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly of the United Nations, eviction by armed attack or occupation and inhuman acts resulting from the policy of apartheid ...”); Rome Statute, supra note 5, at art. 29 (“The crimes within the jurisdiction of the Court shall not be subject to any statute of limitations.”). The United States has neither signed nor ratified the Convention on Non-Applicability of Statutory Limitations, but it is a party to the Geneva Conventions.

\(^{27}\) Pradhan, supra note 8, at 247.

In addition, as with the crime of genocide, international criminal tribunals and hybrid internationalized tribunals have proscribed statutes of limitations for crimes against humanity. For example, the Law on the Establishment of Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea states that “[c]rimes against humanity ... have no statute of limitations.”29 The rules for the Special Panels for Serious Crimes in East Timor also provide that crimes against humanity are not subject to any statute of limitations.30

International jurists have confirmed that customary international law proscribes the application of any statute of limitations to crimes against humanity. For example, in the Almonacid-Arellano case, the Inter-American Court of Human Rights affirmed that crimes against humanity are not susceptible to statutes of limitations. Citing favorably the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, the Court stated:

Indeed, as a crime against humanity, the offense committed against Mr. Almonacid-Arellano is neither susceptible of amnesty nor extinguishable. As explained in paragraphs 105 and 106 of this Judgment, crimes against humanity are intolerable in the eyes of the international community and offend humanity as a whole. The damage caused by these crimes still prevails in the national society and the international community, both of which demand that those responsible be investigated and punished.31

The Court further stated that it “believes that the non-applicability of statutes of limitations to crimes against humanity is a norm of General International Law (jus cogens), which is not created by said Convention, but it is acknowledged by it.”32 Therefore, the Court concluded that it would apply this principle to states that have not acceded to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity based on its status under international law.

29 Law on the Establishment of Extraordinary Chambers, supra note 18, at art. 4.

30 Regulation No. 2000/15, supra note 19, at § 17.1 (“The serious criminal offences under Section 10.1 (a), (b), (c) and (f) of UNTAET Regulation No. 2000/11 and under Sections 4 to 7 of the present regulation shall not be subject to any statute of limitations.”).


32 Id. at ¶ 153.
Judge A.A. Cancado-Trindade endorsed this position in his concurring opinion:

The classification of crimes against humanity is a great contemporary victory, which encompasses, in my view, not only International Human Rights Law, but also International Criminal Law insofar as it reflects the universal condemnation of gross and systematic violations of fundamental and irrevocable rights, i.e. *jus cogens* violations; hence the non-applicability, in the event of their occurrence, of the so-called statutes of limitations in national or domestic legal systems. The category of crimes against humanity, in my opinion, is yet another expression of the *universal juridical conscience*, of its immediate reaction against crimes that affect humanity as a whole.33

Similarly, in *Prosecutor v. Tadic*, the International Criminal Tribunal for the Former Yugoslavia ("ICTY") referred to the judgments of the French courts in the trial of Klaus Barbie, head of the Gestapo of Lyons during the Second World War, and stated, "the fact that a crime against humanity is an international crime was relied upon to deny the accused’s appeal on the bases of disguised extradition and an elapsed statute of limitations."34

C. International Law Proscribes Statutes of Limitations for Serious War Crimes.35

Customary international law also proscribes statutes of limitations for the prosecution and punishment of serious war crimes.36 Like genocide and crimes against humanity, the

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33 *Id.* at ¶ 26 (Cancado-Trindade, concurring).


35 The Rome Statute defines “war crimes” as (a) grave breaches of the Geneva Conventions of August 12, 1949, including, but not limited to, willful killing and torture or inhuman treatment; (b) other serious violations of the laws and customs applicable in international armed conflict, including, but not limited to, intentionally directing attacks against the civilian population or against individual civilians not taking direct part in hostilities; and (c) in the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions, including, but not limited to, “violence to life and person, in particular murder of all kinds, mutilation, cruel treatment, and torture.” *Rome Statute*, *supra* note 5, at art. 8(2) (a)-(c).

international community considers certain war crimes among “the gravest crimes in international law.”\footnote{See Convention on Non-Applicability of Statutory Limitations, supra note 4, at Preamble.} Typical definitions of serious war crimes include willful killing, torture or inhumane treatment, and willfully causing great suffering or serious bodily injury.\footnote{See, e.g., Rome Statute, supra note 5, at art. 8; Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, art. 50, Aug. 12, 1949, 75 U.N.T.S. 31, available at http://www.icrc.org/ihl.nsf/full/365?opendocument (hereinafter “First Geneva Convention”) (“Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.”).}

International humanitarian law has long recognized that war crimes are not amenable to amnesties or prescriptions of any kind, and there exists a substantial and growing practice in international, regional and national legal systems to prohibit amnesties for grave human rights, including war crimes.\footnote{See Brief of International Law Experts, supra note 2, at 3.} During the drafting of the 1977 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (“Additional Protocol II”), the international community took up the issue of amnesties.\footnote{Jean-Marie Henckaerts & Louise Doswald-Beck, Customary International Humanitarian Law: Rule 159 (2005), available at http://www.icrc.org/customary-ihl/eng/docs/v1_cha_chapter44_rule159.} When Article 6(5) of Additional Protocol II was adopted, which relates to amnesties granted at the end of hostilities, the Union of Soviet Socialist Republics stated that the provision could not be construed to enable war criminals, or those guilty of crimes against humanity, to evade punishment.\footnote{Id. (“When Article 6(5) of Additional Protocol II was adopted, the USSR stated, in its explanation of vote, that the provision could not be construed to enable war criminals, or those guilty of crimes against humanity, to evade punishment. The ICRC shares this interpretation.”).}

The International Committee of the Red Cross (\textquotedblleft ICRC\textquotedblright), citing cases in Argentina, Chile, and Ethiopia as examples, has noted that consistent state practice since that time reflects the near universal acceptance of this principle.\footnote{Id. (citing Chile, Appeal Court of Santiago, 	extit{Videla} case; Ethiopia, Special Prosecutor’s Office, 	extit{Mengitsu and Others} case; Argentina, Federal Judge, 	extit{Cavallo} case and stating, “Most amnesties specifically exclude from their scope persons who are suspected of having committed war crimes or other specifically listed crimes under international law.”).} In fact, a number of national laws proscribe...
The U.S. government has publicly expressed its belief that serious war crimes are not subject to statutes of limitations. For example, in 2001, former Secretary of State Madeleine Albright when reflecting about her tenure as Secretary of State commented that she “always said that the statute of limitations on war crimes does not run out.”

In addition, in a 1991 diplomatic note to Iraq, the United States stated to the government of Iraq that “under International Law, violations of the Geneva Conventions … or related International Laws of armed conflict are war crimes, and individuals guilty of such violations may be subject to prosecution at any time, without any statute of limitations. This includes members of the Iraqi armed forces and civilian government officials.” In another similar diplomatic note, the United States reiterated that “Iraqi individuals who are guilty of … war crimes … are personally liable and subject to prosecution at any time.”

International treaties, conventions, and guidelines also provide support for the proscription of statutory limitations in the case of serious war crimes. As noted above, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity proscribes statutes of limitations for war crimes (as defined in the Charter of the International Military Tribunal), particularly “grave breaches” under the Geneva

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43 ICRC, supra note 8. See generally Pradhan, supra note 8, at 240-46.

44 18 U.S.C. § 2441(a) (“Whoever, whether inside or outside the United States, commits a war crime, in any of the circumstances described in subsection (b), shall be fined under this title or imprisoned for life or any term of years, or both, and if death results to the victim, shall also be subject to the penalty of death.”).


Conventions, such as willful killing, torture or inhumane treatment, and willfully causing great suffering or serious bodily injury.\(^{48}\) Similarly, Article 29 of the Rome Statute proscribes statutes of limitations for crimes within its jurisdiction, including war crimes, such as willful killing, torture or inhumane treatment, and willfully causing great suffering or serious bodily injury, “when committed as part of a plan or policy or as part of a large-scale commission of such crimes.”\(^{49}\) Providing further support for the proscription against statutes of limitations for war crimes, the United Nations has refused to participate in or fund transitional justice arrangements that support amnesty for war crimes in post-conflict societies.\(^{50}\)

In addition, international criminal tribunals and hybrid internationalized tribunals proscribe statutes of limitations for serious war crimes. For example, the rules for the Special Panels for Serious Crimes in East Timor provide that certain “serious criminal offences” are not subject to any statute of limitations.\(^{51}\) The European Commission of Human Rights stated in a 1976 case that “the rules of prescription do not apply to war crimes.”\(^{52}\)

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\(^{48}\) Convention on Non-Applicability of Statutory Limitations, supra note 4, at art. 1(a) (“No statutory limitation shall apply to the following crimes, irrespective of the date of their commission: War crimes as they are defined in the Charter of the International Military Tribunal, Nürnberg, of 8 August 1945 and confirmed by resolutions 3 (I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly of the United Nations, particularly the ‘grave breaches’ enumerated in the Geneva Conventions of 12 August 1949 for the protection of war victims.”). See also, e.g., First Geneva Convention, supra note 38, at art. 50 (“Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.”). The United States has neither signed nor ratified the Convention on Non-Applicability of Statutory Limitations, but it is a party to the Geneva Conventions.

\(^{49}\) Rome Statute, supra note 5, at arts. 8, 29 (“The crimes within the jurisdiction of the Court shall not be subject to any statute of limitations.”).


\(^{51}\) Regulation No. 2000/15, supra note 19, at § 17.1 (“The serious criminal offences under Section 10.1 (a), (b), (c) and (f) of UNTAET Regulation No. 2000/11 and under Sections 4 to 7 of the present regulation shall not be subject to any statute of limitations.”).

Finally, international jurists and international law experts (such as Elizabeth Ohio Benito, former judge of the International Criminal Court and the ICTY; Thomas Buergenthal, former President of the Inter-American Court of Human Rights; David M. Crane, former Chief Prosecutor of the Special Court for Sierra Leone; Pedro Nikken, former President of the Inter-American Court of Human Rights; Patricia M. Wald, former judge of the ICTY; and Raul Zafaroni, Judge of the Supreme Court of Justice of Argentina) have stated that “international humanitarian law has long recognized that war crimes are not amenable to amnesties or prescriptions of any kind.” According to these experts, the prohibition against impediments to investigation and prosecution of such crimes is firmly settled in international law:

The jurisprudence of international courts, tribunals and supervisory mechanisms and the position adopted by numerous national legal systems, points to extensive practice precluding amnesties … for grave human rights violations including genocide, crimes against humanity, war crimes and torture. The prohibition on amnesty and other legal impediments to investigation and prosecution has become a well-settled norm of international law.54

II. The ABA Should Issue a Policy Statement Urging All Countries Not to Apply a Statute of Limitations to Serious Crimes.

As the misapplication of law in the Duvalier matter demonstrates, it is imperative that the ABA encourage all countries not to apply statutes of limitation to genocide, crimes against humanity, and serious war crimes. Doing so will minimize the likelihood that relevant authorities will misapply or misunderstand this well-settled and important legal principle; advance the deterrent objective of the proscription by promoting a proper understanding of this legal principle in countries in which the ABA is making contributions; and contribute to the betterment of human rights around the globe.

Respectfully Submitted,

Barton Legum
Chair, ABA Section of International Law

August 2013

53 Brief of International Law Experts, supra note 36, at 13.

54 Id. at 3 (emphasis added).
GENERAL INFORMATION FORM

Submitting Entity: Section of International Law
Submitted By: Barton Legum, Chair, Section of International Law

1. **Summary of Resolution(s):** This resolution asks that the American Bar Association urge all countries, consistent with international law, not to apply any statute of limitations with respect to (1) genocide, (2) crimes against humanity, and (3) serious war crimes.

2. **Approval by Submitting Entity:** The Council of the Section of International Law has approved.

3. **Has this or a similar resolution been submitted to the House or Board previously?** No.

4. **What existing Association policies are relevant to this resolution and how would they be affected by its adoption?**
   There are no existing policies on this matter.

5. **What urgency exists which requires action at this meeting of the House?**
   There are current cases in international tribunals where an ABA policy position could be helpful.

6. **Status of Legislation.** (If applicable)
   N/A

7. **Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.**
   ABA’s Office of Governmental Affairs would forward this statement broadly. The policy could also be stated, where appropriate and in accordance with ABA procedures, in statements, letters, testimony or briefs.

8. **Cost to the Association.** (Both direct and indirect costs)
   None.

9. **Disclosure of Interest.** (If applicable)
   N/A

10. **Referrals.**
    A copy of this resolution and report will be circulated to all ABA Sections and Divisions for support and co-sponsorship.
11. Contact Name and Address Information. (Prior to the meeting)
   Becky Farrar, 1121 Arlington Blvd #220, Arlington, VA 22209 rfarrar88@gmail.com

12. Contact Name and Address Information. (Who will present the report to the House?)

   ABA Section of International Law Delegates

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EXECUTIVE SUMMARY

1. **Summary of the Resolution**

   This resolution asks the American Bar Association to urge all countries, consistent with international law, not to apply any statute of limitations with respect to (1) genocide, (2) crimes against humanity, and (3) serious war crimes.

2. **Summary of the Issue that the Resolution Addresses**

   When Jean Claude Duvalier returned to Haiti in January 2011, Haitian authorities arrested him and reopened a case against him for human rights abuses and financial misconduct. In January 2012, a Haitian judge held that the Haitian courts could not prosecute Jean Claude Duvalier for crimes against humanity because Haiti’s statute of limitations had expired. This ruling by the Haitian judge directly contradicted well-established international legal principles.

3. **Please Explain How the Proposed Policy Position will address the issue**

   ABA’s encouragement of all countries not to apply a statute of limitations to serious crimes, namely genocide, crimes against humanity and serious war crimes, will minimize the likelihood that relevant authorities will misapply or misunderstand this important legal principle. As the largest bar association in the world, ABA is uniquely positioned to make an important contribution with this policy statement. The statement also supports ABA’s work on Rule of Law globally.

4. **Summary of Minority Views**

   Some may argue that the resolution doesn’t go far enough and should also include other crimes like human trafficking. (Counter: we have confined this resolution to the specific crimes that are included in current international jurisprudence.)