

21. Recommendations on Universal Jurisdiction and the International Criminal Court

1. On this the fiftieth anniversary of the American Declaration of the Rights and Duties of Man and the Universal Declaration of Human Rights, the Inter-American Commission on Human Rights (IACHR) takes note of one of the greatest advances in recent international public law: establishment of the principle of individual criminal responsibility within the international legal order. Pursuant to the Principles of Nuremberg, adopted by the United Nations General Assembly in 1946, and the resolutions establishing the international criminal courts for the former Yugoslavia and for Rwanda, issued by the United Nations Security Council in 1993 and 1994, the recent diplomatic conference in Rome approved the Permanent Statute of the International Criminal Court on July 17, 1998. Articles 1 and 25 of that Statute proclaim the criminal responsibility of any person accused of committing a crime against international law in one of the following three categories: genocide, crimes of war, and crimes against humanity (such as the forced disappearance of persons, torture, and grave or systematic violations of human rights). These Articles also permit the prosecution and adjudication of such crimes by the new international criminal court regime in cases where the national system of criminal law concerned is not willing or able to perform this function.

2. This evolution in the legal framework has further consolidated the principle of universal jurisdiction, by virtue of which any state has the authority to prosecute and sanction individuals responsible for such international crimes, even those committed outside of a State's territorial jurisdiction, or which do not relate to the nationality of the accused or of the victims, inasmuch as such crimes affect all of humanity and are in conflict with public order in the world community.

3. As a principal human rights organ of the inter-American system, the IACHR has the mission to promote the observance and defense of human rights in the hemisphere among the member countries of the OAS. It therefore considers that enshrinement of the principle of individual criminal responsibility in the international legal order, together with the principle of universal jurisdiction, will contribute significantly to the strengthening of international systems for the protection of human rights, and even more importantly, to consolidation of the rule of law and fundamental human freedoms in the world community. Accordingly, in the exercise of its functions under Article 41(b) of the American Convention on Human Rights, article 18(b) of its Statutes, and Article 63(f) of its Rules of Procedure, the Inter-American Commission on Human Rights decides:

A. To recommend that the member States of the Organization of American States adopt such legislative and other measures as may be necessary to invoke and exercise universal jurisdiction in respect of individuals in matters of genocide, crimes against humanity, and war crimes.

B. To recommend that the member States of the Organization of American States that have not yet done so sign and ratify the Statute of the International Criminal Court approved by the Diplomatic Conference of Rome on July 16, 1998.