CHAPTER THIRTEEN

CRIMES AGAINST HUMANITY

1. CRIMINALIZATION IN INTERNATIONAL CRIMINAL LAW

The term ‘crimes against humanity’ was first formulated in the Declaration of 1915 concerning the genocide of Armenian by the Turkish government. It was later reformulated in the Charter of the International Military Tribunal in Nuremberg for the prosecution and punishment of Major War Criminals. Crimes against humanity were defined 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 the 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.’ This definition has, rapidly, been developed and enlarged in the system of international criminal law by the establishment of the United Nations Organization and the formulation of a number of international criminal conventions applicable to crimes against humanity. Some of the most recognised instruments which have been ratified by a great number of states include, the Convention on Prevention and Punishment of the Crime of Genocide, 1948, the International Convention on the Suppression and Punishment of the Crime of Apartheid, 1973, Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 August 1949, Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 12 August 1949, Geneva Convention Relative to the Treatment of Prisoners of War, 12 August 1949, Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949, the Geneva Protocol I Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection

2 Article 6 (c) of the Charter of the International Military Tribunal annexed to the London Agreement of 8 August 1945.

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of Victims of International Armed Conflicts, 12 December 1977 and the
Geneva Protocol II Additional to the Geneva Conventions of 12 August
1949, and Relating to the Protection of Victims of Non-International
Armed Conflicts, 12 December 1977 and a number of conventions relating
to the crime of slavery.\(^3\) All these conventions have formulated provi-
sions recognizing the commission of certain acts in both war and peacetime
crimes against humanity. This recognition is regardless of the race, colour,
national or ethnic origin of an individual or group. These provisions have even been extended within the Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia (ICTY) and the Statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States (ICTR). They have also been strengthened and consolidated within the Statute of the permanent International Criminal Court (ICC) in 1998. The Statute of the ICC is one of the most authoritative legislations governing the recognition of crimes against humanity in international criminal law.

2. CRIMINALIZATION IN

Islamic International Criminal Law

In Islamic international criminal law it is not necessarily the acceptance of
certain regulations and the legislation of certain rules within the
domestic and the international criminal systems which identifies which
acts do and which acts do not constitute a crime. It is the effect and basic
elements of the natural or moral law which prohibits and criminalizes
given international criminal conduct.\(^4\)

One must not forget the fact that an individual under Islamic law
is recognised as an integral part of the human community and from a
more far reaching aspect, an integral part of a universal human life. This

\(^3\) For further analysis and discussions see, generally, Malekian, *International Criminal Law*, vols. I and II.

\(^4\) The term “natural law” is also used as moral law. This means God’s eternal law, revealed law in the Old Testament, the law of the spiritual commandments or law of the Gospel. Moral law has also developed to express civil law too.