Contents

I		ferences							
2		Main Substantive Terms, Their Basic Differences and Links,							
			ng Working Hypothesis	17					
	2.1		tions	18					
		2.1.1	Humanity	19					
		2.1.2		21					
		2.1.3	1	22					
		2.1.4	Crimes Against Humanity	25					
	2.2		ences	25					
	2.3		tant Links	27					
	2.4		ng Hypothesis	29					
	Refe	erences		30					
3	Hist	orical (Overview of the Development of the Concept						
			ty in International Law and Crimes Against						
	Hun			31					
	3.1	Introd	uction	32					
	3.2	Evolu	tions Before the Adoption of the Nuremberg Charter	35					
		3.2.1	The Ancient World	35					
		3.2.2	The Middle Ages	50					
		3.2.3	Impact of Immanuel Kant's Philosophy	56					
		3.2.4	The Principle of Humanity in the Development						
			of International Humanitarian Law	60					
		3.2.5	Armenian Massacres and Legal Attitudes Towards						
			"Laws of Humanity" in Their Aftermath	77					
	3.3	Devel	opments After the Adoption of the Nuremberg Charter	89					
		3.3.1	Nuremberg International Military Tribunal	89					
		3.3.2	Subsequent Proceedings Under the Allied Control						
			Council Law No. 10	101					

xviii Contents

		3.3.3 3.3.4	Work of the International Law Commission	105					
		5.5.1	and Rwanda	114					
		3.3.5	International Criminal Court	121					
	3.4		usion	126					
			usion	131					
	Kele	rences		131					
4	"Humanity" Within the Contemporary Context of International								
	Law	Dealir	ng with Crimes Against Humanity	137					
	4.1	Introd	uction	138					
	4.2	Existin	ng Legal Theories of Crimes Against Humanity	140					
		4.2.1	Different Approaches Used in the Theories of Crimes						
			Against Humanity	140					
		4.2.2	Conceptual Question	142					
			Normative Question	154					
	4.3		'heory of Humanity as "Humanness, or Human Status":	10.					
	1.5		eptual Foundation	179					
	4.4		ation Between Individual Acts of Crimes Against	11)					
	7.7		nity and Elements of Humanity (Humanness)	190					
	4.5		xtual Element	204					
	4.6		usion	204					
				200					
	Reie	rences		207					
5	"Humanity" as a Valid Protected Interest Under								
	the l	Rechtsg	gutstheorie	211					
	5.1	Introd	uction	212					
	5.2	Concept of Rechtsgutstheorie: A Doctrinal Account							
		and R	eview of Critical Aspects	215					
		5.2.1	Origins and Evolution of Rechtsgutstheorie in German						
			Criminal Law	215					
		5.2.2	Main Approaches in the Treatment of the Doctrine	218					
		5.2.3	Rechtsgutstheorie and Constitutional Law: Conceptual						
			Criticism	222					
		5.2.4	Functions of the <i>Rechtsgutstheorie</i> as a Criminal						
		5.2.1	Law Doctrine	228					
	5.3	Altern	atives to the <i>Rechtsgutstheorie</i> in Other Criminal	220					
	5.5		Systems	239					
			Principle of Harm	239					
		5.3.2	The Relative Accountability Principle	239					
	5 1	0.0.2		240					
	5.4		sgutstheorie and Crimes Against Humanity:	252					
		- Natior	iai vs. or for international	200					

Contents xix

	5.5		256						
		5.5.1 Domestic Level	257						
		5.5.2 International Level	269						
	5.6	Conclusion	272						
	Refe	erences	274						
6	The Protected Legal Interests of Crimes Against Humanity and Other Core Crimes Under International Law:								
			277						
	6.1	F	278						
	6.2	Crimes Against Humanity and Genocide: Common							
		•	280						
		6.2.1 Relationship Between Genocide and Crimes Against							
			280						
		6.2.2 The Protected Interests of the Crime of Genocide							
		in Light of the Conceptual Theory of Humanness	286						
	6.3	Crimes Against Humanity and War Crimes: Tracing the							
		Considerations of Humaneness	292						
		6.3.1 War Crimes and the Principle of Humanity							
		in International Humanitarian Law	292						
		6.3.2 The Protected Legal Interests of War Crimes							
		Versus Humanness Theory	295						
	6.4	Correlation Between the Protected Interests of Crimes							
		8	300						
	6.5	Conclusions	304						
	Refe	erences	305						
7	Con	nclusion	309						
			316						
T	dow		217						
ш	uex .		317						