

country where perpetrated'. Ignoring for a moment the other parts of Article 6 (c), which, as will be explained in due course, contain quite considerable qualifications of the rules apparently expressed by the three phrases quoted, the following principles seem to have been laid down in the Charter:

The first, indicated by the words 'before or during the war', apparently implies that international law contains penal sanctions against individuals, applicable not only in time of war, but also in time of peace; this, in other words, means that there is in existence a system of international criminal law under which individuals are responsible to the community of nations for violations of rules of international criminal law, and that—in certain circumstances—inhumane acts constitute international crimes. The second principle, which appears to be deducible from the words 'against any civilian population', is to the effect that 'any civilian population' is under the protection of this system of international law, and this implies that civilian populations are protected against violations of international criminal law also in cases where the alleged crimes have been committed by sovereign states against their own subjects. The third principle expressed by the words 'whether or not in violation of the domestic law of the country where perpetrated', appears to establish the absolute supremacy of international law over municipal law.

If this *prima facie* impression, created by Article 6 (c) of the Charter, is correct, if the community of nations is entitled to intervene judicially against crimes committed against any civilian population, before or during the war, and if for this purpose it is irrelevant whether or not such crimes were committed in violation of the domestic law of the country where perpetrated, then certainly a radical inroad has been made into the sphere of the domestic jurisdiction of sovereign states. It is the purpose of this article to examine the question, in the light of the historical events preceding the Charter of 8 August 1945, of the proceedings and the judgment of the International Military Tribunal at Nuremberg and of state practice, centring on the problem of 'crimes against humanity'.

II. *The history of the concept of crimes against humanity*

1. *The Fourth Hague Convention of 1907*

In the London Charter of 8 August 1945, the term 'crimes against humanity' has a specific meaning. It connotes one of the three types of crimes over which the International Military Tribunal has jurisdiction and is in this way juxtaposed to 'crimes against peace' and to 'war crimes'. We shall see that under the Charter the notions of 'war crimes' and 'crimes against humanity' overlap and that most war crimes are also crimes against