PERSECUTION:

A CRIME AGAINST HUMANITY

IN THE ROME STATUTE OF THE

INTERNATIONAL CRIMINAL COURT

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Certificate

This thesis is submitted to Bond University in fulfilment of the requirements for the Master of Laws research degree.

This thesis represents my own work and contains no material which has been previously submitted for a degree or diploma at this University or any other institution, except where due acknowledgement is made.

Signature……..…….……. Date……..

SUMMARY

This thesis analyzes the technical definition of the crime of persecution for the purpose of prosecutions at the International Criminal Court. The provisions on the crime of persecution are found in Article 7(1)(h) and Article 7(2)(g) of the Rome Statute and Article 7(1)(h) of the Elements of Crimes. Lack of clarity is a difficulty with these provisions. The writer analyzes the provisions by pooling together primary and secondary sources and drawing on the customary international law that has emerged from the *ad hoc* International Criminal Tribunals established between 1945 and 2003.

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LIST OF ACRONYMS AND ABBREVIATIONS

CCL 10	Control Council Law No. 10
CPA	Coalition of Provisional Authority
Draft Code	Draft Code of Offences Against the Peace and Security of Mankind
ECCC	Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea
ECCC Special Law	The Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea
ICC	International Criminal Court
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ICTR	International Criminal Tribunal for Rwanda
ICTR Statute	Statute for the International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Republic of Yugoslavia
ICTY Statute	Statute for the International Criminal Tribunal for the former Yugoslavia
ILC	International Law Commission
IMT	International Military Tribunal
IMTFE	International Military Tribunal for the Far East
IST	Iraqi Special Tribunal for the Prosecution of Crimes Against Humanity
IST Statute	Iraqi Statute for the Iraqi Special Tribunal for the Prosecution of Crimes Against Humanity

Nuremberg Charter	Charter for the International Military Tribunal
Panels of Judges	Panels of Judges with Exclusive Jurisdiction Over Serious Criminal Offences Established within the District Courts in East Timor
Preparatory Commission	Preparatory Commission for the International Criminal Court
Regulation No. 2000/15	Regulation No. 2000/15 for the Panels of Judges with Exclusive Jurisdiction Over Serious Criminal Offences Established within the District Courts in East Timor
Rome Conference	Conference of Plenipotentiaries held in Rome from 15 June to 17 July 1998
SCSL	Sierra Leone Special Court
SCSL Statute	Statute of the Special Court for Sierra Leone
Tokyo Charter	Charter for the International Military Tribunal for the Far East
UDHR	Universal Declaration of Human Rights
UN	United Nations
UN/Cambodia Agreement	The Agreement Between the United Nations and the Royal Government of Cambodia Concerning the Prosecution Under Cambodian Law of Crimes Committed During the Period of Democratic Kampuchea
UNDP	United Nations Development Program
UNTAET	United Nations Transitional Administration for East Timor

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1946

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1993

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1998

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1999

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1945

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1948

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1954

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1963

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1965

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1967

7 November, Declaration on the Elimination of Discrimination Against Women

1966

16 December, International Covenant on Civil and Political Rights

16 December, International Covenant on Economic, Social and Cultural Rights

1973

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1979

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1981

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1991

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1992

18 December, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

1996

6 May-26 July, International Law Commission 1996 Draft Code of Offences Against the Peace and Security of Mankind

STYLISTIC GUIDELINES

The writer advises that the reader bear in mind the following stylistic guidelines when reading this thesis:

- The symbols * + # which appear in the text and footnotes of this thesis are used to differentiate the writer's own footnotes from those that appear in the Elements of Crimes drafted by the Preparatory Commission.
- The word "Judgment" is deliberately capitalized in this thesis to comply with the way in which the *ad hoc* Tribunals use the word.
- There are different spellings used for the word "Judgment". In the majority of instances:
    - The ICTY uses "Judgment";
    - The ICTR uses "Judgement";
    - The ICC and the Panels of Judges use both spellings.
- The writer uses the phrase "international judicial bodies" to collectively describe the combination of Panels of Judges, Extraordinary Chambers, Special Courts, and Special Tribunals etc.