

## Crims contra la humanitat i els drets humans

2014/2015

Codi: 100471

Crèdits: 6

Titulació	Tipus	Curs	Semestre
2500257 Criminologia	OT	4	0

### Professor de contacte

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### Utilització de llengües

Llengua vehicular majoritària: anglès (eng)

Grup íntegre en anglès: Sí

Grup íntegre en català: No

Grup íntegre en espanyol: No

### Prerequisits

VERY IMPORTANT !!!!

The minimum english level required to follow the course is the accreditation of first certificate or equivalent.

Without this level it would be IMPOSSIBLE to pass the course.

### Objectius

The course aims to provide a non lawyer student an insight view of the core topics of international human rights law and international criminal law, as well as the scope and the content of the legal responses available under two branches of contemporary international law, namely human rights law and international criminal law, to atrocities that can be defined as war crimes, crimes against humanity, genocide and human rights violations, all by offering a broad and deep understanding of relevant issues and supporting the development of academic skills through the analyzing of such issues theoretically and in practice

### Competències

- Accedir i interpretar les fonts de dades sobre la criminalitat.
- Analitzar el conflicte i la criminalitat utilitzant les teories criminològiques i els seus fonaments psicològics i sociològics.
- Demostrar que es comprenen els models de prevenció i intervenció de la criminalitat més adequats per a cada problema específic.
- Demostrar que es comprenen les teories criminològiques.
- Demostrar que es coneix la diversitat de polítiques criminals per afrontar la criminalitat i els seus diferents fonaments.
- Dissenyar una recerca criminològica identificant l'estratègia metodològica adequada als objectius plantejats.
- Formular hipòtesis de recerca en l'àmbit criminològic.
- Identificar els recursos socials existents per intervenir en el conflicte i en la criminalitat.
- Redactar un treball acadèmic.
- Relacionar-se respectuosament amb persones.
- Tenir capacitat d'anàlisi i síntesi.

- Transmetre oralment les idees a una audiència.
- Treballar de manera autònoma.
- Treballar en equip i en xarxa.
- Utilitzar les tècniques d'avaluació del risc i les necessitats criminògenes d'una persona per determinar la proposta d'intervenció.

## Resultats d'aprenentatge

1. Analitzar amb criteri científic les informacions obtingudes en les bases de dades criminològiques.
2. Aplicar amb precisió els models de prevenció en situacions concretes de criminalitat.
3. Aplicar de manera eficaç els fonaments de les diferents polítiques criminals en l'activitat professional.
4. Aplicar el coneixement científic criminològic per analitzar la delinqüència.
5. Aplicar les teories criminològiques.
6. Escollir de manera adequada el recurs social per a cada cas d'intervenció professional.
7. Inferir els models d'intervenció en funció d'una avaluació de necessitats prèvia eficaç.
8. Redactar correctament cada un dels apartats d'un projecte de recerca criminològica.
9. Redactar un treball acadèmic.
10. Relacionar-se respectuosament amb persones.
11. Tenir capacitat d'anàlisi i síntesi.
12. Transmetre oralment les idees a una audiència.
13. Treballar de manera autònoma.
14. Treballar en equip i en xarxa.
15. Utilitzar la metodologia d'investigació necessària en funció de la recerca criminològica plantejada.

## Continguts

### NOTE:

the compulsory readings to prepare the sessions as well as the topics and/or question will be attach at the campus virtual (moodle) following the moodle chronology. They will be ALL in English

## CRIMES AGAINST HUMANITY AND HUMAN RIGHTS

2014-2015

### PART ONE: GENERAL FRAMEWORK

#### Topic 1: The international system and its characteristics

- Some misunderstandings about international law and international society
- The main actors at international level
- The normative system of international society
- Who decided the structural principles of international society and its reflection in international law

#### Topic 2: The individual position under the international legal system

- Distinction between the domestic and the international sphere
- The role of the socio-political context to explain the individual position in international law
- The possibilities:

- Individual rights at international level (what is a right, what is it at International level)
- Individual crimes at international level (what is a crime, what is it at International level)

Cases studies of topics 1 and 2: Slavery and Labor rights

Debate: International law and individual: prevention and/or reaction against violations of human rights?

## PART TWO: INDIVIDUAL RIGHTS AND CRIMES UNDER INTERNATIONAL LAW

Topic 3: The rights recognized under international law

- The origin of Human Rights
- The internationalization of Human Rights
- Rights recognized at universal and regional level
- Specific rights recognized by international law under international or domestic armed conflicts

Case study of topic 3: Comparative study of the interpretation of some rights recognized at universal and regional level (discrimination, freedom of religion; freedom of expression; right to live, etc..)

Debate: Are all humans basically the same?

Topic 4: Crimes recognized under international law

- The distinction between international crimes and human rights
- The distinction between international crimes and other types of crimes and forms of cooperation
- The origin of international crimes: The Nüremberg trials

Case study of topic 4: The Nüremberg Trials. Lessons for today

Debate: Can history teach us something?

Topic 5: The Crimes

- Aggression
- Genocide
- War crimes in international and domestic armed conflict
- The special case of Crime against humanity
- Other possible crimes not included

Case study of topic 5: Comparative analysis of the different types of crimes according to International Law instruments

Debate: What is "in" and what is "not in" as international crime

Topic 6: The definition of the crimes in practice

- The importance of the chapeaux element of the crimes and the underlying crime
- The relevance of the distinction between international and non international armed conflict following Tadic decision
- The importance of the "disproportionate" in war crimes

- The evolution of crime against humanity since Nuremberg
- The reasons for preserving the integrity of the definition of the crime of genocide
- The problem defining crime of aggression

Case study of topic 6: Comparative analysis of some case law (ICC; ICTY; ICTR; ECHR; ACHR)

Debate: Can aggression be a crime against humanity?

### PART THREE: VICTIMS PROTECTION MECHANISMS UNDER INTERNATIONAL LAW

Topic 7: International mechanisms to protect human rights: its slow and reluctant evolution

- The reports (under conventional and non conventional instruments)
- The individual complaints ( under conventional instruments)
- The jurisdictional mechanisms
- The contrast between general and regional protection: commissions /committees / Courts

Case studies of topic 7: Comparative analysis of HRC Reports and analysis of CPT report on Spain

Debate: Why some human rights deserve more attention than other in the international system?

Topic 8: The international prosecution of international criminals

- The socio-political context: key to prosecuting international criminals
- Differences and similarities between the ad hoc courts, the hybrid tribunals and the ICC structure
- The role of the victims in the ad hoc system, the hybrid tribunals and in the ICC

Case studies of topic 8: the pros and cons of the different forms of international jurisdictions

Debate: What is important when prosecuting international criminals?

Topic 9: International criminal law treatment in domestic systems

- The recognition of international crimes as ius cogens by some states (i.e. Argentina, Estonia)
- The debate in domestic society about justice and/or peace (i.e. Uruguay, Sudáfrica; CAC)
- The non recognition of international crimes as part of domestic law (i.e. Perú before 2009; Chile)
- A domestic application/interpretation of international crimes (i.e USA and war crimes)

Case Study of topic 9: Spanish prosecution of international crimes and the principle of legality: from Pinochet case to Garzón Trial:

- The implication of Pinochet case
- Other cases of international crimes prosecutions by Spain through universal jurisdiction: The war between the Supreme Court and the Constitutional Court (Rigoberta Menchú; Scilingo; Tiananmen; Guantanamo)
- The international crimes under Franco's regime

## PART FOUR: INTERNATIONAL LAW AND ITS ROLE TO PREVENT/REACT AGAINST MASS VIOLATION OF HUMAN RIGHTS AND INTERNATIONAL CRIMES

Topic 10: Examples of the role of the Security Council in conflict zones: mediators/peace forces (blue helmets) or authorization to intervention

Case studies of actions adopted by the Security Council and its consequences:

- Iraq
- Kosovo
- Ivory Coast
- Congo
- Darfur
- Libya
- Syria
- Palestine territories...
- Somalia

Debate: Security Council actions: not the "ideal" so... better without it?

### **Metodologia**

#### PAPER ON A CASE STUDY

3.500-4.000 word paper where the student has to analyze one of the case studies after a consultation with the teacher. The structure of the paper must have:

1. Introduction: brief description of the situation and its context
2. Presentation of the human rights problem/s and or international crimes founded in the case
3. Relation of the case with the topics within the course and if it is possible, comparison with other situations studied at class
4. Presentation of the results obtained to protect the human rights so far
5. Proposal for new/alternative/complementary actions to improve the solutions
6. Personal comment of the case

#### CAMPAIGN REPORT

1.000 words report of a campaign of one topic related with the course by an international organization (IGO or NGO). The report has to include:

1. Introduction: brief description of the topic (context)
2. An explanation of the campaign (aim or purpose and the actions)
3. Presentation of the results obtained to protect the human rights so far
4. Personal evaluation

#### ORAL PRESENTATIONS

Preparation and presentation of the campaign and the case study to the rest of the class.

The presentation of the case study (using power point) has to be focus on the main issues and questions that the situation presents and open a debate about possible way to face it.

### CLASS PARTICIPATION

The active attitude of the student and interventions through the sessions is compulsory and it will represent the 20% of the final mark. The simple assistance to classes without intervention will NOT count as participation

### READINGS

The previous preparation of the sessions is compulsory and it will count for the final mark.

The compulsory readings for each session, as well as the topics and/or questions to prepare them will be poin it out at the campus virtual (moodle) and there will be a reading test or a short question in each session previous to the debate. Therefore the tests or short question cannot be submitted by mail.

NOTE: the paper on the case study, the campaign report and the reading test CANNOT be submitted by e-mail !!!

### Activitats formatives

Títol	Hores	ECTS	Resultats d'aprenentatge
Tipus: Dirigides			
Class participation	31	1,24	4, 5, 6, 10, 11, 12, 14
Tipus: Supervisades			
Campaign report	19	0,76	1, 7, 9, 11, 13, 15
Oral presentations	20	0,8	1, 7, 10, 11, 12, 14, 15
Paper on a case study	35	1,4	7, 8, 9, 11, 13, 15
Tipus: Autònomes			
readings	45	1,8	11, 13

### Avaluació

The Evaluation system is continuous. The final mark to pass the course is a "5" and there will be no final exam.

To obtain a grade the student has to have a mark over 4 on each of the six different kind of activities proposed:

1) Paper on a case study (30%);

2) Reading tests (20%);

- 3) Oral presentation (15%);
- 4) Campaign report (15%);
- 5) Class participation (20%)

The paper, the report and the oral presentation will be tutorized to make sure the student will achieve the objective before it gets the final mark, and in the case of the paper and the report there will be a chance to review it to improve the first grade.

Non of the written activities can be submitted by e-mail. They will be only accepted on paper and delivered by hand.

The grade for the tests and participation will be base on the 80% of the total tests/seminars developed during the course. If a student has participated in the 100% of them, the final grade will be based on the 80% best marks.

All this means that the reevaluation will take place through the course, according with the grades of each activity.

### Activitats d'avaluació

Títol	Pes	Hores	ECTS	Resultats d'aprenentatge
Class participation	20%	0	0	4, 10, 11, 12, 14
Oral presentations:	15%	0	0	1, 2, 7, 10, 11, 12, 14, 15
Paper on case study	30%	0	0	2, 3, 9, 11, 13, 15
Reading tests (6 tests or short questions related with the readings to prepare the topics/debates)	20%	0	0	11, 13
campaign repot	15%	0	0	1, 3, 7, 9, 11, 13, 15

### Bibliografia

#### Basic Legislation:

##### International Criminal Law and international humanitarian law

##### International Courts

Statute of the International Criminal Tribunal for the Former Yugoslavia (ICTY-Statute) UN Doc. S/RES/827 (1993)

Statute of the International Criminal Tribunal for Rwanda (ICTR-Statute), UN Doc. S/RES/955 (1994),

Rome Statute of the International Criminal Court. Adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998, UN-Dok. A/Conf. 183/9.

UNTAET (United Nations Transitional Administration for East Timor) Regulation 15/2000  
<http://www.un.org/peace/etimor/untaetR/r-2000.htm>

*Special Court Statute for the Special Court for Sierra Leone* (22, January, 2002) <  
<http://www.specialcourt.org/documents/Statute.html>.

Coalition Provisional Authority, Statute of the Iraqi Special Tribunal, 10 December 2003, <  
[www.cpa-iraq.org/audio/20031210\\_Dec10\\_Special\\_Tribunal.htm](http://www.cpa-iraq.org/audio/20031210_Dec10_Special_Tribunal.htm)

### **1949 Conventions & Additional Protocols:**

Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. G 1949. [[Full Text](#)][[Articles](#)][[Commentaries](#)]

Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed I Geneva, 12 August 1949. [[Full Text](#)][[Articles](#)][[Commentaries](#)]

Convention (III) relative to the Treatment of Prisoners of War. Geneva, 12 August 1949. [[Full Text](#)][[Articles](#)][[C](#)

Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949. [[Full T](#)  
[Commentaries](#)]

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Conflicts (Protocol I), 8 June 1977. [[Full Text](#)][[Articles](#)][[Commentaries](#)]

Annex I (to the Protocol I) : Regulations concerning identification (as amended on 30 November 1993) [[Full T](#)  
[Commentaries](#)]

Annex I (to the Protocol I) : Regulations concerning identification (as of 6 June 1977) [[Full Text](#)][[Articles](#)][[Corr](#)

Annex II (to the Protocol I) [[Full Text](#)][[Articles](#)][[Commentaries](#)]

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Armed Conflicts (Protocol II), 8 June 1977. [[Full Text](#)][[Articles](#)][[Commentaries](#)]

Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Addition (Protocol III), 8 December 2005 [[Full Text](#)][[Articles](#)][[Commentaries](#)]

Other related documents: <http://www.icrc.org/ihl.nsf/TOPICS?OpenView>

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### **Human Rights**

Human rights instruments by topic: <http://www1.umn.edu/humanrts/instree/ainstls1.htm>



Human rights Treaties under United Nations <http://www.bayefsky.com/tree.php/area/treaties>

- [The Convention on the Elimination of All Forms of Racial Discrimination](#)
- [The International Covenant on Civil and Political Rights](#)
  - [The Optional Protocol to the International Covenant on Civil and Political Rights](#)
  - [The Second Optional Protocol to the International Covenant on Civil and Political Rights](#)
- [The International Covenant on Economic, Social and Cultural Rights](#)
  - [Optional Protocol to the International Covenant on Economic, Social and Cultural Rights](#)
- [The Convention on the Elimination of All Forms of Discrimination Against Women](#)
  - [Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women](#)
- [The Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment](#)
  - [Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#)
- [The Convention on The Rights of the Child](#)
  - [Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict](#)
  - [Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography](#)
  - [Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure](#)
- [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#)
- [http://www.bayefsky.com/treaties/disability\\_convention.php](http://www.bayefsky.com/treaties/disability_convention.php) Convention on the Rights of Persons with Disabilities
  - [Optional Protocol to the Convention on the Rights of Persons with Disabilities](#)
- [International Convention for the Protection of All Persons from Enforced Disappearance](#)

Human rights treaties in regional systems: <http://www1.umn.edu/humanrts/instree/auoz.htm>

- [EU Convention for the Protection of Human Rights and Fundamental Freedoms](#)
- [African Charter on Human and Peoples' Rights](#)
- [American Convention on Human Rights "Pact of San Jose, Costa Rica"](#)

## Key web pages:

<http://www.bayefsky.com/bystate.php> This free website includes an extensive documents library organized by country and subject matter. You can find information on ratification, reservations and declarations, state reports, and other key documents.

International Organisations and Related Human Rights and ICL Websites:

[The United Nations](#)

[United Nations Human Rights Council](#)

[United Nations Treaty Bodies](#)

[United Nations Special Procedures](#)

[United Nations Security Council](#)

[United Nations Economic and Social Council](#)

[International Labour Organisation \(LBO\), Geneva, Switzerland](#)

[www.icc-cpi.int/Menus/ICC](http://www.icc-cpi.int/Menus/ICC)

[World Health Organisation](#)

[UN Children's Fund \(UNICEF\)](#)

[UN Environmental Programme](#)

[OHCHR](#) United Nations Office of the High Commissioner for Human Rights

[United Nations Commission for the Status of Women](#)

[Un High Commissioner for Refugees, Geneva, Switzerland](#)

[UN Development Programme](#)

[UN Division for the Advancement of Women](#)

[OHCHR International Law](#) Link to UN Human Rights instruments

### **United Nations Human Rights Committees:**

[The Human Rights Committee](#)

[Committee on Economic, Social and Cultural Rights](#)

[Committee on the Elimination of Racial Discrimination](#)

[Committee on the Elimination of Discrimination against Women](#)

[Committee on the Rights of the Child](#)

[Committee on the Protection of the Rights of All Migrant Workers and Members of their Families](#)

[Committee on the Rights of Persons with Disabilities](#)

### **Regional Human Rights:**

[Council of Europe](#)

[The European Union](#)

[The Organisation for Security and Co-operation in Europe](#)

[North Atlantic Treaty Organisation \(NATO\)](#)

[The European Committee for the Prevention of Torture](#)

[European Centre for Minority Issues](#)

[The African Union](#)

[Decisions of the African Commission](#)

[African Commission on Human and Peoples' Rights](#)

[Organization of American States](#)

[Inter-American Commission on Human Rights](#)

[The Association of Southeast Asian Nations](#)

[League of Arab States](#)

[Organisation of the Islamic Conference](#)

[South Asian Association for Regional Co-operation](#)

## **International and Regional Courts:**

[International Court of Justice, the Hague, Netherlands](#)

[European Court of Human Rights](#)

[The European Court of Justice](#)

[Inter-American Court of Human Rights](#)

[The African Court of Justice](#)

[International Criminal Tribunal for the Former Yugoslavia](#)

[International Criminal Tribunal for Rwanda](#)

## **Some Non-Governmental Organizations:**

[Global Rights](#) A human rights advocacy group that partners with local activists to challenge injustice and amplify new voices within the global discourse

[Human Rights Watch](#) A global independent organisation dedicated to defending and protecting human rights.

[Amnesty International](#) A global charity which campaigns for internationally recognised human rights for all

[Save the Children](#) International Charity which campaigns on behalf of children

[The International Committee of the Red Cross](#) An organisation dedicated to the protection of the lives and dignity of victims of armed conflict and other violence.

[Index on Censorship](#) Organisation promoting freedom of expression

[Minority Rights Group, International](#) International organisation working to secure the rights of minorities and indigenous peoples

[World Organisation against Torture](#) A coalition of non-governmental organisations fighting against torture, summary executions and other inhumane treatment

[www.iccnw.org/](http://www.iccnw.org/) coalition for the International Criminal Court coalition of non-governmental organizations lobbying in favor of the ICC

[International Women's Rights Action Watch \(IWRAP\)](#) organized in 1985 at the Third World Conference on Women in Nairobi, Kenya, to promote recognition of women's human rights under the United Nation's Convention on the Elimination of All Forms of Discrimination against Women (the CEDAW Convention), an international human rights treaty

[Freedom House](#) Independent nongovernmental organization that supports the expansion of freedom in the world.

## **Educational and Research Websites in International Human Rights:**

[Universal Human Rights Index of United Nations Documents](#)

[EISIL](#) Electronic Information System for International Law

[United Nations University, Tokyo, Japan](#)

[Human and constitutional Rights](#) Various resources on human rights

[The University of Minnesota, Human Rights Library](#)

[The University of Essex Library](#)

[U.S. Department of State](#) The U.S. State Department's portal of information on U.S. foreign policy

[International Human Rights Lexicon](#)

[Netherlands Institute of Human Rights](#) Database of useful cases and materials in Human Rights law

[The Avalon Project](#) Database of legal documents

[Interights](#) The international centre for the legal protection of human rights database of commonwealth and international human rights cases

[The International Journal of Human Rights](#) Taylor and Francis

[Human Rights Law Review](#) Oxford

[Harvard Human Rights Journal](#) HarvardCollege

[Sur](#) An international journal published twice annually by Sur - international human rights university network

[Human Rights Law Commentary](#) Journal hosted by the University of Nottingham Human Rights Law Centre, publishes works by academics, practitioners and students

<http://www.law.monash.edu.au/research/projects/icjp/compilation-project/general/international-crimes.html>

Database on articles and other publications related with international criminal law and international humanitarian law

## **complementary Bibliography:**

### **General:**

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**Simma, Bruno**, International Human Rights Law and General International Law: A Comparative Analysis. In: Academy of European Law (Hrsg.), Collected courses of the Academy of European Law. Vol. IV (1995), Book 2, S. 153-236.

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<http://www20.gencat.cat/docs/icip/Continguts/Publicacions/WorkingPapers/2011/Arxius/2.%2001-80%20WP%2>

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MURPHY, R.: «United Nations Military Operations and International Humanitarian Law: What Rules Apply to Peacekeepers?», 14 *C. L. F.*, 2003, pp. 153-194.

Olàsolo, Stahn, Gibson, "Participation of victims in Pre-Trial proceedings of the ICC". *Int Criminal Justice* (May 2006) 4(2): 219-238

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