

**Crimes against Humanity and Human Rights**

Code: 100471  
ECTS Credits: 6

Degree	Type	Year	Semester
2500257 Criminology	OT	4	0
2500786 Law	OT	4	0

**Contact**

Name: Claudia Cristina Jiménez Cortés  
Email: Claudia.Jimenez@uab.cat

**Use of languages**

Principal working language: english (eng)  
Some groups entirely in English: Yes  
Some groups entirely in Catalan: No  
Some groups entirely in Spanish: No

**Other comments on languages**

THE COURSE WILL BE ALL IN ENGLISH

**Prerequisites**

The course will be all in english

**Objectives and Contextualisation**

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

**Skills**

**Criminology**

- Ability to analyse and summarise.
- Drawing up an academic text.
- Respectfully interacting with other people.
- Verbally transmitting ideas to an audience.
- Working autonomously.
- Working in teams and networking.

**Law**

- Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
- Drawing up and formalising works, reports, documents, rulings.
- Integrating the importance of Law as a regulatory system of social relations.

- Searching, interpreting and applying legal standards, arguing every case.
- Students must be capable of learning autonomously and having an entrepreneurial spirit.
- Students must be effective in a changing environment and when facing new tasks, responsibilities or people.
- Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

## Learning outcomes

1. Ability to analyse and summarise.
2. Accurately applying the prevention models in specific crime situations.
3. Applying the scientific criminological knowledge to the delinquency analysis.
4. Correctly drawing up every part of a criminological research project.
5. Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
6. Drawing up an academic text.
7. Efficiently applying the foundations of the different crime policies in the professional activity.
8. Respectfully interacting with other people.
9. Students must be capable of learning autonomously and having an entrepreneurial spirit.
10. Students must be effective in a changing environment and when facing new tasks, responsibilities or people.
11. Verbally transmitting ideas to an audience.
12. Working autonomously.
13. Working in teams and networking.
14. Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

## Content

NOTE: Mandatory readings to prepare sessions, as well as topics and / or questions will be attached on the virtual campus (moodle) following the class calendar.

### CRIMES AGAINST HUMANITY AND HUMAN RIGHTS

2017-18

#### PART: GENERAL FRAMEWORK

Topic 1: The international system and its characteristics

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

Theme 2: A conceptual framework: Individuals in international law

- The individual, from object to subject in the international system. Evolution
- Distinction between: rights and obligations of individuals in international law
- Distinction between: International criminal law, international humanitarian law and international protection of human rights
- Distinction between: international crimes, transnational crimes and domestic crimes

Topic 3: The origin of contemporary international standards of human rights and international criminal law

- The origin of international criminal law: The London Charter 1945 and its conciliation with the principle of legality. The Nuremberg and Tokyo Trials. The inheritance of the judgments
- The origin of international human rights law: the creation of the United Nations and the Universal Declaration of Human Rights. Universal and regional human rights declarations and conventions

## PART TWO: INTERNATIONAL CRIMES

### Topic 4: War crimes today

- What is and what is not a war crime?: the Geneva Conventions and their protocols
- The importance of the concept of "armed conflict": distinction between international and non-international armed conflicts
- The key role of the ICRC
- The prosecution of war crimes: case law

### Item 5: Difficulties surrounding the crime of genocide

- The concept of genocide: The 1948 Convention
- The specificity of the crime of genocide
- Evolution: the role played by jurisprudential practice

### Topic 6: Special case of crime against humanity

- The origin and nature of crime against humanity
- The concept of crime against humanity: general characteristics and the evolution of its specific subtypes
- Crime against humanity in practice: the importance of the case law

### Topic 7: The double nature of the crime of aggression

- State aggression and the crime of individual aggression
- Difficulties surrounding an agreement on the definition of aggression
- The current situation of the crime of aggression

## PART THREE: JUDICIAL ACTION AGAINST INTERNATIONAL CRIMINAL RESPONSIBLE

### Item 8: International persecution of individuals by ad hoc tribunals and hybrid courts

- The importance of the socio-political framework for the creation of ad hoc and hybrid courts
- General characteristics of ad hoc tribunals
- The distinction between ad hoc tribunals and hybrid courts

### Item 9: International persecution of individuals by the International Criminal Court

- Origin, nature and structure of the ICC
- Limited jurisdiction
- Case law: from the beginning to the date

### Item 10: The prosecution of international crimes against internal systems

- Recognition of international crimes such as ius cogens by some states (ex. Argentina, Estonia)
- The debate in society on justice and / or peace (ex. Uruguay, South Africa, CAR)
- The conflict between immunity law and the duty to prosecute
- Recognition / non-recognition of international crimes as part of national legislation

#### FOURTH PART: THE REPAIR REGIME OF VICTIMS OF INTERNATIONAL CRIMES

Item 12: International principles on reparation of victims

- Historic context
- Reparation as a human right
- Reparation for violation of human rights

Topic 13: Reparations of the ICC: a model of restorative justice?

- Who has the right to be repair at the ICC?
- Mechanism of reparation under the ICC
- The Trust Fund
- The case law

Item 14: Reparations for violation of human rights

- Differences and similarities between conventional and non-conventional mechanisms
- Action by commissions and committees
- Judicial action: international human rights tribunals

## Methodology

### COMPULSORY ACTIVITIES (50%)

#### 1.- PAPER ON A CASE STUDY (35% for beginning of May)

3.500-4.000 word paper where the student has to analyse one of the case studies after a consultation with the teacher. The structure of the paper can be (optional):

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
  1. Relation of the case with the topics within the course and if it is possible, comparison with other situations studied at class
3. Presentation of the results obtained to protect the human rights so far
4. Proposal for new/alternative/complementary actions to improve the solutions
5. Personal comment of the case

#### 2.- CAMPAIGN REPORT (15% mid term. Only delivered by hand)

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

**NOTES:**

1. The paper on the case study, the campaign report and the reading test CANNOT be submitted by e-mail !!!
2. The "cut & paste" practice without quoting and "" (known as plagiarism) will get a "0"

**OPTIONAL MODELS TO FOLLOW THE COURSE (50%):**

**Option A: Active student**

**1.- ORAL PRESENTATIONS**

Preparation and presentation of a real situation of massive violation of human rights between 2/3 students. The presentation has to be focus on the main issues and questions that had being worked in class and open a debate about possible way to face it.

**2.- CLASS PARTICIPATION**

The active attitude of the student and interventions through the sessions is compulsory and it will represent the 20% of the final grade. The simple presence in class without intervention will NOT count as participation

**3.- READINGS**

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

The compulsory readings/visualisations for each session, as well as the topics and/or questions to prepare them will be point it out at the campus virtual (moodle) and there will be an evaluation of the reading in each session previous to the debate.

**Option B. Passive student (50%):**

For those students who cannot follow the class and/or participated in them regularly, there will be an exam which will cover the optional 50% of the final mark. The exam will be 7 short questions (7/10) related with the course content (theory & readings)and 1 long question (3/10) related with the cases analysed during the course.

**Activities**

Title	Hours	ECTS	Learning outcomes
<b>Type: Directed</b>			
Class participation	31	1.24	8, 1, 11, 13
<b>Type: Supervised</b>			
Campaign report	19	0.76	6, 1, 12
Oral presentation	20	0.8	8, 1, 11, 13
Paper on a case study	35	1.4	6, 1, 12
<b>Type: Autonomous</b>			
Readings	45	1.8	1, 12

## Evaluation

### EVALUATION SYSTEM

#### Compulsory (50%):

##### 1.- PAPER ON A CASE STUDY (35% ) (To be deliver at the beginning of May)

3.500-4.000 word paper where the student has to analyze one of the case studies. The structure of the paper can be:

Introduction: brief description of the situation and its context

Presentation of the human rights/international crime problem/s founded in the case

Relation of the case with the topics within the course and if it is possible, comparison with other situations studied at class

Presentation of the results obtained to protect the human rights so far

Proposal for new/alternative/complementary actions to improve the solutions

Personal comment of the case

##### 2.- CAMPAIGN REPORT (15%: mid term)

1.000 words pages report of a campaign or the following of one topic related with the course by an international organization (IGO or NGO)

The written papers have to be deliver by hand. Papers are NOT accepted by e-mail.

The "cut & paste" practice without quoting and "" (known as plagiarism) will get a "0"

#### Optional

##### Option A. Active student (50%):

##### 1.- ORAL PRESENTATION (20% power point or similar support needed)

Preparation and presentation of a case by 2 or 3 students. It has to be focus on the main issues and questions that the situation presents and open a debate about possible ways to face it.

##### 2.- READING TESTS (10%)

Tests to check the readings for the class

##### 3.- CLASS AND DEBATE PREPARATION & PARTICIPATION (20%)

This percentage will be evaluated based on the **active** attitude of the student. Just the presence without an active participation is not enough to evaluate this 20%.

##### Option B. Passive student (50%):

For those students who cannot follow the class &/or participated in them regularly, there will be an exam which will cover the optional 50% of the final mark. The exam will be 7 short questions (7/10) related with the course content (theory & readings) and 1 long question (3/10) related with the cases analyzed during the course.

#### Reevaluation:

The reevaluation will take place through the course, according with the grades of each activity. Therefore, there is no reassessment examination

## Evaluation activities

Title	Weighting	Hours	ECTS	Learning outcomes
Campaign report	15% (compulsory)	0	0	2, 7, 3, 5, 4, 6, 9, 1, 12
Class active participation (optional, A)	20% (option A)	0	0	8, 1, 11, 13
Exam (option B)	50% option B	0	0	3, 5, 8, 9, 1, 12
Oral presentation (optional, A)	20% (option A)	0	0	7, 5, 8, 1, 11, 12, 13, 14
Paper on a case study (compulsory)	35% (compulsory)	0	0	3, 10, 5, 4, 6, 9, 1, 12
Readings (option A)	10% (option A)	0	0	3, 10, 5, 9, 1, 12

## Bibliography

### Basic Legislation:

#### International Criminal Law

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)

### Key web pages:

[www.echr.coe.int/hudoc.htm](http://www.echr.coe.int/hudoc.htm) The European Court of Human Rights Case law

<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

#### **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.

## **Bibliography:**

### **General:**

**Brownlie, Ian**, Principles of Public International Law. 5. Aufl. Oxford 1998.

**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.

Rehman, Javid. International human rights law (2<sup>nd</sup>. Edition) Pearson education Ltd. Harlow, 2009

### **Bibliography on international criminal law:**

Akhavan, P. "The core elements of international crimes" in Reducing Genocide to Law: Definition, Meaning and the Ultimate Crime, Cambridge University Press, 2012, pp. 27-55.

Ambos y Wirth. "The Current Law of Crimes against Humanity", en Crim. L. F., núm. 13, 2002, pp. 1, 2-13.

Arsanjani. "The Rome Statute of the International Criminal Court, en AJIL, núm. 93, 1999, pp. 22 ss

Askin. "Crimes within the jurisdiction of the ICC", en Crim. L.F., núm. 10, 1999

Barboza. "International Criminal Law", en Recueil des Cours, núm. 278, 1999, pp. 9, 59;

Bassiouni. Crimes against Humanity in International Criminal Law, 2<sup>a</sup> ed., 1999

Boot, Genocide, Crimes against Humanity, War Crimes nullum Crimen sine Lege and the Subject Matter Jurisdiction of the ICC, 2002, par. 415 ss

Cassese, A. International Criminal Law, 2nd ed., Oxford University Press, 2008.

Clark. "Crimes against humanity and the Rome Statute", en Clark, Feldbrugge, Pomorski (eds.). Essays in Honour of George Ginsburgs, 2001, pp. 139, 15

De Hoogh. "Articles 4 and 8 of the 2001 ILC Articles on State Responsibility...", en BYIL, núm. 72, 2001/2002, pp. 255.

Gómez-Benítez. "Elementos comunes de los crímenes contra la humanidad en el Estatuto de la CPI...", en Cuadernos de Derecho Judicial, Escuela Judicial, Consejo General del Poder Judicial, vol. VII, 2001,

Human Rights Watch, "Commentary on the 4th Preparatory Commission meeting for the ICC", marzo de 2000, p. 3.

Human Rights Watch, Genocide, War Crimes, Crimes against Humanity: Topical digest of the case law of the ICTR and ICTY, New York et al. 2004.

Kress. "War crimes committed in non-international armed conflict and the emerging system of international criminal justice", en Isr. Y.B. Hum. Rts., núm. 30, 2000, pp. 103 ss

Lee (ed.). The International Criminal Court - Elements of Crimes and Rules of Procedure and Evidence, 2001

McAuliffe de Guzmán, Margaret (2000). "The Road from Rome: The Developing Law of Crimes against Humanity", en Human Rights Quarterly (HRQ) 22 (2000), págs. 335-403.

Meron, Theodor (1995). "International Criminalization of Internal Atrocities", en American Journal of International Law (AJIL) 89, págs. 554 - 577.

Mettraux. "Crimes against Humanity in the Jurisprudence of the ICTY and ICTR", en *Harv. Int'l. J.*, núm. 43, 2002, pp. 237, 302-6;

Momtaz. "War crimes in non-international armed conflicts under the Statute of the International Criminal Court", en *Y.B. Int'l Humanit. L.*, núm. 2, 1999, pp. 177,

Ntanda Nsereko, en McDonald y Swaak-Goldman. *Substantive and Procedural Aspects of International Criminal Law*, vol. I, 2000, pp. 113 ss

O'Keefe, R. "State Immunity and Human Rights: Heads and Walls, Hearts and Minds", *Vanderbilt Journal of Transnational Law*, 2011, Vol 45, pp. 999-1045

Olásolo, Hector, *Int. Criminal Law Review (ICLR)* 5 (2005), 122,

Overy, R. "The Nuremberg Trials: international criminal law in the making", in P Sands (ed.), *From Nuremberg to the Hague: The Future of International Criminal Justice*, Cambridge University Press, 2003, pp. 1-29

Quenivet, Ind. J. *Int'l L.*, núm., 41, 2001, p. 478.

Ratner. "The Genocide Convention after fifty years", en *ASIL Proceedings*, núm. 92, 1998,

Robinson, D. "Serving the Interests of Justice: Amnesties, Truth Commissions and the International Criminal Court", en *European Journal of International Law*, num. 14, 2003, 481 y ss.

Robinson. "Defining crimes against Humanity at the Rome Conference", en *AJIL*, núm. 93, 1999,

SANCHEZ, J. *Inter-American Court, Crimes Against Humanity and Peacebuilding in South America*. ICIP, WP 2010/2, [http://www20.gencat.cat/docs/icip/Continguts/Publicacions/WorkingPapers/Arxius/WP10\\_2\\_ANG.pdf](http://www20.gencat.cat/docs/icip/Continguts/Publicacions/WorkingPapers/Arxius/WP10_2_ANG.pdf)

Sandesh Sivakumaran, "Identifying an armed conflict not of an international character" in *The Emerging Practice of the International Criminal Court*, C. Stahn and G. Sluiter (ed.), Martinus Nijhoff, 2009, pp. 363-380

Schaack, Beth Van, "The Definition of Crimes against Humanity: Resolving the Incoherence", *Columbia Journal of Transnational Law (ColJTL)* 37 (1999), págs. 787-850.

Schabas, W. *An Introduction to the International Criminal Court*, 4rd ed., Cambridge University Press, 2011

Schabas, W. "Judicial Activism and the Crime of Genocide" in Darcy and Powderly (ed.), *Judicial Creativity at the International Criminal Tribunals*, Oxford University Press, 2010, pp. 63-79

Schabas. "Follow up to Rome: preparing for entry into force of the international Criminal Court Statute, en *Hum. Rts. L. J.*, núm. 20, 1999, pp. 157 ss

Sharga, D. "The Second Generation UN-Based Tribunals: A Diversity of Mixed Jurisdictions" in C. Romano, A. Nollkaemper, J. Kleffner (ed.), *Internationalized Criminal Courts*, Oxford University Press, 2004, pp. 15-38.

Simma, Bruno / Paulus, Andreas, *The Responsibility of Individuals for Human Rights Abuses in Internal Conflicts: A Positivist View*. *AJIL* 93 (1999), S. 302-316.

Sunga, "The Crimes within the Jurisdiction of the ICC" (parte II, arts. 5-10), *Eur. J. Crime Cr. L. Cr. J.*, núm. 6, 1998, pp. 377-399

Triffterer. "Genocide, its particular intent to destroy in whole or in part the group as such", en *Leid. Journ. Int'l. L.*, núm. 14, 2001, pp. 399 y ss.;

- **LEGISLATION:**

- 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)
- The four Geneva Conventions, 12 August 1949
- Protocol I and II additional to the Geneva Convention, 8 June 1977
- Protocol II additional to the Geneva Convention, 2005
- Convention on the Prevention and Punishment of the Crime of Genocide, 9, December 1948