

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

The proposed teaching and assessment methodology that appear in the guide may be subject to changes as a result of the restrictions to face-to-face class attendance imposed by the health authorities.

Contact

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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

VERY IMPORTANT !!!!

- 1) A high level of english is required to be able to follow the classes which will be entirely in english. It will be also necessary a certain level of spanish to be able to interact in group work with other students
- 2) ALL written paper or exercise submitted must include the sources from where the information was extracted (bibliography and references). Non-inclusion will lower the grade

Objectives and Contextualisation

The course aims to provide the student with a vision and understanding of the central issues of international criminal law and human rights, as well as the scope and content of the legal responses available in international law to the atrocities that may be committed. Concepts such as war crimes, crimes against humanity, genocide and human rights violations will be studied. The course will offer a broad and in-depth knowledge of relevant topics, as well as the development of academic skills through crime analysis, responses, and victim care both in theory and in recent practice

Competences

- Criminology
 - Ability to analyse and summarise.
 - Accessing and interpreting sources of crime data.
 - Analysing the conflict and criminology by using the criminological theories and their psychological and sociological foundations.
 - Designing a criminological research and identifying the appropriate methodological strategy to the proposed goals.

- Drawing up an academic text.
- Formulating research hypothesis in the criminological field.
- Identifying existing social resources to intervene in the conflict and criminality.
- Respectfully interacting with other people.
- Students must demonstrate a comprehension of the best crime prevention and intervention models for each specific problem.
- Students must demonstrate they comprehend the criminological theories.
- Students must demonstrate they know a variety of criminal policies in order to face criminality and its different foundations.
- Using the evaluation techniques of criminogenic risk and needs of a person in order to decide an intervention proposal.
- 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. Analysing with scientific criteria the information obtained in criminological databases.
4. Applying the criminological theories.
5. Applying the scientific criminological knowledge to the delinquency analysis.
6. Appropriately choosing the social resource for each professional intervention case.
7. Correctly drawing up every part of a criminological research project.
8. Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
9. Drawing up an academic text.
10. Efficiently applying the foundations of the different crime policies in the professional activity.
11. Inferring the intervention models in accordance with a previous needs assessment.
12. Respectfully interacting with other people.
13. Students must be capable of learning autonomously and having an entrepreneurial spirit.
14. Students must be effective in a changing environment and when facing new tasks, responsibilities or people.
15. Using the appropriate research methodology in accordance with the suggested criminological research.
16. Verbally transmitting ideas to an audience.
17. Working autonomously.
18. Working in teams and networking.
19. Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

Content

NOTE: the compulsory readings to prepare the sessions, as well as the topics and / or question will be attached to the virtual campus

(moodle) following the class calendar. ALL documentation will be in English.

PART: GENERAL FRAMEWORK

Topic 1: The international system and its characteristics

- Some misunderstandings about international law and international society
- The main actors at the international level
- Individuals. From object to subject in the international system

Reading 1: International humanitarian Law. Answers to your questions

https://www.icrc.org/en/doc/assets/files/other/icrc_002_0703.pdf

Jurisprudence: CIJ: Democratic Republic of the Congo v Uganda, 2005, ICJ. 204; Nuclear Weapons Legality, 1996 I.C.J. 226; Palestinian Wall, 2004 I.C.J. 136

Topic 2: The origin of International Humanitarian Law (IHL)

- Background and contemporary IHL
- "Armed conflict": *conditio sine qua non* for the application of IHL.
- The distinction between the Hague Conventions and the Geneva Conventions
- The importance of the Red Cross / Red Crescent

Reading 2: Van Schaack, B & Slye, R. "A Concise history of international criminal law". Santa Clara Law Digital Commons, 2007. <https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1629&context=facpubs>

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

- The end of the 2nd WW, origin of international criminal law and international human rights law
- Rights and obligations of individuals in the international sphere.
- Distinction and coexistence between:
 - a) international protection of human rights
 - b) international humanitarian law
 - c) international criminal law
 - d) international criminal cooperation

Reading 3: East west street. Phillip Sand, Orion Group, ed (05/01/2017)

SECOND PART: INTERNATIONAL CRIMES

Topic 4: The 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

Preparatory Reading 4: East west street. Phillip Sand, Orion Group, ed (05/01/2017)

Jurisprudence: ICJ, Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar, may 2020)
(Croatia-Serbia, 2015) (- (Bosnia and Herzegovina v. Serbia and Montenegro), July 1996

Topic 5: The special case of crime against humanity

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

Reading 5: East west street. Phillip Sand, Orion Group, ed (1/5/2017)

Topic 6: War crimes today

- What is and what is not a war crime?
- The importance of the concept of "armed conflict" and individual international responsibility for the determination of crime
- The prosecution of war crimes: the jurisprudential practice

Reading 6: Antonio Cassese, "War Crimes" in International Criminal Law, 2nd ed., Oxford University Press, 2008, p. 81-97.

Jurisprudence: ICJ, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 2004

THIRD PART: THE JUDICIAL ACTION AGAINST THE RESPONSIBLE OF INTERNATIONAL CRIMES

Topic 7: The prosecution of international crimes in domestic systems

- The recognition of international crimes as *ius cogens* by some states (eg, Argentina, Estonia)
- The debate in society about justice and / or peace (eg, Uruguay, South Africa, CAR)
- The conflict between the regime of the law of immunity and the duty to prosecute
- Recognition / non-recognition of international crimes as part of national legislation
- The role of Transitional Justice

Reading 7: Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos (OACNUHD) (2006). Instrumentos del Estado de Derecho para sociedades que han salido de un conflicto. Comisiones de la verdad. Naciones Unidas. Nueva York y Ginebra.

Jurisprudence: CIDH, Caso Barrios Altos, 2001; CADH, Zimbabwe Human Rights NGO Forum 2006

Topic 8: The 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

Reading 8: Williams, "Hybrid Tribunals: a time for reflection" en International Journal of Transitional justice, 2016, 10, 538-547; Zacklin, "The failing of ad hoc International Tribunals" en International Criminal Justice, 2004, 541-545

Jurisprudence: ICTY; ICTR; Hybrid Tribunals

Topic 9: The international persecution of individuals by the International Criminal Court

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

Reading 9: ICC, Understanding the International Criminal Court; Rome Statute

Jurisprudence: Cases and situations under the ICC

FOURTH PART: THE VICTIMS OF INTERNATIONAL CRIMES

Topic 10: victims of international crimes and / or human rights violations

- Differences and similarities between victims of human rights violations and international crimes.
- Reparation in international system of Human Rights: definition, principles and evolution.
- Reparation and Transitional Justice

Reading 10: Altwicker et al. "Measuring violations of Human rights. An empirical analysis of awards in respect of non-pecuniary damage under the European Convention on Human Rights" (paper);

Balta, "Victims and retributive responses at the ECHR: scrutinizing the coercive dimension of reparations" en iCourts, Faculty of Law, Univ. Copenhagen, 2019

Topic 11: Victims before the ICC: a model of restorative justice?

- The presence of victims in the ICC
- Reparation v / s assistance to the ICC.
 - a) The Trust Fund.
 - b) Judicial decisions on reparations
 - c) The practice

Reading 11: Garbett, "The international Criminal Court and restorative justice: victims, participation and the processes of justice" in Restorative Justice, 5:2 2017, 1998-220;

Kendall, "Restorative justice at the international criminal court" in REDI, 2018, 217-221

Methodology

COMPULSORY ACTIVITIES

1.- PAPER ON A CASE STUDY (30% of the final grade to be delivery the beginning of May)

3.500-4.000 word paper (in english or spanish) where the student has to analyse one case or situation of potential international crime, after a consultation with the teacher.

A possible 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

NOTE: The paper, to be considered evaluable must receive a grade higher than 3.6

2.- SEMINAR ACTIVITIES (preparation and participation) (50% of the final grade. It will be evaluated based on 9 activities)

3.- READINGS: includes the readings and research (10%).

4.- PARTICIPATION: The active attitude of the student and interventions through the sessions (in english or spanish) will represent the 10% of the final grade.

The simple presence in class without intervention will not be considered participation

REEVALUATION OPTION(pas/not pass):

For those students who did not achive through the course the minimum grade (5) but did participated in class and got as a final grade over 4 there is the possibility of an exam.

This exam will take place at the date asignated by the faculty. The structure will be 10 short questions related with the contents of the course. In this case the maximum final grade of the course will be 6.5

Warning:

- 1) Students who copied some of the essays between them will be grade v
- 2) Students that plagiarize, practices, comments or essays will be qualific

Activities



Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Class participation	25	1	12, 1, 16, 18
seminars	54	2.16	8, 7, 1, 16, 17, 18, 19
Type: Supervised			
Paper on a case study	30	1.2	9, 1, 17
Type: Autonomous			
Readings	16	0.64	1, 17

Assessment

1.- PAPER ON A CASE STUDY (30% of the final grade to be delivery the beginning of May)

3.500-4.000 word paper (in english or spanish) where the student has to analyse one case or situation of potential

A possible 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
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

NOTE: The paper, to be considered evaluable must receive a grade higher than 3.5

2.- SEMINAR ACTIVITIES (preparation and participation) (50% of the final grade. It will be evaluated based on 9 activities)

3.- READINGS: includes the readings and research (10%).

4.- PARTICIPATION: The active attitude of the student and interventions through the sessions (in english or

spanish) will represent the 10% of the final grade.

The simple presence in class without intervention will not be considered participation

REEVALUATION OPTION(pas/not pass):

For those students who did not achieve through the course the minimum grade (5) but did participate in class and got as a final grade over 4 there is the possibility of an exam.

This exam will take place at the date assigned by the faculty. The structure will be 10 short questions related with the contents of the course. In this case the maximum final grade of the course will be 6.5

Warning:

- 1) Students who copied some of the essays between them will be graded with a 0 in that part of the evaluation.
- 2) Students that plagiarize, practices, comments or essays will be qualified with a "0" on the final grade, and therefore without right to reevaluation

Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Class active participation	10%	0	0	10, 11, 12, 1, 16, 18, 19, 15
Exam (only for reevaluation of those students who obtained a grade over 3)	80% (re-evaluation)	0	0	2, 10, 5, 4, 8, 12, 13, 1, 17
READINGS	10%	25	1	3, 2, 5, 8, 6, 9, 13, 1, 16, 17
final essay (compulsory)	30%	0	0	10, 14, 8, 7, 9, 13, 1, 17, 15
seminarios (9 over 11)	50% (compulsory)	0	0	3, 2, 10, 5, 8, 6, 7, 9, 13, 1, 17, 19

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

Key web pages:

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

[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 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, Javaid. International human rights law (2nd. 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 *Receuil des Cours*, núm. 278, 1999, pp. 9, 59;

Bassiouni. *Crimes against Humanity in International Criminal Law*, 2^a 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 Ginsbugs*, 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/Arxiu/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
- 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