

Course guide, International Criminal Law 15 credits Autumn 2017

This course guide has been adapted to the standard format at SU.

Updated 11 November 2017 by Mark Klamberg

Please check the course website daily for updated information!

Welcome to the course!

1	Aim of the course	2
1.1	Content and purpose.....	2
1.1.1	Overarching aim of the course	2
1.1.2	General structure of the course	2
1.1.3	Expectations	2
1.2	Instruction.....	2
2	Structure of the course	3
2.1	Structure of the course and alignment to expectations	3
2.2	Detailed structure of the course.....	4
2.3	Oral and written exercises	6
2.4	Mandatory elements.....	6
2.5	International and comparative elements.....	7
2.6	Interaction with surrounding society	7
2.7	Relation to other courses	7
2.8	Course literature and source material	7
2.9	Optional reading	8
2.10	Preparations for teaching.....	8
3	Assignments and examination	9
3.1	General	9
3.1.1	Examination	9
3.1.2	Citation.....	10
3.1.3	Sources	13
3.1.4	How papers and motions will be evaluated.....	15
3.2	Seminars with tutorials	18
3.3	Moot court.....	19
3.4	Individual essay	19
3.4.1	Topic of the individual essay	19
3.4.2	What the individual essay should contain	20
3.4.3	Length of the paper	22
3.4.4	Submission of the paper	22
3.5	Written examination.....	22
4	Contact information	23

1 Aim of the course

After the course, a student should be able to

1.1 Content and purpose

1.1.1 Overarching aim of the course

The goal of the course is to provide students with the opportunity to gain deeper insight in the area of international criminal law.

1.1.2 General structure of the course

The course is divided into six parts: i) introduction, ii) international crimes, iii) courts, tribunals and implementation, iv) international criminal procedure and v) general principles of international criminal law and vi) The course ends with a moot court exercise.

Parts 2-5 consists of lectures and seminars. Each part takes one week, the weeks starts with one lecture which gives an overview of the area followed by two seminars within the same area which aim to provide in-depth learning with high participation of the students which requires preparation of all students for all seminars.

As you will see in section 3.1.1 of this course guide, the examination is divided into a moot court with an oral hearing and two written exercises, an individual essay and a written exam.

See further section 2 of this course guide.

1.1.3 Expectations

After the course, a student should be able to

- identify legal issues relevant for the subject fields of the course
- identify non-legal factors that contribute to adoption of the legal norms discussed during the course
- apply the legal rules dealt with during the course
- conduct an inquiry in one of the subject fields of the course and present the result in written as well as in verbal form

1.2 Instruction

Teaching is carried out in the form of lectures with discussions. Students are expected to have studied the relevant materials of the course ahead of each lecture, at least in a cursory manner. Student activity is important for the success of the course.

Different types of instructions are used for the purpose of enhancing different skills. The lectures with discussion should assist student in understanding basic concepts.

The moot court will test the student's knowledge of the substance of international criminal law and its various procedures, but, more importantly, it should enhance the student's ability to creatively use this knowledge. The individual essay should develop the student's ability to connect knowledge of the substance and procedure of international law with critical thinking. The written exam will test and develop the student's knowledge of the substantive and procedural rules involved as well as the ability to identify legal problems and apply the rules.

Slides or notes used by a lecturer will in general be posted on the web site.

Please note that that introduction to the course, seminar with President de Gurmendi and participation in the moot court with related written exercises are mandatory. Active attendance on seminars with tutorials (see section 3.2) each gives an additional 2 points per seminar.

2 Structure of the course

2.1 Structure of the course and alignment to expectations

The teaching and examination are aligned to the expectations (lärandemål) as listed in the curriculum (kursplan) and section 1.1.3 as follows.

- identify legal issues relevant for the subject fields of the course;

Teaching: The lectures will give an overview of international criminal law as well as some of the key legal problems in the area.

Examination: the students need to identify legal problems in international criminal law when they do the moot court, individual essay and written exam
- identify non-legal factors that contribute to adoption of the legal norms discussed during the course

Teaching: The seminar/lectures on "The historical background of the ad hoc tribunals", "Filmshow: the formation of an International Crime" and "Other Internationally Monitored tribunals" focus on extra-legal factors.

Examination: the students are instructed to consider and discuss extra-legal factors during the individual essay.

- apply the legal rules dealt with during the course

Teaching: lectures in the parts “crimes”, “general principles of ICL”, “international criminal procedure” will provide an overview on how substantial norms are applied in different contexts.

Examination: the students will apply ICL norms in the moot court (oral hearing and written motions) and in the written exam.

- conduct an inquiry in one of the subject fields of the course and present the result in written as well as in verbal form

Teaching: the lectures “legal tools” and “drafting essays and motions” together with the other lectures will provide the students with tools on how to conduct an inquiry in the field.

Examination: Examination: the students will conduct an ICL inquiry when writing their individual essay and during the moot court (oral hearing and written motions).

2.2 Detailed structure of the course

The table below is thematic, not necessarily chronological, and displays the structure of the course and how the various lectures and exercises fit into one another. Please note that this is **not** the definite schedule; the schedule is posted on the website and may be subject to change.

	Subject	Teacher	Textbook	Other
PART I Introduction				
	Introduction - Compulsory for all students	Mark Klamberg	Ch. 1-2	
	Jurisdictional, immunity,	Nikola Hajdin	Ch. 3, 21	CLICC, Articles 5, 11-13, 17,

	complementarity			27 and 98
PART II International Crimes				
	Lecture: International Crimes, including mens rea, state responsibility and non core crimes	Nikola Hajdin	Ch. 13 p. 381-384 p. 17, 590 Ch. 14	CLICC, Article 5, 8 bis, 8 ter, 15 bis, 15 ter, 25(4), 30 See seminar 8
	Seminar 1: War Crimes and IHL	Nikola Hajdin	Ch. 12 Tutorial	CLICC, Article 8
	Seminar 2: Crimes against humanity and Genocide	Nikola Hajdin	Ch. 10+11 Tutorial	CLICC, Articles 6 and 7
PART III Courts, tribunals and implementation				
	Lecture: The Historical Background	Mats Deland	Ch. 6	
	Seminar 3: The case of Nuremberg	Mats Deland	Ch. 6 Tutorial	
	Lecture: Other Internationally Monitored Tribunals - Sierra Leone and Cambodia	Hans Corell	Ch. 9	
	Seminar 4: Interstate Cooperation + transnational crimes	Damon Barrett	Ch. 5 Tutorial cf Ch. 20	cf CLICC, Part IX of the Rome Statute
	Lecture: ICTY	Barbara Goy	Ch. 7.2	
	Lecture: Experiences from Rwanda Tribunal (ICTR)	Lennart Aspegren	Ch. 7.3	
	Lecture: Drafting of the Rome Statute	Siliva Fernández de Gurmendi	Ch. 8	
PART IV international criminal procedure				
	Lecture: ICC	Nikola Hajdin	Ch. 8	CLICC, Parts IV, XI and XII of the Rome Statute
	Seminar 5: Fundamental feature and General Principle of International Trials + disclosure	Mark Klamberg	Ch. 17 Tutorial	CLICC, Parts V- VIII of the Rome Statute
	Seminar 6: Protection of Victims, their	Mark Klamberg	Ch. 18 Tutorial	CLICC, article 68

	Participation in the Proceeding and Reparations			
PART V General principles of international criminal law and general matters				
	Lecture: Command Responsibility	Barbara Goy	Ch. 15.7	CLICC, Article 28
	Seminar 7: Modes of Participation	Barbara Goy	Ch. 15.1-15.6 Tutorial	CLICC, Article 25
	Seminar 8: Grounds for excluding Criminal Responsibility + mens rea	Nikola Hajdin	Ch. 16 p. 381-384	CLICC, Articles 30-33
	Seminar 9: Prosecutorial Strategies, Complementary, Peace vs Justice	Nikola Hajdin	Ch. 17.5, 22 pp. 40-41 Tutorial	CLICC, Articles 16 and 17, 53
	Seminar 10: Scholarly and Critical Approaches to International Criminal Justice	Mark Klamberg	Ch. 2.4, 23 Tutorial	CLICC, Articles 30-33
PART VI Moot court and examination				
	Introduction to moot court	Nikola Hajdin		Moot court material Moot court RPE
	Drafting individual essays and motions plus legal tools	Mark Klamberg		Course guide, chapter 3 CLICC
	Oral advocacy for the moot court	Barbara Goy		
	Moot court	Mark Klamberg, Johan Hirschfeldt		
	Essay			
	Exam			

2.3 Oral and written exercises

See below, section 3.

2.4 Mandatory elements

Please note that that introduction to the course, seminar with President de Gurmendi and participation in the moot court with related written exercises are

mandatory. Active attendance on seminars with tutorials (see section 3.2) each gives an additional 2 point.

2.5 International and comparative elements

All of the elements are international. There are elements of comparative law when dealing with criminalized acts, modes of participation, general principles of criminal law and criminal procedure.

2.6 Interaction with surrounding society

The course continuously deals with political, social and economical issues related to international criminal justice, not least when the students writes individual essays focused on a chosen problem. Several of the lectures have lengthy practical experience which is shared with the students.

2.7 Relation to other courses

This is one of the specialized and advanced courses which are offered to exchange students and Swedish students during the end of the law programme. The course connects to previous courses in the law programme such as Criminal Law (straffrätt), Procedural Law (processerätt) and Public International Law (folkrätt).

The course may from Autumn 2016 be part of the study year (studieår) "Public International Law and the Individual" (Folkrätten och individen) which includes two specialized courses and a thesis (30 credits). The specialized courses consists of Human Rights in a Global Perspective" (15 credits) and "International Criminal Law" (15 credits). *Nota bene:* this study year is only available for students who are registered and writing their final thesis within the law programme (4,5 years) at Stockholm University.

2.8 Course literature and source material

- Cryer, Robert, Friman, Håkan, Robinson, Darryl & Wilmshurst, Elizabeth, An Introduction to International Criminal Law and Procedure, Cambridge University Press, Cambridge, third edition, 2014

- International Criminal Law- Selected Documents

Commentary on the Law of the ICC available at <http://www.cmn-kh.org/CLICC/>

Course literature is available at Juristernas bokhandel, but only to a limited extent.

2.9 Optional reading

Power and Law in International Society: International relations as the Sociology of International Law, Mark Klamberg, Routledge, 2015, 182 pp, chapters 1, 2 and 6 available as e-book through the Stockholm University Library website.

2.10 Preparations for teaching

Teaching and learning in this course is 1) partly carried out in the form of traditional lectures with discussions and 2) partly pursuant to problem based learning (PBL).

For the traditional lectures, students are expected to have studied the relevant materials of the course ahead of each lecture, at least in a cursory manner. This is the traditional lecture-textbook method. Any slides or notes used by a lecturer will be posted on the web site. For readings instructions, please see above, section 2. The table under 2.2 contains detailed references to the literature and source material for each lecture/seminar.

For the following seminars you need to prepare by reading cases and articles as indicated in tutorials.

- Seminar 1: War Crimes and IHL + aggression
- Seminar 2: Crimes against humanity and genocide
- Seminar 3: The Historical Background - The Case of Nuremberg
- Seminar 4: Interstate Cooperation + State-international court cooperation + transnational crimes
- Seminar 5: Fundamental feature and General Principle of International Trials + disclosure
- Seminar 6: Protection of Victims, their Participation in the Proceeding and Reparations
- Seminar 7: Modes of Participation
- Seminar 8: Grounds for excluding Criminal Responsibility + mens rea +
- Seminar 9: Prosecutorial Strategies, Complementary, Peace vs Justice
- Seminar 10: Scholarly and Critical Approaches to International Criminal Justice

PBL is a student-centered pedagogy in which students learn about a subject through the experience of problem solving and high degree of participation. With traditional learning teachers can arguably teach 1) knowledge and 2) comprehension. PBL help students to move up the ladder of more advance types of learning such as 3) application, 4) analysis, 5) synthesis and 6) evaluation. The PBL method is sometimes called the case method. This explained by the fact that the PBL method may often

include reading adjudicated cases. However, the problem method is different in the sense that it is not based solely adjudicated cases but on cases created specifically for this purpose. Each case contains raw facts which the students study, solve and discuss in class. PBL in this course consists of writing motions and participating in an oral moot court. Participation in the moot court is mandatory.

3 Assignments and examination

3.1 General

3.1.1 Examination

The course is examined through the moot court with two written exercise, an individual essay and a written exam.

Please note that the grading is anonymous, as far as possible. Each student will receive a code, to be used on individual written assignments.

The maximum score is as follows:

Individual paper	20 pts
Moot court	
Motion 1	10 pts
Motion 2	10 pts
Oral presentation	5 pts
Tutorials	
Memo	10 pts
Active participation	10 pts
Written exam	35 pts
TOTAL	100 pts

Swedish grade:

AB= 91-100

Ba= 71-90

B= 55-70

ECTS-grade:

A= 96-100

B= 91-95

C= 81-90

D= 71-80

E= 55-70

FX= Fail

F= Fail

These limits may be revised, but only downwards.

3.1.2 Citation

3.1.2.1 *Format of sources*

You can choose whether to use Oxford referencing style or Harvard referencing style.

Oxford referencing: references are in footnotes. The first time a source is used, use the full reference. In subsequent references use *ibid.* if it is the immediately subsequent footnote, otherwise use short form. In addition to footnotes, you should also indicate the full reference in bibliography at the end of the text.

Harvard referencing: references are embedded in the text in short form and enclosed in parenthesis, either within or after a sentence, for example: (Sluiter, 2002, p. 35). In addition to references embedded in the text, you should also indicate the full reference in bibliography at the end of the text

Legal texts normally use Oxford referencing, social sciences use Harvard referencing. Since this is text combining law and political science you can choose which style to use. However, it is important that you are consistent and stick to the one referencing style throughout the entire text., don't mix the two styles.

3.1.2.2 *Monography*

Göran Sluiter, *International Criminal Adjudication and the Collection of Evidence: Obligations of States*, Intersentia, Antwerpen/Oxford/New York, 2002

Short form: Sluiter, 2002

3.1.2.3 *Article in journal*

Michela Miraglia, *Admissibility of Evidence, Standard of Proof, and Nature of the Decision in the ICC Confirmation of Charges in Lubanga*, *Journal of International Criminal Justice*, vol 6, 3 (2008): 489-503

Short form: Miraglia, 2008

Several authors (three or more): Gideon Boas et al., *International Criminal Law Practitioner Library: International Criminal Procedure Volume 3*, Cambridge University Press, Cambridge, 2011

Short form: Boas et al., 2011

3.1.2.4 Part of book

Gilbert Bitti, *Two bones of Contention between Civil and Common Law: The Record of the Proceedings and the Treatment of the Concurus Delictorum*, Horst Fischer/Claus Kreß/Sascha Rolf Lüder (Eds.), *International and national prosecution of crimes under International Law*, 273-288, Second Edition, Berliner Wissenschafts-Verlag, Berlin, 2004

Short form: Bitti, 2004

Several editors (three or more):

Peter Malanczuk, *Protection of National Security Interests*, Antonio Cassese et al. (Eds.), *The Rome Statute of the International Criminal Court, 1371-1386*, Oxford University Press, Oxford, 2002

Short form: Malanczuk, 2002

3.1.2.5 Case law

ICTY (and other international criminal tribunals)
Prosecutor v. Tadić, (Case No. IT-94-1), ICTY T. Ch., Decision on the Defence Motions to Summon and Protect Defence Witnesses, and on the Giving of Evidence by Video-link, 25 June 1996

Short form: *Tadić*, ICTY T. Ch., 25 June 1996

ICC (pls include document number as indicated below)
Prosecutor v. Lubanga, ICC PT. Ch. I, Second Decision on the Prosecution Requests and Amended Requests for Redactions under Rule 81, ICC-01/04-01/06-455, 20 September 2006

Short form: *Lubanga*, ICC PT. Ch. I, 20 September 2006

ICJ

Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania), ICJ, Judgment, 9 April 1949

Short form: *Corfu Channel*, ICJ, 9 April 1949

ECtHR (and other human rights courts)

Doorson v. The Netherlands, (Application No. 20524/92), ECtHR, Judgment, 26 March 1996

Short form: *Doorson v. The Netherlands*, ECtHR, 26 March 1996

Human Rights Committee

Wolf v. Panama, (Communication No. 289/1988), HRC, Views, 26 March 1992

Short form: *Wolf v. Panama*, HRC, 26 March 1992

3.1.2.6 Treaties

European convention for the Protection of Human Rights and Fundamental Freedoms adopted 4 November 1950 as amended by Protocol No. 11 and 14, 213 UNTS 221

Short form: ECHR

Charter of Fundamental Rights of the European Union, published 26 October 2012, C 326/391

Short form: EU Charter of Rights

3.1.2.7 Internet sources

Internet sources can be used with the following guidelines:

- If the source is available in printed form as well as on internet, use the format indicated in 3.1.2.1-3.1.2.6, do not indicate internetaddress. This is relevant for example in relation to case law and articles in journals which you can assume exist in printed form. In other words, even if you find a case or article in a journal though internet, treat them as printed sources.
- It is not enough to indicate on which website you find some information, for example www.un.org is an uncomplete reference. A reader will not be able to find, check and read such a reference.
- By the same reasoning, it is not enough with a reference only consisting of an internetaddress because they may change.
- Thus, if you use a reference from internet, indicate the author (if applicable), organization or equivalent that is the owner/publisher of the website, title of the relevant page on the website, date when the page was published (if date is indicated on the website), internetaddress, last date when you visited the website - as done in the following example:

Ban Ki-moon, United Nations Department of Public Information, *UN Saddened by Coal Mine Tragedy, Secretary-General Says he Stands Together with People of Turkey*, 15 May 2014, <<http://www.un.org/News/Press/docs//2014/sgsm15845.doc.htm>>, checked 16 May 2014

Short form: Ban Ki-moon, 2014

3.1.2.8 Plagiarism

You may never use any source or copy from the internet without referencing in the main text, footnotes and/or in endnotes. We check all writing, including the motions and individual essays, with anti-plagiarism software, and any form of plagiarism

immediately turns into a formal complaint with Stockholm University. If you are unsure about what is ok and not, check with the teacher.

To plagiarize is to present content from some others work as your own. It is to omit information on who is the author or where the material originates. Plagiarism includes to copy text in verbatim (in its entirety) as well as presenting results, ideas and conclusions as it is your own. Plagiarism can include text as well as other material such as a picture, figure or a diagram.

Scholarly work to a large extent builds on the work of others, there is nothing wrong in that. Thus, how does one avoid plagiarism?

- Be careful to always indicate correct references to your sources. It is often time consuming to do that afterwards and there is also a risk that you will omit a source that you have used. Thus, write down your references continuously as you are drafting your text or making notes.
- It is allowed to build on the conclusions and analysis of others, in such cases you must indicate who have made these conclusions/analysis, either by a reference in a footnote or in the main text if it is a principal conclusion/analysis.
- If it is a longer and principal argument/sentences(s) of an author, it is suitable to quote the argument/sentence(s) with a reference in a footnote.
- It is approved to use conclusions/analysis from students essays, in such cases you must make references and work independently in relation to such sources in the same way as you do with other sources.

3.1.3 Sources

Tribunals and Courts

3.1.3.1 Sources of Law

Domestic law normally rely on sources of law such as:

1. Statute law (adopted by parliament/congress)
2. Case law (from courts)
3. Preparatory works (by the Government and/or committees)
4. Doctrine (writings of legal scholars who are perceived as authorities)

Different domestic jurisdiction assign different legal value to the sources listed above, for example in the UK case law is relied upon extensively whileas preparatory works are perceived as having very low/none value (as a binding source of law). This may be contrasted with continental European jurisdiction which

rely more on statute law, in some cases on preparatory works (for example Scandinavia) and less on case law.

Under the traditional approach International law has three sources of law (as enumerated in article 38 of the ICJ Statute)

1. Treaties
2. International customary law
3. General principles of law

Doctrine and case law are not sources of law in themselves, they are subsidiary means for the determination of the rules of law (1-3 above).

Article 21 of the Rome Statute indicates the applicable law for the Court.

Instruction: Left-click + ctrl to use the links below

3.1.3.2 International Organizations

[Council of Europe \(CoE\)](#)

[United Nations \(UN\)](#)

[United Nations Treaty Collection](#)

[International Committee of the Red Cross \(ICRC\)](#)

3.1.3.3 Tribunals and Courts

[International Court of Justice \(ICJ\)](#)

[International Tribunal for the Law of the Sea \(ITLOS\)](#)

[Court of Justice of the European Union \(ECJ\)](#)

[Administrative Tribunal of the International Labour Organisation](#)

3.1.3.4 Regional Human Rights Courts

[European Court of Human Rights \(ECtHR\)](#)

[Hudoc database](#)

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

[African Court on Human and Peoples' Rights \(AfCHPR\)](#)

3.1.3.5 International criminal tribunals and courts

[Trial of the Major War Criminals before the International Military Tribunal \(IMT\)](#)

[Database at the Library of Congress](#)

[Database Yale University](#)

[Trials of War Criminals Before the Nuernberg Military Tribunals Under Control](#)

[Council Law No. 10 \(NMT\)](#)

[Database at the Library of Congress](#)

[International Criminal Tribunal for Rwanda \(ICTR\)](#)

[Cases](#)

[International Criminal Tribunal for the former Yugoslavia \(ICTY\)](#)

[Cases](#)

[Court records](#)

[Mechanism for International Criminal Tribunals \(MICT\)](#)

[International Criminal Court \(ICC\)](#)

[Extraordinary Chambers in the Courts of Cambodia \(ECCC\)](#)

[Special Court for Sierra Leone \(SCSL\)](#)

[Special Tribunal for Lebanon \(STL\)](#)

3.1.3.6 Library

[Stockholm University Library](#)

[Libris](#)

3.1.3.7 Journals

[Hein-on-line](#) (access: Stockholm University)

[Westlaw start](#) (access: Stockholm University, first log in through the University library website)

3.1.3.8 Online commentaries

[Commentary on the Law of the International Criminal Court \(CLICC\)](#)

3.1.4 How papers and motions will be evaluated

The papers will be evaluated mainly on the basis of the following criteria (which we have adopted from the course Law and Information Communication Technology Assessment criteria).

Grade	Criteria
AB (A)*	An excellently structured reasoning with a clear focus on the central aspects and with a high relevance in light of the questions posed; extensive reference to legal sources and the correct use of relevant facts; great ability to engage in abstract reasoning and to make an independent assessment of the problems, including critical reflection.
AB (B)*	A very well structured reasoning with a clear focus on the central aspects and with a high relevance in the light of the questions posed; reference to legal sources and the correct use of relevant facts; great ability to engage in abstract reasoning and to make an independent assessment of the problems, including critical reflection.
BA (C)*	A well structured reasoning with a focus on the central aspects and with relevance in the light of the questions posed; reference to legal sources and the correct use of relevant facts; ability to engage in abstract reasoning and to make independent and balanced assessment of the problems.

- BA (D)*** A structured and relevant reasoning which covers some of the central aspects in light of the questions posed; reference to legal sources and the correct use of relevant facts; signs of an ability to engage in abstract reasoning and to make an independent assessment of the problems.
- B (E)*** A transparent reasoning which observes some aspects that are central to the questions posed; some reference to legal sources and relevant facts; signs of an ability to make an independent assessment of the problems.
- Fx** A reasoning which observes aspects that are central to the questions posed but insufficient reference to legal sources and the relevant facts and/or no signs of an ability to make an independent assessment of the problems.
- F** A reproduction of disjointed facts with insufficient reasoning.

*The symbols in brackets represent the equivalent of the stated grade on the A – F scale.

In the grading of the papers these criteria will be used, although the weight given to the different criteria will vary depending on the assignment; please see further under each assignment.

Please copy the following table and insert it at the end of every paper in this course. This table contains the criteria for grading which will be used in the grading, and it will also facilitate in giving you feedback. Please do not forget to pick up your papers after they have been graded, since they contain valuable feedback.

Overall assessment	
Method, analysis, argumentation	
Presentation (focused, clear and logical outline)	
Sources (citations, use of relevant material)	
Facts, knowledge about the subject	
Conclusions, critical reflections	
Style	
Other comments	

3.2 Seminars with tutorials

For the following seminars you need to prepare by reading cases and articles as indicated in tutorials posted on the course website.

- Seminar 1: War Crimes and IHL + aggression
- Seminar 2: Crimes against humanity and genocide
- Seminar 3: The Historical Background - The Case of Nuremberg
- Seminar 4: Interstate Cooperation + State-international court cooperation + transnational crimes
- Seminar 5: Fundamental feature and General Principle of International Trials + disclosure
- Seminar 6: Protection of Victims, their Participation in the Proceeding and Reparations
- Seminar 7: Modes of Participation
- Seminar 8: Grounds for excluding Criminal Responsibility + mens rea +
- Seminar 9: Prosecutorial Strategies, Complementary, Peace vs Justice
- Seminar 10: Scholarly and Critical Approaches to International Criminal Justice

Two seminars with tutorials are held every week, typically Tuesday and Thursday for five weeks of the course. Please check course schedule for potential changes/deviations.

The seminars are intended to deepen student's understanding through critical analysis and the questions are guidance for a general discussion following the questions.

Active attendance on seminars with tutorials each gives an additional 2 points. Active attendance means that every student needs to submit a memo with 1-2 pages where you answer the questions for the seminar (1 point) and participate in the discussion at the seminar (1 point).

You shall submit the memo via Fastreg Forum where an automatic check for plagiarism is made. It is alright if you discuss the seminar, the questions and your answers with other students before the seminar, you can do it in the same groups as assigned for the moot court. However, you shall not submit identical memos – you shall write them individually. The teacher will not grade the memos, it is only to check who has submitted memos and that they are not identical to each other. The

purpose of the memo is that all students should be prepared to participate in the seminar.

3.3 Moot court

See separate documents posted on the course website:

1. Cases
2. Rules of Procedure Moot court

3.4 Individual essay

The third assignment is an essay in which you are expected to write in the field of international criminal law.

3.4.1 Topic of the individual essay

Below you will find some topics that will give you an opportunity to refer to several different areas of international criminal law.

Legal sources and other sources have to be properly referenced. Consult section 5.3 in this document.

Suggested paper topics

- Command Responsibility
- Immunities of Heads of State
- Complementarity
- Conflicts and IHL
 - Operation Cast Lead 2008-09
 - Georgia-Russia 2008
 - Libya 2011
 - Iraq 2003
 - Syria 2011-
- Genocide and crimes against humanity
 - Khmer Rouge 1975-1979
 - The Anfal Campaign 1986-1989
 - Holodomor, Ukrainian SSR 1932–1933
 - Srebrenica, 1995

- Armenia, WW I
 - The Holocaust
 - Darfur 2003
-
- The crime of aggression
 - Trafficking as an international crime
 - Crimes against women
 - Truth and reconciliation commissions
 - Principles of jurisdiction
 - Domestic implementation of international criminal law – write about your own country
 - Cases concerning ICL in domestic courts – write about a case from your country
 - Enforcement of non-cooperation of states with ad hoc tribunals/ICC
 - The standard “beyond reasonable doubt”
 - The hybrid nature of international criminal procedure
 - The Role of the Prosecutor at the *ad hoc* tribunals/ICC
 - Access to documents and materials (disclosure/dossier system)

Further topics may be added to this list as suggested by students and approved by Dr Klamberg.

It is strongly suggested that you start to take down notes on your own thoughts on your chosen topic as soon as possible.

3.4.2 What the individual essay should contain

Your essay should contain the following:

1. You should state a puzzle (dilemma or problem). A good puzzle is something that appears to be a contradiction. The purpose of the essay is to solve the contradiction.
2. You should state purpose of the essay and research questions.

The purpose should relate to explain why you have chosen the actual topic, what you want to achieve, for example if you want to examine need for more detailed regulation, if you have a hypothesis etc.

The purpose leads you to state certain research questions and/or a hypothesis. Your essay should focus to answer these research questions and nothing else. Questions that can be answered yes/no are not good.

Examples of research questions.

If you want to write a traditional and descriptive essay:

"what does/should rule x mean?" potential answers: A/B/C

If you want to write a more critical and analytical essay:

"what should one presume in order to believe rule x means A/B/C?" This will help you to discover and discuss the ideology and assumptions of an institution/rule.

3. Description and analysis of relevant legal sources and rules
4. If available, different views among scholars and/or states on how to deal with the problem
5. Your own analysis and view of the problem, to be presented in the section analysis and conclusions. You should consider and discuss extra-legal factors and critically reflect on the role of international criminal justice.

This should be reflected in your essay by using the following sections and headings:

1. Problem
2. Purpose and research question(s)
3. Delimitations
4. Legal framework

5. Analysis
6. Conclusions

3.4.3 Length of the paper

The paper should be **5-10 pages** long (excluding front page, table of contents and bibliography) and pages should be numbered.

Format:

Size 12 Times New Roman font style

The text of the Memorial must be 1.5 spaced.

Use footnotes for sources

Include the following headings/components: 1) Introduction (Problem, purpose, research question(s), limitations), 2) analysis, 3) conclusions

Recommendation: use 1-2 books or 3 articles

Regarding other formal requirements, please consult “section 5.3 in this document, which is available under course material. It applies to all written assignments during this course, unless modified by our own instructions.

3.4.4 Submission of the paper

It should be handed in on → 3 January 2018 to sara.freeman@juridicum.su.se.

IMPORTANT: PLEASE DO NOT FORGET TO WRITE YOUR CODE AND THE NAME OF THE TOPIC AREA ON THE *FIRST* PAGE OF THE PAPER!

We have adapted the assignment to the amount of time that you will have at your disposal to work on it. It is in any case advisable that you begin work on the paper as soon as possible in order to meet the deadline. Computer failures and short-term illnesses are unfortunately all too common occurrences, so be sure to take such risks into account when planning your time.

3.5 Written examination

The exam will have two parts:

1. The first part will consist of five fact-oriented questions. No books will be allowed. 5 points.
2. Two problem oriented questions (30 points).

Instructions for second part of the exam:

All books and any other material are allowed (except cellular phones and computers and other electronic devices).

The following standards apply regarding your answers for the questions:

1. I will be influenced by how well your answer is organised, on the micro-level as well as on the macro- level.
2. This is an exam in international international criminal law which indicates that legal arguments should be used. Always state your sources. When referring to sources, you do not have to put down the full references, but they should be identifiable. Examples: "Article 12 of the Rome Statute provides that..." Or " the Lubanga case from the ICC is an interesting example of..."
3. Time is scarce and it could be necessary that you try to identify the most pressing issues to be dealt with first. For a full point on the question it is not necessary that all issues are dealt with in detail, but I will take note of the identified issues and how you have dealt with them.

PREPARATION FOR THE FINAL EXAM

Students will be expected to answer questions on the final exam on the basis of the following texts/materials:

1. Assigned readings of chapters or sections of "An Introduction to International Criminal Law and Procedure".
2. Texts, i.e., law journal articles and the like, that have been made available to students in connection with certain lectures.
3. PowerPoint/Overhead slides and the like that have been made available to students in connection with certain lectures

4 Contact information

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