

## **CRIMINAL LAW II**

**GRADO EN DERECHO / BACHELOR OF LAWS**

Professor: **MANUEL MIGUEL VERGARA CESPEDES**

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Degree course: SECOND

Semester: 1<sup>o</sup>

Category: COMPULSORY

Number of credits: 6.0

Language: English

### **PREREQUISITES**

## **SUBJECT DESCRIPTION**

This course has been designed to study substantive Criminal Law II from a national, comparative and International perspective. For that reason, we have selected the most relevant crimes and offenses from Common Law and Civil Law systems to analyze their concrete regulation and interpretation problems. The course is divided in two sections:

- Comparative Criminal Law

As the Special Part of Criminal Law is specific and singular to each domestic legislation, this subject will not be focusing in depth on any specific legal framework. The aim of this course is mainly to achieve the tools to understand different legal systems, conduct research on comparative criminal law in order to prepare international lawyers to deal efficiently with legal texts they have not worked with in the past.

- International Criminal Law

International Criminal Law is a discipline that has experienced intense development during the last decades becoming an autonomous field of study. Strictly speaking, this approach for Criminal Law is the only one that can be applied and argued internationally. Its nature and mechanisms (with the exception of Universal Jurisdiction) are purely international. Students will analyze and achieve general understanding of International Criminal Law and its components.

We will study initiatives to understand the use of Criminal Law to address global and regional problems and how legislators are trying to develop a global approach which encompasses comparative and international law.

Thinking on global lawyers for the 21st century, this syllabus includes a wide range of topics dealing with national, cross-border, international and European crimes.

## **OBJECTIVES AND SKILLS**

The aims of the course as follows:

- a) Providing essential knowledge of the most relevant crimes
- b) Achieving the tools to understand different legal systems, conduct research on comparativecriminal law in order to prepare international lawyers to deal efficiently with legal texts they have not worked with in the past.
- c) Developing advanced skills and competences in Criminal Law topics
- d) Analyzing International Criminal Law and its components.

Upon successful completion of this course students will be able to:

- a) Identify the interests protected by Criminal Law in modern societies
- b) Understand concepts and legal institutions in national and international Criminal Law systems
- c) Analyze and compare criminal regulations in different jurisdictions
- d) Propose innovative solutions to develop advisory work on Comparative Criminal Law topics

## **METHODOLOGY**

- a) Final exam (45%) will cover theoretical and practical issues developed during the classes.
- b) Midterm test (20%) will cover theoretical and practical issues related to comparative criminal law.
- c) Group Work (15%): Simulated Trial: the students will be divided into several groups and within the group there will play different roles (Prosecutor, Defense Attorneys and Judges). Each group will be assigned a case. Prosecutors and Defense Attorneys will make their open arguments, present evidence and submit final statements. Judges will deliver sentence and if, existing, any dissenting and / or concurrent opinion about the cases. The professor will also provide specific instructions for this activity.
- d) Participation (20%) is more than raising your hand. Students are expected to work before each class to contribute to the discussions and debates. Readings, basic research and case analysis may be requested before every session. Comments, questions, suggestions about Criminal Law and legal disciplines are always welcome. Interest and contributions will be graded.

Teaching methodology	Weighting	Estimated time a student should dedicate to prepare for and participate in
Lectures	26.67 %	40 hours
Discussions	13.33 %	20 hours
Exercises	26.67 %	40 hours
Group work	13.33 %	20 hours
Other individual studying	20.0 %	30 hours
TOTAL	100.0 %	150 hours

## **PROGRAM**

### **SESSION 1**

Subject presentation, evaluation system, exercise and group work.

### **SESSION 2**

CHAPTER I. OFFENSES AGAINST THE PERSON

1. Murder and Manslaughter
2. Suicide assistance and Euthanasia: regulation, limits and conflicts of fundamental rights
3. Physical harm and Domestic violence
4. Sexual crimes: fundamentals about the interest protected. Rape and Abuse.
5. Confinement and kidnapping.

### **SESSION 3**

CHAPTER I. OFFENSES AGAINST THE PERSON

1. Murder and Manslaughter
2. Suicide assistance and Euthanasia: regulation, limits and conflicts of fundamental rights
3. Physical harm and Domestic violence
4. Sexual crimes: fundamentals about the interest protected. Rape and Abuse.
5. Confinement and kidnapping.

### **SESSION 4**

CHAPTER I. OFFENSES AGAINST THE PERSON

1. Murder and Manslaughter
2. Suicide assistance and Euthanasia: regulation, limits and conflicts of fundamental rights
3. Physical harm and Domestic violence
4. Sexual crimes: fundamentals about the interest protected. Rape and Abuse.
5. Confinement and kidnapping.

### **SESSION 5**

CHAPTER I. OFFENSES AGAINST THE PERSON

1. Murder and Manslaughter
2. Suicide assistance and Euthanasia: regulation, limits and conflicts of fundamental rights
3. Physical harm and Domestic violence
4. Sexual crimes: fundamentals about the interest protected. Rape and Abuse.
5. Confinement and kidnapping.

### **SESSION 6**

CHAPTER I. OFFENSES AGAINST THE PERSON

1. Murder and Manslaughter

2. Suicide assistance and Euthanasia: regulation, limits and conflicts of fundamental rights
3. Physical harm and Domestic violence
4. Sexual crimes: fundamentals about the interest protected. Rape and Abuse.
5. Confinement and kidnapping.

## **SESSION 7**

### CHAPTER I. OFFENSES AGAINST THE PERSON

1. Murder and Manslaughter
2. Suicide assistance and Euthanasia: regulation, limits and conflicts of fundamental rights
3. Physical harm and Domestic violence
4. Sexual crimes: fundamentals about the interest protected. Rape and Abuse.
5. Confinement and kidnapping.

## **SESSION 8**

### CHAPTER I. OFFENSES AGAINST THE PERSON

1. Murder and Manslaughter
2. Suicide assistance and Euthanasia: regulation, limits and conflicts of fundamental rights
3. Physical harm and Domestic violence
4. Sexual crimes: fundamentals about the interest protected. Rape and Abuse.
5. Confinement and kidnapping.

## **SESSION 9**

### CHAPTER I. OFFENSES AGAINST THE PERSON

1. Murder and Manslaughter
2. Suicide assistance and Euthanasia: regulation, limits and conflicts of fundamental rights
3. Physical harm and Domestic violence
4. Sexual crimes: fundamentals about the interest protected. Rape and Abuse.
5. Confinement and kidnapping.

## **SESSION 10**

### CHAPTER I. OFFENSES AGAINST THE PERSON

1. Murder and Manslaughter
2. Suicide assistance and Euthanasia: regulation, limits and conflicts of fundamental rights
3. Physical harm and Domestic violence
4. Sexual crimes: fundamentals about the interest protected. Rape and Abuse.
5. Confinement and kidnapping.

## **SESSION 11**

### CHAPTER I. OFFENSES AGAINST THE PERSON

1. Murder and Manslaughter
2. Suicide assistance and Euthanasia: regulation, limits and conflicts of fundamental rights
3. Physical harm and Domestic violence

4. Sexual crimes: fundamentals about the interest protected. Rape and Abuse.
5. Confinement and kidnapping.

## **SESSION 12**

### CHAPTER II. OFFENSES AGAINST THE PROPERTY AND THE MARKET

1. Fundamentals about property rights. Property rights and Criminal Law
2. Robbery and larceny
3. Embezzlement
4. Theft crimes
5. Money laundry and corruption

## **SESSION 13**

### CHAPTER II. OFFENSES AGAINST THE PROPERTY AND THE MARKET

1. Fundamentals about property rights. Property rights and Criminal Law
2. Robbery and larceny
3. Embezzlement
4. Theft crimes
5. Money laundry and corruption

## **SESSION 14**

### CHAPTER II. OFFENSES AGAINST THE PROPERTY AND THE MARKET

1. Fundamentals about property rights. Property rights and Criminal Law
2. Robbery and larceny
3. Embezzlement
4. Theft crimes
5. Money laundry and corruption

## **SESSION 15**

### CHAPTER II. OFFENSES AGAINST THE PROPERTY AND THE MARKET

1. Fundamentals about property rights. Property rights and Criminal Law
2. Robbery and larceny
3. Embezzlement
4. Theft crimes
5. Money laundry and corruption

## **SESSION 16**

### CHAPTER II. OFFENSES AGAINST THE PROPERTY AND THE MARKET

1. Fundamentals about property rights. Property rights and Criminal Law
2. Robbery and larceny
3. Embezzlement
4. Theft crimes



5. Money laundry and corruption

## **SESSION 17**

### CHAPTER III. CRIMES AGAINST THE ADMINISTRATION OF JUSTICE AND CONTEMPT OF COURT

1. Crimes against the Administration of Justice and Contempt of Court
2. Obstruction of justice
3. Perjury
4. Crimes against witnesses
5. False denunciation or accusation

## **SESSION 18**

### CHAPTER III. CRIMES AGAINST THE ADMINISTRATION OF JUSTICE AND CONTEMPT OF COURT

1. Crimes against the Administration of Justice and Contempt of Court
2. Obstruction of justice
3. Perjury
4. Crimes against witnesses
5. False denunciation or accusation

## **SESSION 19**

### CHAPTER IV. HISTORY OF INTERNATIONAL CRIMINAL LAW AND UNIVERSAL JURISDICTION

1. Concept, nature, principles and history of International Criminal Law
2. International piracy.
3. Armenian Genocide and First World War
4. Second World War – Nuremberg and Tokyo Trials
5. Universal Jurisdiction

## **SESSION 20**

Midterm

## **SESSION 21**

Midterm

## **SESSION 22**

Movie – Sometimes in April

## **SESSION 23**

Movie – Sometimes in April

## **SESSION 24**

### CHAPTER V – INTERNATIONAL TRIBUNALS

1. ICTR
2. ICTY
3. SCSL
4. STL
5. ECCC
6. ICC

## **SESSION 25**

### CHAPTER V – INTERNATIONAL TRIBUNALS

1. ICTR
2. ICTY
3. SCSL
4. STL
5. ECCC
6. ICC

## **SESSION 26**

Group Work - Moot court

## **SESSION 27**

Group Work - Moot court

## **SESSION 28**

### CHAPTER VI. INTERNATIONAL CRIMES

1. Genocide
2. Crimes against humanity
3. War crimes
4. The crime of aggression
5. Other International crimes: torture and enforced disappearances.

## **SESSION 29**

### CHAPTER VI. INTERNATIONAL CRIMES

1. Genocide
2. Crimes against humanity
3. War crimes
4. The crime of aggression
5. Other International crimes: torture and enforced disappearances.

## **SESSION 30**

FINAL EXAM

### **BIBLIOGRAPHY**

RECOMMENDED (not mandatory)

Title: Criminal Law – A comparative Approach; Special Part (pages: 524 – 625)

Author: Markus Dubber and Tatjana Hörnle

Publisher / Edition / Year: Oxford / 2014

ISBN / ISSN: 9780199589609

Title: International Criminal Law - Volumes I and II

Author: M. Cherif Bassiouni

Publisher / Edition / Year: Third Edition / 2008

ISBN / ISSN: 9789004165335

[IE Library Permalink](#)

## EVALUATION CRITERIA

### 6.1. GENERAL OBSERVATIONS

Each student has four attempts over two consecutive academic years to pass this course.

Dates and location of the final exam will be posted in advance and will not be changed.

Students must attend at least 70% of the sessions. Students who do not comply with the 70% attendance rule will receive a 0.0 on their first and second attempts and go directly to the third one (they will need to enroll in this course again the following academic year).

Students who are in the third or fourth attempt should contact the professor during the first two weeks of the course.

All students will have to take the final exam in order to pass.

### 6.2. RETAKE POLICY

Any student whose weighted final grade is below 5 will be required to sit for the retake exam to pass the course (except those not complying with the attendance rules, whom are banned from this possibility).

Grading for retakes will be subject to the following rules:

- The retakes will consist of a comprehensive exam. The grade will depend only on the performance on this exam; continuous evaluation over the semester will not be taken into account.
- The exam will be designed bearing in mind that the passing grade is 5 and the maximum grade that can be attained on the second and fourth attempts is 8 out of 10.
- The third attempt will require the student to complete:
  - a midterm a
  - final exam

This is also applicable to students who do not have required attendance, e.g. sickness.

- Dates and location of the retakes will be posted in advance and will not be changed.

Criteria	Percentage	Comments
Final Exam	45 %	
Intermediate Tests	20 %	Midterm
Workgroups	15 %	Moot Court
Class Participation	10 %	
Homework	10 %	Homework

## PROFESSOR BIO

Professor: **MANUEL MIGUEL VERGARA CESPEDES**

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Manuel Miguel Vergara Céspedes

Manuel M Vergara Céspedes earned his law degree and diploma in business studies at Universidad Pontificia Comillas ICAI-ICADE (Madrid). He also earned a Master Degree in Economic Criminal Law at UNIR. He is currently a practicing lawyer at ILOCAD Law Firm and a PhD candidate in International Criminal Law.

Previously he worked as the Director of the Legal Department of International Foundation Baltasar Garzón (FIBGAR), a consultant at the Rule of Law Unit of the UN Office of the High Commissioner for Human Rights (UNOHCHR) in Phnom Penh (Cambodia) and for the International Labour Organization (ILO) in Jakarta (Indonesia). He has also worked as a lawyer at Martínez-Echavarría Law Firm in Istanbul and Bodrum (Turkey). He has also collaborated with the International Criminal Tribunal for Rwanda both in Arusha (Tanzania) and Kigali (Rwanda). Previously he conducted research and assisted diplomats at the Political Section of the Embassy of Spain in Washington DC and the Permanent Mission of Spain to the UN in New York.

He has conducted extensive research on comparative (criminal, labour and procedural) law. He complemented his academic background with courses and programs in Georgetown University, The Hague Academy of International Law and the US Institute for Peace.

## **OTHER INFORMATION**

E-mail : [criminallaw2.hw@gmail.com](mailto:criminallaw2.hw@gmail.com)

## CODE OF CONDUCT IN CLASS

1. **Be on time:** : Students arriving more than 5 minutes late will be marked as "Absent".

Only students that notify in advance in writing that they will be late for a specific session may be granted an exception (at the discretion of the professor).

2. **If applicable, bring your name card and strictly follow the seating chart.** It helps faculty members and fellow students learn your names.
3. **Do not leave the room during the lecture:** Students are not allowed to leave the room during lectures. If a student leaves the room during lectures, he/she will not be allowed to re-enter and, therefore, will be marked as "Absent".

Only students that notify that they have a special reason to leave the session early will be granted an exception (at the discretion of the professor).

4. **Do not engage in side conversation.** As a sign of respect toward the person presenting the lecture (the teacher as well as fellow students), side conversations are not allowed. If you have a question, raise your hand and ask it. If you do not want to ask it during the lecture, feel free to approach your teacher after class.

If a student is disrupting the flow of the lecture, he/she will be asked to leave the classroom and, consequently, will be marked as "Absent".

5. **Use your laptop for course-related purposes only.** The use of laptops during lectures must be authorized by the professor. The use of Social Media or accessing any type of content not related to the lecture is penalized. The student will be asked to leave the room and, consequently, will be marked as "Absent".
6. **No cellular phones:** IE University implements a "Phone-free Classroom" policy and, therefore, the use of phones, tablets, etc. is forbidden inside the classroom. Failing to abide by this rule entails expulsion from the room and will be counted as one absence.
7. **Escalation policy: 1/3/5.** Items 4, 5, and 6 above entail expulsion from the classroom and the consequent marking of the student as "Absent." IE University implements an "escalation policy": The first time a student is asked to leave the room for disciplinary reasons (as per items 4, 5, and 6 above), the student will incur one absence, the second time it will count as three absences, and from the third time onward, any expulsion from the classroom due to disciplinary issues will entail 5 absences.