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Fall 2016  
15 SH  
MW 3:30-4:45pm

**International Courts: The Intersection of Law and Politics**  
**POLI 3509: 0001**

**COURSE DESCRIPTION**

This course introduces students to several important international courts including the (Permanent) International Court of Justice, the European Court of Justice, the International Criminal Court, the International Criminal Tribunal for the Former Yugoslavia, and the International Tribunal for the Law of the Sea. The course seeks to explain the formation, design, and expansion of international courts from both political and legal perspectives. On the political side, the course focuses on factors such as states' capabilities, regime type, functional need, and diffusion. On the legal side, the course examines the intersection of domestic and international law, emphasizing the major legal systems in the world (civil law, common law, Islamic law). The course also focuses on what difference international courts make for interstate interactions and foreign policy behavior more broadly.

**COURSE REQUIREMENTS**

Your course grade is based on class participation, a research paper, and two exams.

1. Class Participation (30%): This course will be run as an upper division seminar. Each class period (28 in total) will involve a discussion of the readings assigned for that day. You can gain or lose class participation points each day. To gain points, you need to make a positive contribution to class participation. Positive contributions are comments that build on, react to, challenge, or request clarification on the reading. Your final participation grade will be based on the total number of positive contributions (minus any points lost, see below), and will be calculated as follows: A (14 or higher), B (10 – 13), C (6 – 9), D (4 – 5), F (<4).

If no one volunteers, then I will randomly call on people. Each person will be assigned a number in the first week of class, which corresponds to a poker chip in a bowl. If your chip is drawn, then you must answer the question I raise. You will have the opportunity to pass once if you are unprepared for a particular question, although on the second strike, you will lose one point from your overall participation total. In short, if you are called upon and unprepared or absent, you will lose 1 point that day. But you will only lose points if your chip is drawn. Also, because your chip goes back in the bowl, such sampling with replacement suggests that you can be called upon more than once in a given class. This system will obviously work best if everyone volunteers and I never have to use the chips!

You may wonder why I have created such a system. The answer is that I want you to do the reading, so I have given you an incentive to do it. All of the papers and exams will make extensive use of the assigned readings, thus it is in your best interest to read everything. Given the size of the class, it will be necessary to create a seating chart the first week of class. Please make sure you find the seat you want for the rest of the semester by Wednesday, August 24<sup>th</sup>.

2. Research Paper (30%): You will write one 8-10 page research paper on a case heard by the International Court of Justice. I will distribute more information about this paper on the first day of class. The paper is due on November 11<sup>th</sup>. If for some reason you are dissatisfied with the final grade received on the paper, you

may submit a written memo to the instructor explaining why you think the grade is unfair, along with the graded copy of your paper. This memo must be submitted within 2 weeks of receiving the paper grade. The instructor will read the memo, re-read the paper, and then assign a new grade. The instructor reserves the right to assign a lower grade after rereading the paper a second time.

3. Examinations (40%): There is a midterm exam (20%) scheduled on Wednesday, October 19<sup>th</sup> and a final exam (20%) scheduled the week of December 12<sup>th</sup>-16<sup>th</sup>. The exams will include multiple choice and essay questions. The final exam is NOT comprehensive. A make-up exam will be given only to students with medical or personal emergencies. If an emergency arises, you will need to contact me **before** the exam or you will receive zero credit.

The grading scale (in percentages) for the course is as follows:

99-100	A+	93-98	A	90-92	A-		
87-89	B+	83-86	B	80-82	B-		
77-79	C+	73-76	C	70-72	C-		
67-69	D+	63-66	D	60-62	D-	<60	F

**TEXTBOOK (Order Online)**

Mitchell, Sara McLaughlin and Emilia Justyna Powell. 2011. *Domestic Law Goes Global: Legal Traditions and International Courts*. Cambridge, UK: Cambridge University Press. ISBN 9781107661677 (paperback). You can also order an electronic version of the book:

<http://www.cambridge.org/us/academic/subjects/politics-international-relations/international-relations-and-international-organisations/domestic-law-goes-global-legal-traditions-and-international-courts?format=PB?format=PB>

Electronic copies of the journal articles/book chapters can be found on the ICON course website and they are marked with an asterisk (\*).

<u>Class Schedule</u>	<u>Topic</u>	<u>Required Reading</u>
Monday, August 22 <sup>nd</sup>	Introduction	
<b>Section I: The World Court</b>		
Wednesday, August 24 <sup>th</sup>	The Forerunners	*Allain, Intro & Chapter 1 *Gill, Chapter 1
Monday, August 29 <sup>th</sup>	The World Court	*Gill, Chapters 2-3
Wednesday, August 31 <sup>st</sup>	ICJ Jurisdiction	*Allain, Chapter 2 *Gill, Chapter 4
Monday, September 5 <sup>th</sup>	No Class, Labor Day	
Wednesday, September 7 <sup>th</sup>	ICJ Success	*Mitchell, Sara McLaughlin & Andrew P. Owsiak. "The International Court of Justice." Book chapter.
Monday, September. 12 <sup>th</sup>	ICJ Judicial Bias	*Posner, Eric A. and Miguel F.P. de Figueiredo. 2005. "Is the International Court of Justice Biased?" <i>Journal of Legal Studies</i> 34(2): 599-630.

## Section II: Theoretical Underpinnings

<u>Class Schedule</u>	<u>Topic</u>	<u>Required Reading</u>
Wednesday, September 14 <sup>th</sup>	Crises & International Courts	*Katzenstein, Suzanne. 2014. "In the Shadow of Crisis: The Creation of International Courts in the 20 <sup>th</sup> Century." <i>Harvard Intl Law Journal</i> 55: 151-210.
Monday, September 19 <sup>th</sup>	Hegemony	*Krisch, Nico. 2005. "International Law in Times of Hegemony: Unequal Power and the Shaping of the International Legal Order." <i>European Journal of International Law</i> 16(3): 369-408.
Wednesday, September 21 <sup>st</sup>	Delegation, Part I	*Alter, Karen J. 2014. Chapter 2, <i>The New Terrain of International Law</i>
Monday, September 26 <sup>th</sup>	Delegation, Part II	*Posner, Eric A. and John C. Yoo. 2005. "Judicial Independence in International Tribunals." <i>California Law Review</i> 93(1): 1-74.
Wednesday, September 28 <sup>th</sup>	Kantian Perspective	*Teson, Fernando R. 1992. "The Kantian Theory of International Law." <i>Columbia Law Review</i> 92(1): 53-102.
Monday, October 3 <sup>rd</sup>	Diffusion	*Alter, Karen J. 2014. Chapter 3, <i>The New Terrain of International Law</i> *Tiba, Ferew Kebede. 2006. "What Caused the Multiplicity of International Courts and Tribunals?" <i>Gonzaga Journal of International Law</i> 10(2): 202-226.
Wednesday, October 5 <sup>th</sup>	Expressive Theory of Adjudication	Mitchell & Powell, Chapter 1 *Ginsberg, Tom and Richard H. McAdams. 2004. "Adjudicating in Anarchy: An Expressive Theory of International Dispute Resolution." <i>William and Mary Law Review</i> 45(4): 1229-1287; 1303-1330.

## Section III: Legal Explanations

Monday, October 10 <sup>th</sup>	Domestic Legal Systems	Mitchell & Powell, Chapters 2 & 3
Wednesday, October 12 <sup>th</sup>	Empirical Evidence: ICC	Mitchell & Powell, Chapter 4 & pages 194-205
Monday, October 17 <sup>th</sup>	Empirical Evidence: ICJ	Mitchell & Powell, Chapters 5 & 6 & pages 205-222
Wednesday, October 19 <sup>th</sup>	<b>Midterm Exam</b>	

## Section IV: European Courts

### Class Schedule

Monday, October 24<sup>th</sup>

### Topic

ECJ

### Required Reading

\*Hix, Simon. 2005. *The Political System of the European Union (2nd Edition)*. New York, NY: Palgrave-MacMillan. Chapter 4, pp. 111-142.

\*Alter, Karen J. 1998. "Who are the 'Masters of the Treaty'? European Governments and the European Court of Justice." *International Organization* 52(1): 121-147.

Wednesday, October 26<sup>th</sup>

Delegation & ECJ/ECHR

\*Helfer, Laurence R. and Anne-Marie Slaughter. 1997. "Toward a Theory of Effective Supranational Adjudication." *The Yale Law Journal* 107(2): 273-337.

Monday, October 31<sup>st</sup>

ECHR

\*Voeten, Erik. 2008. "The Impartiality of International Judges: Evidence from the European Court of Human Rights." *American Political Science Review* 102(4): 417-433.

\*Helfer, Laurence R. and Erik Voeten. 2014. "International Courts as Agents of Legal Change: Evidence from LGBT Rights in Europe." *International Organization* 68(1): 77-110.

## Section IV: The International Criminal Court and Human Rights Tribunals

Wednesday, November 1<sup>st</sup>

ICC

\*Schabas, William A. *An Introduction to the International Criminal Court*, 3<sup>rd</sup> Edition. Chapters 1-2

Monday, November 7<sup>th</sup>

The US & the ICC

\*Chayes, Antonia. 2008. "How American Treaty Behavior Threatens National Security." *International Security* 33(1): 45-81.

\*Bolton, John R. 2001. "The Risks and Weaknesses of the International Criminal Court from America's Perspective." *Law and Contemporary Problems* 64(1): 167-180.

Wednesday, November 9<sup>th</sup>

ICC & Credible Commitments

\*Simmons, Beth A. and Allison Danner. 2010. "Credible Commitments and the International Criminal Court." *International Organization* 64(2): 225-256.

<u>Class Schedule</u>	<u>Topic</u>	<u>Required Reading</u>
Monday, November 14 <sup>th</sup>	ICC Ratification	*Neumayer, Eric. 2009. "A New Moral Hazard? Intervention, Peacekeeping, and Ratification of the International Criminal Court." <i>Journal of Peace Research</i> 46(5): 659-670.
Wednesday, November 16 <sup>th</sup>	ICTY/ICTR	*Barria, Lilian A. and Steven D. Roper. 2005. "How Effective Are International Criminal Tribunals? An Analysis of the ICTY and ICTR." <i>The International Journal of Human Rights</i> 9(3): 349-368.
Monday, November 21 <sup>st</sup>	No Class, Thanksgiving Break	
Wednesday, November 23 <sup>rd</sup>	No Class, Thanksgiving Break	
Monday, November 28 <sup>th</sup>	Tribunals & Civil Conflict	*Meernik, James D. Angela Nichols, and Kimi L. King. 2010. "The Impact of International Tribunals and Domestic Trials on Peace and Human Rights After Civil War." <i>International Studies Perspectives</i> 11:309-344.
<b>Section V: International Tribunal for the Law of the Sea</b>		
Wednesday, 30 <sup>th</sup>	ITLOS	*Keyuan, Zou. 2010. "The International Tribunal for the Law of the Sea: Procedures, Practices, and Asian States." <i>Ocean Development &amp; International Law</i> 41(2):131-151.
Monday, December 5 <sup>th</sup>	UNCLOS Dispute Settlement	*Sheehan, Anne. 2005. "Dispute Settlement Under UNCLOS: The Exclusion of Maritime Delimitation Disputes." <i>University of Queensland Law Journal</i> 24: 165-190.
Wednesday, December 7 <sup>th</sup>	Bargaining in the Shadow of UNCLOS	*Mitchell, Sara McLaughlin & Andrew P. Owsiak. "Judicialization of the Sea: Bargaining in the Shadow of UNCLOS."
December 12-16	<b>FINAL EXAM, Day/time TBA</b>	

## CLAS Teaching Policies & Resources

### Administrative Home

The College of Liberal Arts and Sciences is the administrative home of this course and governs matters such as the add/drop deadlines, the second-grade-only option, and other related issues. Different colleges may have different policies. Questions may be addressed to 120 Schaeffer Hall, or see the CLAS Academic Policies Handbook at <http://clas.uiowa.edu/students/handbook>.

### Electronic Communication

University policy specifies that students are responsible for all official correspondences sent to their University of Iowa e-mail address (@uiowa.edu). Faculty and students should use this account for correspondences ([Operations Manual, III.15.2, k.11](#)).

### Accommodations for Disabilities

The University of Iowa is committed to providing an educational experience that is accessible to all students. A student may request academic accommodations for a disability (which include but are not limited to mental health, attention, learning, vision, and physical or health-related conditions). A student seeking academic accommodations should first register with Student Disability Services and then meet with the course instructor privately in the instructor's office to make particular arrangements. Reasonable accommodations are established through an interactive process between the student, instructor, and SDS. See <http://sds.studentlife.uiowa.edu/> for information.

### Academic Honesty

All CLAS students or students taking classes offered by CLAS have, in essence, agreed to the College's [Code of Academic Honesty](#): "I pledge to do my own academic work and to excel to the best of my abilities, upholding the [IOWA Challenge](#). I promise not to lie about my academic work, to cheat, or to steal the words or ideas of others; nor will I help fellow students to violate the Code of Academic Honesty." Any student committing academic misconduct is reported to the College and placed on disciplinary probation or may be suspended or expelled ([CLAS Academic Policies Handbook](#)).

### CLAS Final Examination Policies

The final examination schedule for each class is announced by the Registrar generally by the fifth week of classes. Final exams are offered only during the official final examination period. No exams of any kind are allowed during the last week of classes. All students should plan on being at the UI through the final examination period. Once the Registrar has announced the date, time, and location of each final exam, the complete schedule will be published on the Registrar's web site and will be shared with instructors and students. It is the student's responsibility to know the date, time, and place of a final exam.

### Making a Suggestion or a Complaint

Students with a suggestion or complaint should first visit with the instructor (and the course supervisor), and then with the departmental DEO. (**Wenfang Tang, 335-2358**) Complaints must be made within six months of the incident ([CLAS Academic Policies Handbook](#)).

## **Understanding Sexual Harassment**

Sexual harassment subverts the mission of the University and threatens the well-being of students, faculty, and staff. All members of the UI community have a responsibility to uphold this mission and to contribute to a safe environment that enhances learning. Incidents of sexual harassment should be reported immediately. See the UI [Comprehensive Guide on Sexual Harassment](#) for assistance, definitions, and the full University policy.

## **Reacting Safely to Severe Weather**

In severe weather, class members should seek appropriate shelter immediately, leaving the classroom if necessary. The class will continue if possible when the event is over. For more information on Hawk Alert and the siren warning system, visit the [Department of Public Safety website](#).