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309 Schaeffer Hall
Office Hours: Tuesday 3:30-4:30pm; Wednesday 1:30-3:30pm
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Spring 2020
14 SH
T, R 11:00am-12:15pm

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 (26 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 Thursday, January 23rd.

2. Research Paper (30%): You will write a research paper (8-10 pages) on a case heard by the International Court of Justice. Information about the paper is available on ICON. The paper is due on March 26th. 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 Thursday, March 5th and a final exam (20%) scheduled the week of May 11th-15th. 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 (*). You can earn two extra credit points by emailing me a picture of Crowley from the TV show Supernatural before the first exam.

<u>Class Schedule</u>	<u>Topic</u>	<u>Required Reading</u>
Tuesday, January 21 st	Introduction	Visit the ICJ website, http://www.icj-cij.org/
Section I: The World Court		
Thursday, January 23 rd	The Forerunners	*Allain, Intro & Chapter 1 *Gill, Chapter 1
Tuesday, January 28 th	The World Court	*Gill, Chapters 2-3
Thursday, January 30 th	ICJ Jurisdiction	*Allain, Chapter 2 *Gill, Chapter 4
Tuesday, February 4 th	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.
Thursday, February 6 th	ICJ Success	*Mitchell, Sara McLaughlin and Andrew P. Owsiak. 2017. "The International Court of Justice," in Robert M. Howard and Kirk A. Randazzo (eds.), <i>Handbook of Judicial Behavior</i> . New York: Routledge, pp. 445-466.

<u>Class Schedule</u>	<u>Topic</u>	<u>Required Reading</u>
Tuesday, February 11 th	Why States Choose Binding Settlement	*Gent, Stephen E. and Megan Shannon. 2011. "Decision Control and the Pursuit of Binding Conflict Management: Choosing the Ties That Bind." <i>Journal of Conflict Resolution</i> 55(5): 710-734.
Section II: Theoretical Underpinnings		
Thursday, February 13 th	Crises & International Courts	*Katzenstein, Suzanne. 2014. "In the Shadow of Crisis: The Creation of International Courts in the 20 th Century." <i>Harvard Intl Law Journal</i> 55: 151-210.
Tuesday, February 18 th	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.
Thursday, February 20 th	Delegation, Part I	*Alter, Karen J. 2008. "Delegating to International Courts: Self-Binding vs. Other-Binding Delegation." <i>Law and Contemporary Problems</i> 71(1): 37-76.
Tuesday, February 25 th	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.
Thursday, February 27 th	Kantian Perspective	*Teson, Fernando R. 1992. "The Kantian Theory of International Law." <i>Columbia Law Review</i> 92(1): 53-102.
Tuesday, March 3 rd	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.
Thursday, March 5 th	Midterm Exam	
Section III: Legal Explanations		
Tuesday, March 10 th	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.
Thursday, March 12 th	Domestic Legal Systems	Mitchell & Powell, Chapter 2

<u>Class Schedule</u>	<u>Topic</u>	<u>Required Reading</u>
Tuesday, March 17 th	Spring break	No class
Thursday, March 19 th	Spring break	No class
Tuesday, March 24 th	ISA Conference	No class (work on paper)
Thursday, March 26 th	ISA Conference	No class (paper due)
Tuesday, March 31 st	Theory & ICC Evidence	Mitchell & Powell, Chapter 3 & 4 & 194-205
Thursday, April 2 nd	ICJ Evidence	Mitchell & Powell, Chapters 5 & 6 & pages 205-222
Section IV: Regional Courts		
Tuesday, April 7 th	ECJ	*Hix, Simon. 2005. <i>The Political System of the European Union (2nd Edition)</i> . 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." <i>International Organization</i> 52(1): 121-147.
Thursday, April 9 th	ECHR	*Voeten, Erik. 2008. "The Impartiality of International Judges: Evidence from the European Court of Human Rights." <i>American Political Science Review</i> 102(4): 417-433. *Helfer, Laurence R. and Erik Voeten. 2014. "International Courts as Agents of Legal Change: Evidence from LGBT Rights in Europe." <i>IO</i> 68(1): 77-110.
Tuesday, April 14 th	IAHRC	*Haglund, Jillienne. 2019. "International Institutional Design and Human Rights: The Case of the Inter-American Human Rights System." <i>Conflict Management and Peace Science</i> 36(6): 608-625.
Section IV: The International Criminal Court and Human Rights Tribunals		
Thursday, April 16 th	ICC	*Schabas, William A. <i>An Introduction to the International Criminal Court</i> , Chapters 1-2
Tuesday, April 21 st	The US & the ICC	*Chayes, Antonia. 2008. "How American Treaty Behavior Threatens National Security." <i>International Security</i> 33(1): 45-81. *Bolton, John R. 2001. "The Risks and Weaknesses of the International Criminal Court from America's Perspective." <i>Law and Contemporary Problems</i> 64(1): 167-180.

<u>Class Schedule</u>	<u>Topic</u>	<u>Required Reading</u>
Thursday, April 23 rd	ICC & Credible Commitments	*Simmons, Beth A. and Allison Danner. 2010. "Credible Commitments and the International Criminal Court." <i>International Organization</i> 64(2): 225-256.
Tuesday, April 28 th	ICC Deterrence	*Hillebrecht, Courtney. 2016. "The Deterrent Effects of the International Criminal Court: Evidence from Libya." <i>International Interactions</i> 42(4): 616-643.
Thursday, April 30 th	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. *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.
Section V: International Tribunal for the Law of the Sea		
Tuesday, May 5 th	ITLOS	*Keyuan, Zou. 2010. "The International Tribunal for the Law of the Sea: Procedures, Practices, and Asian States." <i>Ocean Development & International Law</i> 41(2):131-151.
Thursday, May 7 th	UNCLOS	*Mitchell, Sara McLaughlin & Andrew P. Owsiak. "Judicialization of the Sea: Bargaining in the Shadow of UNCLOS."
May 11-15	FINAL EXAM, Day/time TBA	

College of Liberal Arts and Sciences Information and Policies for Undergraduates

Absences and Attendance

Students are responsible for attending class and for contributing to the learning environment of a course. Students are also responsible for knowing the absence policies for their courses, which will vary by instructor. All absence policies, however, must uphold the UI policy related to student illness, mandatory religious obligations, unavoidable circumstances, or University authorized activities (<https://clas.uiowa.edu/students/handbook/attendance-absences>).

Academic Integrity

All undergraduates enrolled in courses offered by CLAS have, in essence, agreed to the College's Code of Academic Honesty. Misconduct is reported to the College, resulting in suspension or other sanctions, with sanctions communicated with the student through the UI email address (<https://clas.uiowa.edu/students/handbook/academic-fraud-honor-code>).

Accommodations for Disabilities

UI is committed to an educational experience that is accessible to all students. A student may request academic accommodations for a disability (such as mental health, attention, learning, vision, and physical or health-related condition) by registering with Student Disability Services (SDS). The student is then responsible for discussing specific accommodations with the instructor. More information is at <https://sds.studentlife.uiowa.edu>.

Administrative Home of the Course

The College of Liberal Arts and Sciences (CLAS) is the administrative home of this course and governs the add/drop deadlines, the second-grade-only option, and related policies. Other colleges may have different policies. CLAS policies may be found here: <https://clas.uiowa.edu/students/handbook>.

Communication and the Required Use of UI Email

Students are responsible for official correspondences sent to the UI email address (uiowa.edu) and must use this address for all communication within UI.

Complaints

Students with a complaint about a course should first visit with the instructor or course supervisor and then with the Chair of the department (Interim DEO Brian Lai, 319-335-2353). Students may next bring the issue to CLAS in 120 Schaeffer Hall. For more information, see <https://clas.uiowa.edu/students/handbook/student-rights-responsibilities>.

Final Examination Policies

The final exam schedule is announced around the fifth week of classes; students are responsible for knowing the date, time, and place of a final exam. Students should not make travel plans until knowing this information. No exams of any kind are allowed the week before finals. Visit: <https://registrar.uiowa.edu/final-examination-scheduling-policies>

Nondiscrimination in the Classroom

UI is committed to making the classroom a respectful and inclusive space for all people irrespective of their gender, sexual, racial, religious or other identities. Toward this goal, students are invited to optionally share their preferred names and pronouns with their instructors and classmates. The University of Iowa prohibits discrimination and harassment against individuals on the basis of race, class, gender, sexual orientation, national origin, and other identity categories set forth in the University's Human Rights policy. For more information, contact the Office of Equal Opportunity and Diversity (<https://diversity.uiowa.edu/office/equal-opportunity-and-diversity>).

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 must uphold the UI mission and contribute to a safe environment that enhances learning. Incidents of sexual harassment must be reported immediately. For assistance, please see <https://osmrc.uiowa.edu>.