

Professor Sara Mitchell
307 Schaeffer Hall
Office Hours: W, 9:00am-12:00pm
Phone: 335-2471
Email: sara-mitchell@uiowa.edu
Web (personal): www.saramitchell.org
Web (course): <http://icon.uiowa.edu>

Fall 2009
22 SH
TR 2:30-3:45pm

International Courts: The Intersection of Law and Politics 030:155, Section 1

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 Yugoslavia, and the Central American Court of Justice. 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, diffusion, and the activities of NGOs. 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, two research papers, and a final exam.

1. Class Participation (30%): Class participation will be assessed as fairly as I know how: as long as you are prepared for class and contribute to discussion when called upon, you will receive 100% for participation. That is, you begin the course with a 100% for participation, and as long as you are prepared and make a positive contribution to discussion when called upon, you will retain your score of 100%. However, should you be unprepared (or absent) when called upon, you will be marked down: each time that you are poorly prepared you will lose 3.5% (there are 28 class meetings, $28 * 3.5 = 100$). Students will be called on at random. Of course, not everyone will be called on every day, so you might be able to show up poorly prepared and still not lose any participation points. 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.

2. Research Papers (40%, 2 @ 20% each): You will write two five page research papers that apply concepts and theories discussed in the course to specific international courts and court cases. The instructor will distribute more information about these assignments later in class. If for some reason you are dissatisfied with the final grade received on a 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 (30%): There is a comprehensive final exam scheduled on Wednesday, December 16th from 12:00-2:00pm. The exam will include multiple choice and essay questions. 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-
59 or below	F				

TEXTBOOKS (Available at Iowa Bookstore)

Allain, Jean. 2000. *A Century of International Adjudication: The Rule of Law and its Limits*. The Hague, The Netherlands: TMC Asser Press. ISBN: 9067041254

Gill, Terry D. 2003. *Rosenne's The World Court: What It is and How It Works*. Leiden, The Netherlands: Martinus Nijhoff Publishers. ISBN: 9004136339

Leonard, Eric K. 2005. *The Onset of Global Governance: International Relations Theory and the International Criminal Court*. Burlington, VT: Ashgate. ISBN: 0754645312

Mitchell, Sara McLaughlin and Emilia Justyna Powell. *Domestic Law Goes Global: How Domestic Legal Traditions Influence International Courts*. A copy of the assigned chapters from this book manuscript are available on ICON.

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>
Tuesday, August 25 th	Introduction	Visit the ICJ website and poke around; http://www.icj-cij.org/
Section I: The World Court		
Thursday, August 27 th	The Forerunners	Allain, Intro & Chapter 1 Gill, Chapter 1 Visit the PCA website at http://www.pca-cpa.org/ and look for the three most recently settled cases.
Tuesday, Sept. 1 st	The World Court	Gill, Chapters 2-3 & Appendix I
Thursday, Sept. 3 rd	No class, APSA conference	Look up these 3 cases on the ICJ website and determine 1) the source of the court's jurisdiction and 2) how the case was settled. Case #1: Maritime Delimitation in the Black Sea (Romania v. Ukraine) Case #2: Territorial and Maritime Dispute (Nicaragua v. Colombia) Case #3: Delimitation of Maritime Boundary in the Gulf of Maine (United States v. Canada)
Tuesday, Sept. 8 th	Jurisdiction	Allain, Chapter 2 Gill, Chapter 4
Thursday, Sept. 10 th	How a Case is Tried	Gill, Chapter 5 & Appendix II-A

Section II: Theoretical Underpinnings

<u>Class Schedule</u>	<u>Topic</u>	<u>Required Reading</u>
Tuesday, Sept. 15 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, Sept. 17 th	The Central American Court of Justice	Allain, Chapter 3 Visit the CACJ website at http://www.worldcourts.com/cacj/eng/index.htm and determine how many cases it rendered judgments on and when its last case was heard.
Tuesday, Sept. 22 nd	Delegation, Part I	*Helfer, Laurence R. and Anne-Marie Slaughter. 1997. "Toward a Theory of Effective Supranational Adjudication." <i>The Yale Law Journal</i> 107(2): 273-337.
Thursday, Sept. 24 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.
Tuesday, Sept. 29 th	Delegation, Part III	*Alter, Karen J. 2008. "Delegating to International Courts: Self-Binding vs. Other-Binding Delegation." <i>Law and Contemporary Problems</i> 71(1): 37-76.
Thursday, Oct. 1 st	Kantian Perspective	*Teson, Fernando R. 1992. "The Kantian Theory of International Law." <i>Columbia Law Review</i> 92(1): 53-102.
Tuesday, Oct. 6 th	Diffusion	*Spelliscy, Shane. 2001. "The Proliferation of International Tribunals: A Chink in the Armor." <i>Columbia Journal of Transnational Law</i> 40(3): 143-175. *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, Oct. 8 th	Expressive Theory of Adjudication	*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

Tuesday, Oct. 13 th	Domestic Legal Systems	Mitchell & Powell, Chapters 1&2
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<u>Class Schedule</u>	<u>Topic</u>	<u>Required Reading</u>
Thursday, Oct. 15 th	Originators	Mitchell & Powell, Chapters 3&4
Tuesday, Oct. 20 th	Joiners	Mitchell & Powell, Chapters 5&6
Thursday, Oct. 22 nd	Consequences	Mitchell & Powell, Chapters 7&8
Section IV: European Courts		
Tuesday, Oct. 27 th	Introduction to ECJ	Allain Chapter 6 *Hix, Simon. 2005. <i>The Political System of the European Union (2nd Edition)</i> . New York, NY: Palgrave-MacMillan. Chapter 4, pp. 111-142.
Thursday, Oct. 29 th	The Power of the ECJ	*Alter, Karen J. 1998. "Who are the 'Masters of the Treaty'?" <i>European Governments and the European Court of Justice.</i> <i>International Organization</i> 52(1): 121-147. Visit the Europa website at http://curia.europa.eu/jcms/jcms/Jo2_7024/ and read about the procedures and jurisdiction rules for the ECJ.
Tuesday, Nov. 3 rd	ECHR & IACHR	Allain, Chapter 4 Visit the ECHR website at http://www.echr.coe.int/echr/ and look up its two most recent pending cases. Visit the IACHR website at http://www.cidh.oas.org/DefaultE.htm and look up info. about its recent activities in Honduras. See also the <i>Basic Documents Pertaining to Human Rights in the Inter-American System</i> .
Thursday, Nov. 5 th	Impartiality?	*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. *Voeten, Erik. 2008. "The Impartiality of International Judges: Evidence from the European Court of Human Rights." <i>American Political Science Review</i> 102(): 417-433.
Section IV: The International Criminal Court and other Human Rights Tribunals		
Tuesday, Nov. 10 th	Introduction to ICC	Leonard, Chapters 1-3 Visit the ICC website at http://www.icc-cpi.int/Menus/ICC and read the sections "About the Court" and "Structure of the Court".

<u>Class Schedule</u>	<u>Topic</u>	<u>Required Reading</u>
Thursday, Nov. 12 th	Neoliberal Theory	Leonard, Chapters 4-5 Visit the ICC website at http://www.icc-cpi.int/Menus/ICC and read the Fourth Report of the International Criminal Court to the United Nations for 2007/08.
Tuesday, Nov. 17 th	Regime Theory	Leonard, Chapters 6-7 Take a look at the Human Rights Watch 2009 World Report at: http://www.hrw.org/sites/default/files/reports/wr2009_web.pdf .
Thursday, Nov. 19 th	No Class, Peace Science Society Conference	
Tuesday, Nov. 24 th	No Class, Thanksgiving Break	
Thursday, Nov. 26 th	No Class, Thanksgiving Break	
Tuesday, Dec. 1 st	Global Governance	Leonard, Chapters 8-9
Thursday, Dec. 3 rd	Critical views	*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. *Rodman, Kenneth A. 2006. "Compromising Justice: Why the Bush Administration and the NGOs Are Both Wrong about the ICC." <i>Ethics and International Affairs</i> 20(1): 25-53.
Tuesday, Dec. 8 th	ICTY	Allain, Chapter 5 Visit the ICTY website at http://www.icty.org and read about 3 of the ongoing cases being heard by the court. Determine how many judgments the court has made.
Thursday, Dec. 10 th	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. Visit the ICTR website at http://www.icttr.org/default.htm and look at the status of cases page. Read 3 of the cases in progress.
Wednesday, Dec. 16 th	FINAL EXAM, 12:00-2:00pm	