

Topics in International Law

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Course meeting: Thursday TBD

This course is a seminar on international laws (ILs) for students of international relations. The primary purpose of the course is to help students read recent empirical research on international institutions, apply the research's findings to related policy examples, and develop their own research proposals based on the readings.

The course aims to discuss the following questions: how and to what extent have ILs been used in resolving conflicts between nations; how have ILs facilitated the achievement of common goals (i.e., climate change); can we facilitate international cooperation by changing design features of ILs; how do ILs interact with domestic political systems? Emphasis throughout the course is on the role of politics, on understanding why ILs operate as they do, and on recent episodes that illustrate the issues.

A special effort is made to relate the course material to important international incidents in the past decade: the evolution of the Paris Climate Agreement and climate cooperation, the role for human rights treaties in promoting the rights of marginalized groups, foreign investors' rights versus states' rights to regulate social and economic activity in their jurisdiction, how economic international institutions (i.e. the WTO) mitigate trade disputes among nations (e.g., US-China disputes); the role for the WHO in curbing COVID-19. Most of the required readings are by political scientists who are grappling with issues at the intersection of international and domestic politics. Some reading is drawn from the popular press.

This is a seminar course with a significant discussion component. Those who take this course agree to treat discussion participation at least as seriously as they do written assignments. Classes

are an opportunity to explore applications of ILs to actual international incidents and issues. We expect all weekly reading to be completed before attending classes; in turn, I promise to help clarify any confusion resulting from the readings, and to provide as stimulating a setting as is possible for you to share ideas, air issues, and analyze cases.

This course aims to help students think critically about existing research on IL, develop their research ideas, and communicate their ideas with peers. As such, students are encouraged to take this course, if they are interested in exploring senior thesis topics.

In this course, students are encouraged to think politically and analytically.

- Analytical thinking is an important component in this course. Students are expected to apply competing theories and provide supporting evidence in analyzing research problems. Students who can generate competing hypotheses to produce a solution to the problem at hand will do well in this course. Also, students who can provide credible evidence in evaluating their hypotheses will do well (i.e., secondary sources, existing research).
- Political thinking requires that students consider themselves as decision makers facing a policy problem. Put yourselves in the shoes of a head of an important international organization or a head of a state. Students will be asked to evaluate whether and how they can use ILs to resolve the policy problem at hand, how they can re-design ILs to facilitate cooperation, or whether they should remain, leave, or revamp an international institution to accomplish their national interest.

This course is composed of three modules: a) explaining cooperation: theories of international relations, b) application to contemporary issues, c) capstone: the future of international laws.

- The first module is designed to provide analytical lenses for students to understand international cooperation and the role for ILs.
- With the analytical training in hand, students will apply the various analytical perspectives in understanding important policy problems ranging from territorial

disputes, environmental challenges, human rights, foreign investments, trade, and global health.

- The final module is a capstone session where we make informed predictions about the future of international cooperation. In the last five years, we've witnessed a re-alignment of the extant international order (i.e. Brexit, AIIB). In this last module, we will discuss whether and to what extent the trend of re-alignment may continue in the next decade given the global pandemic.

Expected Workload

Readings: Weekly mandatory readings are likely to range from 70 to 100 pages total. Weekly readings will include two-three pieces of academic articles/book chapters (each typically 30-70 pages) and one short news article.

Pass-fail participation assignments:

- *International Law Tracker* runs through the month of September. Students are encouraged to check out an international institution's website and write a couple of sentences to note noticeable events or incidents in the institution. This task should **not** take more than 30 minutes every week.

- *Discussion leader:* Students are expected to sign up to moderate course discussion in two weekly meetings. They are expected to prepare two or three questions on assigned readings. As such, students may have to spend more time for readings in those weeks. Please plan accordingly.

Mid-term essay: Students will have a mid-term essay. The essay assignment is designed to help students practice developing and comparing competing hypotheses on a policy case. They can choose from three prompts addressing different policy cases. However, they are expected to draw from the four theories (i.e., power, design, idea, domestic politics) covered in the first module, and apply some of these perspectives to analyze the case. The prompts will be released on Sep 30 and due on Oct 6. Please plan accordingly.

Research Proposal: The research proposal assignment is divided into three steps: first draft (pass/fail, due on Oct 22), presentation (Nov 3 in class), and final proposal (due on Nov 19). The final proposal document will be letter-graded. The first draft (one-page) and presentation (12 min presentation), however, constitute steps to build the final proposal. Students, therefore, should focus on completing those steps instead of producing impressive work.

Final paper: The final assignment builds on the previous assignment on research proposals. In this assignment, students will flesh out the literature review section of their research.

Outline of Assignments, Timeline & Evaluation

Assignment	Type	Timeline	% total grade	Description
International law tracker	Take-home / Pass-fail assignment	Sep 6 – Sep 29	5%	Students will choose an international institution of their interest in Week 1 and sign up here (e.g., WTO/WHO/UNEP) . Students will track notable discussions and events in the chosen institution each week and record the weekly updates on the course website. This assignment will help students develop ideas on their research proposal assignments later in the semester. We will begin each class in September by discussing these updates. Students will submit a less than one-page summary of major updates from their chosen institution. (Pass/Fail)
Mid-term essay	Take-home	Prompts will be made available on Sep 30 - Due on Oct 6	20%	The mid-term essay (~3000 words) assignment helps students evaluate their understanding of the course material. This assignment is designed to help students <u>critically</u> analyze the concepts covered from Week 1 to 4 based on a few policy cases. Papers that regurgitate existing theories without any creative/critical

				thinking and with little credible evidence will do poorly. Papers that creatively compare and contrast concepts from readings with credible evidence will do well. The instructor will not read drafts of papers but will entertain conversations about them.
Research proposal draft	Take-home	Oct 22	5%	Students will submit a one-page research proposal. The proposal must: <ol style="list-style-type: none"> 1. Include and justify a research question. 2. Describe an interesting variation they want to explain. 3. Provide a list of readings, literature, data, or archives relevant to the research question.
Research proposal presentation	In-class	Nov 3	5%	Students will present their research proposals in class and take questions and suggestions from peers. Presentation must be limited to 10-12 minutes. Q&A for each presentation will be limited to 5 minutes. Students who give constructive feedback may get extra credit.
Research proposal final draft	Take-home	Nov 19	25%	Students will submit their research proposals (~1000 words). The proposal must include: <ol style="list-style-type: none"> 1. A research question and a variation they want to explain. 2. Why their research question is important and interesting. 3. Whether and how relevant literature describes the research question. 4. Relevant data or documents. 5. Research plans. 6. Contributions to the scholarship.
Final take-home essay	Take-home	Dec, exact date TBD	30%	The final essay (~3000 words) assignment helps students start working

				on their research agenda based on their research proposal. Students can choose two-three readings that are most relevant to their research proposal, and critically analyze and respond to each reading. Students can potentially use this essay for their thesis.
Attendance	In-class	All sessions	5%	Class attendance is mandatory. Students are expected to provide a medical note to get a pass for absence.
Discussion leader	In-class	Week 2 - 13	5%	Students can sign up to serve as discussion leaders. Instructor will circulate the sign-up sheet in the first meeting. Discussion leaders will summarize and comment on readings in the class meeting. Students who sign up for two weekly sessions will get 5 points (Pass/Fail). Students who sign up for one weekly session will get 3 points.

Essential Course Policies

- All readings will be accessible online on the course website or accessible through Wesleyan Library. No need to purchase any textbook or articles for this course.
- Class attendance is mandatory in principle. Attendance is important because this is a seminar course. That said, I recognize students may be more likely to be subjected to unforeseen health or social challenges during the public health crisis. You may miss up to one session for any reason without any penalty. Beyond this, each absence will lower your grade by 1 point unless we've come to an agreement in advance. You'll be responsible for making up missed work and material for any missed class by liaising with the instructor.
- This is an inclusive classroom. I am committed to creating a welcoming environment for all students regardless of their race, ethnicity, gender identity, sexuality, religious beliefs,

physical and/or mental health status, nationality, or socioeconomic status. I expect all participants in this course to treat each other with respect.

Office Hours & Pre-course Inquiries

During the semester, my office hours are 11AM – 12 PM EST Tuesdays and 5:30 – 6:30 PM EST Wednesdays. Outside of these times, I can meet virtually by appointment. Students should send me an email (blee03@wesleyan.edu) to schedule a meeting.

I welcome any inquiries about the course before you sign up for the course. Please reach me via e-mail.

Readings (There might be minor change before the course start date)

Week 1. Logics of International Cooperation After Hegemony (Sep 1)

Why is it difficult for states to cooperate? What are some unique challenges that “states” face, as opposed to individuals or domestic entities (i.e., companies, NGOs), in promoting cooperation?

- Syllabus
- Simmons, Beth. "Treaty compliance and violation." *Annual Review of Political Science* 13 (2010): 273-296.
- Mearsheimer, John. 1994. "The False Promise of International Institutions." *International Security* 19.3: 5-49.
- Colgan, Jeff D., and Robert O. Keohane. "The liberal order is rigged: Fix it now or watch it wither." *Foreign Affairs* 96.3 (2017): 36-44.

Optional readings

- "COOPERATION AND INTERNATIONAL REGIMES." *After Hegemony: Cooperation and Discord in the World Political Economy*, by ROBERT O. KEOHANE, Princeton University Press, Princeton; New Jersey, 1984, pp. 49–64.

- Wendt, Alexander. "Anarchy is what states make of it: the social construction of power politics." *International organization* 46.2 (1992): 391-425.
- Mancur Olson. 1965. *The Logic of Collective Action: Public Goods and the Theory of Groups*. Harvard University Press: Chapter 1.
- Kenneth Oye. 1985. "Explaining Cooperation under Anarchy: Hypotheses and Strategies." *World Politics* 38(1): 1-24.
- Ikenberry, G. John. "Reflections on after victory." *The British Journal of Politics and International Relations* 21.1 (2019): 5-19.

Week 2. Varieties of International Institutions: Designing ILS (Sep 8)

How do states overcome various cooperation problems? How and to what extent do international laws help states cooperate? Are some international laws more effective in promoting cooperation than others? Why are international agreements and institutions designed differently?

- Abbot, Kenneth, Keohane, Robert, Moravcsik, Andrew, Slaughter, Anne-Marie, and Duncan Snidal. 2007. "The Concept of Legalization," in *International Law and International Relations* edited by Beth Simmons & Richard Steinberg: 115-130.
- Barbara Koremenos. "The Continent of International Law: Explaining Agreement Design," pp.25-56 in Chapter 2. Cambridge University Press.
- Von Stein, Jana. "The international law and politics of climate change: Ratification of the United Nations Framework Convention and the Kyoto Protocol." *Journal of Conflict Resolution* 52.2 (2008): 243-268.

Spotlight case: The Paris Climate Accord, couldn't we have made the agreement more precise and more binding?

- Johannes Urpelainen. 2015. "Here's what political science can tell us about the Paris Climate deal." *The Washington Post*.

Optional readings

- Robert O. Keohane. 1982. "The Demand for International Regimes." *International Organization* 36 (2).

Week 3. Design is Not Everything: The Role of Ideas and Bureaucracy in IOs (Sep 15)

Do international institutions accomplish what their creators intend them to? Are they autonomous actors relatively insulated from the creator's influence? Do experts make IOs more functional or are they sources of dysfunction?

- Key concepts: IOs as agents vs. IO autonomy, Insulation, Rational-legal authority, IO vitality
- Johnson, Tana, and Johannes Urpelainen. "International bureaucrats and the formation of intergovernmental organizations: Institutional design discretion sweetens the pot." *International Organization* (2014): 177-209.
- Leonard Seabrooke & Ole Jacob Sending. 2020. "Contracting Development: Managerialism and Consultants in Intergovernmental Organizations" *Review of International Political Economy*. 27(4): 802-27.
- Kelley, Judith G., and Beth A. Simmons. "Introduction: The power of global performance indicators." *International Organization* 73.3 (2019): 491-510.

Spotlight case: The World Bank, does staffers' expertise make the IO vital or dysfunctional in accomplishing economic development, the organization's mandate?

- Tom Wilson. 2020. "World Bank suspends its business climate index over data irregularities." *The Financial Times*. Available [here](#).

Optional readings

- Anne-Marie Slaughter. 2009. "A New World Order" *Princeton University Press*.
- Johnston, Alastair Iain. "Treating international institutions as social environments." *International Studies Quarterly* 45.4 (2001): 487-515.
- Michael Barnett & Martha Finnemore. 1999. "The Politics, Power, and Pathologies of International Organizations," *International Organization* 53.4: 699-732.

Week 4. Look Inward: Domestic Politics and International Institutions (Sep 22)

How do domestic politics (i.e., domestic institutions, domestic public opinion) affect international cooperation? Do governments always sign treaties that are aligned to their constituency preferences? Do onerous ratification requirements (i.e., a supermajority requirement for ratification) facilitate or hinder cooperation for the US?

- Key concepts: Two-level game (Level I and Level II), Win-set, Involuntary defection, Opportunity costs, Treaties vs. Executive Agreements (US context), Advice and consent (US context).
- Milner, Helen V., and Dustin Tingley. *Sailing the water's edge: The domestic politics of American foreign policy*. Princeton University Press, 2015. Chapter 2: pp.35-76.
- Robert D. Putnam, 1988. "Diplomacy and Domestic Politics: The Logic of Two-level Game." *International Organization*.
- Judith Kelley & Jon Pevehouse, 2015. "An Opportunity Cost Theory of US Treaty Behavior," *International Studies Quarterly*.

Spotlight case: Withdrawal from the Open Skies agreement, should the Senate have the power to give consent and advice for presidents' decisions to withdraw from treaties?

- Bonnie Jenkins, 2020. "A Farewell to the Open Skies Treaty, and an Era of Imaginative Thinking." The Brookings Institute. Available [here](#).

Week 5. International Law Tracker Recap Week & Seminar on How to Write a Research Proposal (Sep 29)

Week 6. International Law and Populism (Oct 6)

States have begun challenging the legitimacy of international laws. Why do states withdraw from international organizations that have long undergirded the liberal international order?

- Von Borzyskowski, I., & Vabulas, F. (2019). Hello, goodbye: When do states withdraw from international organizations?. *The Review of International Organizations*, 14(2), 335-366.
- Stacie Goddard. 2018. "Embedded Revisionism: Networks, Institutions, and Challenges to World Order," *International Organization* 72(4): 763-797.
- Stiansen, Øyvind, and Erik Voeten. "Backlash and judicial restraint: Evidence from the European Court of Human Rights." *International Studies Quarterly* 64.4 (2020): 770-784.

Optional readings

- Anderson, Brilé, Thomas Bernauer, and Aya Kachi. "Does international pooling of authority affect the perceived legitimacy of global governance?." *The Review of International Organizations* 14.4 (2019): 661-683.
- Walter, Stefanie. "The Backlash against Globalization." *Annual Review of Political Science* 33 (2021).

Week 7. Use of Force: Can International Institutions Regulate Warfare? (Oct 13)

Can international institutions, ranging from ceasefire agreements to alliances to the UN Security Council, mitigate or deter inter-state violence? If so, how? Do the institutions change actors' incentives or transmit more information on each other? Alternatively, do they change public support for belligerent foreign policy, thus weakening governments' incentives to use force?

- Key concepts: Reciprocity, Mutual deterrence, Hands-tying, Epiphenomenal, Rally round-the-flag.
- Terrence Chapman, 2009. "Audience Beliefs and International Organization Legitimacy." *International Organization* 63.3: 733-764.
- Virginia Page Fortna, 2003. "Scraps or Paper? Agreements and the Durability of Peace," *International Organization* 57.1: 337-372.

- Clayton, Govinda, and Valerie Sticher. "The logic of ceasefires in civil war." *International Studies Quarterly* (2021).

Spotlight case: The UN Security Council, does it matter?

- Oona A. Hathway & Scott J. Shapiro. 2013. "On Syria, a UN Vote Isn't Optional," *Op-ed Contributions The New York Times*. (3 pages)
- Erik Voeten. 2013. "Is UN Approval on Syria Imperative?," *Monkey Cage Washington Post*. (3 pages)

Optional readings

- Grieco, Joseph M., et al. "Let's get a second opinion: International institutions and American public support for war." *International Studies Quarterly* 55.2 (2011): 563-583.

Week 8. Economic Cooperation: Power, Design or Domestic Politics? (Oct 20)

Do ILs facilitate international trade? If so, do IL designs matter? To what extent the WTO's decision rules (i.e. consensus) and adjudication system help states continue international trade transactions? Do issue linkages, a strategy to link multiple issues, help creators of the WTO counteract anti-trade groups? If so, what is the mechanism?

- Key concepts: Issue linkage, Agenda-setting, Negative consensus.
- Richard Steinberg. 2002. "In the Shadow of Law or Power? Consensus-based Bargaining and Outcomes in the GATT/WTO." *International Organization* 56:2: 339-374.
- Christina Davis. 2004. "International Institutions and Issue Linkage: Building Support for Agricultural Trade Liberalization." *American Political Science Review* 153-169.
- Brutger, Ryan, and Julia C. Morse. "Balancing law and politics: Judicial incentives in WTO dispute settlement." *The Review of International Organizations* 10.2 (2015): 179-205.

Spotlight case: Why adjudicate at the WTO? Does the WTO dispute settlement system help states resolve trade disputes?

- Chad Bown & Soumaya Keynes. 2019. “Episode 75. A US-China Farm Subsidy Fight at the WTO.” *Trade Talks podcast*. Available [here](#).

Optional readings

- Julia Gray. 2018. “Life, Death, or Zombie? The Vitality of International Organizations,” *International Studies Quarterly*, Volume 62, Issue 1, March 2018, Pages 1–13.

Fall Break (October 23 – 26)

Week 9. Environment & Climate Change: Is Loose Coordination the Way to Go? (Oct 27)

What should an ideal climate regime look like? Currently, the global environmental regime is loosely dispersed across many IOs with a focus on capacity building. Is this the most optimal design to accomplish broader support from industrializing countries? Why isn’t there any climate court that is akin to the WTO’s dispute settlement body with punitive consequences, in particular for industrialized states with more climate responsibility?

- Key concepts: Public goods, Common pool resources, Coordination, Responsibility.
- Robert Keohane & David Victor. 2011. “The Regime Complex for Climate Change.” *Perspectives on Politics*.
- Dai, Xinyuan. "Why comply? The domestic constituency mechanism." *International Organization* (2005): 363-398.
- Tingley, Dustin, and Michael Tomz. "International commitments and domestic opinion: the effect of the Paris Agreement on public support for policies to address climate change." *Environmental Politics* 29.7 (2020): 1135-1156.

Spotlight case: Two Tales of Climate Enforcement: A court for industrialized countries or Trade sanctions for industrializing countries?

- John Vidal. 2010. "Oxfam's fantasy climate court is both prescient and practical." *The Guardian*. Available [here](#).
- EU seeks Amazon protection pledge from Bolsonaro in push to ratify trade deal. *The Guardian*. Available [here](#).

Optional readings

- Jessica Green. 2013. "Rethinking Private Authority: Agents and Entrepreneurs in Global Environmental Governance," *Princeton University Press*. Introduction, Ch3.
- Andonova, Liliana B., Thomas N. Hale, and Charles B. Roger. "National policy and transnational governance of climate change: Substitutes or complements?." *International Studies Quarterly* 61.2 (2017): 253-268.

Week 10. Research Proposal Week (Nov 3)

In this session, students will present their preliminary research proposals. Each presentation must not exceed 12 minutes and presenters will each get 5 minutes to take questions and comments from peers.

Week 11. Human Rights: Is Compliance with International Law Good News? (Nov 10)

To what extent do signatory states comply with human rights treaties? Why would states commit to and comply with human rights treaties? Compared to international trade, do states have incentives to reciprocate and retaliate against non-compliers? Is compliance with international law good news about norm compliance?

- Key concepts: Joint gains & Reciprocity in the context of human rights, Agenda-setting, Mobilization, Evasion, Diffusion.
- Beth Simmons, 2009. *Mobilizing for Human Rights*, Chapter 3. Theories of Compliance. pp.112-155.
- Zoltán Búzás, 2018. "Is the Good News About Law Compliance Good News About Norm Compliance? The Case of Racial Equality." *International Organization*.

Spotlight case: The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), how can the treaty mobilize activists even in the absence of ratification?

- Heidi Nichols Haddad. 2020. "The US hasn't signed the world's foremost women's rights treaty. Activists have gotten local versions passed instead." *The Washington Post*.

Optional readings

- Charnysh, V., Lloyd, P., & Simmons, B. A. (2015). Frames and consensus formation in international relations: The case of trafficking in persons. *European Journal of International Relations*, 21(2), 323-351.
- Greenhill, Brian. "The company you keep: International socialization and the diffusion of human rights norms." *International studies quarterly* 54.1 (2010): 127-145.

Week 12. Investment: How to Reassure and Regulate Multinational Companies in Anarchy? (Nov 17)

Governments seek to attract foreign capital, while foreign investors typically are wary of the possibility of expropriation. How do host governments resolve the commitment problem and reassure investors? Do Bilateral Investment Treaties resolve the tension? If so, why do we see the spread of bilateral treaties instead of a multilateral investment court akin to the WTO?

- Key Concepts: Obsolescing bargaining, Home and host country, Diffusion.
- Zachary Elkins, Andrew Guzman & Beth Simmons. 2006. "Competing for Capital: The Diffusion of Bilateral Investment Treaties, 1960-2000." *International Organization* 60-4: 811-46.
- Beth Simmons. 2014. "Bargaining over BITs, Arbitrating Awards: The Regime for Protection and Promotion of International Investment." *World Politics* 66(01), 12-46.
- Poulsen, Lauge N. Skovgaard, and Emma Aisbett. "When the claim hits: Bilateral investment treaties and bounded rational learning." *World Politics* 65.2 (2013): 273-313.

- Johns, Leslie, Calvin Thrall, and Rachel L. Wellhausen. "Judicial economy and moving bars in international investment arbitration." *The Review of International Organizations* 15.4 (2020): 923-945.

Spotlight case: Can a Multilateral Investment Court (MIC) save the day?

- Alan Beattie, 2017. Arbitration on Trial: The US and UK's Fear of the Supranational. *The Financial Times*. Available [here](#).
- The European Commission. 2020. "The Multilateral Investment Court Project." Available [here](#).

Thanksgiving Recess (November 24 – 28)

Week 13. Identifying New Research Agenda: Covid-19 and the Future of World Order (Dec 1)

- Barnett, Michael. "COVID-19 and the Sacrificial International Order." *International Organization* (2020): 1-20.
- Fazal, T. (2020). Health Diplomacy in Pandemical Times. *International Organization*, 74(S1), E78-E97.
- Drezner, D. (2020). The Song Remains the Same: International Relations After COVID-19. *International Organization*, 74(S1), E18-E35.

Week 14. Final Review Session (Dec 8)