POLI359: Politicization of Law, Legalization of Politics

Winter Semester 2019, Wednesday and Friday, 10h05 – 11h25.
STBIO 2/2

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1. Course Objectives

This is an advanced undergraduate course about the politics of law at the international level.

The anarchic international system is bound by countless rules that state actors have imposed on themselves. The question we ask in this course is, to what extent are international rules able to constrain state behavior, and what does this ability depend on?

This is not an international law course, but a political science course about international law. As such, it is not meant as a comprehensive survey of public international law, but a selective look at some aspects of international rules that offer insight into political questions. We will be concerned with questions such as: why do countries delegate power to binding rules; why do sovereign states comply with international law; how are rules designed; do rules have distributional effects—i.e. do they benefit some, and disadvantage others? And we will pay special attention to how concepts that loom large in political science, such as state power and domestic politics, qualify the design and impact of international rules.

In doing so, this course relies on scholarly work that employs a host of empirical approaches, including quantitative analysis. The course does not require much prior knowledge of econometrics or game theory, but it does require considerable willingness to engage with sometimes complex methods in the course readings.

2. Course Requirements

Students will complete two written projects, both offering a team option. The first will be due in class on Feb. 22nd, 2019. The second paper will be a response to a question posted in class and due March 29th, 2019.

The midterm (March 13th) and final exam (April 12th) will take place in class.

3. Grade Distribution:

Conference Participation: 10%
Midterm exam (in class): 25%
2 projects: 20% and 15%
Final exam (in class): 30%
4. The Fine Print

McGill University values academic integrity. Therefore, all students must understand the meaning and consequences of cheating, plagiarism and other academic offences under the Code of Student Conduct and Disciplinary Procedures. (see www.mcgill.ca/students/srr/honest/ for more info)

In accord with McGill University’s Charter of Students’ Rights, students in this course have the right to submit in English or in French any written work that is to be graded.

Instructors who adopt the use of text-matching software to verify the originality of students’ written course work must register for use of the software with Educational Technologies and must inform their students before the drop/add deadline, in writing, of the use of text-matching software in a course.

Late work will be penalized one letter grade (e.g. from a B to a B-) per day. Since papers will be due in class, work is considered late as soon as class is over. No distinction is made between being a minute late and being 23 hours late, so be strategic. If you drop off late work outside of class, you MUST have it time-stamped and signed by a secretary in the political science department.

There will be no make-up exams. If you miss an exam, you forfeit your exam grade.

5. Required Texts

There is no textbook.
All readings are either available through JSTOR, or will be posted on the course website. As the semester unfolds, we may add readings covering current events related to course material. Readings marked with an asterisk are optional.

5. Course Outline

Week 1. Introduction: Rules as Constraints (Jan 9th and 11th)


Week 2. *** NO CLASS *** (Jan 16th and 18th)

Week 3. Domestic vs. International Constraints (Jan 23rd and 25th)

Available as e-book from McGill library.


**Week 4. The Emergence of Rules (Jan 30th and Feb 1st)**


**Week 5. Constitutions as Constraints (Feb 6th and Feb 8th)**


**Week 6: International Treaties (Feb 13th and 15th)**


- Oxford Historical Treaty Series.

**Week 7: International Trade Rules (Feb 20th and 22nd)**

- GATT 1947 text, Articles I-III, XX.
• WTO Dispute Settlement Understanding.


**Week 8: Precedent and International Law (Feb 28th and March 1st)**


• “Statement by the United States on the Precedential Value of Panel or Appellate Body Reports under the WTO Agreement and DSU” Dec 18 2018.


*** Reading Week (March 4th to 8th) ***

**Week 9: MIDTERM and Uncertainty in International Law (March 13th and 15th)**


• Downs and Rocke, Optimal Imperfection? Domestic Uncertainty and Institutions in International Relations, Princeton University Press, 1995. (introduction and first chapter only)


**Week 10:** DSU Cases (March 20\(^{th}\) and 22\(^{nd}\))

- WTO *US—Cloves*.
- WTO *EC—Seals*.

**Week 11:** Politics of WTO Dispute Settlement (March 27\(^{th}\) and 29\(^{th}\))


**Week 12:** The Politics of Investment Protection (April 3\(^{rd}\) and 5\(^{th}\))


**Week 13:** Review Session and FINAL EXAM (April 10\(^{th}\) and 12\(^{th}\))