

History of International Law in East Asia

Course Meetings: Times & Location TBD
Office Hours: Times & Location TBD

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i. Course Overview and Objectives

What is “international law”? How was it formed and what consequences did this have for East Asia? What relationship is there between international law and historical legacies of imperialism, colonization, and rapid economic, political, and social change in East Asia? This advanced course explores these questions and more through sources from a range of Asian and European political figures as well as assessments of this history from relevant secondary literature. This course asks what, if anything, constitutes “international law” and how might a just global order be attained under international law, if at all.

Through dialogue and writing, students will develop their ability to recognize, compare, and critically (though charitably) assess the disparate foundations and influences of international law throughout the modern history of East Asia (19th-20th centuries). This course ultimately aims to advance students’ understanding of comparative and East Asian political and legal thought as well as the modern history of international law through exploration of varied notions of law in East Asia.

In short, this course aims to improve students’ ability to:

- **Assess** the claims of primary texts in modern East Asian and European political and legal history in a charitable, yet critical, manner
- **Develop** nuanced normative and political arguments concerning historical and contemporary East Asian politics through dialogue and writing

ii. Required Texts

No prior background in East Asian history is required. All readings will be in English and available either online, via PDF, or available for purchase in the bookstore. If you have concerns obtaining the texts below, please contact me.

- Anghie, Antony. *Imperialism, Sovereignty and the Making of International Law* (Cambridge: Cambridge University Press), 2004.
- Cassel, Par Kristoffer. *Grounds of Judgment: Extraterritoriality and Imperial Power in Nineteenth Century China and Japan* (Oxford: Oxford University Press), 2012.
- Fukuzawa, Yukichi. *Outline of a Theory of Civilization*, trans. Dilworth, Hurst (Tokyo: Keio University Press), 2008.
- Howland, Douglas. *Translating the West: Language and Political Reason in Nineteenth-Century Japan* (Honolulu: University of Hawaii Press), 2002.
- Montesquieu. *Spirit of the Laws* (Cambridge: Cambridge University Press), 1989.
- Vattel. *The Law of Nations* (Indianapolis: Liberty Fund), 2008.

****Chapters 18-30 of the following text might be a helpful resource for establishing a working knowledge of modern East Asian history.****

- *Modern East Asia from 1600: A Social, Cultural, and Political History* (Ebrey and Walthall; 2013)

iii. Assignments, Grading, and Policies

Attendance and Participation

10 %

Regular class attendance and active participation facilitate the successful recognition, comparison, and assessment of the concepts, institutions, and figures encountered in this course. Thus, attendance and participation in class is mandatory. Absences due to personal emergencies, illness, religious observance, or other legitimate causes will be excused with advanced notice and proper documentation, where applicable. Good participation reflects quantity *and* quality of in-class comments. Students are expected to come to class with texts readily available, having done the reading and having prepared for respectful and substantive discussion. Laptops are allowed only for course-related activities; other observed activities will result in a grade reduction. I am available for any student wishing to discuss methods for engaging more effectively in class discussion.

Moot Court Midterm

40 %

The moot court midterm serves as a written and oral means for students to demonstrate their ability to recall class content, assess evidence, and make arguments about material encountered in the course. This midterm not only helps students develop the writing skills for the final essay and oral skills for class discussion, but also introduces students to the world of international dispute and arbitration. The midterm involves two parts: written and oral. For the written portion, students will be placed in groups based on prior experience (or lack thereof) in moot court and will be required to submit memorials a week in advance of the oral portion for both the applicant and respondent parties. For the oral portion, I will randomly assign student groups to one of three roles the day before the midterm: applicant, respondent, or court panel. The oral portion will proceed as follows: initial party arguments (10 minutes), a break (10 minutes), alternate party arguments (10 minutes), court panel recess (10 minutes), and final judgment (10 minutes). For the alternate party arguments, the group who initially argued for the applicant will argue for the respondent and vice versa. The cases will be assigned a week before the memorials are due. Written memorials should be no more than 1500-1750 words (12pt font, normal margins, double-spaced) per party. I will provide more information on the structure of the memorials and court opinions when I release the cases. See [here](#) for a sample moot court competition.

Final Essay

50 %

The final essay gives students an opportunity to demonstrate their ability to critically, yet charitably, assess the course material. This will involve comparative analysis of evidence from multiple course texts in support of one's argument and against competing claims. This must be original work from the student; plagiarism is not tolerated under any circumstance and will result in failure on the assignment and possibly failure in the course or further sanctions. If students are unclear on what constitutes plagiarism, they should consult the college handbook. A one-page prospectus with a thesis paragraph and potential supporting evidence with citations will be due (by email) a week in advance. Students will bring these to class and review each other's developing arguments. I will provide essay prompts (via Canvas) a week in advance of the prospectus class. Also, I will email a sheet for the prospectus review. Students must answer all parts of the prospectus review sheet and give their responses to their partner at the end of class. Final essays should be 1500-2000 words, 12pt font, normal margins, double-spaced and should answer the prompt. The final essay will be due the Thursday of the final week of class at 5pm EST (by email) with the prospectus review comments included at the end of the essay (either scanned or re-typed). Students who submit a course evaluation before the beginning of our last class, may elect to have a 24-hour extension. I will not read drafts of essays, but am available to discuss essay ideas. Late essays will be reduced by one-third a letter grade (e.g. from a B+ to a B) for every day past the due date and I will not accept essays after three days without a legitimate cause substantiated by advanced notice and proper documentation (e.g. a letter or email from your doctor), where applicable.

If you have a documented disability and require a reasonable accommodation to complete the course, you are encouraged to contact Student Disability Services as soon as possible. If you already have an accommodation letter, I am available to discuss how to implement the accommodation.

iv. Tips for Success

In my experience, students who follow these tips tend to do well. I encourage you to heed at least some, if not all, of them over the term.

- *Finish the reading at least 24 hours before it is due.* For example, finish Tuesday's class reading by Monday morning. This will require time management, but it allows more time for reflection.
- *Take notes as you read, in the text.* This will allow you to track your reactions to the readings and think (ahead of class) about intriguing or puzzling passages.
- *Come to office hours.* I do not bite. I am invested in you succeeding in this course.
- *Talk with your peers about the readings outside of class.* It helps you process and vocalize your views on the text(s) in preparation for class discussion.
- [For any writing assignment] *Map out your argument, paragraph by paragraph.* If you cannot justify why a paragraph should be included in the writing assignment, do not include it.

v. Reading Schedule

*Assignments listed under each day are **due for that day**. This course is intended as a survey of the history of international legal thought as it bears on East Asian politics for students with little to no background in East Asian political history. Readings reflect a balance of primary and secondary sources with relevant historical background, where necessary. Students are expected to gain a general view of prominent concepts and arguments, from which they may elect to develop a more focused research topic in the final essay. All readings will be in English. Readings marked with an asterisk (*) indicate a PDF which I will send in advance.*

I. Early Source Material

Week One

Topic: "The Law of Nations in Europe"

*Assignment: Vattel, *The Law of Nations* (selections)*

Week Two

Topic: "European International Law"

*Assignment: Montesquieu, *The Spirit of the Laws* (selections)*

*Wheaton, *Elements of International Law* (selections)**

II. Law and International Conflict

Week Three

Topic: "Treaties, Part One: Initial Encounters"

Assignment: Treaty of Nanking (1842), Treaty of the Bogue (1843)*, Treaty of Kanagawa (1854)*, Treaty of Amity and Commerce (1858)*, [Treaty of Tianjin](#) (1858)*

Moot Court Midterm Cases Assigned (5pm EST)

Week Four

Topic: "Extraterritoriality"

*Assignment: Cassel, *Grounds of Judgment**

Moot Court Midterm Memorials Due (5pm EST)

Week Five

Topic: **MOOT COURT MIDTERM**

Assignment: Prep for oral arguments!

III. Adaptations and TransformationsWeek Six

Topic: “Translating Western Law and Civilization”

Assignment: Fukuzawa, *Outline of a Theory of Civilization* (chs. 2-3)

Sources of Chinese Tradition, Volume 2 (pp. 254-260 on Yan Fu)*

Sources of Korean Tradition, Volume 2 (pp. 248-253 on Yu Kilchun)*

Howland, *Translating the West* (chs. 3, 5-6)

Week Seven

Topic: “Treaties, Part Two: A Tale of Two Empires”

Assignment: Treaty of Kanghwa (1876)*, [Treaty of Shimonoseki](#) (1895), [Boxer Protocol](#) (1901),
Treaty of Portsmouth (1905)*, Japan-Korea Treaty (1910)*

IV. War and PeaceWeek Eight

Topic: “Prefiguring International Peace”

Assignment: [Hague Conventions](#) (1899, 1907), [League of Nations Covenant](#) (1924)

Week Nine

Topic: “Treaties, Part Three: International Peace, Revisited”

Assignment: [UN Charter](#) (1945), [Potsdam Declaration](#) (1945), [Universal Declaration of Human Rights](#) (1948), [Geneva Conventions](#) (1949), Treaty of San Francisco (1951)*, Korean Armistice Agreement (1953)*

V. Legacies of Empire in International LawWeek Ten

Topic: “Colonialism and International Law”

Assignment: Anghie, *Imperialism, Sovereignty and the Making of International Law*

FINAL ESSAY DUE THURSDAY OF WEEK TEN (5PM EST BY EMAIL)