

Multiple choice questions, 2 points each

1. The ICC's jurisdiction is an instance of universal jurisdiction.
 - a. True
 - b. False

B. The ICC's jurisdiction incorporates the nationality and territoriality principles of jurisdiction, plus jurisdiction when authorized by the UNSC. The ICC's jurisdiction only extends to crimes in the Rome Statute. Universal jurisdiction is a doctrine used by domestic courts. It is based only on the nature of the crime, rather than on territoriality, nationality, etc. principles. In theory, any domestic court in the world may prosecute any legal person citing universal jurisdiction for a crime that is outlawed in customary international law. In practice, many states have limited the ability of their courts to prosecute under universal jurisdiction.

2. Which political scientist(s) argues that international networks of diffuse reciprocity influence compliance with the International Criminal Court's arrest investigations, arrests and prosecutions?
 - a. Goodliffe and Hawkins
 - b. Simmons and Danner
 - c. Chapman and Chaudoin
 - d. Gilligan
 - e. Kim and Sikkink
 - f. None of the above

F. Institutional design, the process of commitment, and the process of compliance are distinct. Goodliffe/Hawkins propose a theory about diffuse reciprocity, but they focus on institutional design, and do not extend their theory to explain compliance. In a second paper of theirs, which I discussed in class, they extend the very same theory to the commitment stage. They never extend it to the compliance stage, however. Simmons/Danner, Chapman/Chaudoin, and Gilligan *do* discuss compliance and non-compliance at times, but the concept of diffuse reciprocity is not the focus of their works.

3. Syrian President Bashar al Assad's decision to cling to power and continue fighting the Syrian resistance is an anomaly in the eyes of whose theory about human rights institutions like the ICC?
 - a. Hollyer and Rosendorff
 - b. Goodliffe and Hawkins
 - c. Simmons and Danner
 - d. Chapman and Chaudoin
 - e. Gilligan
 - f. Kim and Sikkink
 - g. All of the above
 - h. None of the above

E or H. Let's focus on each work, in turn, with Gilligan last. It would be a stretch to say that Hollyer/Rosendorff focus on institutions like the ICC, since the Convention Against Torture just has a non-judicial committee attached to it that monitors compliance. So I'm inclined to immediately dismiss this as the correct answer. But even if we admitted Hollyer/Rosendorff's theory can be applied to the ICC, the theory would predict exactly what Assad is doing. Fearing prosecution, he clings to power by whatever means possible in the event that he faces a serious challenge from rebels. This is the prediction of the "commitment effect" in that theory.

Goodliffe/Hawkins don't focus on anything except institutional design, so Assad's described behavior is not anomalous for that theory. Simmons/Danner argue that when states ratify the Rome Statute, the inherent credible commitment to obeying international law makes it easier for them to strike peaceful bargains with their domestic enemies. Assad, however, has not committed to the ICC, so the continued war in Syria is in line with the theory. Chapman/Chaudoin say virtually nothing about the behavior in the question prompt, so this isn't the answer. Kim/Sikkink focus only on states transitioning from autocracy to democracy, and they argue that accepting the jurisdiction of an

international court reduces a government's subsequent repression. But Syria isn't a transitional state and hasn't accepted the ICC's jurisdiction, so Assad's behavior isn't anomalous for that theory.

Given all this, the answer isn't All of the above, either.

By now, we know that the answer is either Gilligan or None of the Above. Gilligan argues that the existence of the ICC *may* convince dictators like Assad who have committed atrocities to surrender themselves to the ICC rather than risk being deposed and facing a terrible fate at the hands of the rebels. Whether someone like Assad actually does surrender himself to the ICC depends on a number of parameters in Gilligan's formal model, such as the probability that he will be deposed after committing atrocities. Under some parameter combinations, Gilligan's theory predicts Assad's behavior. Under other parameter combinations, Assad's behavior is anomalous. The key thing to notice here is that we (the observers) don't actually know what the true parameters are for Assad. So Assad's behavior may or may not be anomalous for the theory. The correct answer is either Gilligan or None of the Above.

4. The literature we read and discussed argues that all of the following are crucial to the effectiveness of the ICC, *except one thing*. Which?
- Whether leaders can obstruct the evidentiary stage of prosecutions
 - Whether would-be haven states will now continue granting asylum to repressive leaders
 - The reputational consequences of prosecution for a politician
 - The prospect of time in prison in The Hague
 - UN Security Council referral
 - None of the above

E. During class we discussed my own work on the ICC, which argues that the ICC's effectiveness at prosecuting atrocities (for whatever purpose) depends crucially on A and C, so these are not the correct answers. Gilligan argues that the (un)willingness of states to grant safe haven for repressive leaders in a world with an ICC is a key factor determining whether the ICC will effectively deter atrocities. So B isn't the answer. Gilligan and Kim/Sikkink argue that D is crucial for the ICC's effectiveness at deterring atrocities. So D isn't the answer.

E is correct because nothing in the literature we read and no arguments we discussed argue that UN Security Council's authority or willingness to refer situations is crucial to the effectiveness of the ICC.

A few lawyers, pundits and scholars argue that without the support of the world's superpowers to catch indictees, the court won't be effective. But this kind of support is not at all the same thing as UN Security Council referral. For example, the UN Security Council referred the Sudanese and Libyan situations, but did little to facilitate the capture of Bashir and Gaddafi.

5. Which is *not* featured in Moravcsik's article as a potentially important agent in the realization of human rights in Europe?
- European Community
 - Organization for Economic Cooperation and Development
 - Conference on Security and Cooperation in Europe
 - European Court of Justice
 - Council of Europe
 - None of the above

B. Moravcsik explicitly discusses all institutions except B in his 1995 article, and he focuses on E in his 2000 article. He never discusses the OECD as an agent for human-rights change in Europe, and indeed, the OECD's focus has been economic development in poor countries around the world, rather than human rights in Europe.

6. The development of Europe's supranational human-rights institutions demonstrates what, according to Moravcsik?
- These institutions have long been dependent on the support and political clout of Europe's first-wave democracies.
 - Compliance with these institutions has been virtually guaranteed by the salient experience of mass atrocities in World War II.
 - These institutions help states achieve human-rights reforms by co-opting domestic court officials.
 - Economic sanctions are a necessary means for enforcing international human-rights law.

- e. Institutions that are not given a constitutional or treaty-based mandate to rule on or enforce human rights will be severely limited by concerns about sovereignty.
- f. The European institutions are the best template for achieving groundbreaking human rights reforms elsewhere.

C. Moravcsik's 1995 article places great emphasis on C, so you should immediately suspect that this is the correct answer. His 1995 article dismisses D and F. His 2000 article in fact argues that Europe's first-wave democracies didn't support strong human-rights institutions in Europe, and his 1995 article focuses on the power of shaming and co-optation. So A is not correct. He never argues that the experiences of World War II virtually guaranteed compliance with the institutions, so B is not the answer.

7. According to one author whose work we read, the theory of the "democratic peace" played a role in the decision by European statesmen whether to strengthen the enforcement mechanisms of the Council of Europe.
- a. True
 - b. False

A. Moravcsik's 2000 article argues that policymakers in Europe's first-wave democracies saw value in the Council of Europe because they bought the theory of the democratic peace (democracies are less likely to fight wars with one another, and perhaps less likely to fight, period), which dates back to Immanuel Kant. Yes, this concern was outweighed by the loss of sovereignty that would arise if they gave individual petition and compulsory jurisdiction to the Council's court, the European Court of Human Rights. But Moravcsik's qualitative evidence clearly indicates that the theory played a role in their decision-making. We dwelled on this for some time in class.

8. Moravcsik's theory of why states comply with the European human-rights regime is most similar to the theory of which scholar(s)?
- a. Hollyer and Rosendorff
 - b. Gilligan
 - c. Chapman and Chaudoin
 - d. Landman
 - e. Kim and Sikkink
 - f. Hafner-Burton
 - g. Simmons

G. Moravcsik (1995) focuses on sanctions, shaming and co-optation as possible mechanisms by which European institutions promote compliance with the supranational European law on human rights. He then argues the sanctions have been an unimportant mechanism, but shaming and especially co-optation have been very important. As stated in class, Simmons' theory of compliance in her 2009 book focuses on processes that sounds remarkably like co-optation and shaming, but not at all like sanctions. International human rights law works by providing domestic actors with the legitimacy, capacity, and tools to shame and formally penalize their own governments for non-compliance through domestic political and legal activities. Both Moravcsik and Simmons tell "second-image reversed" stories about the impact of international institutions on domestic politics. You should therefore suspect that G is the answer.

The other answers can be easily eliminated. Landman doesn't present a coherent theory about Europe's institutions. Neither Gilligan nor Chapman/Chaudoin say much of anything about sanctions, shaming or co-optation, so eliminate them. Neither Hollyer/Rosendorff, Kim/Sikkink, nor Hafner-Burton discuss co-optation, and they contain only thin (if any) discussion of shaming. Hafner-Burton focuses on the denial of Preferential Trade Agreement participation (arguably, a sanction) as a mechanism for promoting compliance with international human rights law. But she dismisses the value of shaming, and she never discusses co-optation. Her focus is on state-to-state relations. Sure, one could imagine layering a second-image-reversed story onto her theory, but she doesn't do this.

In light of all this, G is the best answer.

9. According to one author whose work we read, the experience of Germany's past aggression played a role in the European Court of Justice's judges' decisions to assert the court's jurisdiction in an unwritten bill of rights.
- a. True
 - b. False

B. This was a quite difficult question, and I may have confused you about it, so I'm willing to give you credit for either answer.

But let the record show that the right answer is B. Williams argues that Germany's past aggression factored in the creation of Europe's supranational economic institutions (European Coal and Steel Community, European Economic Community) in the first place. States wanted to bind Germany to Europe economically, because they thought this would mitigate the chance of a future European war involving Germany. But in discussing the ECJ's jurisdictional assertion over human rights since the early 1970s, she just mentions that Germany's noncompliance with the ECJ decision in the *Solange I* case was a big problem, because of Germany's *market size*.

You can draw your own conclusions as to why Germany's market size mattered. One such conclusion might be that Germany's non-compliance with ECJ decisions could undermine the entire project of economic integration in Europe. Again, you could draw your own conclusions as to why *that* would matter. It might, for example, take the continent back to the economically disintegrated Europe of the 1930s, a time when Germany's aggressive behavior toward its neighbors made the outside option of war less costly, and thus, contributed to the outbreak of general war. I presented such a conjecture in class. The overall tone in Williams might lead you to believe that we're in agreement. However, she never makes the claim, so conservative test-taker would choose B, False.

Finally, let me mention that all this may seem like trivia, but it isn't. The ECJ's assertion of its jurisdiction over human rights is a big deal. It's an example of an international institution getting authority over an issue that it didn't originally have authority over. Did states "let it have" that authority to fulfill some function (keeping Europe economically integrated, and therefore, out of trouble), or did the institution just steal it? Who's the master here: states or the institution? There are parallel questions in political science about institutions like the UN, WTO, IMF, ECHR and ICC at the international level, and the development of strong courts and bureaucracies at the domestic level. The possibility that an institution might usurp new authority at some future point matters for a political actor's decision whether to empower the institution in the first place, among other things.

10. The U.S. Supreme Court has supported a broad interpretation of universal jurisdiction in civil *but not criminal* trials.
- True
 - False

B. In 2004, the Supreme Court decided *Sosa v. Alvarez-Machain*, where it supported a narrow interpretation of universal jurisdiction in civil cases citing the Alien Torts Claims Act. Most notably, the Supreme Court has a narrow vision of torts covered under UJ, and it recommends case-specific deference to the political branches (the president, Congress).

If you got this wrong, you might have been confused by the broad interpretation of civil universal jurisdiction cases advanced by a U.S. federal court's decision in *Filartiga v. Pena-Irala* in 1980. Or, you might have been confused by the fact that the Alien Torts Statute (a law enacted in the 18th century) is much broader than the far more recent laws on universal jurisdiction in criminal cases enacted by Congress. The important distinctions here are between higher and lower court decisions, and between laws and court decisions.

11. Which of the following state is among those leading the world in the application of universal jurisdiction to criminal cases?
- South Africa
 - Rwanda
 - Germany
 - United States
 - Sweden
 - Ireland
 - New Zealand
 - Argentina
 - None of the above

C. Langer's article makes clear that a few advanced democracies have led the world in applying the doctrine of universal jurisdiction to prosecuting non-nationals in criminal cases. His case studies focus on five of these states: Germany, the UK, France, Belgium, and Spain. Since Germany is the only one of these states in the list above, you should know that the answer is C.

Admittedly, this is a tricky question because we've got Sweden, Ireland, and the U.S. in the list. But none of these states have conducted many criminal prosecutions under universal jurisdiction. *Read the tables and case studies in the required articles!*

12. The attempted prosecutions of NATO member-state politicians by several European states citing the doctrine of universal jurisdiction demonstrates what?
- The ambiguity of customary international law on human rights
 - The broad support for universal jurisdiction among the European public
 - The ambivalence of international NGO support for universal jurisdiction
 - The transnational influence of *Filartiga v. Peña Irala*
 - That executive branches of government halt prosecutions when they might incur high "international relations" costs
 - Credible commitment
 - None of the above

E. Again, Langer's article is our point of reference here, his being the only assigned reading that deals with universal jurisdiction. Recall that prosecutors and judges in several of the five European states Langer studies tried to prosecute NATO member-state officials (particularly, U.S. politicians) for serious human-rights abuses in Iraq and Guantanamo Bay. They failed because executive and/or legislative branches intervened to stop the prosecutions and revised the states' universal jurisdiction statutes to maintain friendly relations with the United States and arguably. So you should already suspect E. And this is in line with Langer's theory.

Let's look at the other possibilities. We can eliminate D and F, since Langer never focuses on these things. We can also eliminate A and C, since Langer never discusses the ambiguity of customary international law or the ambivalence of NGO support for UJ trials as a factor that lead to the annulment of the NATO-official trials in the five European states in his case studies. Finally, Langer dismisses the importance of domestic public support for UJ prosecutions in his article, and never argues that such support is "broad" in Europe. So B is not the answer. We're left with E.

13. Which of the following wars exemplifies a war launched on the pretext of a humanitarian motive?
- Italian invasion of Ethiopia, 1935
 - German invasion of Czechoslovakia in 1938
 - Russo-Finnish Winter War, 1939
 - NATO action in Bosnia and Herzegovina, 1995
 - NATO action against Serbia, 1999
 - U.S. invasion of Afghanistan, 2001
 - None of the above

B. Goodman explicitly mentions B in his article as an example of a war launched with the pretext of humanitarian intervention, and there's little doubt that this is the case, since Germany didn't just secure the Sudetenland, it conquered all of Czechoslovakia. A, C, and F were wars with regime change or conquest in mind, and no humanitarian pretext was offered. D and E were wars probably launched to serve humanitarian purposes in Bosnia and Kosovo. Even if you doubt that, and think that the wars were launched for more cynical purposes (e.g. containing and deposing a Serbian regime friendlier with Russia than with the West, which owed a lot of debt to the West), nothing in the literature we read suggests this is the case. More importantly, no credible historian would deny that the atrocities in Bosnia and Kosovo were important motivations for these two wars, given the huge investment the West made in safeguarding civilian populations and funding post-conflict tribunals and reconciliation. B is the best answer.

14. What implicit assumption does Krain make in his strategy to identify the causal effect of militarized humanitarian interventions on the severity of genocides?
- He uses a valid instrumental variable: the arguably random election of states with different human-rights records to the UN Security Council on a rotating basis.
 - The key parameter of interest (the slope coefficient on the intervention variables) is statistically significant.
 - The set of control variables in his multiple regression models eliminates any bias due to confounding variables.
 - All of the above
 - None of the above

C. Krain doesn't use an instrumental variables strategy. And statistical significance is not an *assumption* of an identification strategy, but rather a quality of the parameter estimates. So the answer is neither A, B, nor D.

Krain, in fact, uses a multiple-regression strategy. He controls for possible confounds with variables that might cause both interventions and genocide severity. You should know that these variables are called control variables. The key implicit assumption in this strategy for identifying a causal effect is that the set of control variables eliminates the bias from any confounding. For example, perhaps states only intervene against weak perpetrators with low military capacity. The strength of the perpetrator is a potential confounding variable in the estimated relationship between intervention and genocide severity. Does Krain's model control for this concept with any kind of control variable? This is the kind of question you have to ask whenever you see a multiple-regression strategy for estimating causal effects.

15. Which obstacle for legalizing humanitarian intervention does Goodman claim can safely be ignored?

- a. Mission creep
- b. Smart sanctions
- c. Pretext wars
- d. "Occupational hazards" like terrorism
- e. Costs of coordinating multilateral interventions
- f. Vetoes of Russia and China on the Security Council
- g. Lack of domestic support for such interventions
- h. Opposition to humanitarian intervention in the UN Charter
- i. All of the above

C. Goodman argues that we can ignore pretext wars as an argument against legalizing humanitarian intervention, because disputes justified by the pretext of humanitarian intervention are particularly amenable to peaceful negotiation, unlike say, those justified with the pretext of a territorial dispute. (Why this is so is an important part of the argument that I'm not going to recap here...). Goodman places little or no focus on any other obstacles in the argument for legalizing humanitarian intervention.

16. Drezner strictly prefers smart sanctions because they are both more effective and more humane than comprehensive sanctions, like those used against Iraq and Serbia.

- a. True
- b. False

B. Drezner doesn't reveal that he strictly prefer any kind of sanction. The tone in his article is that of a neutral observer who is curious about what the academy and Washington thinks of smart sanctions. He presents the case (and some evidence) that smart sanctions are more humane than comprehensive sanctions. He does *not* present the case that they're any more effective, however, and the evidence he discusses suggests that smart sanctions are less effective than comprehensive sanctions.

17. Which puzzle does Nielsen solve?

- a. Sanctions are used all the time, but *only* by militarily powerful democracies like the U.K., France, Germany, U.S., Canada, and Australia that could effect change by more direct means.
- b. Trade sanctions senders are generally very compliant with sanctions regimes, despite the collective action (aka free-rider) problem inherent in their use.
- c. Democracy aid and human-rights aid makes up a large fraction of all foreign aid today, but these flows are rarely ever cut during sanctions episodes.
- d. Policymakers in advanced democracies haven't noticed academia's optimism about smart sanctions.
- e. Advanced democracies don't seem to sanction repressive governments any more than they sanction more human governments.
- f. Public support for sanctions against repressive governments is quite high in the advanced democracies, but they are only used in extreme cases.
- g. All of the above

E. Nielsen clearly focuses on solving E. We've learned from Drezner, Nielsen, Moravcsik, and class discussions that A is wrong. Sanctions, defined broadly, are a widespread tool of economic statecraft. B is perhaps true, but isn't what Nielsen focuses on at all. Nielsen makes clear that

democracy and human-rights aid are a small fraction of all aid, so C cannot be the answer. D is probably false, and not what Nielsen focuses on anyway. It's unclear whether F is true or false, and Nielsen doesn't focus on this anyway.

18. Hafner-Burton advocates what for promoting human rights?
- Democratization
 - Judicial independence
 - World Trade Organization accession
 - Hard international law
 - Soft international law
 - Ratification of human rights agreements
 - Ratification of the Rome Statute
 - Free trade
 - None of the above
 - All of the above

D or I. The framing of this question may have confused some of you, so I'm willing to give credit for either of these answers.

Hafner-Burton's article proposes that preferential trade agreements (PTAs, a form of international law) with hard (i.e. binding) obligations linking preferential market access to compliance human-rights law can boost human rights in the member states of the PTA. So you should immediately suspect that D is the right answer.

She argues that soft standards in PTAs such as exhortations or encouragement for reform lack the requisite specificity and issue-linkage, so they won't work. Nor will human rights agreements alone, for the same reason. So neither E nor F are correct. She doesn't focus on A, B, C, or G at all. She does focus on trade within PTAs, but the key concept in her argument isn't free trade, it's preferential market access (i.e. freer trade for some states, but not all) *when it is linked to compliance with hard standards on human rights*. So the answer isn't H or J either.

You might have thought that I was the correct answer, because technically, Hafner-Burton doesn't advocate all kinds of hard international law for promoting human rights—just hard law with issue-linkage on trade. That's fair, so I'll give you credit for either D or I.

19. Cao, Greenhill and Prakash advance an argument about trade and human rights that is most similar to whose argument?
- Haggard and Kaufmann
 - Freeman and Quinn
 - Hollyer and Rosendorff
 - Goodliffe and Hawkins
 - Kim and Sikkink
 - Gilligan

B or D. Cao, Greenhill and Prakash argue that international trade causes an adjustment in domestic human rights laws and policies across the globe because of what they call the California Effect. For example, developing-world states that want to export to advanced democracies with big markets for labor and land intensive goods face barriers to trade enacted by enfranchised constituencies in those democracies, who have both moral and economic reasons for refusing to import goods produced by states with repressive labor practices. So they change their laws and practices to approximate those of their export destinations. There's no overarching international legal or institutional framework directing these changes. Politics and market forces produce them.

You should already suspect that this sounds a lot like the theory in Goodliffe/Hawkins. They say that diffuse reciprocity between states in international trade networks led to uncoordinated correlations in state attitudes toward the ICC's design. Again, we see the impact of politics and market forces without overarching international coordination.

You might also think that Cao, Greenhill and Prakash sounds a lot like Freeman and Quinn. They also argue that a global economic phenomenon (international financial integration in this case) has had a profound effect on democratization, which in turn may boost human rights. The existence of international markets gives the rich a greater return on investment, increasing inequality, and thus increasing the poor's demand for redistribution via democratization. These markets also reduce the specificity of the rich's assets and make them less likely to be confiscated by the poor under democracy. The result is that both the rich and the poor are more likely to consent to democratization. Again, we see the impact of politics and market forces without overarching international coordination.

By contrast, we can eliminate A, since the authors focus on testing distributive conflict models of democratization and, when they do theorize, just present minor variations on extant models, none of which deal with the interaction of politics and markets. C, E, and F tell stories about international human rights institutions that are almost devoid of international market activity.

What C has in common with Cao, Greenhill and Prakash is that a good consequence (fewer human rights violations) falls out of a story in which no one prioritizes human rights as ends rather than means. What F has in common with Cao, Greenhill and Prakash is that we see an improvement in human rights without an international institution directly enforcing compliance with human rights law. All the action is in bilateral state-to-state relations and between domestic actors in the same country. However, the institution does play a key role in the theory. Compared to either B or D, these theories are less similar to Cao, Greenhill and Prakash.

20. Freeman and Quinn extend a theory accounting for globalization's positive impact on human rights. Which of the following concepts appears in that theory?
- Class conflict over redistribution
 - International financial integration
 - Asset specificity
 - Democratization
 - The changing identity of capital ownership in dictatorships
 - The median voter
 - All of the above
 - None of the above

G. Freeman and Quinn propose that international financial integration alters the specificity of capital and land, increases domestic inequality, and changes the identity of capital ownership in dictatorships. Under these conditions in a model of class conflict over redistribution, the (poor) median voter is more likely to demand that the rich accept democratization; and the rich are more likely to accept that demand.

Even if you just skimmed the article, you should definitely know that both B (a key explanatory variable) and D (the outcome of interest) appear in the theory, and that the theory extends the class of theories focusing on A. You'd choose G in this case.

Essay question, 3-5 paragraphs, shorter is better holding quality constant, 60 points

Citing the literature we've read and the discussions we've had, propose one argument for why globalization today might be good for human rights, and one argument for why it might be bad for human rights. Neither of the theories *must* be drawn verbatim from the literature, but in each you must demonstrate an awareness of the ideas and concepts introduced in this course.

How I will grade the essays:

I will give your essay a perfect grade (60/60) if:

- You followed the instructions,
- I can understand the logic of your arguments (there aren't contradictions in your reasoning, and it's clear what you mean by globalization),
- You faithfully present the concepts and theories from the course,
- There are few serious factual inaccuracies

I will subtract 4 points for each condition that is not met. I will add 3-6 points if your argument is fantastically creative, persuasive, or well written.