US FOREIGN POLICY, HUMAN RIGHTS AND THE RULE OF LAW

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2 credits, Master’s level

John Shattuck
President and Rector
Professor of Legal Studies and International Affairs
Office hours: by appointment, contact Kinga Pall (pallk@ceu.hu)

SYLLABUS

Course Description

This course introduces students to the decision-making process inside the US government on US foreign policy responses to selected international crises during and after the Cold War. Broad questions include defining US national security in a rapidly changing global environment, assessing the importance of human rights in national and international security, developing foreign policy objectives, fashioning diplomatic strategies, determining the legality and necessity of the use of force, managing international crises, and understanding institutional politics. Topics to be covered in class sessions include the differing constitutional foreign affairs roles of the US President, the Congress and the Supreme Court; the Cold War and the Cuban Missile Crisis; failed states and human rights conflicts in the post-Cold War period; responses to genocide in Rwanda and Bosnia; humanitarian intervention and the responsibility to protect; the relationship between peace and international justice; the US-China conflict over human rights; the 9/11 attacks and the US response to terrorism; the US military intervention in Iraq; the ongoing crisis in Syria; and the controversy over Ukraine.

The class will focus on practical and immediate challenges facing US government officials in shaping and implementing US foreign policy responses to selected post-Cold War international crises. Emphasis will be placed on real-time issues rather than theoretical constructs. The instructor will draw on his experience as a former US government official in the Clinton Administration, where he served as Assistant Secretary of State for Democracy, Human Rights and Labor from 1993 to 1998, and US Ambassador to the Czech Republic from 1998 to 2000. Earlier he was Director of the Washington Office of the American Civil Liberties Union; Vice President for Government, Community and Public Affairs at Harvard University; and Lecturer at the Harvard Law School and the Kennedy School of Government. From 2001 to 2009 he was CEO of the John F. Kennedy Library Foundation, Senior Fellow and Lecturer in International Relations at Tufts University.
Course Description and Learning Outcomes

The course is designed to immerse students in the substance and dynamics of US foreign policy decision-making. The class will examine factors contributing to specific international crises, and will debate the real-time choices that faced US government officials who had to address them. Students will develop an understanding of the dynamics of the crises studied; acquire knowledge of the options considered by US decision-makers in framing their policy responses; be exposed to the domestic and international political environment and pressures under which US policymakers made their decisions; and study the interaction between law and politics in US foreign policy making.

Course Requirements

For each class session two students will be assigned to prepare briefing papers weighing alternative courses of action and arguing for specific policy outcomes from the point of view of different government departments or agencies. Each student in the class will prepare two briefing papers during the course.

Papers should be no more than four pages in length, and should be emailed two days before the class session to the instructor at jhshattuck@gmail.com. Guidelines for Briefing Papers are below. Students are encouraged to consult the CEU Center for Academic Writing for support and guidance.

In each class the students who have been assigned briefing papers for that session will be designated to make oral presentations based on their briefing papers. Presentations will be followed by debate and discussion among all students. Each presentation will be introduced and critiqued by the instructor. Students will be graded on the basis of:

1. their papers and class presentations (35%),
2. participation in class debate and discussion (30%),
3. final exam essay (35%).

Guidelines for Briefing Papers

For each class session two students will be assigned to prepare and present briefing papers to the U.S. President analyzing the issue for that week from the point of view of a designated government official, and arguing for a specific decision or outcome. Briefing paper topics for each class session are listed in the course syllabus.
The format for a briefing paper is simple. The first paragraph or two should explain the facts and the issue being presented for decision. The remainder of the paper should make a series of arguments in favor of a particular decision or outcome, starting with the most compelling argument. Papers should be succinct and persuasive. The most persuasive argument is the one that sets out a competing argument and then refutes it.

Before drafting your paper, think about the bureaucratic perspective of the official whose views you’re representing. For example, the Secretary of State will be concerned about the primacy of diplomacy and the balancing of US global interests, while the Secretary of Defense will be focused on the management and deployment of US military assets. The Assistant Secretary of State for European Affairs will address an issue from the point of view US relations with Europe, while the Assistant Secretary of State for Democracy, Human Rights and Labor will look at the same issue from the perspective of promoting human rights and democracy.

Papers should be no more than five pages long, and should be emailed two days before the class session (1) to the instructor at jhshattuck@gmail.com, and (2) to other students in the class (student email addresses will be collected and distributed at the first class session) so that all students can prepare to discuss and debate the papers.

Presentation, discussion and debate of briefing papers will be a major feature of each class session. Class presentations should be short and succinct. Presentations will be followed by class discussion and debate. Each paper and presentation will be critiqued by the instructor, who will play the role of the U.S. President receiving advice from subordinates.

Class Sessions and Reading Assignments

“\textit{The essence of ultimate decision remains impenetrable to the observer – often, indeed, to the decider. . . . There will always be the dark and tangled stretches in the decision-making process – mysterious even to those who may be most intimately involved.}” – John F. Kennedy

“I have come across people . . . who have written history without taking part in public affairs, and politicians who have concerned themselves with producing events without thinking about them. I have observed that the first are always inclined to find general causes, whereas the second, living in the midst of disconnected daily facts, are prone to imagine that everything is attributable to particular incidents, and that the wires they pull are the same as those that move the world. It is to be presumed that both are equally deceived.” – Alexis de Tocqueville
Session 1: Theory and Practice of US Foreign Policy Decision-making

Readings:


Session 2: The Cold War and the Cuban Missile Crisis


Briefing Papers:

1. At a White House meeting with President Kennedy and his special national security executive committee in October 1962, the Chairman of the US Joint Chiefs of Staff advocates immediate airstrikes to eliminate suspected Soviet missile sites in Cuba.

2. At the same meeting, the Secretary of Defense opposes immediate airstrikes and advocates a naval blockade of Cuba to prevent delivery of nuclear warheads to the island.


Readings:

- James Mann, About Face (Knopf 1999), pp. 274-314.
- Testimony of Winston Lord, Senate Committee on Foreign Relations (April 1993).
Briefing Papers:

1. The Assistant Secretary of State for East Asian and Pacific Affairs and the Assistant Secretary of State for Democracy, Human Rights and Labor make the case in early 1993 that the U.S. has a national security interest in responding to the widespread and severe political repression in China following the Tiananmen Square crackdown, and that if the Executive Branch joins the Congress in conditioning renewal of China’s “most favored nation” (MFN) trading status on specified improvements in China’s human rights record, the linkage of human rights and trade in US MFN policy can succeed.

2. The U.S. Trade Representative and the Secretary of the Treasury argue in early 1993 that the promotion of U.S. trade and investment in China is more important than support for human rights reforms, and that U.S. extension of China’s MFN trading status should not be conditioned on improvements in China’s human rights record.

Session 4: Failed States and Human Rights Catastrophes: Somalia and Rwanda

Readings:


Briefing Papers:

1. Based on what is known about the situation in Rwanda in the second week of April 1994, the Secretary of Defense argues that the US does not have a national security interest in intervening militarily to prevent mass atrocities in an internal conflict in a failed state of no strategic importance to the US when there is a likelihood that this will result in major US casualties similar to what happened in Somalia in October 1993.

2. The Principal Deputy Assistant Secretary of State for African Affairs argues in the second week of April 1994 that US national security interests must be defined in the post-Cold War world to include preventing mass atrocities in a failed state by leading an international coalition with UN authorization to intervene militarily to stop the mass killings in Rwanda.
Session 5: Humanitarian Intervention: Haiti, Bosnia

Readings:


Briefing Papers:

1. The Assistant Secretary of State for European Affairs makes the case in early July 1995 that it is in the US national security interest to lead a NATO coalition in intervening militarily to stop the war in Bosnia when all previous diplomatic approaches and UN peacekeeping options have failed, since regional security in Europe is threatened, hundreds of thousands of civilian lives are at stake, and US leadership of NATO is in jeopardy.

2. The Secretary of Defense argues in early July 1995 against military intervention in Bosnia on grounds that it will draw the US into an extended military and civilian engagement in an ongoing civil war that might not succeed, and from which it might not be able to withdraw without risking failure and greater regional instability, and because it could confuse the international community about US military intentions with respect to the sovereignty of other nations.

Session 6: Responsibility to Protect: UN Doctrine and Libya

Readings:

- Gareth Evans, “Responding to Mass Atrocity Crimes: The Responsibility to Protect after Libya and Syria,” lecture at School of Public Policy, Central European University, October 24, 2012.
Briefing Papers:

1. The Deputy National Security Advisor in February 2011 advocates that the US has a responsibility to lead an international military coalition of NATO countries, supported by a resolution of the Arab League and the UN, to provide air protection of civilian demonstrators in Libya who are being attacked by the Libyan government and are in grave jeopardy of becoming victims of mass killing and atrocities.

2. The Assistant Secretary of Defense for International Security Affairs in February 2011 argues against US military intervention to protect civilians in Libya on the ground that such an intervention cannot be successful unless it goes beyond the authority of the Arab League and UN resolutions, forcing a regime change and risking greater instability in Libya and North Africa.

Session 7: Peace and/or Justice: International Criminal Tribunals and the International Criminal Court

Readings:


Briefing Papers:

1. The Assistant Secretary of State for Democracy, Human Rights and Labor argues during the Dayton Peace Conference that the international force to be deployed in Bosnia should have within its mandate the responsibility for arresting indicted war criminals, and that signatories to the Dayton Peace Accords should be required to arrest indicted war criminals within their territory or face sanctions if they fail to do so.

2. The Undersecretary of Defense for International Security Affairs argues during the Dayton Peace Conference that the international force in Bosnia should have no responsibility for arresting war criminals because doing so could provoke renewed military conflict and prevent or slow the process of disarming hostile forces, and that signatories to the Accords should be required to cooperate with the Tribunal but not to arrest war criminals if that would disrupt the peace process.
3. The State Department Legal Adviser makes the case after the 1999 Rome Conference on the International Criminal Court Convention that the US has a national security interest in joining and working to improve the ICC as a means of reducing conflict, promoting peace, punishing crimes against humanity and enforcing human rights.

4. The Undersecretary of State for Political Affairs argues after the 1999 Rome Conference that the US should not join the ICC because the Court might impede diplomatic and military efforts to reduce conflict, and impinge on the sovereign actions of the US and its allies in protecting international security.

Session 8: 9/11: Terrorism and the Rule of Law I.

Readings:

- U.S. Supreme Court Justice Robert Jackson, concurring opinion in Youngstown Sheet & Tube Co. v. Sawyer, decided June 2, 1952.
- Colin L. Powell, U.S. Secretary of State, Memorandum to White House Counsel commenting on his Draft Decision Memo to the President, January 26, 2002.

Briefing Papers

1. The Attorney General argues in January 2002 that protecting the US against further terrorism after the September 11 attacks requires the President to take extraordinary measures to protect the security of the US and its citizens that are justifiable under the US Constitution only in times of grave danger to the nation and its people, such as preventive indefinite detention and enhanced interrogation of suspected terrorists, even if such measures might seem to be contrary to domestic or international law under normal circumstances.

2. The Secretary of State makes the case in January 2002 that it is in the national security interest of the US to ensure that measures taken in response to the September 11 terrorist attacks, or any other national security crisis, such as detention and interrogation of suspected terrorists, are in compliance with the US Constitution and the international rule of law, including the Geneva Convention on the Treatment of Prisoners of War.
Session 9: Terrorism and the Rule of Law II

Readings:


Session 10: Iraq and Syria: Decisions about Law and Policy

Readings:

- Joint Resolution of the U.S. Congress to Authorize the Use of United States Armed Forces Against Iraq, October 2, 2002.
- Remarks by President George W. Bush on Iraq, Cincinnati Museum Center, Cincinnati, Ohio, October 7, 2002.

Briefing Papers:

1. The Secretary of Defense makes the case for preemptive military intervention by the US in Iraq, based on available information in late 2002-early 2003 (including the strong possibility that Iraq possessed weapons of mass destruction) that UN weapons inspectors could not obtain further access to likely WMD sites, and that the military objectives of intervention could be achieved.

2. The Secretary of State argues against intervention in late 2002-early 2003 based on available information at the time, including opposition by key allies and the UN Security Council, on the ground that unilateral military intervention would do more harm than good by undermining US alliances, destabilizing the region and stimulating terrorism.
Session 11: A New Cold War? Russia, Ukraine, Europe and the US

Readings:


Briefing Papers:

1. The Chairman of the US Joint Chiefs of Staff advocates (1) providing heavy weapons and training to the Ukrainian military so that they can defend Eastern Ukraine against Russian-backed separatist forces, and (2) moving two divisions of NATO troops to the Baltic countries.

2. The President’s National Security Advisor opposes these recommendations on the ground that they would provoke Russia to end negotiations on a permanent ceasefire in Eastern Ukraine based autonomy for the region within a guaranteed framework of Ukrainian sovereignty.

Session 12: US Foreign Policy in a Multipolar World

The final session of the course will examine the role of the US in an increasingly multipolar world. What interests should the US seek to protect and advance in such a world? How should the US engage with other countries in pursuit of these interests? What domestic political influences and constraints will affect the formulation of US foreign policy in a multipolar world? Students should come to class with their own predictions and analyses about the future of US foreign policy in the period leading up to and after the US presidential election of 2016. Based on topics studied in the course, what recommendations do you have for the next President? The class will be run as an open discussion, with each student serving as an advisor to the President-elect. In lieu of a final exam, students should prepare an advisory brief of no more than three pages, to be submitted the day before the final class session.