

The Foreign Policy Process: Deal-Making or Institution Breaking?

Spring 2020

Thursdays, 6:15 – 8:55 pm.

Instructor Details:

Instructor: Margaret J. A. Peterlin

Office: 1620 L Street, NW, Washington, DC

Phone:

Email:

Office Hours:

Course Description: The course focus primarily on the process by which the President and the executive branch determine (and execute) the diplomatic priorities of the nation, and will address the role of Congress and the Courts as they relate to those dynamics. There may be some domestic policy examples discussed, as they illustrate the pressures on the institutions in our constitutional republic. Students will engage both analytical frameworks and examples, as they investigate how the policy-making process *varies across different issue areas*, and whether that variability raises concerns.

Students will be challenged to understand the specifics of the process by which national security and foreign policy issues are debated, decisions made, and then executed. Students will be asked to evaluate the importance of the process and adherence to its norms and customs, as they relate to maintaining liberty. Are the global challenges for the United States in the 21st century so different from the founding fathers' vision, that it is useful for students to question the applicability of norms now? An enduring question will be: whether liberty is better protected by adhering to the originalism of the balance of powers, or by ever pragmatic deals made across the institutions? Should we have regard for institutional drift, particularly as it relates to the executive branch?

Course Prerequisites: There are no prerequisites for this course. This is intended as a first course at the graduate level in the understanding of the policy process in the U.S.,

with a primary focus at the federal level. Undergraduate preparation in political science or pre-law will be helpful, but is not required.

Course Learning Outcomes: Upon completion of this course, the student will be able to:

1. Evaluate the consistency, and the relevance of consistency, of US institutions that are responsible for setting US foreign policy.
2. Recognize institutional tensions and disputes, learning to explicitly identify and account for key constituencies, political pressure, and evolving global actors.
3. Evaluate the contributions of the President to foreign policy by considering the role of personality, bureaucratic players in the executive branch, the demands of campaigning, the challenges of communicating complex challenges to the public.
4. Recognize the role, and compromises associated with, competing and allying actors in foreign policy making: Congress and the Courts.
5. Consider as an independent factor the impact the processes used to achieve “policy goals” have on liberty.

Textbook and /or Resource Materials:

- reading assignments are listed concurrent with each class description
- Other assigned readings will be available on the TAMU Libraries’ E-Reserves site and/or on Canvas.

Grading Policy: The final grade in this class will be calculated as follows: 1) the production of a “dictator’s toolkit” and an associated class presentation – 25%; 2) an in-semester brief of at least 4 single-spaced pages – 25%; 3) a chronology of GITMO, identifying the target population and evolution of rights - 10%, 4) an in-class written exam due during week 13 – 30%; and, 5) classroom participation – 10%. Please see the relevant section below for a description of the in-semester and final briefs. The briefs will be graded with letter grades: A, A/B, B, B/C, C, D, F. Those letter grades will be converted into numerical equivalents for calculation of the final grade on the following 100 point scale: A=95, A/B=90, B=85, B/C= 80, C=75, D=65, F=0. Final grades will be assigned according to the following scale: A=90-100, B=80-89, C=70-79, 3 D=60-69, F=below 60).

Graded Attendance: Attendance will be taken at the top of each class, collection of attendance will be through the use of a sign-in sheet, or e-sign in sheet. The instructor will keep a log of these until grades are finalized. Class attendance is mandatory. If an absence is excused, the instructor will either provide the student an opportunity to make up any quiz, exam or other work that contributes to the final grade or provide a satisfactory alternative by a date agreed upon by the student and instructor. If the instructor has a regularly scheduled make up exam, students are expected to attend unless they have a university approved excuse. The make-up work must be completed in a timeframe not to exceed 30 calendar days from the last day of the initial absence. The reasons absences are considered excused by the university are listed below. See

Student Rule 7 for details (<http://studentrules.tamu.edu/rule07>). The fact that these are university-excused absences does not relieve the student of responsibility for prior notification and documentation. Failure to notify and/or document properly may result in an unexcused absence. Falsification of documentation is a violation of the Honor Code.

- 1) Participation in an activity that is required for a class and appears on the university authorized activity list at <https://studentactivities.tamu.edu/app/sponsauth/index>
- 2) Death or major illness in a student's immediate family.
- 3) Illness of a dependent family member.
- 4) Participation in legal proceedings or administrative procedures that require a student's presence.
- 5) Religious holy day. NOTE: Prior notification is NOT required.
- 6) Injury or illness that is too severe or contagious for the student to attend class. a) Injury or illness of three or more class days: Student will provide a medical confirmation note from his or her medical provider within one week of the last date of the absence (see Student Rules 7.1.6.1) b) Injury or illness of less than three class days: Student will provide one or both of these (at instructor's discretion), within one week of the last date of the absence: (i.) Texas A&M University Explanatory Statement for Absence from Class form available at <http://attendance.tamu.edu> or (ii.) Confirmation of visit to a health care professional affirming date and time of visit.
- 7) Required participation in military duties.
- 8) Mandatory admission interviews for professional or graduate school that cannot be rescheduled. Other absences may be excused at the discretion of the instructor with prior notification and proper documentation. In cases where prior notification is not feasible (e.g., accident or emergency) the student must provide notification by the end of the second working day after the absence, including an explanation of why notice could not be sent prior to the class.

On rare occasions, the instructor might have to miss a class due to administrative or academic responsibilities. This will be exceedingly rare, but if it does occur, the instructor reserves the right to reschedule class at a time when the vast majority of students are available for the make-up class and will convey the material to students unable to attend the make-up during office hours

Late Work Policy: Late work, that differs from make-up work associated with an excused absence, will be accepted for 4 days following the due date. Each 24 hour period after the due date/time, will result in a 25% reduction in the final grade for that assignment. Any items provided after the fourth, 24-hour period will be reviewed for feedback, but the grade value will be 0% for that assignment.

Course Schedule: 14 classes.

- Classes 1 and 2: Is liberty a useful metric to gauge the actions of the executive action?/Differences between positive and negative/Liberty and capacity constraints of governments.
 - a. Case studies:
 - i. Affordable Care Act – (case study runs from passage to S.Ct. review of the mandate) <https://www.hbs.edu/faculty/pages/item.aspx?num=45917> - EVALUATING OTHER OPTIONS FOR A POSITIVE LIBERTY EXAMPLE
 - ii. Executive Order 9066 – Authorizing the Secretary of War to Prescribe Military Areas
 - b. Readings
 - i. Hobbs, Leviathan, Book 11, chapters 20-24
 - ii. Declaration of Independence
 - iii. Lyceum Address: <http://www.abrahamlincolnonline.org/lincoln/speeches/lyceum.htm>

- Class 3: Design Principles of the US – institutional structures and liberty/comparative advantages of institutions in foreign affairs
 - a. Case study: Estonia, with guest speaker.
 - b. Readings:
 - i. James Madison’s Federalist No. 10 (22 Nov 1787)
 - ii. Aristotle – Politics, Chapters 6-8 of Book III. - blend of components of democracy, monarchy, and aristocracy.
 - iii. Montesquieu – De l'esprit des loix (Spirit of Laws, 1748) book 11, (optional books: 2-8)
 - iv. Constitution – main text and first 10 Amendments.

- Classes 4 and 5: Dictator’s Toolkit – assignment (6-8 pages) and in-class presentation (1 slide to convince class to cede power to you). Develop your dictator’s toolbox, to include the phasing of the changes you would make, and the alliances you need. Discuss the international pressures you expect, and which you can, and which you cannot, ignore. You should develop a plan for how a future US president could consolidate power – mostly peacefully, using the existing tools and institutions (both government and civic) of our democratic republic.
 - a. While you may draw on historical cases of the past rises to power, focus heavily on weaknesses in US institutions, and ways in which you will exploit those to strengthen the presidency even further. Your task is not to describe the past, but to draw the useful lessons and plot your own path. Feel free to look to Mussolini, Pol Pot, MBS, or Stalin.

- b. Avoid debating the extent to which any one of the historical examples is or isn't a "dictator," as you would define it, simply learn from them, and then toss them aside.
- c. This exercise will illuminate the seams and fissures in the separation of powers which could be further clarified, or strengthened, or reformed, to guard against dictators in the US and protect liberty.
- d. You must include a description of the PROCESS changes you will make, with an emphasis on what institutional relationships you will cultivate and which you will distance.

Readings:

- e. Hitler
 - i. Enabling Act - <http://www.worldfuturefund.org/Reports/Eact/enablingact.html>
 - ii. Reichstag Fire Decree – <https://encyclopedia.ushmm.org/content/en/article/reichstag-fire-decree>
 - f. Putin
 - i. "Putin's People," book
 - ii. <https://news.harvard.edu/gazette/story/2019/12/analysts-discuss-the-20-year-rule-of-vladimir-putin/>
 - g. Xi
 - i. <https://www.c3sindia.org/geopolitics-strategy/an-enduring-dream-xi-jinpings-consolidation-of-power-in-china-by-shivani-shankar/>
 - ii. <https://www.heritage.org/asia/commentary/growing-religious-persecution-china-symptom-xis-consolidation-power>
 - iii. <https://mjps.ssmu.ca/2018/11/16/xis-china-legacies-from-the-past-power-in-the-present/>
- Class 6: Fighting Back, or Just Fighting: Role of Congress in the foreign policy process/role of Ethnic and Geographic caucuses/inertia dynamics to exercising institutional power
 - i. Role of the Senate broadly
 - 1. Case studies and Readings :
 - a. US Constitution – Article 1
 - b. 2016 election and Russian Sanctions – <https://www.reuters.com/article/us-usa-russia-sanctions-idUSKBN1KN22Q>
 - 2. Guest speaker – former Hill/DoD staff - to discuss how the Congress engages in foreign policy
 - ii. Discussion: Politization of Foreign Affairs

1. Senator Vandenburg, 1947, First Chair of the Senate Foreign Relations Committee
2. Electoral Consequences for Congress of foreign policy failures – Vietnam and Iraq war.
3. Tone: review of remarks by President Obama, and Secretary Pompeo.

Class 7: Declaration of war/AUMF debate – what limits could Congress impose?/ are existing limitations enforced?

NOTE: PAPER DUE THIS DAY

- a. Case study: Killing of Qasem Soleimani
 1. Readings:
 - a. US v. Curtiss-Wright Export Corp – judicial interpretation
 - b. War Powers Resolution - 1973
 - c. Text of 2001 AUMF
 - d. 2009 Dept of Justice Brief,
 - e. OLC opinions - Libya (2011), Iraq (2014), Syria (2018)
 - b. “Obstruction” PAPER DUE: Write at-least 4 pages, single-space, with margins no greater than 1”, and with a font no greater than 11. Details to be provided during class 3.

- Class 8: Executive’s role in Legislation – beyond sign, veto, pocket veto, the predominance of signing statements /impact of signing statements on relations between the executive and legislative branches.

Case Studies (with readings):

- i. BCRA – signing statement by Bush 43, <https://georgewbush-whitehouse.archives.gov/news/releases/2002/03/20020327.html>
 1. McConnell v. FEC, 2003

Readings:

- ii. Constitution – Articles 1 and 2.
- iii. CRS report - <https://fas.org/sgp/crs/natsec/RL33667.pdf>
- iv. graph of use of signing statements - https://www.prwatch.org/files/images/signing_statement.jpg

- Classes 9: Executive’s role in “legislating” – Executive Orders:

Case Study: GITMO - Bring to Class a Chronology of GITMO, including a description of the “target” population, under what authority they are detained, and what liberties were curtailed? (10% of grade)

Readings:

1. Bush’s Military Order, 2001 <https://georgewbush-whitehouse.archives.gov/news/releases/2001/11/20011113-27.html>
2. Detainee Treatment Act of 2005
3. Hamdi v. Rumsfeld (2004)- war powers
4. Boumediene v. Bush (2008) -
5. 2012 National Def Authorization Act - section 1022 (indefinite military detention without charge or trial)
6. Pres. Obama’s EO- 13493 and release of interrogation techniques memos
7. Pres. Trump’s EO - <https://www.whitehouse.gov/presidential-actions/presidential-executive-order-protecting-america-lawful-detention-terrorists/>
 - a. Annotated - <https://www.npr.org/2017/01/19/510448989/trump-inherits-guantanamos-remaining-detainees> 2017-2018 “no where to send them.”
8. CRS report - Wartime Detention Provisions in Recent Defense Authorization Legislation – Congressional reaction to Executive efforts.
9. August 2020 decision by Rao - <https://www.cadc.uscourts.gov/internet/opinions.nsf/D0E6FA5B87B19006852585D2004F674C/%24file/19-5079-1858799.pdf>

Class Guest : to discuss the executive branch process during the Bush administration.

- Class 10: Case Study – Immigration: executive orders and the courts - section 212 of the Immigration and Naturalization Act/timing of resolution in the courts and executive decision-making/domestic and national security elements of immigration policy.

Readings

- a. Texas v. Johnson, Scalia opinion. – flag burning (how precedent works)

- b. Dred Scott and Brown v. Board of Education ____ (how precedent works)
 - c. “A Primer on U.S. Immigration Policy.” Congressional Research Service, R45020 (22 June 2018).
 - d. “An Overview of U.S. Immigration Laws Regulating the Admission and Exclusion of Aliens at the Border.” Congressional Research Service, LSB10150 (10 June 2019).
 - e. Michelle Hackman, “U.S. Immigration Courts’ Backlog Exceeds One Million Cases.” The Wall Street Journal (18 September 2019).
 - f. Stephanie Armour and Alicia A. Caldwell, “Trump Administration Targets Immigrants on Public Assistance.” The Wall Street Journal (23 September 2018).
 - g. Optional background
 - i. Jynnah Radford, “Key findings about U.S. Immigrants.” Pew Research Center (17 June 2019).
 - ii. Jens Manuel Krostad, Jeffrey S. Passel and D’Vera Cohn, “5 facts about illegal immigration in the U.S.” Pew Research Center (12 June 2019).
 - iii. immigration. - Trump v. Hawaii, section 212 restrictions on entry
- Class 11 – Quiz
 - a. An in-class, written essay assignment to apply the federalism and anti-tyranny principles discussed.
- Classes 12 and 13: Chronic Diplomacy
 - a. Case studies
 - i. Israel and Regional Peace Negotiations –
 - 1. Readings:
 - a. Georgetown case study #212
 - b. Abraham Accords, 2020
 - 2. Class guest – to discuss Abraham Accords
 - ii. N. Korea – Maximum Pressure Campaign - 2017-2020
 - 1. Readings:
 - a. <https://www.fdd.org/analysis/2019/12/3/maximum-pressure-2/>
 - b. <https://foreignpolicy.com/2018/02/15/maximum-pressure-needs-more-time-trump-pence-united-states-north-korea/>
 - 2. Class guest – to discuss Maximum Pressure Campaign.
 - iii. Iran – JCPOA and Maximum Pressure Campaign -

1. Readings:
 - a. JCPOA – read text and fact sheet
(<https://www.armscontrol.org/factsheets/JCPOA-at-a-glance>)
 2. US decision to leave the JCPOA during the Trump Administration – guest speaker to address
 - iv. International Reaction – discussion focus
 1. JCPOA and Iran Maximum Pressure Campaign v. N. Korea Maximum Pressure Campaign
- Class 14 - overflow, wrap-up, discuss how we might improve a dictator's toolkit.

University Policies

Attendance Policy: The university views class attendance and participation as an individual student responsibility. Students are expected to attend class and to complete all assignments.

Please refer to Student Rule 7 in its entirety for information about excused absences, including definitions, and related documentation and timelines.

Makeup Work Policy: Students will be excused from attending class on the day of a graded activity or when attendance contributes to a student's grade, for the reasons stated in Student Rule 7, or other reason deemed appropriate by the instructor.

Please refer to Student Rule 7 in its entirety for information about makeup work, including definitions, and related documentation and timelines.

Absences related to Title IX of the Education Amendments of 1972 may necessitate a period of more than 30 days for make-up work, and the timeframe for make-up work should be agreed upon by the student and instructor" (Student Rule 7, Section 7.4.1).

"The instructor is under no obligation to provide an opportunity for the student to make up work missed because of an unexcused absence" (Student Rule 7, Section 7.4.2).

Students who request an excused absence are expected to uphold the Aggie Honor Code and Student Conduct Code. (See Student Rule 24.)

Academic Integrity Statement and Policy:

"An Aggie does not lie, cheat or steal, or tolerate those who do."

“Texas A&M University students are responsible for authenticating all work submitted to an instructor. If asked, students must be able to produce proof that the item submitted is indeed the work of that student. Students must keep appropriate records at all times. The inability to authenticate one’s work, should the instructor request it, may be sufficient grounds to initiate an academic misconduct case” (Section 20.1.2.3, Student Rule 20).

You can learn more about the Aggie Honor System Office Rules and Procedures, academic integrity, and your rights and responsibilities at aggiehonor.tamu.edu.

Americans with Disabilities Act (ADA) Policy:

Texas A&M University is committed to providing equitable access to learning opportunities for all students. If you experience barriers to your education due to a disability or think you may have a disability, please contact Disability Resources in the Student Services Building or at (979) 845-1637 or visit disability.tamu.edu. Disabilities may include, but are not limited to attentional, learning, mental health, sensory, physical, or chronic health conditions. All students are encouraged to discuss their disability related needs with Disability Resources and their instructors as soon as possible.

Title IX and Statement on Limits to Confidentiality:

Texas A&M University is committed to fostering a learning environment that is safe and productive for all. University policies and federal and state laws prohibit gender-based discrimination and sexual Page 6 of 8 harassment, including sexual assault, sexual exploitation, domestic violence, dating violence, and stalking.

With the exception of some medical and mental health providers, all university employees (including full and part-time faculty, staff, paid graduate assistants, student workers, etc.) are Mandatory Reporters and must report to the Title IX Office if the employee experiences, observes, or becomes aware of an incident that meets the following conditions (see University Rule 08.01.01.M1):

- The incident is reasonably believed to be discrimination or harassment.
- The incident is alleged to have been committed by or against a person who, at the time of the incident, was (1) a student enrolled at the University or (2) an employee of the University.

Mandatory Reporters must file a report regardless of how the information comes to their attention – including but not limited to face-to-face conversations, a written class assignment or paper, class discussion, email, text, or social media post. Although Mandatory Reporters must file a report, in most instances, you will be able to control how the report is handled, including whether or not to pursue a formal investigation. The University’s goal is to make sure you are aware of the range of options available to you and to ensure access to the resources you need.

Students wishing to discuss concerns in a confidential setting are encouraged to make an appointment with Counseling and Psychological Services (CAPS).

Students can learn more about filing a report, accessing supportive resources, and navigating the Title IX investigation and resolution process on the University's Title IX webpage.

Statement on Mental Health and Wellness:

Texas A&M University recognizes that mental health and wellness are critical factors that influence a student's academic success and overall wellbeing. Students are encouraged to engage in proper selfcare by utilizing the resources and services available from Counseling & Psychological Services (CAPS). Students who need someone to talk to can call the TAMU Helpline (979-845-2700) from 4:00 p.m. to 8:00 a.m. weekdays (Central time) and 24 hours on weekends. 24-hour emergency help is also available through the National Suicide Prevention Hotline (800-273-8255) or at suicidepreventionlifeline.org.

You are welcome to approach me, Margaret, directly. Please do so, if you don't feel comfortable using either of the options above. While I am not qualified to provide you with counseling services, I will work alongside you to help you identify an alternative.

COVID-19 Temporary Amendment to Minimum Syllabus Requirements:

The Faculty Senate temporarily added the following statements to the minimum syllabus requirements in Fall 2020 as part of the university's COVID-19 response.

Campus Safety Measures

To promote public safety and protect students, faculty, and staff during the coronavirus pandemic, Texas A&M University has adopted policies and practices for the Fall 2020 academic term to limit virus Page 7 of 8 transmission. Students must observe the following practices while participating in face-to-face courses and course-related activities (office hours, help sessions, transitioning to and between classes, study spaces, academic services, etc.):

- Self-monitoring—Students should follow CDC recommendations for self-monitoring. Students who have a fever or exhibit symptoms of COVID-19 should participate in class remotely and should not participate in face-to-face instruction.
- Face Coverings—Face coverings (cloth face covering, surgical mask, etc.) must be properly worn in all non-private spaces including classrooms, teaching laboratories, common spaces such as lobbies and hallways, public study spaces, libraries, academic resource and support offices, and outdoor spaces where 6 feet of physical distancing is difficult to reliably maintain. Description of face coverings and additional guidance are

provided in the Face Covering policy and Frequently Asked Questions (FAQ) available on the Provost website.

- Physical Distancing—Physical distancing must be maintained between students, instructors, and others in course and course-related activities.
- Classroom Ingress/Egress—Students must follow marked pathways for entering and exiting classrooms and other teaching spaces. Leave classrooms promptly after course activities have concluded. Do not congregate in hallways and maintain 6-foot physical distancing when waiting to enter classrooms and other instructional spaces.
- To attend a face-to-face class, students must wear a face covering (or a face shield if they have an exemption letter). If a student refuses to wear a face covering, the instructor should ask the student to leave and join the class remotely. If the student does not leave the class, the faculty member should report that student to the Student Conduct office for sanctions. Additionally, the faculty member may choose to teach that day's class remotely for all students.

Personal Illness and Quarantine:

Students required to quarantine must participate in courses and course-related activities remotely and **must not attend face-to-face course activities**. Students should notify their instructors of the quarantine requirement. Students under quarantine are expected to participate in courses and complete graded work unless they have symptoms that are too severe to participate in course activities.

Students experiencing personal injury or illness that is too severe for the student to attend class qualify for an excused absence (See Student Rule 7, Section 7.2.2.) To receive an excused absence, students must comply with the documentation and notification guidelines outlined in Student Rule 7. While Student Rule 7, Section 7.3.2.1, indicates a medical confirmation note from the student's medical provider is preferred, **for Fall 2020 only, students may use the Explanatory Statement for Absence from Class form in lieu of a medical confirmation. Students must submit the Explanatory Statement for Absence from Class within two business days after the last date of absence.**

Operational Details for Fall 2020 Courses

For additional information, please review the FAQ on Fall 2020 courses at Texas A&M University.