Invitation to the Lauder School of Government, Diplomacy and Strategy
Faculty Seminar

A lecture by:

Udi Sommer
Department of Political Science, Tel Aviv University
On:

SETTING A NATIONAL AGENDA:
CASE SELECTION AND THE CONSTITUTIONAL POSITION
OF THE AMERICAN SUPREME COURT

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ABSTRACT
Justices on the US Supreme Court are strategic policymakers. Due to potential influence on both policy and doctrine, ceteris paribus they find opinion authorship desirable. I argue that when selecting cases, in addition to thinking about legal issues and the final disposition, justices strategically consider doctrinal upshots. More specifically, during the decision on Certiorari, justices have opinion writing in mind. The recently released Spaeth Expanded Burger Court Database is used to test this idea. Weighting the stratified sample of cases denied review in the Database ameliorates the truncation problem prevalent in studies of Cert. Furthermore, to overcome the measurement error inherent to the estimation of strategic behavior, I introduce Simulation Extrapolation (SIMEX). This protocol deals with measurement error in nonlinear models. I find strong support for the notion of opinion-minded justices at Cert during the Burger Court. Employing this strategy, over the course of fifteen years, a justice would be able to meaningfully influence at least ten policy or legal areas. Implications for the constitutional position of the Court within American government are discussed.

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Seminar Coordinator: Dr. Eran Halperin – eran.halperin@idc.ac.il