

**Law & Policy in the Americas Seminar**  
**LAW 6936 Section 0345/LAS 6938 Section 4E47**  
**Spring 2019**

Instructor: Timothy McLendon  
Tuesdays, 3:00 – 4:40 PM  
Holland Hall, Room 355A

SYLLABUS

**Professor:** Timothy McLendon  
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**Office Hours:** Mondays, 9.30-10.30am  
Wednesdays, 9.30-10.30am  
Thursdays, 4.00-5.00pm

**Description:**

The Law & Policy in the Americas Seminar, LAW 6936/LAS 6938, is an interdisciplinary, cross-listed course taught at the law school but offering credit to both law students and graduate students from the Center for Latin American Studies. The seminar evaluates the development of legal systems in the Americas and includes a comparative analysis. Topics include constitutional comparisons, trade and commercial development, alternative dispute resolution mechanism use and development, citizen security and human rights, property rights, and a review of regional judicial reform efforts focusing on efforts to improve access, efficiency and transparency in justice systems as a means to promote democratic consolidation and economic growth. Readings are theoretical and applied, and they focus on differing legal cultures, distinguishing features of the civil and common law systems, the informal economy and access to property rights. We will utilize current periodicals to follow regional political developments and trade agreement negotiations. Additional suggested readings are provided for each unit to provide perspective and background material, and to serve as a starting point for deeper research.

Meaningful individual participation during all of the class meetings is expected. Note: In order to inform the current events discussion at the beginning of each class, students must read a newspaper or weekly news magazine in preparation for the course. As the focus of the class is Latin America, students should read sources with good Latin America coverage: *e.g.*, the *New York Times*, *Wall Street Journal*, *Miami Herald*, *Financial Times*, *The Economist*, or some other such publication (all of which are available online, or via WestLaw or Lexis/Nexis). Foreign publications are acceptable given the scope of the class. It is important every student be prepared and class participation will be considered in grading.

The seminar will include an advanced written research paper and oral presentation to the class addressing some topic of law or policy relevant to the subject matter covered by the syllabus.

For the paper and presentation, each student will choose a subject area from the course syllabus to explore in more detail. Per UF regulation, this professor has no financial interest in whether students purchase the course pack. Course materials will be available for purchase at Book iT, 1250 W. University Ave. (N.W. 13th St. & University Ave.-in the Holiday Inn Building, right next to Piesano's), ph.# 352-371-9588. Students are also free to download the materials themselves. Additional materials are available on TWEN and a few items may be placed on reserve in the Law Library.

### **Course Goals & Objectives:**

The goal of this seminar is to introduce students to selected legal and policy issues affecting Latin America, including aspects of its political and economic development, Inter-American organizations, its legal structure, human rights and trade policies, and the relationship between the United States and Latin America.

By the end of this course, students should be able to:

- Appreciate the historical development of the Latin American states, and how the United States has understood and related to Latin America;
- Explain the role of the various Inter-American organizations, and their institutions, and the degree to which they have fostered hemispheric integration;
- Recognize some of the trends in the political development of Latin American states, including the periods of authoritarian rule and return to democratic governance;
- Explain some of the differences between the Civil Law operative in Latin America, and the Common Law systems operative in Anglo-American countries;
- Describe the structures of prominent Latin American judicial systems, including the types of courts, prosecutors and organs which supervise the judiciary and prosecution;
- Appreciate the organizations within the Inter-American system that protect human rights, and evaluate the degree to which this system has succeeded in developing a culture that respects human rights in various Latin American states;
- Compare the ways certain Latin American states have dealt with human rights violations committed during times of civil war or military dictatorship;
- Evaluate the protection for private property rights in Latin America, including both the development of these protections, and the degree to which alternative approaches, such as communal property rights, are accepted;
- Describe the role of multi-lateral trade organizations such as NAFTA, CAFTA, Mercosur or the Pacific Alliance etc. in encouraging trade within the hemisphere, and articulate opportunities and threats to free trade within the Americas; and
- Examine the recent foreign policy relationship between the United States and Latin America, and identify some of the key interests of the United States in Latin America.

### **Grades:**

Grades in the seminar will be based on: 1) the quality of the paper submitted (60%); 2) the oral presentation (30%); and 3) attendance and participation in class discussion (10%).

### Grade Values for Conversion

Letter Grade	A	A-	B+	B	B-	C+	C	C-	D+	D	D-	E
Grade Points	4.0	3.67	3.33	3.0	2.67	2.33	2.0	1.67	1.33	1.0	.67	0

The law school grading policy is available at: <http://www.law.ufl.edu/students/policies.shtml#9>.

### **Class attendance & participation policy:**

Attendance will be taken at each class meeting. Students are allowed 2 absences during the course of the semester. Students are responsible for ensuring that they are not recorded as absent if they come in late. A student who fails to meet the attendance requirement will be dropped from the course.

Student participation in class is encouraged, and will be considered in assigning a final grade. The degree of student participation will doubtless affect the quality and interest of class discussions. Students are expected to be prepared for each class.

This 2-credit course complies with ABA Standard 310. It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in-class assignments for every 1 hour in class.

### **Seminar Paper Deadlines:**

1. Choice of Topic – Class 4, 28. January
2. Outline & initial Bibliography – Class 7, 18. February
3. Initial Draft – Class 10, 20. March
4. Completed Paper – Thursday, 26. April (last day of law school reading period)

### **Statement regarding accommodations for students with disabilities:**

Students with disabilities seeking accommodations should first register with the UF Disability Resource Center (tel: 352-392-8565, [www.dso.ufl.edu/drc/](http://www.dso.ufl.edu/drc/)) with appropriate documentation. After registering, students will receive a letter to give to the instructor when requesting any accommodations. Students with disabilities should follow this procedure as early as possible in the semester.

### **Evaluations:**

Students are expected to provide feedback on the quality of instruction in this course by completing online evaluations at: <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, and students will be informed when they are open. Summary results of these assessments are available to students at: <https://evaluations.ufl.edu/results/>.

### **Academic Misconduct:**

Academic honesty and integrity are fundamental values of the UF community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

## **-Introduction-**

### **Tuesday, January 8<sup>th</sup>: Class 1**

- \* LARS SCHOULTZ, *BENEATH THE UNITED STATES: A HISTORY OF U.S. POLICY TOWARD LATIN AMERICA* xi-xvii (1998). (**Coursepack**)
- \* Eduardo Silva, *Authoritarianism, Democracy and Development*, in *LATIN AMERICA TRANSFORMED* (Robert N. Gwynne & Cristóbal Kay, eds., 2004). (**Coursepack**)
- \* M.C. Mirow, *The Code Napoléon: Buried but Ruling in Latin America*, 33 *DENV. J. INT'L L. & POL'Y* 179 (2005). (**TWEN**)
- \* Christopher Sabatini, *Rethinking Latin America: Foreign Policy is more than Development*, *FOREIGN AFFAIRS*, March/April 2012, at 8. (**TWEN**)
- \* John Rapley, *The New Middle Ages*, *FOREIGN AFFAIRS*, May/June 2006, at 95. (**Coursepack**)
- \* DANY BAHAR ET AL., *VENEZUELA: A PATH OUT OF MISERY* (Brookings Inst., Oct. 2018), *available online at: <https://www.brookings.edu/research/venezuela-a-path-out-of-misery/>*
- \* *The Latinobarómetro survey: Latin Americans are dejected about democracy*, *THE ECONOMIST*, Nov. 8, 2018, *available online at: <https://www.economist.com/the-americas/2018/11/08/latin-americans-are-dejected-about-democracy>*

### **SUGGESTED:**

- \* *LATINOBARÓMETRO REPORT 2018* (2018). (**TWEN**)
- \* *The Latinobarómetro Poll: Neither Trumpian nor Brexiteer*, *THE ECONOMIST*, Sept. 3, 2016, *available online at: <http://www.economist.com/news/americas/21706344-latin-america-has-different-worries-united-states-and-europe-neither-trumpian-nor>*
- \* *The Latinobarómetro Poll: When the tide goes out*, *THE ECONOMIST*, Sept. 26, 2015, *available online at: <http://www.economist.com/news/americas/21666234-without-growth-there-nothing-distract-regions-endemic-ills-when-tide-goes>*
- \* JOHN HENRY MERRYMAN ET AL., *THE CIVIL LAW TRADITION: EUROPE, LATIN AMERICA, AND EAST ASIA* 351-99 (1994), Ch. 4: *Law in Pre-Colonial Latin America & Development of the Law in Colonial Latin America* (**TWEN**)
- \* William Finnegan, *Venezuela, A Failing State*, *THE NEW YORKER*, Nov. 14, 2016, *available online at: <http://www.newyorker.com/magazine/2016/11/14/venezuela-a-failing-state>*
- \* UNITED NATIONS DEVELOPMENT PROGRAMME, *CITIZEN SECURITY WITH A HUMAN FACE: EVIDENCE & PROPOSALS FOR LATIN AMERICA* (Reg. Hum. Dev. Rep. 2013), *available online at: <http://www.undp.org/content/undp/en/home/librarypage/hdr/human-development-report-for-latin-america-2013-2014/>*

\* Alma Guillermoprieto, *Mexico: 'We are not sheep to be killed'*, THE NEW YORK REVIEW OF BOOKS, Nov. 15, 2014, available online at: <http://www.nybooks.com/daily/2014/11/05/mexico-not-sheep-to-be-killed/>

\* Alma Guillermoprieto, *Days of the Dead: The new narcocultura*, THE NEW YORKER, Nov. 10, 2008, available online at: [http://www.newyorker.com/reporting/2008/11/10/081110fa\\_fact\\_guillermoprieto](http://www.newyorker.com/reporting/2008/11/10/081110fa_fact_guillermoprieto)

\* CEJA, REPORT ON JUDICIAL SYSTEMS IN THE AMERICAS 2008-09 (4<sup>th</sup> ed. 2009) – overview section and Appendix 1, available online in Spanish only at: <http://biblioteca.cejamericas.org/handle/2015/5486>

\* VANDA FELBAB-BROWN, BRINGING THE STATE TO THE SLUM: CONFRONTING ORGANIZED CRIME & URBAN VIOLENCE IN LATIN AMERICA (Brookings Inst., Dec. 2011), available online at: <https://www.brookings.edu/research/bringing-the-state-to-the-slum-confronting-organized-crime-and-urban-violence-in-latin-america/>

\* Robert C. Bonner, *The New Cocaine Cowboys: How to Defeat Mexico's Drug Cartels*, FOREIGN AFFAIRS (July/Aug. 2010) (TWEN)

\* *Shining light on Latin America's homicide epidemic*, THE ECONOMIST, Apr. 5, 2018, available online at: <https://www.economist.com/briefing/2018/04/05/shining-light-on-latin-americas-homicide-epidemic>

\* Fidel Castro, *History Will Absolve Me*, in THE CUBAN READER (Philip Brennan et al., eds., 1989). (TWEN)

## **Tuesday, January 15<sup>th</sup>: Class 2**

\* Alejandro M. Garro, *On Some Practical Implications of the Diversity of Legal Cultures for Lawyering in the Americas*, 64 REV. JUR. U. P.R. 461 (1995). (TWEN)

### **Internationalism:**

\* CHARTER OF THE ORGANIZATION OF AMERICAN STATES, available online at: <http://www.oas.org/juridico/English/charter.html> (Coursepack)

\* Introduction – Basic Documents relating to the Inter-American legal order, available online at: <http://www.cidh.oas.org/Basicos/English/Basic1.%20Intro.htm> (Coursepack)

\* Dexter S. Boniface, *The OAS Mixed Record*, in PROMOTING DEMOCRACY IN THE AMERICAS (Thomas Legler et al., eds., 2007). (Coursepack)

\* DENISSE RODRIGUEZ OLIVARI, THE ROLE OF THE ORGANIZATION OF AMERICAN STATES IN PROMOTING DEMOCRACY (Int'l Inst. for Democracy & Electoral Assistance, 2014). (TWEN)

### **SUGGESTED:**

#### **Basic Documents Relevant to the Inter-American Court of Human Rights:**

\* AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN, available online at: <http://www.oas.org/juridico/English/ga-Res98/Eres1591.htm> (Coursepack)

\* AMERICAN CONVENTION ON HUMAN RIGHTS, *available online at:*  
<http://www.oas.org/juridico/english/treaties/b-32.html> (**Coursepack**)

\* Statute of the Inter-American Court on Human Rights, *available online at:*  
<http://www.corteidh.or.cr/estatuto.cfm> (**Coursepack**)

\* Statute of the Inter-American Commission on Human Rights, *available online at:*  
<http://www.cidh.oas.org/Basicos/English/Basic17.Statute%20of%20the%20Commission.htm>  
(**Coursepack**)

\* OAS, Note from the Bolivarian Republic of Venezuela, announcing its decision to denounce the Charter of the Organization of American States in accordance with Article 143 of the OAS Charter (delivered Apr. 28, 2017), *available online at:* [http://www.oas.org/en/sla/dil/docs/a-41\\_note\\_venezuela\\_04-28-2017.pdf](http://www.oas.org/en/sla/dil/docs/a-41_note_venezuela_04-28-2017.pdf)

\* Andres Oppenheimer, *Caribbean countries should be ashamed of supporting Venezuela at OAS meeting*, MIAMI HERALD, June 21, 2017, *available online at:*  
<http://www.miamiherald.com/news/local/news-columns-blogs/andres-oppenheimer/article157463039.html>

\* Brigitte Weiffen et al., *Overlapping regional security institutions in South America: The case of OAS and UNASUR*, 16 INT'L AREA STUD. REV. 370 (Dec. 2013), *available online at:*  
<http://ias.sagepub.com/content/16/4/370>

\* Daniela Segovia, *Latin America and the Caribbean: Between the OAS and the CELAC*, 95 EUR. REV. LATIN AM. & CARIBBEAN STUD. 97 (2013), *available online at:*  
[http://www.academia.edu/6002331/Latin\\_American\\_and\\_the\\_Caribbean\\_between\\_the\\_OAS\\_and\\_CELAC](http://www.academia.edu/6002331/Latin_American_and_the_Caribbean_between_the_OAS_and_CELAC)

## **-Political-**

### **Tuesday, January 22<sup>nd</sup>: Class 3**

\* Aníbal Pérez-Liñán & Scott Mainwaring, *Regime Legacies & Levels of Democracy*, 45 COMP. POL. 379 (2013). (**TWEN**)

\* Paul C. Sondrol, *Intellectuals, Political Culture and the Roots of the Authoritarian Presidency in Latin America*, 3 GOVERNANCE 416 (1990). (**Coursepack**)

\* Peter H. Smith & Melissa R. Ziegler, *Liberal & Illiberal Democracy in Latin America*, 50 LATIN AM. POL. & SOC'Y 31 (2008). (**Coursepack**)

\* Larry Catá Backer, *The Cuban Communist Party at the Center of Political & Economic Reform: Current Status & Future Reform*, (Coalition for Peace & Ethics, Working Paper No. 7-2, Jul. 2014), *available online at:* [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2473351](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2473351)

Jorge G. Castañeda, *Latin Americans Stand Up to Corruption: The Silver Lining in a Spate of Scandals*, FOREIGN AFFAIRS (Jan./Feb. 2016). (**TWEN**)

## SUGGESTED:

\* HARRY E. VANDEN & GARY PREVOST, *POLITICS OF LATIN AMERICA: THE POWER GAME* 1-80 (2006).  
(on reserve in Law Library)

Ch. 1: An Introduction to Latin America in the 21<sup>st</sup> Century

Ch. 2: Early History

Ch. 3: Democracy, Dictators and Tío Sam: A Historical Overview from Independence to the Present Day

\* Pat Paterson & Rory Flynn, *Border Disputes in Latin America*, REGIONAL INSIGHTS (Nat'l Def. Univ., Wm. J. Perry Ctr. for Hemispheric Def. Stud., 2013), available online at:  
<http://chds.dodlive.mil/files/2013/12/pub-RI-paterson.pdf>

\* PETER SMITH, *CYCLES OF ELECTORAL DEMOCRACY IN LATIN AMERICA, 1900-2000* (Univ. of Cal. Berkeley CLAS Working Paper No. 6, 2004). (TWEN)

\* Rett R. Ludwikowski, *Latin American Hybrid Constitutionalism: The United States Presidentialism in the Civil Law Melting Pot*, 21 B.U. INT'L L.J. 29 (2003). (TWEN)

\* Bruce M. Wilson & Juan Carlos Rodríguez Cordero, *Legal Opportunity Structures and Social Movements: The Effects of Institutional Change on Costa Rican Politics*, 39 COMP. POL. STUD. 325 (2006). (TWEN)

\* Marina Lopes & Nick Miroff, *A corruption scandal wrecked Brazil's economy. Now, workers face the consequences*, WASH. POST, June 19, 2017, available online at:  
[https://www.washingtonpost.com/world/the\\_americas/a-corruption-scandal-wrecked-brazils-economy-now-workers-face-the-consequences/2017/06/16/a2be0faa-505b-11e7-b74e-0d2785d3083d\\_story.html?utm\\_term=.113ea4aff2f9](https://www.washingtonpost.com/world/the_americas/a-corruption-scandal-wrecked-brazils-economy-now-workers-face-the-consequences/2017/06/16/a2be0faa-505b-11e7-b74e-0d2785d3083d_story.html?utm_term=.113ea4aff2f9)

\* Jonathan Watts, *Operation Car Wash: Is this the biggest corruption scandal in history?*, THE GUARDIAN, June 1, 2017, available online at: <https://www.theguardian.com/world/2017/jun/01/brazil-operation-car-wash-is-this-the-biggest-corruption-scandal-in-history>

## **-Judicial & Legal-**

### **Tuesday, January 29<sup>th</sup>: Class 4**

\* Rogelio Pérez-Perdomo, *Rule of Law and Lawyers in Latin America*, ANNALS AM. ACAD. POL. & SOC. SCI., January 2006, at 179. (Coursepack)

\* Linn Hammergren, *Twenty-Five Years of Latin American Judicial Reforms: Achievements, Disappointments, and Emerging Issues*, WHITEHEAD J. DIPL. & INT'L REL. Winter/Spring 2008, at 89, available online at: <http://blogs.shu.edu/diplomacy/files/archives/09%20Hammergren.pdf>

\* Daniel Brinks, *Judicial Reform and Independence in Brazil and Argentina: The Beginning of a New Millennium?*, 40 TEX. INT'L L.J. 595 (2005). (Coursepack)

\* Joseph L. Staats et al., *Measuring Judicial Performance in Latin America*, 47 LATIN AM. POL. & SOC'Y 77 (2005). (Coursepack)

\* Joseph R. Thome, *Heading South but Looking North: Globalization and Law Reform in Latin America*, 2000 WIS. L. REV. 691. (TWEN)

\* Cristián Riego, *Oral Procedures & Case Management: The Innovations of Chile's Reform*, 14 SW. J. L. & TRADE AM. 339 (2008). (TWEN)

### SUGGESTED:

\* Felipe Sáez García, *The Nature of Judicial Reform in Latin America and Some Strategic Considerations*, 13 AM. U. INT'L L. REV. 1267 (1998) – excerpt on historical development. (TWEN)

\* Leonard L. Cavise, *Essay: The Transition from the Inquisitorial to the Accusatorial System of Trial Procedure: Why Some Latin American Lawyers Hesitate*, 53 WAYNE L. REV. 785 (2007). (TWEN)

\* Pilar Domingo, *Judicialization of Politics or Politicization of the Judiciary? Recent Trends in Latin America*, DEMOCRATIZATION, Feb. 2004, at 104. (TWEN)

\* Jon Mills, *Principles for Constitutions and Institutions in Promoting the Rule of Law*, 16 FLA. J. INT'L L. 115 (2004). (TWEN)

\* Maria Angela Jardim de Santa Cruz Oliveira & Nuno Garoupa, *Stare Decisis & Certiorari Arrive to Brazil: A Comparative Law & Economics Approach*, 26 EMORY INT'L L. REV. 555 (2012). (TWEN)

\* Luz E. Nagle, *Process Issues of Colombia's New Accusatory System*, 14 SW. J. L. & TRADE AM. 223 (2008). (TWEN)

\* *Blurring the lines between justice & politics in Latin America*, THE ECONOMIST, Nov. 8, 2018, available online at: <https://www.economist.com/the-americas/2018/11/08/blurring-the-lines-between-justice-and-politics-in-latin-america>

\* Keith S. Rosenn, *Brazil's Legal Culture: The Jeito Revisited*, 1 FLA. INT'L L.J. 1 (1984). (TWEN)

\* Various country reports, in CEJA, REPORT ON JUDICIAL SYSTEMS IN THE AMERICAS 2008-09 (4<sup>th</sup> ed. 2009), available online at: <http://w1.cejamericas.org/reportes/2008-2009/>

## **-Human Rights-**

### **Tuesday, February 5<sup>th</sup>: Class 5**

\* Paolo G. Carozza, *From Conquests to Constitutions: Retrieving Latin American Traditions of the Idea of Human Rights*, 25 HUM. RTS. Q. 281 (2003). (TWEN)



- \* Enrique Dahl & Alejandro M. Garro, *Argentine Appeals Court Judgment on Human Rights Violations by Former Military Leaders*, *Introductory Note*, 26 I.L.M. 317 (1987). **(Coursepack)**
- \* Inter-American Commission on Human Rights Resolution No. 12/85, Case No. 7615 (Brazil) - provides an overview of the decision concerning the Yanomami Indians of Brazil, available online at: <http://www.cidh.org/annualrep/84.85eng/brazil7615.htm> **(Coursepack)**
- \* Case of Díaz Peña v. Venezuela, Preliminary Objection, Merits, Reparations & Costs, Judgment of the Court, Inter-Am. Ct. H.R. (ser. C) No. 244 (June 26, 2012). **(Coursepack)**
- \* Roseann M. Latore, Note, *Coming Out of the Dark: Achieving Justice for Victims of Human Rights Violations by South American Military Regimes*, 25 B.C. INT'L & COMP. L. REV. 419 (2002). **(Coursepack)**

### SUGGESTED:

- \* Cath Collins, *State Terror & the Law: The (Re)judicialization of Human Rights Accountability in Chile and El Salvador*, *LATIN AM. PERSP.*, September 2008, at 20. **(TWEN)**
- \* *Argentine Appeals Court Judgment on Human Rights Violations by Former Military Leaders*, 26 I.L.M. 331 (1987). **(TWEN)**
- \* Annual Reports of the Inter-American Court of Human Rights, available online at: <http://www.corteidh.or.cr/index.php/en/court-today/informes-anales>
- \* *2017 Annual Report of the Inter-American Commission on Human Rights*, available online at: <http://www.oas.org/en/iachr/docs/annual/2017/TOC.asp>
- \* OAS, Note 000125 from the Bolivarian Republic of Venezuela, announcing its decision to denounce the Inter-American Convention on Human Rights in accordance with Article 78 of the Convention (delivered Sept. 12, 2012), available online at: [http://www.oas.org/dil/Nota\\_Rep%C3%BAblica\\_Bolivariana\\_Venezuela\\_to\\_SG.English.pdf](http://www.oas.org/dil/Nota_Rep%C3%BAblica_Bolivariana_Venezuela_to_SG.English.pdf)
- \* UNITED NATIONS ECON. COMM'N FOR LATIN AMERICA & THE CARIBBEAN, *GUARANTEEING INDIGENOUS PEOPLE'S RIGHTS IN LATIN AMERICA: PROGRESS IN THE PAST DECADE & REMAINING CHALLENGES* (Nov. 2014), available online at: <https://www.cepal.org/en/publications/37051-guaranteeing-indigenous-peoples-rights-latin-america-progress-past-decade-and>
- \* Michael Dodson and Donald Jackson, *Horizontal Accountability in Transitional Democracies: The Human Rights Ombudsman in El Salvador and Guatemala*, 46 *LATIN AM. POL. & SOC'Y* 1 (2004). **(TWEN)**
- \* Rebecca Evans, *Pinochet in London--Pinochet in Chile: International and Domestic Politics in Human Rights Policy*, 28 *HUM. RTS. Q.* 207-244, (2006). **(TWEN)**
- \* Berta Esperanza Hernández-Truyol, *Women's Rights as Human Rights—Rules, Realities and the Role of Culture: A Formula for Reform*, 21 *BROOK. J. INT'L L.* 605 (1996). **(TWEN)**

\* Regional reports of Human Rights Watch, *available online at:*  
[http://www.hrw.org/doc/?t=americas\\_pub](http://www.hrw.org/doc/?t=americas_pub)

## **Tuesday, February 12<sup>th</sup>: Class 6**

### **US Law relevant to Human Rights in the Americas:**

- \* Alien Tort Claims Act (ATCA), 28 U.S.C. § 1350. **(Coursepack)**
- \* Torture Victims Protection Act, Publ. L. 102-256, 106 Stat. 73 (1992). **(Coursepack)**
- \* *Filartiga v. Pena-Irala*, 630 F.2d 876 (2d Cir. 1980). **(Coursepack)**
- \* *Kiobel v. Royal Dutch Petroleum Co.*, 569 U.S. 108 (2013). **(Coursepack)**
- \* *Sosa v. Alvarez-Machain*, 542 U.S. 692 (2004). **(Coursepack)**
- \* *Cardona v. Chiquita Brands Int'l, Inc.*, 760 F.3d 1185 (11<sup>th</sup> Cir. 2014). **(Coursepack)**

### **SUGGESTED:**

- \* *Chevron Corp. v. Donziger*, 833 F.3d 74 (2d Cir. 2016).
- \* *Daimler AG v. Bauman*, 571 U.S. \_\_\_, 134 S.Ct. 746 (2014).
- \* *Cabello v. Fernandez-Larios*, 402 F.3d 1148 (11th Cir. 2005).
- \* *Ford ex rel. Estate of Ford v. Garcia*, 289 F.3d 1283 (11th Cir. 2002).
- \* *Flores v. Southern Peru Copper Corp.*, 414 F.3d 233 (2d Cir. 2003).
- \* Ranon Altman, *Extraterritorial Application of the Alien Tort Statute after Kiobel*, 24 U. MIAMI BUS. L. REV. 111 (2016).
- \* Carolyn A. D'Amore, Note, *Sosa v. Alvarez-Machain and the Alien Tort Statute: How Wide Has the Door to Human Rights Litigation Been Left Open?*, 39 AKRON L. REV. 593 (2006). **(TWEN)**

## **-Property Rights-**

### **Tuesday, February 19<sup>th</sup>: Class 7**

- \* HERNANDO DE SOTO, *THE OTHER PATH: THE INVISIBLE REVOLUTION IN THE THIRD WORLD* 3-57 (June Abbott, trans., 1989), Chapters 1 & 2. **(Coursepack)**
- \* HERNANDO DE SOTO, *THE MYSTERY OF CAPITAL: WHY CAPITALISM TRIUMPHS IN THE WEST AND FAILS EVERYWHERE ELSE* 39-67 (2000), Chapter 3. **(Coursepack)**

\* Thomas T. Ankersen & Thomas Ruppert, *Tierra y Libertad: The Social Function Doctrine and Land Reform in Latin America*, 19 TUL. ENVTL. L.J. 69 (2006). **(TWEN)**

\* Richard Posner, *Creating a Framework for Economic Development*, 13 WORLD BANK RES. OBSERVER 1 (1998). **(Coursepack)**

\* Case of Kichwa Indigenous People of Sarayaku v. Ecuador, Judgment of the Court, Inter-Am. Ct. H.R. (ser. C) No. 245 (June 27, 2012). **(Coursepack)**

\* Antonio R. Zamora, *New Opportunities for Business & Investment by Americans in Cuba under the Economic Opening*, 24 CUBA IN TRANSITION, ASCE 139 (2014), available online at: <http://www.ascecuba.org/c/wp-content/uploads/2015/01/v24-zamora.pdf>.

### SUGGESTED:

\* Carmen Diana Deere, *Married Women's Property Rights as Human Rights: The Latin American Contribution*, 17 FLA. J. INT'L L. 101 (2005). **(TWEN)**

\* RAPPORTEUR ON THE RIGHTS OF INDIGENOUS PEOPLES, INDIGENOUS & TRIBAL PEOPLES' RIGHTS OVER THEIR ANCESTRAL LANDS & NATURAL RESOURCES: NORMS & JURISPRUDENCE OF THE INTER-AMERICAN HUMAN RIGHTS SYSTEM (Inter-American Comm'n on Human Rights, 2010), available online at: <http://cidh.org/countryrep/Indigenous-Lands09/Ancstral-Lands.ENG.pdf>.

\* Jon Mills & Daniel Ryan Koslosky, *Whither Communism: A Comparative Perspective on Constitutionalism in a Postsocialist Cuba*, GEO. WASH. INT'L L. REV. (2008-09).

\* SEIZING OPPORTUNITY THROUGH LICENSE COMPLIANCE: BSA GLOBAL SOFTWARE SURVEY (May 2016), available online at: <http://globalstudy.bsa.org/2016/index.html>.

## **-Latin American Economics-**

### **Tuesday, February 26<sup>th</sup>: Class 8**

\* Rudiger Dornbusch & Sebastian Edwards, *The Macroeconomics of Populism*, in THE MACROECONOMICS OF POPULISM IN LATIN AMERICA (Rudiger Dornbusch & Sebastian Edwards, eds., 1991). **(TWEN)**

\* VICTOR BULMER-THOMAS, THE ECONOMIC HISTORY OF LATIN AMERICA SINCE INDEPENDENCE (1995, 2003), Chapter 11: *Debt, adjustment, and the shift to a new paradigm*. **(Coursepack)**

\* ROBERT GWYNNE & CRISTÓBAL KAY, LATIN AMERICA TRANSFORMED: GLOBALIZATION AND MODERNITY 3-21 (2d ed., 2004), ch. 1: *Globalization and neoliberalism*. **(Coursepack)**

\* BRIAN GENDREAU & TIMOTHY MCLENDON, 2019 LATIN AMERICAN BUSINESS ENVIRONMENT REPORT (2019), available online at: <http://www.latam.ufl.edu/research--training/la-business-environment/publications/>

## SUGGESTED:

\* ORGANISATION FOR ECONOMIC CO-OPERATION & DEVELOPMENT, LATIN AMERICAN ECONOMIC OUTLOOK 2018 (OECD Dev. Ctr., 2018), available online at: <http://www.latameconomy.org/EconomicOutlook/>

Jorge G. Castañeda, *Latin Americans Stand Up to Corruption: The Silver Lining in a Spate of Scandals*, FOREIGN AFFAIRS (Jan./Feb. 2016). (TWEN)

\* Julia Sweig, *Cuba After Communism: The Economic Reforms That Are Transforming the Island*, FOREIGN AFFAIRS (July/August 2013), available online at: <http://www.cfr.org/cuba/cuba-after-communism/p30991->

\* Ben Ross Schneider, *Hierarchical Market Economies and Varieties of Capitalism in Latin America*, 41 J. LAT. AM. STUD. 553 (2009). (TWEN)

\* Oscar Arias, *Culture Matters: The Real Obstacles to Latin American Development*, FOREIGN AFFAIRS (Jan./Feb. 2011) (TWEN)

\* *Latin America's disappointing economic growth*, THE ECONOMIST, Jul. 20, 2017, available online at: <https://www.economist.com/news/americas/21725344-commodity-hangover-has-been-compounded-political-uncertainty-latin-americas-disappointing>

\* *Latin America's economies: Grey days*, THE ECONOMIST, Oct. 10, 2015, available online at: <http://www.economist.com/news/finance-and-economics/21672328-slow-road-recovery-grey-days>

\* *Latin America's geoeconomics: A continental divide*, THE ECONOMIST, May 18, 2014, available online at: <http://www.economist.com/news/americas/21578056-region-falling-behind-two-alternative-blocks-market-led-pacific-alliance-and>

## **Tuesday, March 5<sup>th</sup>: Spring Break – No Class**

### **-Trade and Commercial Development-**

#### **Tuesday, March 12<sup>th</sup>: Class 9**

Materials dealing with the United States-Mexico-Canada Agreement (USMCA) to be assigned.

\* Foreign Corrupt Practices Act, codified at 15 U.S.C. §§ 78dd-1, 78dd-2 & 78dd-3 (Coursepack)

\* *Lamb v. Phillip Morris, Inc.*, 915 F.2d 1024 (6<sup>th</sup> Cir. 1990). (Coursepack)

NAFTA – trucking cases

\* *In the Matter of Cross-Border Trucking Services*, Case No. USA-MEX-98-2008-01 (NAFTA Arbitral Panel, 2001). (Coursepack)

\* *United Mexican States v. Metalclad Corp., In the Matter of Arbitration Pursuant to Chapter 11 of NAFTA*, Reasons for Judgment of the Honourable Mr. Justice Tysoe (B.C. Sup. Ct., May 2, 2001). (Coursepack)

\* Ana Swanson & Kevin Granville, *What Would Happen if the U.S. Withdrew From NAFTA*, N.Y. TIMES, Oct. 13, 2017, at B6, available online at: <https://www.nytimes.com/2017/10/12/business/economy/what-would-happen-if-the-us-withdrew-from-nafta.html>

#### SUGGESTED:

\* Claire Felter & Danielle Renwick, *Mercosur: South America's Fractious Trade Bloc*, (CFR Backgrounder, Sept. 10, 2018), available online at: <https://www.cfr.org/backgrounder/mercosur-south-americas-fractious-trade-bloc>

\* Andres Oppenheimer, *While Pacific Alliance thrives, Mercosur withers*, ORLANDO SENTINEL, May 28, 2013, available online at: [http://articles.orlandosentinel.com/2013-05-28/news/andres-oppenheimer-052813-20130528\\_1\\_mercosur-pacific-alliance-president-cristina-fernandez](http://articles.orlandosentinel.com/2013-05-28/news/andres-oppenheimer-052813-20130528_1_mercosur-pacific-alliance-president-cristina-fernandez)

\* *Preparing for the worst: On NAFTA, America, Canada and Mexico are miles apart*, THE ECONOMIST, Oct. 21, 2017, available online at: <https://www.economist.com/news/finance-and-economics/21730420-american-demands-are-so-extreme-some-suspect-it-not-wanting-deal-all>

\* Samuel A. Arieti, *The Role of Mercosur as a Vehicle For Latin American Integration*, 6 CHI. J. INT'L L. 761 (2006). (TWEN)

\* Jorge G. Castañeda, *NAFTA's Mixed Record: The View From Mexico*, FOREIGN AFFAIRS (Jan./Feb. 2014). (TWEN)

\* James F. Hollifield & Thomas Osang, *Trade and Migration in North America: The Role of NAFTA*, 11 L. & BUS. REV. AM. 327 (2005). (TWEN)

\* Juan Carlos Moreno-Brid et al., *NAFTA and the Mexican Economy: A Look Back on the Ten-Year Relationship*, 30 N.C. J. INT'L L. & COM. REG. 997 (2005). (TWEN)

\* Christopher Rudolph, *International Migration and Homeland Security: Coordination and Collaboration in North America*, 11 L. & BUS. REV. AM. 433 (2005). (TWEN)

\* Organization of American States Foreign Trade Information System, available online at: <http://www.sice.oas.org/>

\* *There has never been a better time for Latin American integration*, THE ECONOMIST, Mar. 23, 2017, available online at: <https://www.economist.com/news/americas/21719478-fractured-region-needs-pull-together-trade-there-has-never-been-better-time-latin>

## **-U.S. Policy in the Region-**

### **Tuesday, March 19<sup>th</sup>: Class 10**

- \* Gordon Connell-Smith, *Latin America in the Foreign Relations of the United States*, 8 J. LAT. AM. STUD. 137 (1976). (TWEN)
- \* Nicola Phillips, *U.S. Power and the Politics of Economic Governance in the Americas*, 47 LATIN AM. POL. & SOC'Y 1 (2005). (Coursepack)
- \* Myles Frechette, *Rethinking Latin America: A New Approach in United States Foreign Policy*, 28 HARV. INT'L REV., Summer 2006, at 28. (TWEN)
- \* Mark B. Baker, *No Country Left Behind: The Exporting of U.S. Legal Norms under the Guise of Economic Integration*, 19 EMORY INT'L L. REV. 1321 (2005). (TWEN)
- \* Jon Lee Anderson, *A New Cuba*, THE NEW YORKER, Oct. 3, 2016, available online at: <http://www.newyorker.com/magazine/2016/10/03/a-new-cuba>
- \* *The Post-Imperial Void: The United States' relationship with Latin America suffers from a policy vacuum*, THE ECONOMIST, May 10, 2014, available online at: <http://www.economist.com/news/americas/21601830-united-states-relationship-latin-america-suffers-policy-vacuum-post-imperial>
- \* Andres Oppenheimer, *Trump needs positive agenda for Latin America or risks antagonizing the region*, MIAMI HERALD, Nov. 26, 2016, available online at: <http://www.miamiherald.com/news/local/news-columns-blogs/andres-oppenheimer/article117271903.html>

### **SUGGESTED:**

- \* STEPHEN E. SCHLESINGER & STEPHEN KINZER, BITTER FRUIT: THE STORY OF THE AMERICAN COUP IN GUATEMALA (1999), Introduction and Chapter 5, Overlord: The United Fruit Company. (TWEN)
- \* BETTER THAN YOU THINK: REFRAMING INTER-AMERICAN RELATIONS (Brookings Inst., Mar. 2015), available online at: <https://www.brookings.edu/research/better-than-you-think-reframing-inter-american-relations/>
- \* Mark Weisbrot, *Obama's Latin America Policy: Continuity Without Change*, 38 LAT. AM. PERSP. 63 (2012). (TWEN)
- \* William M. LeoGrande, *A Poverty of Imagination: George W. Bush's policy in Latin America*, 39 J. LAT. AM. STUD. 355 (2007). (TWEN)
- \* Russell Crandall, *The Post-American Hemisphere: Power & Politics in an Autonomous Latin America*, FOREIGN AFFAIRS (May/June 2011). (TWEN)
- \* Jon Lee Anderson, *How Mexico Deals with Trump*, THE NEW YORKER, Oct. 9, 2017, available online at: <https://www.newyorker.com/magazine/2017/10/09/mexico-in-the-age-of-trump>

\* INTER-AMERICAN DEVELOPMENT BANK, MULTILATERAL INVESTMENT FUND, REMITTANCES TO LATIN AMERICA & THE CARIBBEAN IN 2013: STILL BELOW PRE-CRISIS LEVELS (2014), *available online at:* <http://www.fomin.org/en-us/HOME/Knowledge/publications/idPublication/78709.aspx>.

\* MICHAEL SHIFTER, COUNTERING CRIMINAL VIOLENCE IN CENTRAL AMERICA (CFR Special Rep. No. 64, April 2012), *available online at:* <http://www.cfr.org/latin-america-and-the-caribbean/countering-criminal-violence-central-america/p27740>

\* Jorge G. Castañeda, *Morning in Latin America: The Chance for a New Beginning*, FOREIGN AFFAIRS (Sept./Oct. 2008). (TWEN)

\* Claire Felter & Danielle Renwick, *U.S.-Cuba Relations*, (CFR Backgrounder, Sept. 29, 2017), *available online at:* <https://www.cfr.org/backgrounder/us-cuba-relations>

### **Tuesday, March 26<sup>th</sup>: Class 11**

Film in class.

### **Tuesday, April 2<sup>nd</sup>: Class 12**

### **Tuesday, April 9<sup>th</sup>: Class 13**

### **Tuesday, April 16<sup>th</sup>: Class 14**

Student Presentations in class

