Law & Policy in the Americas Seminar
LAW 6936 Section 0345/LAS 6938 Section 2E42
Spring 2017
Instructor: Timothy McLendon
Mondays, 2:30 – 4:10 PM
Holland Hall, Room 354

SYLLABUS

Professor: Timothy McLendon
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Office Hours: Mondays, 9.30-10.30am
Wednesdays, 9.00-10.00am
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.

**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%).

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The law school grading policy is available at: [http://www.law.ufl.edu/students/policies.shtm#9](http://www.law.ufl.edu/students/policies.shtm#9).

**Important Note about the 3-Credit LAS course:**
The 3-credit LAS version of this course includes all of the same requirements as the 2-credit LAW version of the course, with the following additional requirements:

1. **Mandatory tutorial on legal research.** This will take place at a time to be determined, with a series of 2-3 follow-up meetings focusing on international legal research, using LEXIS, internet sources, and resources available through the Legal Information Centre.

2. **Additional writing requirement.** This may be fulfilled either through expansion of the seminar paper from 25 pages to 35-40 pages (exclusive of footnotes or references). OR by the submission of a second 15-page essay focusing on some other area of law or policy relevant to Latin America. (In the event a 2nd paper is submitted, the 2nd paper will count for 20% of the final grade, while the main seminar paper will count for 40% of the final grade.)

3. **Class discussion requirement.** LAS students will identify one day of the syllabus from week 3 forward in which they will lead class discussion for one hour of the seminar.

**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.
Seminar Paper Deadlines:
1. Choice of Topic – Class 4, 6. February
2. Outline & initial Bibliography – Class 7, 27. February
3. Initial Draft – Class 10, 27. March
4. Completed Paper – Thursday, 27. April (last day of law school reading period)

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

-Introduction-

Monday, January 9th: Class 1


* 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)


SUGGESTED:

* LATINOBARÓMETRO REPORT 2016 (2016). (TWEN)


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

**Monday, January 16th: Martin Luther King Holiday – No Class**

**Monday, January 23rd: Class 2**


**Internationalism:**

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


**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](http://www.oas.org/juridico/English/ga-Res98/Eres1591.htm)  *(Coursepack)*


* Statute of the Inter-American Court on Human Rights, available online at: [http://www.corteidh.or.cr/estatuto.cfm](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](http://www.cidh.oas.org/Basicos/English/Basic17.Statute%20of%20the%20Commission.htm)  *(Coursepack)*

* 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](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)

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**-Political-**

**Monday, January 30th: Class 3**


SUGGESTED:


  Ch. 1: An Introduction to Latin America in the 21st Century
  Ch. 2: Early History
  Ch. 3: Democracy, Dictators and Tío Sam: A Historical Overview from Independence to the Present Day


-Latin American Economics-

**Monday, February 6th: Class 4**


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


SUGGESTED:


* 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)


-Judicial & Legal-

Monday, February 13th: Class 5

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


**SUGGESTED:**


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


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


**-Human Rights-**

**Monday, February 20th: Class 6**

(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)

(Coursepack)

(Coursepack)

SUGGESTED:

(TWEN)

(TWEN)

* Annual Reports of the Inter-American Court of Human Rights, available online at:  

* 2015 Annual Report of the Inter-American Commission on Human Rights, available online at:  
http://www.oas.org/en/iachr/reports/annual.asp

* OAS, Note 000125 from the Bolivarian Republic of Venezuela, announcing its decision to denounced 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

(TWEN)

(TWEN)

(TWEN)

* Regional reports of Human Rights Watch, available online at:  
http://www.hrw.org/doc/?t=americas_pub
Monday, February 27th: Class 7

US Law relevant to Human Rights in the Americas:

* Alien Tort Claims Act (ATCA), 28 U.S.C. § 1350.  (Coursepack)


* Filartiga v. Pena-Irala, 630 F.2d 876 (2d Cir. 1980).  (Coursepack)


* Cardona v. Chiquita Brands Int’l, Inc., 760 F.3d 1185 (11th Cir. 2014).  (Coursepack)

SUGGESTED:

* Chevron Corp. v. Donziger, 833 F.3d 74 (2d Cir. 2016).


* 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).


Monday, March 6th: Spring Break – No Class

-Property Rights-

Monday, March 13th: Class 8

* HERNANDO DE SOTO, THE OTHER PATH: THE INVISIBLE REVOLUTION IN THE THIRD WORLD 3-57(June Abbott, trans., 1989), Chapters 1 & 2.  (Coursepack)


SUGGESTED:


-Trade and Commercial Development-

**Monday, March 20th: Class 9**


* Lamb v. Phillip Morris, Inc., 915 F.2d 1024 (6th 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)


SUGGESTED:


* Brazil finds a role for Mercosur, LATIN AM. BRAZIL & SOUTHERN CONE REP., Aug. 2009. (TWEN)


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


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


-U.S. Policy in the Region-

**Monday, March 27th: Class 10**


SUGGESTED:


**Monday, April 3rd: Class 11**

Film in class.
Monday, April 10th: Class 12

Monday, April 17th: Class 13

Monday, April 24th: Class 14

Student Presentations in class