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  
Office: 230 Bruton-Geer Hall (Levin College of Law)  
Telephone: (352) 273-0835  
E-mail: mclendon@law.ufl.edu  

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

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<th>A</th>
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<th>B+</th>
<th>B</th>
<th>B-</th>
<th>C+</th>
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The law school grading policy is available at: [http://www.law.ufl.edu/students/policies.shtml#9](http://www.law.ufl.edu/students/policies.shtml#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 2\textsuperscript{nd} paper is submitted, the 2\textsuperscript{nd} 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.

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:**
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](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/](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](http://www.dso.ufl.edu/students.php).

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**-Introduction-**

**Tuesday, January 8th: 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](#))


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**SUGGESTED:**


* 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)


* 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/


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

**Tuesday, January 15th: Class 2**

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.cjdh.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 (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.cjdh.oas.org/Basicos/English/Basic17.Statute%20of%20the%20Commission.htm (Coursepack)


* Andres Oppenheimer, Caribbean countries should be ashamed of supporting Venezuela at OAS meeting, Miami Herald, June 21, 2017, available online at:

* 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
-Political-

**Tuesday, January 22nd: 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


* Marina Lopes & Nick Miroff, A corruption scandal wrecked Brazil’s economy. Now, workers face the consequences, WASHI. 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

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**-Judicial & Legal-**

**Tuesday, January 29th: Class 4**

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


**SUGGESTED:**


**-Human Rights-**

**Tuesday, February 5th: Class 5**


* 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)


SUGGESTED:


* 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_Republica_Bolivariana_Venezuela_to_SG.English.pdf


* Regional reports of Human Rights Watch, available online at: http://www.hrw.org/doc/?t=americas_pub

**Tuesday, February 12th: Class 6**

**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).


-Property Rights-

**Tuesday, February 19th: 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)


**SUGGESTED:**


-Latin American Economics-

**Tuesday, February 26**: Class 8


**SUGGESTED:**


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)


Tuesday, March 5th: Spring Break – No Class

-Trade and Commercial Development-

Tuesday, March 12th: Class 9

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


* 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:

* 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


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


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

**Tuesday, March 19th: Class 10**


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)


* 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 26th: Class 11

Film in class.

Tuesday, April 2nd: Class 12

Tuesday, April 9th: Class 13

Tuesday, April 16th: Class 14

Student Presentations in class