Course Objectives

Latin America is depicted in the movies and some studies as if it were a unified region. Besides other misconceptions about this world region, there is a perception of Latin America and its peoples as sharing the same identity and the same history. In the United States, people from Latin America are called Latinos, Spanish, Hispanic, regardless of the particular place from which they come, and the very same word LATIN AMERICA conflates the different identities and stories existing in this region. However, language, law, and colonial relations are similar, and they are important to understand what it is this place we call Latin America. By analyzing Latin American law we can understand many of the colonial relations still existing in the region, the crisis of democracy, the particular relationship with the United States, problems like the drug trade and, currently, the effects of globalization in these countries’ political and economic systems. In this course we will study different aspects of Law in Latin America, focusing on contemporary problems in the region. We will also analyze some aspects of these problems and we will read articles that show the connections between law and political, economic, and sociological aspects of the region.

Make sure you understand the requirements of this course. If you are not a hard worker, this is certainly not a class for you. In order to learn more about all the topics of the course, we will read a number of articles, academic and non academic, and I expect you to be prepared to discuss them in class. Feel free to come to my office hours to discuss any topic related to the readings and class in general.

Readings

All the readings for this class are posted on the web. I expect you to download and print them and bring them to class. Make sure you have read the materials before coming to class; otherwise you are not going to be an active member of this community.

Class Participation

A small part of the class will be lecture, but most of the times you will be asked to intervene with your ideas and opinions. If you have not read the materials or if you are unwilling to intervene in class, it will affect your participation grade. You should come to class prepared to ask questions about what you have read, to evaluate the material, and to express your own reasoned views on controversial issues. Your participation should demonstrate that you have carefully read the material and thought about its implications.
Remember that you are reading academic texts that are the result of research. Read the authors critically, do not accept everything they say just because it is in accord with your personal opinion, but do not reject them because they do not share your views on one particular topic. Feel free to say whatever you think, but do it in a respectful and rational manner. Expect to be part of a community of discussion and bring arguments to support your views. Participation in class will be worth 15% of your final grade. If you do not come to class you cannot participate, no matter the reason for your absence you cannot make up participation in class. If you find it difficult to get a word in or if you are not used to participating, talk to the instructor. If you tend to talk a lot, remember to give others a chance. Participation is important, but quantity is less important than quality. Regular attendance with minimal participation will not be considered participation at all. If you cannot come regularly, this is not a class for you.

During the class I will ask a question related to the readings. You have to fill a file card AND answer correctly the question in order to get the credit for participation in that session. You need to bring a file card for every class in order to be ready to answer the question related to the readings.

Repeated absence (10% of the total) lowers your participation grade.

Frequent absence can result in a failing grade for the course, regardless of your performance on other assignments.

WebCT Participation

We will use the WebCT. In order to use this tool you need to have an OIT account. I will ask a question on the web board and I expect people to answer it. I will not consider participation on the Web that is done after the session the reading will be analyzed. Check WebCT regularly. This means that you cannot wait until the end of the course to participate on the web. Remember that what matters is quality and not quantity. Comments that are unrelated to the class or that do not reflect a thoughtful reading of the texts will not be taken into account.

Paper

For the paper I will ask you a question that involves a careful analysis of at least five readings of this class. You need to answer the question and not just give your personal opinion. However, you have to write it as a paper where you are demonstrating a point based on the analysis of the readings. These are some guidelines for the paper. More detailed rules will be distributed by the third week of this course.

1. The paper has to have 5 pages, double space, and font 12.
2. State your thesis at the beginning of the paper. It could be something like this:

   “In this paper I want to show that indigenous peoples are becoming central actors in the drafting of constitutions in Latin America”.

3. You have to show arguments in favor of your position. It could go like this:
“According to some authors (Maradona, 1986; Kempes, 1978; Rivelino, 1970) indigenous peoples participated in the drafting of the Panamanian constitution and this shows a general trend in Latin America because…….”

4. You have to show arguments against your position. It goes like this:

“Other authors (Valera, 1930; Rumenigge, 1982; Salas, 2002; Tevez, 2005) are of the opinion that this participation is not important. They show this when they say…..

5. You have to criticize both points of views.

“Valera’s analysis is flawed because….but in any case he makes a strong case because…..On the other hand, Teves’s study of the indigenous communities of Patagonia reached the conclusion that ….. because…..

6. Based on this analysis you have to reach a conclusion, stating clearly whether your argument has been proven or not.

7. You can use for your paper the readings for the class, other readings, and statistics from the Department of Justice. At the end of the paper you have to present the bibliography you used for your paper. You can also use newspapers from Latin America where an interesting problem is being analyzed.

For those of you who read Spanish these are important sources:

www.eltiempo.com
www.semana.com.co
www.lanacion.com
www.elcomercio.com
www.cholonautas.edu.pe

There are some sources in English:

www.buenosairesherald.com
www.theeconomist.com

8. The paper is due **ON WEDNESDAY APRIL 26th**. I will collect them at the beginning of class. Those students that do not hand in their paper at the beginning of that class will lose 3 points out of 20 in their final grade. Those who do not hand in their paper by 5:00 p.m. of that day will have a **zero grade** in this paper.

**DO NOT EMAIL YOUR PAPER OR LEAVE IT IN MY MAIL BOX. I WILL ONLY GRADE THOSE PAPERS THAT WERE HANDED IN DURING THE CLASS OR WERE GIVEN TO ME IN MY OFFICE BEFORE 5:00 P.M. OF APRIL 26th.**
Exam

There will be three quizzes that will examine your understanding of the materials for this class. Each quiz is worth 10% of the final grade. The primary focus is analysis, not memorization. We will discuss details and possible exam formats in class.

Presentation

Each student is in charge of leading the discussion in one of the sessions of this semester. You have to read the material for that class and the additional readings I will give you when we meet to discuss your presentation. You are not allowed to lead the discussion without talking with me first and without previously giving me a short paper (4 pages) where you summarize your presentation and your analysis of the readings used for that session. Your final paper has to be based on a different topic from the one used for your presentation. The presentation and the short paper are worth 20% of your final grade.

Grading

1. Three quizzes that will cover the materials of the class: 30%
2. Participation 15%
3. WebCT Participation 15%
4. Paper 20%
5. Presentation 20%

Course Outline

Session 1. Introduction.

In this class we will discuss the meaning of law in Latin America. We will also discuss the idea of Latin America, and its connections to the United States.

Wednesday February 1st.

Session 2. The idea of Latin America

In this class we will discuss the idea of Latin America and its position in the world system. Concepts like modernity and the colonial difference will be explained in order to understand some of the current problems of the region. What does it mean to be Latin America? What is Latin America? What about Indo America or Our America? Why we do not call it America?
Monday February 6th. Film.

Wednesday February 8th. Discussion on the following text:


**Session 3. The Spanish Conquest and the Debate about Slavery**

  Modernity begins in Latin America with the Spanish conquest. Was it legal? Why indigenous peoples were enslaved and then considered free men? What happened to people from Africa? How was their enslavement justified?

Monday February 13th. Discussion on the following text:


Wednesday February 15th. Discussion on the following text:


**Session 4. The Constitution of Latin American States and Law.**

  With the movement for independence in the 19th century, Latin American countries became new nations. What was the role of the law in the constitution of those nations? What is Latin American constitutionalism? Is the Latin American political system like or unlike the American one?

Monday February 20th. President’s Day.

Tuesday February 21st. Discussion on the following text:


Wednesday February 22nd. Film.

**Session 5. The Developmental State.**

  As Dussel puts it, modernity is associated to an idea of progress. From the 1950s this idea took the shape of development. What is development? How is the state and the law transformed by this idea? What is developmentalism and dependency theory? How is that related to the guerrilla movements of the 1960s? What kind of development has been established since the 1980s?
Monday February 27th. Discussion on the following text:


Wednesday March 1st. Discussion on the following text:


**Session 6. Authoritarian Rule in Latin America**

In the 1970s with the first wave of neoliberalism in Latin America, states developed an ideology destined to control political and social opposition. They were fighting guerrillas in the middle of what was later called a “dirty war”. The state was transformed and criminal law developed what is known as “criminology of terror”.

Monday March 6th. Film.

Wednesday March 8th. Discussion on the following text:


**Session 7. Authoritarian Rule in Latin America.**

Monday March 13th. Discussion on the following texts:


Wednesday March 15th NO CLASS.

**Session 8. Guerrillas, war and Law**

In this session we will see the history of some guerrilla movements and their challenge to the law and the state.

Monday March 27th. Discussion on the following text:

Wednesday March 29th. Discussion on the following text:


Session 9. United States and Latin America.

United States has determined the agenda of Latin American countries. In the 1970s it set the agenda to pursue its cold war and its war against the internal enemies. Nowadays the war is on drugs and on terrorism. By doing so, it has brought about changes in the law in Latin America.

Monday April 3rd. Discussion on the following text:


Wednesday April 5th. Discussion on the following texts:

Erika Marquez & Farid Benavides. Law, Development and Neoliberalism: the case of the reform to the Colombian Criminal Justice System.

Session 10. Transition to Democracy.

During the 1970s, several countries of Latin America were under bloody dictatorships. In the 1980s most of them made the transition to democracy. What to do with the past abuses? What did they do to the dictators? Is it fair to punish someone for actions he committed but that were legal at the time? How have Latin America countries dealt with the transition? What is transitional justice?

Monday April 10th Film.

Wednesday April 12th. Discussion on the following text:

2nd Quiz


Colombia has been under “civil war” since the 1950s. Who are the forces at war? Why are they fighting? What happens with the recent peace process? What can we expect from that?
Monday April 17th. Patriot’s Day

Wednesday April 19th. Film.

Session 12. New Subjects: Gay Rights and Women Rights

New subjects have emerged in the Latin American public sphere. Who are they? What are their claims before the law? Do they have equal rights?

Monday April 24th


Wednesday April 26th

PAPER DUE TODAY APRIL 26th


Session 13. Indigenous Rights

Indigenous peoples were considered for a long time non subjects before the law. In the 1990s Latin American constitution introduce some rights for them as peoples. Why did this happen? What are indigenous rights? Are those the result of struggles or of the good will of some enlightened elites?

Monday May 1st. Discussion on the following text:


Wednesday May 3rd. Discussion on the following text:

Session 14th. Judicial Reform

Globalization is changing the whole world. In Latin America one of its expression is the changes in the judicial system. What is the relation between law, development, and globalization? Is this a good reform?

Monday May 8th. Discussion on the following text:


Wednesday May 10th. Discussion on the following text:


Session 15th. Latin America and Globalization

This is the last class of this course. We will analyze the relation between globalization and law and the reform of the state. By analyzing the Peruvian case we will see the limits of neoliberal reforms, and the need to re-politicize the political system.

Monday May 15th. Discussion on the following text:


Wednesday May 17th Final Class.

Third Quiz.