

**Gov 337M (38705)/LAS 337M (40157)**  
**Law and Democracy in Latin America**

Classroom: PAR 203, TTH 2:00-3:30

Professor: Daniel Brinks

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Office: MEZ 3.104

Office hours: Tu 11-12:30, W 9:30-11

**Subject matter of the course:** This course explores many of the challenges and improvements to the rule of law across Latin America, and their connection to democracy. We will begin by examining the relationship between law and democracy, then look at a series of issues that illustrate the strength or weakness of the rule of law in the region. Rather than focusing on one country at a time or a few countries in depth, we will use events and systems in various countries as illustrations of important themes. We will then look at the possible consequences of these challenges for democracy in the region, and possible solutions.

The readings are a collection of recent research on these issues and require the students to engage critically with the readings. We will test authors' claims against the evidence they present, challenge the logic of their arguments, and question their conclusions. To do this effectively, students must come to class prepared. We will use the quiz lotto (described below) to monitor and reward prepared class attendance.

By the end of the semester you will have acquired some basic information about Latin American legal systems, and some basic concepts about the different ways the law works in that part of the world. More importantly, however, you will have a greater understanding of what a robust democracy should look like, and where different countries fall short. You should be able to engage in a discussion about the role courts and laws do play, should play and can play in the (democratic) political systems of Latin America, and its potential for improvement. The various essays and the take home exam will help you to think about these issues and test how well you are acquiring the basic concepts and information needed.

**Evaluation:** Your grade in this course will be determined as follows:

15% each of the four essays due throughout the semester

10% your grade on the quiz lotteries

30% take home final (due Monday, December 12, 12:00 noon)

**The quiz lottery:** At the beginning of each class period, I will run the quiz lottery. The lottery generates random numbers between 0 and 10. If the last number is 4 or less, the quiz question will pop up, so that every class there is a 40% chance that your preparation will be tested.

The question is a single question meant to determine whether you have done the reading. The question should be fairly obvious if you have done the reading, but hard if you have not. If you are absent, you get a 0, if you are present but don't know the answer, you earn a 1, if you answer accurately, you get a 2. At the end of the semester I drop the lowest score and average the rest. The quiz lottery seeks to ensure that you come to class prepared. I use the quiz lottery for two reasons: Attendance is required and participation is expected, so they should be a part of your grade. In addition, the quiz lottery ensures that you do not fall too far behind in the readings.

**Required Books:**

- A Course Packet is available from Jenn's at 2200 Guadalupe. No books are required.

**Students with disabilities:** Students with disabilities may request appropriate academic accommodations from the Division of Diversity and Community Engagement, Services for Students with Disabilities, 471-6259, <http://www.utexas.edu/diversity/ddce/ssd/>

**Academic dishonesty:** This class is governed by the UT Honor Code, available at <http://registrar.utexas.edu/catalogs/gi09-10/ch01/index.html>.

**Accommodations for religious holidays:** By UT Austin policy, you must notify me of your pending absence at least fourteen days prior to the date of observance of a religious holy day. If you must miss a class, an examination, a work assignment, or a project in order to observe a religious holy day, you will be given an opportunity to complete the missed work within a reasonable time after the absence.

### Course schedule and readings

Date	Topic and readings
Aug 25	Introducing the course: What is democracy? Is the US a democracy?
Aug 30	<b>DEFINITIONS OF DEMOCRACY, OVERVIEW OF DEMOCRACY AND LAW, RULE OF LAW</b> Mainwaring and Pérez-Liñán, Chs. 3 (partial) and 8
Sep 1	<b>No class, instead we meet twice on Sept.6, at normal time and for the movie at 6:30. But read</b> Brinks forthcoming, “A tale of two cities” for a summary of the key issues in the RoL in LA today
Sep 6	<b>What is the rule of law; how is it related to democracy?</b> O’Donnell 2010, ch.5 <b>Watch Tropa de Elite, Wed 9/6, 6:00 to 8:30</b>
Sep 8 <b>Essay 1 due</b>	<b>Write and bring to class a brief essay on accountability and democracy/on law and democracy/on the state and democracy:</b> how does Tropa de Elite raise questions about accountability, effectiveness, rule of law and democracy? How does the elite squad’s own vision of their role raise those questions? Can you extend that to judges and other members of the legal system? Is the law an unalloyed good for democracy, or is there a danger in it too?
Sep 13	<b>WHAT EXPLAINS THE LEVELS OF RULE OF LAW WE SEE IN LA?</b> <b>International forces and institutional design?</b> Rodriguez Garavito 2010
Sep 15	<b>Culture?</b> Huneus, Couso and Sieder, and Domingo (from Cultures of Legality)
Sep 20	<b>Inequality?</b> Brinks & Botero, n.d.
Sep 22	<b>SUBSTANTIVE ISSUES: “It was the worst of times ...”</b> Bowden, two chapters on murder in Juarez (sicarios and police/army involvement)
Sep 27	<b>Causes of violent crime – Inequality?</b> Fajnzyblber, Lederman et al, Inequality and violent crime; Wim Savenije, Gang Violence in Central America
Sep 29 <b>Essay 2 due</b>	<b>Bus 174 (movie). Write a brief essay identifying what, in your view, are the key causes of the failure of the rule of law.</b> Does Bus 174 help you think about that? Where is inequality? Is there something else going on? Where is the state? How strong is the state? What about culture and institutional design?
Oct 4	<b>What works?</b> <b>Police reform and homicide rates:</b> WOLA report
Oct 6	<b>Reform and fear of crime:</b> Dammert and Malone 2006
Oct 11	<b>SUBSTANTIVE ISSUES: “... it was the best of times.” The new constitutionalism of Latin America and its causes</b> <b>Institutional changes and their origins:</b> Brinks and Blass, Determinants of judicial power (forthcoming)

Oct 13	<b>Why they work the way they do:</b> <b>Institutions and ideas:</b> Couso and Hilbink 2010
Oct 18	<b>Institutions and politics:</b> Brinks 2010 (“Faithful servants” from Rios-Figueroa and Helmke)
Oct 20	<b>Strategy and rationalism:</b> Rodriguez Raga 2010
Oct 25	<b>New Constitutionalism and Criminal Procedure reform:</b> Máximo Langer 2007
Oct 27	<b>We will watch “Presunto Culpable” in class – Note: please come five minutes early, and plan to leave ten minutes late, as the movie is 87 minutes, and we technically have only 75 minutes for class.</b>
Nov 1	<b>No class. Take the time to write</b> Essay 3: (a) Do you think the new effectiveness of courts we have seen so far is the result of cultural, institutional, or political changes? And, (b) do you think the institutional changes will be enough to change legal reality for all social groups, some social groups, no social groups? What does “Presunto Culpable” suggest about which reforms are needed and what are the limits of legal reform, if any?
<b>Essay 3 due</b>	
Nov 3	<b>Who is using the new courts?</b> Smulovitz 2010 (from Cultures of Legality)
Nov 8	<b>A prominent example: courts and the indigenous</b> Stavenhagen (history of indig struggle) (from Sieder, Multiculturalism ...)
Nov 10	Skjaevestad (the Mapuche in Chile and the courts) (from Sieder, Multiculturalism ...)
Nov 15	The Awas Tingni Note (Indigenous rights in Nicaragua; OAS and Interamerican Court involvement)
Nov 17	De la Peña (conflicting imperatives; Indig rts in Mexico and the tension between group and individual rights) (from Sieder, Multiculturalism ...)
Nov 22	<b>No class. Watch “Crude” at a time and place TBA. Take time to write</b> Essay 4:
<b>Essay 4 due</b>	What are the crucial factors that affect the chances of success for indigenous groups seeking to secure their rights through law and courts? If you were advising an indigenous group in Guatemala, what would be your advice? How does Crude confirm/contradict what we read in the articles?
Nov 24	<b>T-day break</b>
Nov 29	<b>Will it ever work?</b> Rodriguez Garavito (Tex L.Rev.)
Dec 2	<b>Last Class Day:</b> Promise and perils of the rule of law in Latin America. Pick up your take home exam, due back on our scheduled exam day (Monday, December 12, 12:00 noon).