Human Rights in Latin America

Tuesdays, 10.30-12.30
LAC Seminar Room

Course coordinators

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Human Rights has been a salient social, political, legal, economic, and cultural issue in the Americas since its so-called “discovery” or “conquest.” This lecture course takes an interdisciplinary approach to the historical legacy of human rights abuses, contemporary human rights challenges, and international, state and non-state actors’ responses to those abuses and challenges. Students are expected to attend lecture each week having read and digested the small number of required materials. They are also expected to go beyond the required readings to prepare for tutorials each term, prepare at least one essay to be critically assessed in the tutorials, and to act as a discussant for at least one other student’s essay in the tutorials.

Description
Lecture course with discussion and tutorials run by Professor Leigh A. Payne (LP) and Dr Francesca Lessa (FL).

Expectations
● Required readings for each week;
● Weekly two-hour class; one-hour lecture and one-hour tutorial with essay (see extended bibliography);
● Revision session and practice exam in TT.

Class Format
The lecture will be followed by a tutorial, with a short break in between. During each weekly tutorial, one student will prepare an essay of 2500-3000 words. The student should select the question in consultation with one of the tutors. The essay should include the required reading for the course as well as additional reading materials. The student will circulate the paper at least 48 hours in advance of the class session (no later than the previous Sunday). A student discussant will also be assigned and needs to come prepared to critique the essay. All other students are not required (but encouraged) to read the paper. They are required to participate in
the discussion about the paper based on their knowledge of the readings for that week.

The student author will summarize in no more than 10 minutes the arguments made in the paper while the discussant will offer in about 10 minutes a critique of the essay covering these aspects:

- identify the strong points and weak points in the essay
- provide suggestions for improvement
- lead a discussion that involves the entire class by asking three probing questions drawn from the paper or required readings.

The remaining 30-40 minutes will be an open discussion of the required materials, the lecture, and the essay with all students expected to take part.

1. **Course Overview by Week**

- 15 October: *Introduction to Human Rights in Latin America*
- 22 October: *Traditional Amnesty Response to Human Rights Violations: Brazil*
- 29 October: *Prosecuting Human Rights Abuses: Argentina & Uruguay*
- 5 November: *Discovering the Truth; Repairing Harm: Chile*
- 12 November: *Transitional Justice & Peace-building: Colombia & El Salvador*
- 19 November: *Inter-American System & Human Rights: Peru*
- 26 November: *New Challenges to Physical Integrity Rights: Mexico & Guatemala*
- 3 December: *Economic, Social, and Cultural Rights: Bolivia & Ecuador*

2. **Recommended texts**


- If you have never studied human rights issues in Latin America, the following book provides a good overview and introduction to key themes: Cardenas, Sonia, (2009) *Human Rights in Latin America: A Politics of Terror and Hope*, UPenn Press.

3. **Required Weekly Readings**

**Please note**
Readings marked with an * are available online as electronic journals or through Weblearn; all others are available at the LAC library as short loans.
Several basic questions motivate the study of human rights and relate directly to the Latin American experience: what are ‘human rights,’ where do they come from, and how and when are they protected. We will also examine different analytical approaches to human rights, identifying their strengths and weaknesses. Some of the questions we might consider for discussion are:

- Does a broad definition of human rights mean a wider set of protections?
- Does ratification of human rights conventions matter in terms of reducing human rights abuses?
- Is Latin America an ‘importer’ or ‘exporter’ of the human rights agenda?
- Can we meaningfully refer to ‘Latin American transitional justice’ or is there too much variation in how the countries of the region have dealt with their repressive past?

Readings
22 October - Traditional Amnesty Response to Human Rights Violations: Brazil

Since ancient times, amnesty has been the conventional response in the aftermath of transitions and human rights abuses. Despite this long practice, is amnesty an appropriate response to atrocities committed by governments? We will seek to understand the answer to this question by examining the survival of Brazil’s thirty-year-old Amnesty Law. It does not seem to appear to fit within the context of a powerful global accountability norm. Adopted in 1979, the Law continues to protect perpetrators of authoritarian state violence. Only in the last two years have some challenges to the Law emerged. The case of Brazil potentially challenges the power of the accountability norm. It suggests that the norm has not necessarily shifted states’ behaviour. Some states successfully resist pressure to hold perpetrators of past violence accountable, even when domestic human rights’ and victims’ groups pressure for change. It thus suggests that amnesty may prevail, in some cases, despite the accountability norm. In this class, we answer these key questions:

- How has Brazil managed to avoid accountability for the dictatorship’s human rights abuses?
- What are the prospects for justice in Brazil?
- How unique is Brazil’s amnesty process?
- How might the international human rights community respond to the persistence of amnesties in the age of accountability?
- Has Brazil fostered a ‘culture of impunity’ by failing to challenge the amnesty law?
- How has civil society in Brazil engaged with human rights issues following transition to democracy?

Readings
29 October - Prosecuting Human Rights Abuses: Argentina & Uruguay

Since the mid-1970s, a so-called “justice cascade,” that is to say rising numbers of prosecutions for past human rights violations has been unfolding - leading some scholars to talk of the age of accountability. Throughout the 1980s and 1990s, this prosecution preference was at the heart of the transitional justice literature and, despite the growing use of truth commissions and reparations policies, there remains an assumption that prosecutions are the best way to respond to atrocities. In this class, we will be exploring two countries on either side of the River Plate, both experiencing the rise of left-wing urban guerrilla movements during the Cold War, both facing military coups and subsequent repressive regimes, still showed dramatic differences in terms of the numbers and types of human rights violations and the strategies to address those past violations. Argentina led the way in the early 1980s by putting on trial the commanders of the military junta; Uruguay has on the other hand only begun prosecutions in the last decade. This leads us to explore the following sets of questions:

- What explains the different ways the two countries have addressed their violent pasts?
- Are prosecutions the appropriate response for dealing with human rights violations?
- What are the benefits and disadvantages of human rights trials?
- Does Operation Condor mark not only cooperation during the Southern Cone’s dictatorships, but also the possibility of cooperation in addressing the human rights abuses of those dictatorships?
- What are the challenges associated with attempting to prosecute crimes that have occurred almost four decades ago?

Readings
5 November: Discovering the Truth; Repairing Harm: Chile

Since the mid-1980s, truth commissions have proliferated particularly in the Americas and Africa; they can be seen as a “third way” between trials and blanket amnesty or national amnesia. Approximately forty commissions have been established throughout the world, from Chile and South Africa to Canada and Brazil most recently. In parallel to the justice cascade, thus a “truth cascade” has been occurring, with truth commissions being “fashionable” in times of transition. In coordination with truth commissions or independently, reparations programs have been adopted across the world, from Argentina, Brazil, and Colombia to Peru. The victims’ right to reparations is widely recognized in international law and reparations occupy a unique space among TJ measures, for recognizing individual suffering while also seeking to attain national and individual reconciliation. Chile has been a leader in both truth commissions – establishing three between 1990 and 2011 – and reparations, providing a comprehensive programme to victims. It is difficult to understand Chile today without considering the Pinochet dictatorship and its human rights abuses. Yet prior to the 1970s, Chile was viewed (along with Uruguay) as a stable democracy that respected political and civil rights. Today Chile is once again seen as a stellar example of a successful transition from authoritarian rule to democracy and respect for civil and political rights. This leads us to explore the following sets of questions:

● How have scholars explained the dramatic shifts in Chile’s respect for human rights?
● Do you consider the cause and type of human rights violations under the Pinochet regime to be the same or different from the experiences in other parts of the Southern Cone?
● To what degree would we consider Chile ‘an innovator’ in addressing past human rights violations?
● What are the benefits and disadvantages of truth commissions and reparations programs?
● Among the four TJ mechanisms explored so far, would you say you fall in the holistic approach to TJ or do you think restorative justice is most appropriate?

Readings
Because of its long-standing formal democracy and widespread human rights abuses, Colombia poses something of an enigma. It defies the notion that more democracy should mean more protection of human rights. In addition, Colombia has used some of the transitional justice tools, without ever experiencing a transition. The Central American countries, particularly El Salvador, could be viewed as cases of transitions from authoritarian rule and also as transitions from war. The peace agreements brokered in countries ended the civil war, but not the violence as they continue to experience high levels of gang-related violence. To get at these complexities, we ask:

- What explains the history of human rights violations in Colombia that sets it apart from the rest of the region?
- Can we attribute Colombia’s use of transitional justice mechanisms, as some have, to international pressure?
- Does Colombia provide a model for transitional justice in non-transitional states?
- What are the roots of human rights violations in Central America?
- Is the distinction between transitions from civil war and transitions from authoritarian rule meaningful for understanding past and contemporary human rights violations in Central America?
- Does the inadequate response to past violence explain the ongoing violence in El Salvador and Guatemala today?
- What is the debate over the international legitimacy of amnesty laws to resolve civil conflict in which human rights abuses occurred, and how does this debate apply to Guatemala and El Salvador?

Readings
19 November - Inter-American System & Human Rights: Peru

The American Declaration of The Rights and Duties of Man is perceived as one of the important documents in establishing universal human rights. In recent years, the Declaration has become more than a document; it has become a tool for change. The Inter-American Commission of Human Rights (IACHR) has used the Declaration to investigate abuses by Organization of American States member countries and to send these cases to the Inter-American Court of Human Rights (IACtHR). The Court has condemned those abuses and the amnesty laws that protect perpetrators. Some claim that challenges to amnesty laws and impunity in Latin America have moved the farthest as a result of the Inter-American System’s active role. Peru’s human rights organisations and civil society have been particularly skilled at turning to the regional system to bring to the fore the dominant impunity in the country; in particular, this resulted in the landmark sentence in 2001 in the Barrios Altos case, in which the Inter-American Court considered Peru’s amnesty laws to be incompatible with the countries human rights obligations. Moreover, the Court and the Commission have also played a key role in fostering accountability also for contemporary human rights abuses and have particularly being fundamental in cases of police violence, indigenous rights, and violence against women. In this session we will ask:

● What explains the unique role the Inter-American System has played in human rights compared to its counterpart in other regions?
● How effective is the Inter-American System in bringing change in human rights practices?
● Has the Inter-American System, at least with regard to human rights, shifted from one that reflects the views of a regional hegemon (the US) to one that acts independently of any member countries?
● What is the record of the Inter-American System in investigating “new human rights” abuses?
● What were the reverberations of the Barrios Altos sentence in the whole region?
● Why was Peru able to use the Inter-American system to challenge impunity? And why did other countries of the region not use this system as much?

Readings
While Latin America has been one of the main innovators in terms of developing and applying mechanisms of transitional justice in addressing past human rights violations, the contemporary situation of human rights abuses calls into question whether transitional justice has been able to prevent the occurrence of new abuses. In this class, we particularly focus on what have been called as physical integrity rights, that is to say the right to life, the prohibition of torture, right not to be subject to extrajudicial executions, and right to justice remedies when such violations take place. Although many countries no longer are subjected to military rule and abuses by the armed forces, several other forms of human rights abuses have become frequent in this region at present. In particular, security forces – especially the police – are often responsible for extrajudicial executions and “iron fist” (mano dura) responses to crime, particularly targeting the poor and marginalised sectors of society. Moreover, women have been particularly suffering forms of abuses that target them in particular, such as domestic violence and femicide, such as in Guatemala and in the well-known case of Ciudad Juarez in Mexico. Moreover, in the latter case, over the past few years there has been extreme rise of human rights abuses being perpetrated in the context of the war against drugs, amounting according to recent statistics to over 50,000 deaths. In this class, we will be exploring the following questions:

- Do current human rights abuses in Latin America reflect a legacy of the authoritarian past or a new set of human rights concerns?
- To what extent could one explain the post-authoritarian period high levels of extra-judicial killings and femicide in Guatemala based on the legacy of the authoritarian past?
- Does the inadequate response to past violence explain the ongoing violence in Mexico and Guatemala today?
- Would successful prosecutions change the culture of impunity in Central America?
- Are there any continuities in terms of the actors perpetrating human rights violations? Or do we see new actors becoming involved in committing human rights abuses?

**Readings**

The grave violations of physical integrity rights in Latin America has sometimes led to the failure to consider other types of human rights violations and their need for remedy. In this class we will look at economic, social, and cultural rights and the links among them. We will consider, for example, how poor environmental practices by extractive and other industries, privatisation of public goods such as water, and development models that encourage expansion into rural communities has affected the health and livelihood of workers, surrounding communities, and indigenous peoples. We will explore the following questions:

- When are environmental and natural resources concerns also human rights concerns?
- What strategies exist for indigenous, poor, and marginalised communities to defend themselves against economic, social, and cultural rights abuses?
- Is a human rights framework optimal for naming, shaming, and blaming strategies?
- Do these kinds of human rights violations demand new models of political action?

5. On Ecuador, consult the following materials
   *Pueblo Indígena Kichwa de Sarayaku vs. Ecuador - summary document;
   *Amnesty International documentary: “Children of the Jaguar”
   [http://www.youtube.com/watch?v=Ma1QSmtuilQ&feature=youtu.be](http://www.youtube.com/watch?v=Ma1QSmtuilQ&feature=youtu.be)