

Index

- abus de droit rationale*, 240
 administration of justice projects, 108
Aguinda v. Texaco, 171, 176–80
Aldana v. Del Monte, 171–76
 Alien Tort Statute, U.S., 172
 Allende, Salvador, 80
 Alliance for Progress, 62
 Alvarez, Alejandro, 46
 anti-corruption campaigns, 118–20, 133
 anti-discrimination law, 100
 Arbenz, Jacobo, 80
 arbitral tribunals, 232, 240–46
 Argentina, rule of law in, lack of, 78
Ashanga v. Texaco, 176–80
- Bello, Andrés, 40–41
 Bevilacqua, Clovis, 35
 bilateral investment treaties, 233, 244
 Bolívar, Simón, 30
 Bolivia
 constitution of, 27–28
 Europeanness of Latin American law in, 27–28
 forum non conveniens in, 165
 justicia comunitaria in, 53
 plurinational legal system in, 27–28
 rule of law in, lack of, 78
 Brazil
 Civil Code in, 49
 corruption in, 114
 French Civil Code in, 49
 rule of law in, lack of, 78
buen vivir (good life), 53
- CAFTA-DR. *See* Central American and Dominican Republic Free Trade Agreement
- Calvo, Carlos, 48, 228
 Calvo Doctrine, 48
 denial of justice under, 228
 in U.S., lack of recognition of, 228–29
 cases, legal. *See* denial of justice; enforcement of judgments; *forum non conveniens*; *specific cases*
 causation theory, 123
 Central American and Dominican Republic Free Trade Agreement (CAFTA-DR), 234
 Chavez, Hugo, 79, 143
Chevron v. Donziger, 208–23
 due process issues in, 219
 enforcement proceedings for, 214
 Europeanness of Latin American law and, 221–23
 expert evidence in, 216–18
 impartial tribunals and, 223
 judicial independence and, 221
 legal failure narrative, 218–23
 New York Recognition Act and, 209–15, 217, 219
 systemic legal fitness issues in, 213–16
 adequacy determinations, 215–16, 220
Chevron v. Ecuador, 244–46
 Chile
 civil liberties in, 111
 French civil code as legal influence in, 40–41
 legal failures in, 78
 Pinochet in, 78
 rule of law in, lack of, 78
 citations, foreign, 40
 Civil Codes. *See also* French Civil Code
 in Brazil, 183
 in Ecuador, 177, 183
 in Nicaragua, 200–1

civil liberties
 in Chile, 111
 in Colombia, 111
 civilized law, in Latin America, through
 Europeanness of legal systems, 45–50
 legal reform, 46–48
 CLS movement. *See* Critical Legal Studies
 movement
 Colombia
 civil liberties in, 111
 Constitutional Court in, 77
forum non conveniens in, 165
 legal consciousness in, 42
 colonialism, Europeanness of Latin American law
 influenced by, 26–27, 33–34
 common law, *forum non conveniens* influenced by,
 158–59
 Communism, in Latin America, 62
 U.S. foreign policy response to, 62–63
 comparative law, 9–14
 Europeanness of Latin American law and,
 26–27, 32–53
 mainstream approaches to, 34–35
 René David on, 36–38
 sociological approach to, 35–38
 Europeanness of Latin American law in, 26–27
 in Latin America, 9–10
 legal consciousness in, 10–12
 European law as influence on, 12–14
 judicialization of politics, 11
 Latin American legal fictions and, 12–14
 in *Lochner v. New York*, 10–11
 René David on, 36–38, 51
 scope of, 9
 compliance, legal failures and
 evaluation of, 75–76
 intentional non-enforcement, 75
 local cultural practices as factor in, 75
 as operational problem, 74–76
 wealth inequality and, 74
 conceptualism, legal formalism and, 92, 94
 conflicts of law. *See* private international law
 Constitutional Court of Guatemala, 236
 constitutions, in Latin America, 1, 76, 79–80
 corruption
 anti-corruption campaigns, 113, 120
 in Brazil, 114
 definition of, 118–20
 economic development influenced by, 115
 Foreign Corrupt Practices Act and, 118
 in Guatemala court system, 174
 illegality of, 116
 informality category, 115
 informality category, illegality compared to, 116

of judges, 114
 legal failure and, 113–21
 legal scope of, 118–20
 policy pluralism and, 117–20
 public perception of, 114
 recognition of, 117
 social stigma of, 120–21
 in state-run enterprises, 120–21
 toleration of, 115
 Transparecy International and, 113
 in Venezuela, 117
 cost-benefit analysis, of legal indicators, 134–36
 advantages of, 134
 disadvantages of, 134
 liberal legalism and, 134–35
 Critical Legal Studies (CLS) movement, 104–5
 Cuba
forum non conveniens in, 168
 lack of rule of law in, 78
 Cuban Revolution, 62, 78
 David, René, 19, 32, 49–50
 on comparative law, 36–38, 51
 on diversity of Latin American societies,
 36–37
 on liberal law, 37–38
 Dawson, Griffith, 230–31
Delgado v. Shell Oil, 200
 democracy, legal indicators for, 123
 denial of justice, 46
abus de droit rationale and, 240
 in arbitral tribunals, 232, 240–46
 contemporary applications of, 232–33
 court delays and, 226
 definition of, 228
 Europeanness of Latin American law and, 247
 under “fair and equitable treatment”
 obligations, 225
 geopolitics of national law, 255
 history of, 227–32
 under Calvo Doctrine, 228–29
 in international law, 226–32
 non-payment of foreign debt, 227
 in international arbitration, 224
 in international law, history of, 226–32
 under investment treaties, 224–25
 bilateral investment treaties, 233
lex specialis obligations, 224–25
 in Latin American cases, 234–46
Chevron v. Ecuador, 244–46
Metalclad v. Mexico, 243–44
Philip Morris v. Uruguay, 241–43
Railroad Development Corporation
v. Guatemala, 234–41

- legal failure narratives in, 239–40
 - legal scope of, 225–26
 - standards of review for, 225–26
- desaparecidos* (the disappeared), 71
- determinate decisions, in legal formalism, 93–94
- diplomatic claims, 47, 227
- the disappeared. *See* *desaparecidos*
- Donziger, Steven, 218. *See also* *Chevron v. Donziger*
- due process
 - in *Chevron v. Donziger*, 219
 - in enforcement of judgments from Latin American courts, 205–7, 219–21
 - in Nicaragua, 202–3
 - in *Osorio v. Dole*, 205–6
 - in recognition of foreign judgments, 154, 196
- Dworkin, Ronald, 41–42
- economic critiques, of legal failure, 106–13
 - cost-benefit analysis in, 107–8
 - efficiency critique, 106–8, 112–13
 - neo-institutional economics, 108–11
 - transaction costs, 106–7
- economic development, 58. *See also* Latin America
- corruption as influence on, 115
- Ecuador. *See also* *Aguinda v. Texaco*; *Chevron v. Donziger*
- Chevron v. Ecuador*, 244–46
- Civil Code in, 177, 183
- internationally-sponsored law reforms in, 179
- efficiency critique, of legal failure, 106–8, 112–13
- elites, political and economic
 - differences among legal systems, influenced by, 138
 - legal failure influenced by, 102–5
 - of formal law, 102–3
 - of liberal law, 103–4
- enforcement of judgments, 187–223
- fitness tests for legal systems and, 187–98
- in Latin American cases, 198–223. *See also* *specific cases*
 - systemic inadequacy of, 187–88
- recognition of foreign judgments, 187–88
 - under conflict of law rules, 190
 - under diversity jurisdiction, 190
 - due process requirements, 196
 - in EU, 189
 - with monetary remedies, 188–98
 - non-recognition tests, 195–97
 - systemic legal fitness, determinations of, 197–98
 - for U.S. cases, 189–95. *See also* *specific cases*
 - recognition of judgments in, 189–95
 - under specific state laws, 191–93
 - under Uniform Acts, 193–95
- Erie v. Tompkins*, 192
- EU. *See* European Union
- European Court of Human Rights, 242
- European law
 - fiction of, 17–19
 - Latin American legal history influenced by, 1, 3, 12–14, 17–19, 30–31
 - legal consciousness influenced by, 10–12
- European Union (EU), recognition of foreign judgments within, 189
- Europeanness, of Latin American law, 30–43, 55–57
- advantages of, 29
- benefits of, 43–51
 - geopolitical, 48–50
- Bolivian constitution and, 27–28
- Chevron v. Donziger*, 221–23
- civilized law through, 45–50
 - legal reform as, 46–48
- classification of legal systems, 43, 56
- colonial history as influence on, 26–27, 33–34
- in comparative law, 26–27, 32–53
 - mainstream approaches to, 34–35
 - René David on, 36–38
 - sociological approach to, 35–38
- denial of justice and, 247
- disadvantages of, 29–30, 51–56
 - law and society, disconnection between, 52–53
 - subordination in legal geopolitics, 53–55
- doctrinal sources for, 30
- excluded dimensions of, 38–43
 - foreign citations, 40
 - politics of law, 39
- forum non conveniens* and, 155, 182–85
 - Latin American legal cases influenced by, 169–70, 172
 - legal fictions about, 161
- French civil code influences on, 31, 33, 40–41, 49
- geopolitics of national law and, 48
 - benefits of, 48–50
 - subordination of, 53–55
- German influences on, 31
- instrumental uses of, 55
- through internalization of legal ideas, 41–42
- Latin American jurists influenced by, 39–40
 - limited agency of, 41
- legal borrowings and, 40

Europeanness, of Latin American law (cont.)
 legal consciousness and, 41
 mainstream approaches to, 44
 legal families and, 54
 as legal fiction, 5–6, 12–13, 22–24, 249
 legal identity and, 28, 44
 legal taxonomies as influence on, 33–34
 regional, 10, 30–31
 legal legitimacy through, 29, 44, 50–51, 56,
 256–57
 legal system taxonomies, 31–34
 classification of, 32–33
 legal identity influenced by, 33–34
 local understanding of, 42–43
 pan-Europeanness from, 31

“fair and equitable treatment” obligations, 224–25
 first generation law-and-development, in Latin
 America, 63–64

Ford Foundation, 62

foreign citations, 40

Foreign Corrupt Practices Act, U.S. (1977), 118

formal law, 102–3

forum non conveniens

in Bolivian case, 165

in Colombian case, 165

common law influences on, 158–59

critiques of, 170–71, 186–87

in Cuban case, 168

decided *sua ponte*, 159

defendants and, 159

Europeanness of Latin American law and, 155,
 182–85

Latin American legal cases influenced by,
 169–70, 172

legal fictions about, 161

forum shopping and, 159–60

Latin American cases and, 169–87

Aguinda v. Texaco, 171, 176–80

Aldana v. Del Monte, 171–76

Ashanga v. Texaco, 176–80

Europeanness of legal systems and, 169–70, 172
in re West Caribbean, 171, 180–84

Latin American legal fictions and, 155–56

Europeanness of legal systems and, 161

legal failure and, 183–85

legal scope of, 158–69

in Nicaragua blocking law, 201

quality of national legal systems, 154–55

U.S. cases and, 158–69, 185–87. *See also specific cases*

adequacy analysis of, 162–63, 179

enforceability of judgments, 166–67

evidence in, 167–69

Gulf Oil v. Gilbert, 162–64

legal suitability of, 164–67

Piper Aircraft v. Reyno, 162–64

forum shopping, 159–60

France

denial of justice by, 229

Napoleonic Code influence in Latin America,
 49, 63–64

French Civil Code

in Brazil, 49

Europeanness of Latin American law
 influenced by, 31, 33, 40–41, 49

geopolitics, of national law, 14–16, 21–22, 146–51

denial of justice and, 255

Europeanness of Latin American law

influenced by, 48–50

subordination of, 53–55

Latin American legal fictions and, 5

global governance and, 147

legal failure and, 60

legal legitimacy and, 253

Germany, Europeanness of Latin American law
 influenced by, 31

global legal hierarchies, 141–46

legal failure, ranked by, 142–43

legal ideologies, 143–44

legal success, ranked by, 142–43

local politics of, 149–51

systemic assessments of, discursive dimension of,
 144–46

global North, legal systems in, 6, 14, 20, 22,
 26, 125

global South, legal systems in, 6, 258

good life. *See buen vivir*

governance indicators, 124–28

creation of, 125–26

expansion of, 126

function and purpose of, 124–25

long-term influence of, 130

types of, 125

graft, corruption and, 115

Grau, Vladimir Álvarez, 221

Guatemala

Constitutional Court of Guatemala, 236

corrupt court system in, 174

Railroad Development Corporation
v. Guatemala, 234–41

Gulf Oil v. Gilbert, 162–64

Hague Conference on Recognition and

Enforcement of Foreign Judgments, 189

Hague Peace Conference (1907), 49

Hart, H. L. A., 41–42

- hegemony
 of Latin American legal fictions, 8
 of legal formalism, 96
Hilton v. Guyot, 191–92
 Honduras, 138–39
- ICSID. *See* International Center for the Settlement of Investment Disputes
- identity, legal, Europeaness of Latin American law, 28, 44
 legal taxonomies as influence on, 33–34
 regional identities and, 30–31
- ideologies, legal, 251–54
 global legal hierarchies and, 143–44
- impartial tribunals, 195–96, 201–3, 223
- indicators. *See* governance indicators; legal indicators
- indictment rates, 73
- inequality. *See* wealth inequality
in re West Caribbean, 171, 180–84
- Inter-American Development Bank, 21, 67, 179
- international arbitration, 224
- international arbitration, transnational litigation,
 Latin American legal fictions in, 2–3, 154–57
- International Center for the Settlement of Investment Disputes (ICSID), 234–35
- international law
 denial of justice in, 226–32
 as doctrine, 47–48
 private, 146
- International Monetary Fund, 148
- investment treaties, 224–25
 bilateral, 233
lex specialis obligations, 224–25
- judges, corruption of, 114
- judicial independence
 in *Chevron v. Donziger*, 221
 legal failure and, 99
 legal indicators for, 123
 in *Osorio v. Dole*, 203–5
 public opinion on, 132–33
- judicialization of politics, 11
- jurists, Latin American
 Europeaness of Latin American law as
 creation of, 39–40
 limited agency of, 41
 Hans Kelsen as influence on, 40
- justice. *See* denial of justice
justicia comunitaria, 53
- Kelsen, Hans, 28, 41
 Latin American jurists influenced by, 40
- Langdell, Christopher Columbus, 90–91
- Latin America. *See also specific countries*
 communist ideology in, 62
 constitutions in, 1, 76, 80, 204
 economic development in
 through agrarian reform projects, 58–62
 legal failure and, 68–70
 UNDP and, 67
 U.S. role in, 58, 62–68
 USAID role in, 66–67
 wealth inequality and, 58–62, 74
 through wealth redistribution, 62, 102
 World Bank role in, 67
- enforcement of judgments from, 198–223.
See also specific cases
 systemic inadequacy in, 171, 187–88
 European intervention in, 81, 227
 first generation law-and-development in,
 63–64
forum non conveniens in, 169–85
 legal failure in, 4, 6, 19–21, 60–61
 legal formalism in
 in national legal systems, 92
 naturalism and, 41–42
 positivism and, 91–92
 legal science with Europe, 50–51
 second generation law-and-development in,
 64–68, 70
 third generation law-and-development in,
 67–68
 U.S. intervention in, 80–81
 through economic development, 58, 62–68
- Latin American jurists. *See* jurists
- Latin American law. *See also* Europeaness; legal history; *specific countries*
 French civil code influences on, 31, 33, 40–41, 49
 negative perceptions of, 1, 22
 scientific legal methods, 89
- Latin American legal fictions, 5–6, 12–14, 19–21.
See also Europeaness; legal failure; legal indicators
 as concept, 1–2
 foreign policy of foreign states, 2, 140
 geopolitical consequences of, 5, 137
 global governance and, 147
 of national law systems, 146–51
 global legal hierarchies and, 141–46
 failure in, 142–43
 legal ideologies, 143–44
 local politics of, 149–51
 success in, 142–43
 systemic assessments of, discursive dimension
 of, 144–46

- Latin American legal fictions (cont.)
 international arbitration and, 2–3, 246–48
 legal consciousness and, 12–14
 legal failure, 19–21, 84–87
 national law systems and, differences across, 138–41
 foreign governments' recognition of, 140
 functioning of different legal orders, 138
 global expectations for, 139–40
 rule of law in, 139
 private parties under, 7
 transnational litigation and, 2–3, 223–24
 law. *See also* comparative law; European law;
specific topics
 formal, 102–3
 politics of, 39
 society and, disconnection between, 52–53,
 97–102
 European law as influence on, 97–98
 governance indicators for, 98–99
 racial differences as factor in, 98
 social differences as factor in, 98
 law-and-development, legal failure in, 61–70
 diagnosis of Latin American law in, 68–70
 first generation of, 63–64
 history of, 62–68
 legal development assistance and, 64–68
 long-term legacy of, 83
 second generation of, 64–68, 70
 third generation of, 67–68
 law-making. *See also* national laws
 in Latin America, 3–4, 5–6, 107
 lawyers, on legal formalism, 88, 102–3
 legal borrowings, 40
 legal consciousness, 10–12
 in Colombia, 42
 European law as influence in, 12–14
 Europeanness of Latin American law and, 41
 mainstream in Latin America, of, 44
 judicialization of politics, 11
 Latin American legal fictions and, 12–14
 in *Lochner v. New York*, 10–11
 legal developmentalism, 58–59
 legal education, 64, 95
 in Costa Rica, 88
 legal failure. *See also* law-and-development
 in *Chevron v. Donziger*, 218–23
 in Chile, 78
 compliance issues
 evaluation of, 75–76
 local cultural practices as factor in, 75
 as operational problem, 71–72
 relativity of, 75
 wealth inequality and, 74
 corruption and, 113–21
 illegality and, 116
 informality category, 115
 of judges, 114
 policy pluralism and, 117–20
 recognition of, 117
 social stigma of, 120–21
 definition of, 60, 84–86
 denial of justice and, 239–40
 economic critiques, 106–13
 cost-benefit analysis in, 107–8
 efficiency critique, 106–8, 112–13
 neo-institutional economics, 108–11
 transaction costs, 106–7
 elements of, 87–121
 elite control as factor in, 102–5
 of formal law, 102–3
 of liberal law, 103–4
 through excessive regulation, 72–73
forum non conveniens and, 183–85
 through geopolitics, 60
 informals' approaches to law and, 103, 105
 from insufficient resources, 59
 Inter-American Development Bank, 67
 judicial independence and, lack of, 99
 in Latin American law, 4, 6, 19–21
 law and society as factor in, gaps between, 52–53,
 97–102
 European law as influence on, 97–98
 governance indicators for, 98–99
 racial differences in, 98
 social differences in, 98
 liberal law and
 elite control as factor in, 103–4
 non-operationalization of, 86
 neo-institutionalism and, 66
 neoliberalism and, 66
 through operational problems, 71–76, 85
 case backlogs, 73
 compliance issues, 74–76
 from conflicting objectives, 72–74
 low indictment rates, 73
 with resource limitations, 71–72
 in *Osorio v. Dole*, 207–8
per se, 60, 83–84
 through procedural requirements, 73
 scope of, 85
 sociological thinking and, 100
 USAID and, 19, 62, 66–67
 from wealth inequality, 59–60
 economic development and, 58–62,
 65
 World Bank and, 67
 legal families, 31–34, 54
 legal fictions. *See* Latin American legal fictions

- legal formalism, 70, 84–85, 88–97
 conceptualism and, 92, 94
 critiques of, 89–91, 95–96
 strategic uses of, 96
 definition, 88
 elements of, 92–97
 determinate decisions, 93–94
 legal politics, 94–97
 logical deduction, 93
 starting points, 92–93
 historical hegemony of, 96
 Langdell on, 90–91
 in Latin America
 in national legal systems, 92
 naturalism and, 41–42, 64
 positivism and, 64, 91–92
 of lawyers, rigid thinking by, 88
 legal realist movement, 91
 legal reasoning and, 89
 as discredited form of reasoning, 91
 logic in, 93
 positivism and, 92
 textualism and, 94
 types of, 90–92
 legal concepts, 92
- legal geopolitics. *See* geopolitics
- legal history, of Latin America. *See also* Latin American law
 assessment of, 34–35
 due process in, lack of, 227–32
 European influences on, 1, 3, 12–13, 17–19
 liberal law as influence on, 18
 negative perceptions about, 1, 22
 quality of, 5
 1787 U.S. charter as influence on, 1
- legal identity. *See* identity
- legal ideologies. *See* ideologies
- legal indicators
 binding nature of, 127
 causation theory and, 123
 correlations and, 123
 cost-benefit analysis, 134–36
 advantages of, 134
 disadvantages of, 134
 liberal legalism and, 134–35
 for democracy, 123
 governance indicators and, 124–28
 creation of, 125–26
 expansion of, 126
 function and purpose of, 124–25
 long-term influence of, 130
 types of, 125
 for judicial independence, 123
- methodological issues, 128–30
 datasets, 130
 qualitative values, 129
 misrepresentation of, 123–24
 perverse effects of, 135–36
 resource limitations and, 133
 for rule of law, 123
 special problems of, 130–34
 legitimacy, 133
 opinion polls, 131–33
 World Development Indicators, 126–27
- legal liberalism, 13
 limitations of, 20
- legal orders, 5
 national laws and, 138
- legal politics, in legal formalism, 94–97
- legal realist movement, 91
- legal reasoning
 legal formalism and, 89
 as discredited form of, 91
 logic in, 93
- legal reform, through civilized law, 46–48
- legal science, for Latin America, 50–51
- legal systems, in Latin America. *See also* Latin American law
 classification of, 43, 56
 Europeanness of Latin American law as
 influence on, 43, 56
 in global North, 6, 22, 26, 84
 in global South, 6, 25
 legitimacy of, 254–57
 plurinational, 27–28
 regional, 9–10
 systemic assessments of, 257–58
 taxonomies, 31–34
 classification of, 32–33
 legal identity influenced by, 33–34
- legitimacy
 through Europeanness of Latin American law,
 29, 44, 50–51, 56, 256–57
 geopolitics of national law, 253
 of Latin American legal systems,
 254–57
 legal ideologies and, 251–54
- lex specialis* obligations, 224–25
- liberal law, 13
 in Latin America, 13–14, 139–40
 legal failure and
 elite control as factor in, 103–4
 non-operationalization of, 86
 René David on, 37–38
- liberal legalism, 13
 legal indicators and, 134–35
- Lissitzyn, Oliver, 228

- litigation, transnational, Latin American law and, 2–3
- Lochner v. New York*, 10–11
- logic, in legal reasoning, 93
- logical deduction, 93
- Lopez Medina, Diego, 42
- Maduro, Nicolás, 143
- Marxism, 37–38, 103–4
- Metalclad v. Mexico*, 243–44
- Mexico, lack of rule of law in, 78
- Milken Institute Opacity Index, 219
- modern law, 13
- national laws
- assessments of, 151–53
 - geopolitics of, 14–16, 21–22, 146–51
 - Europeanness of Latin American law
 - influenced by, 48–50, 53–55
 - Latin American legal fictions and, 5, 147
 - legal failure and, 60
 - global hierarchy of, 15, 141–42
 - harmonization among, 148
 - international standing of, 147–49
 - Latin American legal fictions and, 138–41
 - foreign governments' recognition of, 140
 - global expectations for, 139–40
 - the legal order in, 138
 - political elites in, 138
 - rule of law in, 139
 - legal failure under, 60
 - in divided societies, 77–78
 - foreign interests as influence on, 76–77, 82
 - geopolitical influences on, 80–82
 - global political economies and, 80–82
 - limitations of, 76–82
 - political coups, 78
 - rule of law, 78–80
 - local politics and, 149–51
 - systemic reform of, international calls for, 150–51
 - national legal systems. *See* national laws
 - neo-institutionalism
 - economics and, 108–11
 - legal failure and, 66, 108–11
 - neoliberalism, legal failure and, 66
 - New York Recognition Act, 166–214, 217, 219
 - Nicaragua. *See also* *Osorio v. Dole*
 - blocking statutes in, 201
 - civil code in, 200–1
 - judicial independence in, 203–5
 - non-recognition tests, 195–97
 - North American Free Trade Agreement, 243
 - OAS. *See* Organization of American States
 - opinion polls
 - on judicial independence, 132–33
 - legal indicators and, 131–33
 - on rule of law, 132–33
 - Organization of American States (OAS), 21, 139
 - Osorio v. Dole*, 199–208
 - due process issues in, 205–6
 - impartial tribunals and, 201–3
 - judicial independence issues in, 203–5
 - legal failure narrative in, 207–8
 - pacha mama* (conception of Earth), 53
 - Pargendler, Mariana, 32
 - Paulsson, Jan, 232
 - Peru. *See* *Aguinda v. Texaco*; *Ashanga v. Texaco*
 - Philip Morris v. Uruguay*, 241–43
 - Pinochet, Augusto, 78
 - desaparecidos* under, 71
 - Piper Aircraft v. Reyno*, 162–64
 - pluralism. *See* policy pluralism
 - plurinational legal system, in Bolivia, 27–28
 - policy pluralism, 117–20
 - politics of law, 39
 - Portugal, Latin American legal history influenced
 - by, 1
 - positivism, 92
 - Prada, María Angélica, 128
 - primitivism, 37–38
 - private international law, 146
 - private ordering, 65
 - Railroad Development Corporation v. Guatemala*, 234–41
 - realpolitik*, 5, 141
 - regional legal systems, 9–10
 - rule of law, 13
 - defining elements of, 6
 - global governance and, 137
 - legal discourse for, 39
 - legal failure and, 78–80
 - legal indicators for, 123
 - under national laws, 78–80
 - Latin American legal fictions and, 139
 - public opinion on, 132–33
 - Rule of Law Index, 127–32
 - second generation law-and-development, in Latin America, 64–68, 70
 - Second Hague Peace Conference, 46
 - sociological thinking, legal failure and, 100
 - Soto, Hernando de, 88, 103
 - Spain, Latin American legal history
 - influenced by, 1

- squatting, 116
 state-run enterprises, corruption in, 120–21
 Supreme Court, in Venezuela, 79
 systemic partiality, 2, 195–96
- textualism, 94
 third generation law-and-development, in Latin America, 67–68
 Torture Victim Protection Act, U.S., 172
 transaction costs, as element of legal failure, 108
 Transparency International, 113
 tribunals. *See* impartial tribunals
- UN. *See* United Nations
 UNDP. *See* United Nations Development Program
- Uniform Foreign Money Judgments Recognition Act, U.S. (1962), 193–95
 Uniform Foreign-Country Money Judgments Recognition Act, U.S. (2005), 193–95
 United Nations (UN), 139
 United Nations Development Program (UNDP), 67
- United States (U.S.)
 Alien Tort Statute, 172
 Calvo Doctrine in, lack of recognition of, 228–29
 CLS movement in, 104–5
 enforcement of foreign judgments, 187–223.
 See also specific cases
 recognition of judgments, 189–95
 under specific state laws, 191–93
 under Uniform Acts, 193–95
 foreign policy response to communism in Latin America, 62–63
forum non conveniens in, 158–69, 185–87. *See also* specific cases
 adequacy analysis of, 162–63, 179
 case evidence, 167–69
 enforceability of judgments, 166–84
 Gulf Oil v. Gilbert, 162–64
 legal suitability of, 164–67
 Piper Aircraft v. Reyno, 162–64
 in Latin America, economic development assistance for, 58, 62–68
 mainstream legal community in, 39
 1787 charter, 1
 sociological thinking in, 100
 Torture Victim Protection Act, 172
 Uniform Foreign Money Judgments Recognition Act, 193–95
 Uniform Foreign-Country Money Judgments Recognition Act, 193–95
 United States Agency for International Development (USAID), 19, 21, 62, 66–67, 179
 Urueña, René, 130–31
 Uruguay, *Philip Morris v. Uruguay*, 241–43
 U.S. *See* United States
 USAID. *See* United States Agency for International Development
- Venezuela
 denial of justice in, 229
 dictatorship in, 79–80
 informality in, 117
 Supreme Court in, 79
- wealth inequality, 74
 legal failure from, 59–60
 economic development and, 58–62, 65
- WGI project. *See* World Governance Indicators project
- World Bank, 21, 67, 131–32, 148
 World Development Indicators, 126–27
 World Justice Project, 130–31
 World Trade Organization (WTO), 81
 Worldwide Governance Indicators (WGI) project, 211