

## Contents

<i>Acknowledgments</i>	<i>page</i> xi
<i>Cited Cases and Arbitral Awards</i>	xiii
<b>Introduction</b>	1
I. Comparative Legal Ideas	9
A. Legal Consciousness	10
B. Latin American Legal Fictions	12
II. Legal Geopolitics	14
III. Structure of the Book	16
A. Chapter 1: The Fiction of Legal Europeanness	17
B. Chapter 2: The Fiction of Failed Law	19
C. Chapter 3: The Geopolitics of Latin American Legal Fictions	21
D. Chapter 4: Latin American Cases	22
E. Concluding Thoughts	24
<b>1 The Fiction of Legal Europeanness</b>	26
I. Latin America's European Law	30
A. Legal Families	31
B. Mainstream Legal Comparativists	34
C. Sociological Legal Comparativists	35
D. Excluded Dimensions	38
II. The Benefits of Latin America's "European" Law	43
A. Civilized Law	45
B. Legal Legitimation	50
III. The Drawbacks of Latin America's "European" Law	51
A. The Gap between Law and Society	52
B. Subordination in Legal Geopolitics	53
IV. Summary	55

<b>2</b>	<b>The Fiction of Failed Law</b>	58
	<b>Section 1: Different Ways That Law Fails</b>	59
	I. Law-and-Development	61
	A. A Brief History	62
	B. The Diagnosis of Latin American Law	68
	II. Operational Problems	71
	A. Limited Resources	71
	B. Conflicting Objectives	72
	C. Relativity of Compliance	74
	III. The Realistic Limits of National Law	76
	A. Divided Societies	77
	B. Government under Men, and the Rule of Law	78
	C. Global Political Economy and Geopolitics	80
	IV. Endemic Failures of Law	83
	<b>Section 2: Legal Failure</b>	84
	I. The Elements of Legal Failure	87
	A. Legal Formalism	88
	B. The Gap between Law and Society	97
	C. Elite Control	102
	D. Law-and-Economics Critiques	106
	E. Corruption	113
	II. Summary	121
	<b>Section 3: Misleading Legal Indicators</b>	123
	I. Governance Indicators	124
	II. Known Methodological Problems	128
	III. Special Problems of Legal Indicators	130
	IV. Benefits versus Costs	134
<b>3</b>	<b>The Geopolitics of Latin American Legal Fictions</b>	137
	I. Differences across National Legal Systems	138
	II. The Global Legal Hierarchy	141
	A. Elements of Success and Failure	142
	B. The Role of Legal Ideology	143
	C. The Discursive Dimension of Systemic Assessments	144
	III. The Geopolitics of National Legal Systems	146
	A. International Standing	147
	B. Local Legal Politics	149
	IV. Raising Some Questions	151

4	<b>Latin American Cases</b>	154
	<b>Section 1: Forum Non Conveniens Dismissals to Latin American Courts</b>	158
	I. The Doctrine of Forum Non Conveniens	158
	A. The Two-Part Test	162
	B. Suitability of the Foreign Forum	164
	C. The Evidence in Forum Non Conveniens Motions	167
	II. Forum Non Conveniens Motions	169
	A. <i>Aldana v. Del Monte</i>	172
	B. <i>Aguinda v. Texaco</i>	176
	C. <i>In re West Caribbean</i>	180
	D. Other Cases	182
	III. Summary	185
	<b>Section 2: Enforcement of Latin American Court Judgments in the United States</b>	187
	I. Enforcement of Foreign Money Judgments	188
	A. The Applicable Law in the United States	189
	B. The Rules of State Law	191
	C. The Uniform Acts	193
	D. The Nonrecognition Test	195
	E. The Evidence for Systemic Fitness	197
	II. Enforcement of Judgments Challenges	198
	A. <i>Osorio v. Dole</i>	199
	B. <i>Chevron v. Donziger</i>	208
	III. Summary	223
	<b>Section 3: Denial of Justice Claims in Investor-State Arbitration</b>	224
	I. A Brief History	227
	II. Contemporary Applications	232
	III. Denial of Justice Claims	234
	A. <i>Railroad Development Corporation v. Republic of Guatemala</i>	234
	B. <i>Philip Morris v. Uruguay</i>	241
	C. <i>Metalclad v. Mexico</i>	243
	D. <i>Chevron v. Ecuador</i>	244
	IV. Summary	246

<b>Concluding Thoughts</b>	249
I. Legal Ideology	251
II. Legitimation and Critique	254
III. Systemic Assessments	257
<i>References</i>	259
<i>Index</i>	275