

**PROGRAMA DE DOCTORADO
PRIMER SEMESTRE 2019**

Nombre del curso	Seminario Derecho y Sociedad (Law and society seminar) Agustín Barroilhet D. Guillermo Caballero G.
Naturaleza (obligatorio, optativo o electivo)	Electivo
Requisitos	-
Número de Créditos	10
I. Descripción del curso	Se trata de un curso de lecturas guiadas en derecho y sociedad, la mayoría en idioma inglés, que debieran ser conocidas por todos los académicos que quieran entrar publica con estándares norteamericanos. Los artículos considerados son de la era post realismo legal y la mayoría cuenta con más 1,000 citas según Google Scholar (algunos como “Why the haves come out ahead” de Marc Gallanter llegan a las 20 mil citas). Estas lecturas forman parte de la mayoría de las compilaciones de artículos en derecho y sociedad y son la base de una conversación interdisciplinaria.
II. Objetivo General	El objetivo del curso es permitir a los doctorandos perfeccionar visiones externas del derecho y comprender, por ejemplo, cuál es el límite institucional al cambio legal, por qué el derecho se hace más relevante en ambientes pluralistas, por qué los trasplantes legales descontextualizados fallan o son impredecibles, por qué la deliberación colectiva tiene a sobre representar intereses de grupos organizados, por qué los agentes son tan importantes como los mandatos que reciben, por qué siempre hay que ser escéptico del valor de carátula de la ley, y en general, como la ley influye a la sociedad y al mismo tiempo se retroalimenta de la misma, todas afirmaciones que son relativamente indisputadas en la academia legal. Se recomienda para todos los proyectos con componentes empíricos.
III. Objetivos específicos	1. Ayudar a los doctorandos a distinguir el derecho en los libros del derecho acción (Law in the books versus law in action). 2. Ayudar a los doctorandos a incorporar a su bagaje académico lecturas que aparecen en la mayoría de las conversaciones legales en la actualidad y que no pueden ser ignoradas en cualquier proyecto que se aleje del dogmatismo puro o aspire a ser mutlidisciplinario. 3. Ayudar a los doctorandos a tomar conocimiento de lecturas básicas en las fallas del proceso legislativo y del proceso judicial. 4. Concientizar a los doctorandos de las limitaciones de las de las instituciones del derecho y del alcance real de las

	soluciones que se pueden proponer, considerando el contexto institucional, político, cultural, etc. donde serán aplicadas. No se trata de que tengan conocimientos acabados de otras disciplinas, como ciencia política o sociología, sino más bien que reconozcan que sus proyectos son una variable más de las muchas que incidirán en el problema que estudian.
IV. Contenidos	No. 1 - What is law? Formal vs. Informal No. 2 - Law in Closed Communities No. 3 - The legislative process and the Public Choice No. 4 - The judicial process and its paradoxes No. 5 - Judicial Institutions No. 6 - The purpose of Comparative Law No. 7 - Transplants and Development No. 8 - The Comparatist No. 9 - Wrap Up Session
V. Régimen de asistencia	90% de asistencia (8 de las 9 sesiones).
VI. Controles y ponderación de los mismos	No existen controles contemplados. Sólo reacciones escritas de una página al texto que deba discutirse esa semana, los que deberán ser entregados la semana anterior. La nota final del curso es el promedio de todas las reacciones.
VII. Metodología	Seminario con discusión abierta sobre interpretaciones de los textos y su conexión explícita con los proyectos de los doctorandos.
VIII. Bibliografía	Abe, Masaki. 2011. "The Internal Control of a Bureaucratic Judiciary." In <i>Law in Many Societies: A Reader</i>, edited by Lawrence M. Friedman, Rogelio Pérez-Perdomo, and Manuel Alejandro Gómez, 19–26. Stanford, California: Stanford Law Books. Ahmed, Azam. 2015. "Taliban Justice Gains Favor as Official Afghan Courts Fail." <i>The New York Times</i>, January 31, 2015. http://www.nytimes.com/2015/02/01/world/asia/taliban-justice-gains-favor-as-official-afghan-courts-fail.html. Baldwin, John, and Michael McConville. 1979. "Plea Bargaining and Plea Negotiation in England." <i>Law & Society Review</i> 13 (2): 287–307. Berkowitz, Daniel, Katharina Pistor, and Jean-Francois Richard. 2003. "Transplant Effect, The." <i>American Journal of Comparative Law</i> 51: 163. Bernstein, Lisa. 1992. "Opting out of the Legal System: Extralegal Contractual Relations in the Diamond Industry." <i>The Journal of Legal Studies</i> 21 (1): 115–57. Bodum USA, Inc. v. La Cafetiere, Inc. 2010, 621 F.3d 624. United States Court of Appeals, Seventh Circuit. Buchanan, James, and Gordon Tullock. 1995. "The Calculus of Consent (Excerpt)." In <i>Law & Society: Readings on the Social Study of Law</i>, edited by Stewart Macaulay, Lawrence

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