

Touring Guatemala 30 years later, Konefal identifies 18 of the 22 that survived the war, and around the stories of their participation in the beauty pageants and protests, as well as in political organising work before, during and after the war, she skilfully constructs a tapestry of personal impressions around the greater events that took place. Through her interviews she traces the history of an emerging pan-Mayan identity among a new generation of indigenous people who have left their peasant communities and decided to take part in the building of a greater nation or *pueblo*, only to realise that they are a pueblo apart in a country moving from a colonial, class-ridden society to a modern and racialised but also multicultural one. The tensions between what during the 1990s became known as the class-conscious (*clasista*) and the culture-oriented (*culturalista*) currents of the pan-Mayan movement were not, Konefal holds, as apparent then as after the war. For the young students who utilised the official interest in indigenous folklore to push for a reconstructed Mayan identity, there were no obvious natural divisions between, say, social and cultural marginalisation. Konefal convincingly argues that this bifurcation of the emerging pan-Mayan elite is mostly due to the way in which the activists in question were perceived and recruited by the Left and the Right (read: the army) in a deeply polarised country. Moreover, Konefal has a keen eye for these people's own agency, and she highlights the fact that Mayan leaders from Quetzaltenango – the country's second city, which also contains a Mayan elite – were always sceptical towards the insurgent Left and in the end refused to join any project in which Mayas appeared as merely another sector along with workers, peasants and women.

The focus on personal accounts reaches a moving height with the story of Emeterio Toj Medrano, who in effect became the guerrillas' man in a peasant front organisation, the Comité de Unidad Campesina (Committee for Campesino Unity, CUC), responsible for recruiting Mayas. He was captured by the army, tortured and forced to participate at army-staged press conferences designed to uncover the work of the guerrillas and demonstrate how the latter were duping the Indians, but was able to escape and even return to the guerrillas. It is more than telling to read how under torture Toj never revealed the Maya networks he knew, yet cooperated sufficiently to serve the army in its propaganda war. In the end, the blood of the Mayan *raza* was thicker than the national projects over which the war was being waged.

The stories of Toj and many other activists, in many different arenas, nonetheless remain personal. True, to some extent Konefal discusses the emergence of parallel beauty pageants for the two pueblos and the birth of pan-Mayanism among teacher students at Catholic colleges, and she allows the reader to glimpse pictures of a Mayan Guatemala. But when it comes to showing how these testimonies are inscribed in the larger processes of a *guevarista* rebellion and the construction of a counter-insurgent state, the book falls short.

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Javier A. Couso, Alexandra Huneus and Rachel Sieder (eds.), *Cultures of Legality: Judicialization and Political Activism in Latin America* (Cambridge: Cambridge University Press, 2010), pp. xii + 287, £55.00; \$85.00, hb.

The rapidly expanding literature on courts and politics in Latin America has been dominated until recently by rational-choice and new institutionalist approaches. The

editors of this volume head off in a brave (if not entirely new) direction, arguing for the important role that cultures of legality – ideas, language, informal practices and non-strategic action – play in the region. Such cultures influence judicial politics in its classical form, focused on relations between state institutions, but they also play a broader role in defining how societies utilise legal language and rhetoric outside the formal legal system. The editors are ‘interested in exploring aspects of political-legal life that do not seem to be well captured by some of the more traditional studies in our fields – that is, the nonmaterial realm of discourse, norm, and belief, as well as informal practices’ (p. 7). Boldly challenging portions of the institutionalist orthodoxy, they argue that ‘actors are not just ruled by institutions; they play an active, conscious role in the reproduction but also re-creation of institutions through discourse and ideas’ (p. 13).

Following a succinct introduction, the first four contributors focus on high courts. They usefully reassert the role of language, informal institutions and interpretative frameworks in channelling societal deliberations within formal institutional structures. A central theme of this section is highlighted in Kapiszewski’s chapter on Brazil’s Supreme Federal Tribunal, which argues that culture, like institutions, ‘narrow[s] and invest[s] with meaning the available choices for conduct’ (p. 75). It thus influences the potential outcomes of judicialisation, including the tribunal’s ‘will and ability to challenge elected leaders at all’ and ‘the particular distribution of rulings’ (p. 71).

Legal cultures or rhetorical frameworks constrain action, but often in unexpected ways, as Rueda and Ansolabehere’s chapters point out with reference to the Colombian and Mexican courts. Despite the Colombian high court’s stated preference for social change with regard to the legal concept of a ‘right to subsistence’, the contestation of legal meanings by middle-class plaintiffs diluted the court’s original intention and diminished the progressive nature of its rulings. Similarly, in Mexico, Ansolabehere finds that even as greater independence has permitted the court to be a stronger guarantor of rights, the results have not necessarily been uniformly progressive.

Distinct ideas and discourses on rights can also be used to justify non-compliance with international courts. To illustrate, Huneeus points to the different logics that high courts in Argentina, Chile and Venezuela have used to reject the decisions of the Inter-American Court of Human Rights. Huneeus ties her chapter to the volume’s main theme of legal culture by suggesting that ideas and discourse are important independent variables in their own right, and that the ways in which law and politics are articulated at the national level have important effects on how international rulings are viewed and implemented.

The second section of the book looks at judicialisation beyond the courts. One group of authors, including Domingo, Couso and Smulovitz, analyses how changing ideas about the role of law and the courts have altered patterns of judicialisation in the region; the remaining contributions focus on how activists and opposition have used the courts or law-like discourses to challenge the state.

Couso’s elegant chapter on Chile notes that even as formal institutional changes have taken place, they are ‘neither necessary nor sufficient’ to explain the emergence of judicialisation. He convincingly argues that Latin American constitutional scholarship has undergone a ‘conceptual revolution’ over the past generation, with positivistic (Kelsenian) influences being displaced by rights-oriented (Dworkian) discourse. In the process, ‘the limits and relationships between law and politics’ have been redrawn,

with judicial subordination replaced by a new 'constitutional orthodoxy' in which human rights reign supreme and serve to both motivate and justify judicialisation. Drawing on a rich body of evidence, Couso describes the tectonic shift in legal reasoning that has reshaped the way lawyers, prosecutors and judges frame and interpret legal arguments.

In contrast, Smulovitz sharply questions culture as a hypothesised cause of judicialisation in Argentina, and concludes that changing opportunity structures for claim-making and the emergence of a support structure for legal mobilisation have been far more important factors. But even if one were to conclude that culture has been a key driver of judicialisation, Smulovitz accurately notes that the largest challenge to the culturalist enterprise lies not in the identification of legal cultures, but instead in uncovering their causal import. It can be devilishly tricky to explain how changes in legal culture actually drive specific behaviours or outcomes.

The remaining contributions vary widely in substantive focus, including an analysis of networks of support for Mapuche land rights in Chile (Skjævestad); a history of the evolution of cause lawyering in Venezuela between the Punto Fijo pact and the Bolivarian Revolution (Gómez); a review of the growing recourse to 'law-like' actions by indigenous peoples' social movements in Guatemala (Sieder); and a discussion of the changing political narratives around rights that have accompanied new legal strategies in Bolivia and much of the rest of the region (Domingo). All shift the focus away from formal courts and point to the seismic shift in the use of the language of rights, rule of law and citizenship in Latin America, which over the past generation has transitioned from a lofty but unrealistic ideal to an integral part of the 'legitimation currency' (Domingo, p. 256). Even though courts are frequently off-limits or unsympathetic to the plight of non-elite players, the language of law and rights has been appropriated to legitimate non-traditional actors, stimulate social mobilisation and secure claims.

A collection as broad-ranging as this must naturally have a loose focus, with the contributors offering diverse interpretations of legal culture that reflect the editors' recognition of culture's 'hybrid, contested, and fluid' nature (p. 6). One resulting dilemma facing the culturalist exercise, and not entirely resolved in this volume, is precisely how to square the contradiction between the non-material cultural phenomena of interest and the inherently material nature of the cultural practices that can in fact be studied empirically. Culture blurs at the margin with material practices such as language or informal institutions, raising questions about our ability to effectively draw conceptual boundaries around it, as well as how to determine what constitutes adequate empirical evidence of the phenomenon.

This thought-provoking collection nonetheless lays down an important challenge to the field: to 'take seriously the role that ideas, language, and informal practices play in judicial politics' (p. 4). Some social scientists may throw up their hands at the editors' decision to 'renounce [legal culture's] utility as an explanatory variable strictly construed' (p. 7), but in making this argument they pose a deep challenge to the dominant positivist approach to the study of courts, suggesting that we might do well to go beyond simplistic explanations and seek deeper methods of understanding which illuminate the values and normative frameworks that undergird preferences and purposive action.

The contributors have also convincingly demonstrated that the decision to neglect culture must be a conscious act, given that legal cultures have a significant *ex ante* effect on the way court systems work, how disputes are framed by society at

large and the justifications used to legitimise political action. In the Latin American context, the volume provides a rich contribution by documenting the marked transformation in legal culture that has taken place over the past generation and the vital changes this has caused in the way law and law-like discourse shape societal priorities.

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Mónica Serrano and Vesselin Popovski (eds.), *Human Rights Regimes in the Americas* (Tokyo: United Nations University Press, 2010), pp. xii + 268, \$35.00, pb.

This interesting book is the product of a joint research project between the Colegio de México, the United Nations University and the Oxford University Centre for International Studies. It examines the chiaroscuro of human rights regimes in the Americas from three basic areas of interest: the operation of regional mechanisms for the protection of rights in general and their influence in the countries of the Americas; progress and setbacks in democratic regimes; and the political agenda of the United States in relation to democracy and rights in the region.

The work consists of 11 chapters. While each chapter is independent of the others, one can identify some recurring themes: ratification of international treaties by states, and their domestic implementation; characteristics of the state and its legal institutions; convergence (or divergence) between democracy and human rights; the position of political parties and civil society; and, last but not least, the foreign policy of the United States with regard to the topic. As part of the diversity that characterises the work, it is worth mentioning the thematic coherence in the selection of the contributions that allows the reader to have an overview of the highlights and shadows of the region's regimes.

The book has an introductory chapter written by Mónica Serrano and a concluding one authored by Nicholas Turner and Vesselin Popovski. Its main body consists of nine chapters, with contributions that can be divided along two lines: those that refer to the operation and institutions for the protection of rights in the region and the particularities of states and the rights agenda (chapters 2, 5 and 10), and those that are organised around national case studies (chapters 3, 4, 6, 7, 8 and 9).

In chapter 1, Mónica Serrano develops several themes. She begins with an overview of the history of human rights in the Americas and the evolution of human rights instruments, highlighting human rights' transition from a national concern to an international one in its contemporary version. The author also looks at some of the tensions which are currently under discussion and reflection: the emancipatory character or power character of rights; the sovereignty and internationalisation of rights; and human rights and national security. Serrano argues that the development of a culture of human rights and their discursive power is a key factor in the effectiveness of human rights regimes. This account recognises the relevance of internal systems of conformity and socialisation for the implementation of human rights standards. Finally, deserving of attention is the process of democratisation in the region and its impact on rights. In this regard Serrano stresses the weight of authoritarian enclaves such as military and security forces and the dissociation between the functioning of electoral institutions and respect for rights.